City of New Castle Delaware

Regular City Council Meeting
Meeting Held in Person and via Zoom

Tuesday, May 9, 2023

9:30 p.m.

**Call to Order: 9:30 PM**

**Roll Call**

**Present:** Council President Michael M. Platt

Councilperson Joseph F. Day

Councilperson Suzanne M. Souder

Councilperson Nermin Zubaca

Councilperson Andrew Zeltt

**Also present:** William J. Barthel, City Administrator

Max Walton, Esquire, City Solicitor

Richard P. McCabe, Chief of Police

**Janet E. Carlin, City Treasurer**

Mayor Paul Johnson, Delaware City

Absent: Jeffrey Bergstrom, City Building Official

Council President Platt called the May 9, 2023, regular City Council meeting to order at 9:30 p.m. The assembly stood for the Pledge of Allegiance. Roll call followed and a quorum to conduct business was declared.

Council President Platt introduced Mayor Paul Johnson, Mayor of Delaware City. Mayor Johnson congratulated the newly elected Council Members and Mayor of New Castle. He also recognized Chief Majewski and Chief McCabe. Mayor Johnson acknowledged and recognized former Mayor Quaranta, and read a Proclamation of Appreciation for Mayor Michael J. Quaranta into the record.

Council President Platt announced that effective 12:00 p.m. May 9, 2023, Mayor William Blest submitted his resignation. He stated that any of the Mayor’s appointments on the Agenda will be removed until a new Mayor has been elected. Mr. Barthel is working on dates for a Special Election. City Council will hold a Special Meeting prior to the Special Election to discuss the procedure for submitting applications to run for office to eliminate any questions or controversies that were caused in the last election by former Councilperson Leary by filing via email. The rules have to be clear and they must be the same for everyone.

**Approval of the Minutes by Date**

A motion to approve the Minutes of the March 14, 2023 Regular City Council meeting as presented was made, seconded, and unanimously carried.

**Approval of the Treasurer’s Report**

Ms. Carlin presented the unaudited Treasurer’s Report as of April 30, 2023:

Total unrestricted funds $ 6,233,996.87

Total restricted funds 5,185,267.86

Total cash $11,419,264.73

**A motion to approve the Unaudited Treasurer’s Report as of April 30, 2023, was made, seconded and unanimously carried.**

**Reports from the City Administrator and Staff**

Report from the City Administrator:

Special Election – Mr. Barthel stated that pursuant to the Charter the City has a minimum of 60 days and a maximum of 90 days to hold an election in the event of a resignation. He requested that the election be conducted in 90 days. Mr. Barthel reviewed the timeline for a special election based on the resignation being effective on May 9th. The timeline will be posted on the City website. Based on the resignation date, Mr. Barthel recommended that the election be held on Saturday, August 5, 2023. Mr. Barthel will notify the Board of Elections and the election process will begin. Mr. Barthel stated that the first Budget meeting will be scheduled for Thursday, May 25th, and recommended that the items on Agenda consist of: First reading of an Ordinance solidifying the election process and formally setting the date of the Special Election and the First Budget Meeting.

Report from Chief McCabe

Chief McCabe reported on the following:

* There was a disturbance at the New Castle Little League Field on April 25th. A woman had hired a man to assault her children’s father and the assault took place at the field. There was a significant disturbance and children were involved. The woman was charged with endangering the welfare. The suspect was identified and a warrant for conspiracy and menacing was issued for him. Chief McCabe stated that no firearms were involved.
* There has been an increase in DUIs in the last month and special patrols are being scheduled.
* Additional signage will be posted to address one-way issues on West 3rd Street, which it is felt is a result of one of the new parking lots and the parking lot behind M&T Bank.
* A disorderly residence has been cited and fined, and the department will continue to monitor the situation.
* There was an incident where a juvenile suspect lured a victim into the Penn Valley area using a dating app. The victim was robbed and a firearm was discharged. Evidence was recovered and the shooter was identified. With assistance from the Gloucester County SWAT team, the Pennsville Police Department and an FBI Task Force, a search warrant was executed in New Jersey and firearms were recovered. Two arrests were made.
* Chief McCabe explained that in February 2022 an overdose death was investigated, and that investigation led to a relationship with the FBI. One of the Department’s Detectives has been assigned to the FBI Task Force as a part-time task force officer. He reported that relationship led to the arrest of a responsible party in the February 2022 incident. Chief McCabe added that that relationship has also led to the New Castle Police assisting in other operations. Chief McCabe noted that recently the department’s TFO was assigned to the Group and a multi-unit search warrant was executed for the simultaneous search at different locations during which a large amount of firearms and drugs were found, and five (5) individuals were arrested.
* The Department Annual Report will be posted on the Department website shortly.
* Chief McCabe urged the newly elected City Council members to schedule time to meet with him and tour the Police Department facility.
* The Department was awarded $300,000 to assist with battling a substance abuse and mental health issue in the City. The Department plans to initiate a Co-Responder Program similar to the County’s Hero Help Program. The Department is looking into hiring a clinician to ride with Officers 3-4 times a week. Chief McCabe stated the program, which he wants to be for New Castle City and beyond, is oriented to identify people in crisis and have someone with the Officers who may be able to help. He added that all Officers will participate in Critical Incident CIT training on how to deal with individuals in crisis.

**Council Communications**

Councilperson Souder

* The Resolution reappointing Dennis Anuszewski states his term ends April 2023, and it should be 2026.

**A Motion was made to correct Resolution 2023-13 reappointing Dennis Anuszewski to the Board of Adjustment to show that his term ends April 12, 2026. The motion was seconded and unanimously carried.**

Councilperson Zeltt

* Councilperson Zeltt asked if Council can get a design of the proposed Dog Park. Mr. Barthel noted that $20,000 has been added to the Budget for the Dog Park, and opined that the Budget should be approved before additional design work for the Dog Park is done.
* Councilperson Zeltt asked if there is a centralized listing of all Commissions/Boards/Task Forces and pertinent data. Mr. Barthel stated that he will provide that information to the Council members and confirm that the information is on the City website.

Councilperson Day

* Councilperson Day thanked Chief McCabe, noting that he appreciates his efforts in the City.

Councilperson Zubaca

* Councilperson Zubaca thanked everyone for their patience.
* Councilperson Zubaca noted that May Market was a great success and he is looking for A Day in Old New Castle.
* Councilperson Zubaca recognized Chief McCabe for his efforts.

**Business From the Council President**

* Council President Platt distributed a Code of Conduct to the Council members and asked that they sign it and return it to the City Administrator.
* Council President Platt noted that EV charging stations were installed at the Chestnut Street location, and suggested this be discussed during the Budget Meeting.
* Council President Platt suggested that a traffic study be done on 7th Street, Delaware Street and 6th Street to determine how that will affect the neighborhood, noting his concerns about potential traffic and overflow parking due to the proposed apartment building.
* Councilperson Souder and Council President Platt interviewed candidates for the position of Tourism Director and those candidates will be submitted for the June Council meeting.
* Council President Platt asked for an update on replacing the City Secretary. Mr. Barthel stated that a number of candidates have been interviewed and that he hopes to make an offer next week.
* Council President Platt asked for an update on Separation Day. Mr. Barthel stated that things are moving forward and a planning meeting is scheduled for Thursday.

**Public Comment**

Richard Smith

Mr. Smith thanked Chief McCabe and the Police Department, noting that that the Officers always treat the public with respect.

Mr. Smith expressed his appreciation for the work done by Council, and reminded Council that Rt. 9 is also part of the City.

Mr. Smith opined that a Resolution is needed to assure the public that the Buttonwood gate will not be tampered with.

Mr. Smith stated that he supports the proposed development on Lukens Drive.

Mr. Walton reiterated that Public Comment is not meant to be a re-do of the Public Hearing and requested that comments be restricted to Agenda Items.

Phil Gross – 1301 13th Street

Mr. Gross asked if Agenda Item #4 was removed from the Agenda. Council President Platt stated that Items 3 and 4, which were Mayor’s appointments, were removed from the Agenda.

Mr. Gross congratulated the newly elected Council members, opining that the makeup of Council will enhance it, give more transparency, and spread to inclusiveness of the entire community.

Mr. Gross thanked Chief McCabe.

In response to a question from Mr. Gross, Mr. Barthel stated that the City Secretary position will be a union position.

Mr. Gross asked that Council review the amount budgeted for the Dog Park. He noted that some people wonder why it is being put in such a remote location, and opined that putting it down by the Sailing Club would provide better access to both the community and visitors.

Mr. Gross opined that the Partnership and the Historical Society cover all the bases and that spending $40,000 on an Economic person is a waste of money.

Regarding Ordinance 358, Mr. Gross noted that now suddenly Council wants to cut back on projects.

Valerie Leary – 201 Harmony Street

Ms. Leary congratulated the newly elected Council members.

Ms. Leary responded to Council President Platt’s comment regarding her filing for Mayor. She stated that Delaware Code Title 15 does not define or restrict the method by which a candidate may file for election. It also defers to the individual City Charter. The City Charter also does not define or restrict the method by which a candidate may file. Ms. Leary stated that she ran for election in 2015 and she filed by email and neither City Administration nor anyone else had a problem at that time regarding her filing. She stated that the City Solicitor investigated how she filed and found no violation. The fact that the other candidates did not file in this manner is because they did not know they could. She noted that we are in the 21st century and much of our work should be able to be done electronically.

Captain Tim Moore – Good Will Fire Company

Captain Moore noted that the first Food Truck Community Public Relations Event was held several weeks ago and another Event will be held on May 18th from 4 pm to 8 pm. There will be food trucks and a dessert truck.

**Second Reading – Ordinance No. 536 By Title Only. Ordinance 536, as amended, proposes to rezone portions of property located at 130 Lukens Drive and 150 Lukens Drive, New Castle Delaware (Tax Parcels 21-023.00-001 and 21-022.00-002, totaling 168.76 acres) from the IOP zoning classification (Industrial Office Park) to the R-3 zoning classification (Multi-Family Residential) as to 149.08 acres, and to the GC zoning classification (General Commercial) as to 13.96 acres, and also seeks to amend the City’s 2020 Comprehensive Plan in a manner consistent therewith.**

Council President Platt read Ordinance 536 by title.

Council President Platt called for a motion to discuss and vote on Ordinance No. 536.

Council President Platt asked the City Solicitor to set up training for all Council members.

**A motion to discuss and vote on Ordinance 536 was made, seconded and unanimously carried.**

**Council Discussion, Motion and Vote on Ordinance No. 536.** **Ordinance 536, as amended, proposes to rezone portions of property located at 130 Lukens Drive and 150 Lukens Drive, New Castle Delaware (Tax Parcels 21-023.00-001 and 21-022.00-002, totaling 168.76 acres) from the IOP zoning classification (Industrial Office Park) to the R-3 zoning classification (Multi-Family Residential) as to 149.08 acres, and to the GC zoning classification (General Commercial) as to 13.96 acres, and also seeks to amend the City’s 2020 Comprehensive Plan in a manner consistent therewith.**

Councilperson Zeltt asked that conditions be added to add page 23 from the presentation, park scenarios for kids, relocation of wildlife, the two conditions presented by AECOM, and the Buttonwood gate to define the emergency scenario.

Council President Platt noted that the applicant presented many facts that would meet DelDOT standards and opined that not much more would be achieved by conducting another study. Councilperson Zeltt stated his concern is the intersection of Cherry Lane and Lukens Drive. Council President Platt stated that Council has no jurisdiction over that intersection. Mr. Zeltt asked if provisions could be put in place in the event the intersection goes below Level D. Councilperson Souder noted that it is not projected to go below Level D and asked if Council wanted to make a provision in the event the intersection goes below Level D in reality. Council President Platt asked for Mr. Walton to opine.

Mr. Walton explained that Council is formally changing the zoning so the site plan process can move on to the Planning Commission. He clarified the process Council will use in voting on the Ordinance.

Mr. Walton explained that a motion to approve incorporating the Planning Commission recommendations would be made, and each one of the proposed amendments would be voted on separately.

**A motion to approve Ordinance 536 with all the conditions stated by the Planning Commission was made and seconded.**

Condition 1 – Add as a condition the items from page 23 of the applicant’s presentation regarding transportation.

**A motion to approve adding the items from page 23 of the presentation dealing with transportation as a condition was made, seconded and unanimously carried.**

Condition 2 – Add a playground within the open area as a condition.

A motion to approve adding a park for kids within the open area as a condition was made and seconded.

Council President Platt noted that the demographics of the development are not yet determined and asked how that condition can be put on the developer without that data. After discussion Councilperson Zeltt withdrew his motion.

A motion to approve adding a playground at the site that will be dynamic, matching the number of kids living there. The motion was seconded.

Councilperson Souder noted that the number of children living there is not a static number, and a playground could attract more families; opining that a number of the dynamic cannot be set for the changing population of children. Councilperson Day opined it is not much to ask to have a park. After discussion councilperson Zubaca withdrew his motion.

**A motion was made to have a playground as part of the final site plan was made, seconded and unanimously carried.**

Condition 3 – Add a condition to take into consideration deer on the site and provisions to potentially move them.

**A motion to add provisions to take into consideration deer on the site and to potentially move them as a condition was made, seconded and unanimously carried.**

Condition 4 – Add AECOM’s recommendation to require an evaluation of the Cherry Lane and Lukens Drive intersection in accordance with standards noted by AECOM.

A motion to require an evaluation of the Cherry Lane and Lukens Drive intersection and as part of the evaluation to have corrections made in conjunction with DelDOT was made.

Council President Platt asked how Council can put a condition on DelDOT. Mr. Walton opined that Council could request an evaluation in and submit it to the Planning Commission. Councilperson Souder concurred that Council does not have the authority to have DelDOT do anything. In discussion, Councilperson Day explained that the prior traffic studies were about volume and delays, and the evaluation AECOM is recommending is about the geometry of the intersection; adding that he understands why there would be concerns about putting an additional 4,000 trips per day through the intersection. Council President Platt reiterated that Council has no jurisdiction over the intersection.

**A motion was made to add a condition based on the first two paragraphs of AECOM’s recommendation and that the applicant gets an evaluation of the intersection of Cherry Lane and Lukens Drive and present it to the Planning Commission as stated therein. The motion was seconded and unanimously carried.**

Condition 5 – Add AECOM’s recommendation to require a dedication of the City portion of Lukens Drive as well as the portion that is outside the City.

Councilperson Zubaca opined that this requirement would be unfair to the developer and suggested that the motion only pertain to the portion of Lukens Drive within the City. Council members concurred that it has no jurisdiction over the portion of Lukens Drive outside the City. Councilperson Souder opined that Council needs a Resolution for the portion of Lukens Drive within the City. During discussion Mr. Rogers explained the work that would be necessary to demonstrate that the roadway is ready to be accepted by the City. Mr. Barthel opined that it has not been officially dedicated and the City does not receive community transportation funding for that is not a portion of road. Mr. Walton added that it is not yet a “city street”. Councilperson Day opined that Council should recommend to the developer that the portion of Lukens Drive from Cherry Lane to the railroad be turned over, noting that it could become problematic in the future.

Condition 6 – Buttonwood Gate and conditions for emergency.

Council President Platt opined that “emergency” should be defined by law enforcement or the fire service, and that is the only time the gate should be used. Councilperson Day suggested that the Chiefs put a policy in place identifying the circumstances under which the gate can be used. Mr. Walton explained what was approved relative to the gate at Buttonwood Avenue, noting that “emergency” needs to be defined. Chief McCabe stated his concerns, noting that he does not want to create a scenario that would inhibit the police from conducting routine patrols. Councilperson Zubaca suggested a motion to address ownership if the developer sells the property. During discussion it was noted that the City already owns the gate.

Condition 7 – Add an environmental study to be conducted by an environmentalist to be chosen by the City and paid for by the developer.

A motion to add the performance of an environmental study by an environmentalist to be chosen by the city and paid for by the developer was made.

Mr. Walton stated that condition will be challenging because all the environmental aspects of the study must be clearly identified. Councilperson Zubaca stated his main concern is air quality. Mr. Walton stated that is a DNREC issue and not a City issue. Councilperson Zubaca withdrew his motion.

Condition 8 – Add a commitment for the developer to try and make connections to Rt. 9 and other surrounding bikeable communities as a condition.

**A motion to request that the developer attempt to try to have a more bikeable design was made. The motion was seconded and unanimously carried.**

Council President Platt noted that he did not recall having to defend a vote previously, and asked for clarification. Mr. Walton stated that zoning is a legislative act and ultimately a record must be created for a review in Court to know that your actions are not arbitrary and capricious.

A roll-call vote on the motion on the floor to approve Ordinance 536 with all the conditions stated by the Planning Commission and City Council was taken.

**Council President Platt – Yes.**

* **It is a good project for the City.**
* **More housing in the City is needed as the residents of Buttonwood stated.**
* **The applicant has gone above and beyond with planning and worked extremely well with the City, the Planning Commission and the Board of Adjustment.**

**Through questioning from Mr. Walton Council President Platt stated and incorporated into the reasons for his vote that:**

* **It promotes the health, safety and general welfare of the City.**
* **It provides adequate light and air for the City**
* **It prevents the overcrowding of land and undue concentration of population.**
* **There is adequate provision for transportation, water, sewer, school and other public requirements.**

**Councilperson Day – Yes**

* **It promotes the health and general welfare of the City.**
* **Buttonwood does not need more industrial occupancies.**
* **This is a good fit with the school next door.**
* **Council went down this road when they allowed the school to be positioned in the Park.**
* **It is a good use and it is suitable.**
* **My opinion is based off the applicant’s presentation and the Planning Commission’s recommendation and those are incorporated by reference into my vote.**

**Councilperson Zubaca – Yes**

* **I agree with both Council President Platt’s and Council Person Day’s statements.**
* **It aligns with the master plan for the Rt. 9 corridor and WILMAPCO’s land use adopted in 2017 that focused its vision for the next 20 years for the Rt. 9 corridor (page 78 of the Comprehensive Plan). I am highlighting two recommendations from the Comprehensive Plan that: (1) Industrial lands adjacent to Rt. 9 will be appropriately separated from residential neighborhoods; recommend rezoning the northern tip of the corridor north of I495 to industrial open space and remove residential. Beginning around Rogers Road and moving south, which is where this land falls, it is recommended to prohibit industrial and to position industrial industry to a mix of commercial and residential. This long term repositioning of industry will mitigate exposure to heavy dust pollution and odors, improve population health, greatly reduce illegal truck traffic, and at the same time allow industry the room it needs to operate and create jobs. And (2) Zoning adjustments allowing for mixed use development, residential, commercial and office, which this development certainly will have, will encourage healthy suburban centers along the corridor to grow and thrive. New development will be concentrated in these centers instead of dropping piecemeal as it has along the corridor. This concentration of mixed use and income development will magnify economic impact, facilitate easy bus, walking, bicycling access and create great shared community and regional spaces.**
* **In addition the proposed development encourages the most appropriate use of land throughout the municipality, one of the considerations of the State of Delaware Municipal Zoning Regulations, and it does promote the health and welfare by adding many trails, trees, plants, development in addition to the gym and the pool.**

**Councilperson Zeltt – Yes**

* **I concur with Council President Platt and Councilpersons Day and Zubaca and their statements and incorporate them by reference into my reasons for my vote.**
* **I think it’s great that we’re having residential area instead of the industry.**
* **I think it’s better off that less impact into the area.**
* **I think it’s better to have residential there.**
* **We definitely need more housing, apartments, all that good stuff, for the people of our community.**

**Councilperson Souder – Yes**

* **I have listened carefully to several of the developer’s presentations and they have answered many questions. I have listened to members of the public who spoke tonight. It seemed that many of the people who were opposed to this seem to think that if we vote “no” that nothing will be built in this location and that’s not the case. If we don’t pass this zoning change, then warehouses are probably going to be built there and I think the resulting truck traffic will be more hazardous than an increase in passenger vehicles.**
* **I think we need the housing and therefore, by allowing this mixed use community with market price housing it promotes the welfare of the community and I think that having residential rather than truck traffic will lessen congestion in the streets.**
* **Given the character of the area, its offices and the school, I think it’s a compatible use that is preferable to warehouses.**

**The motion passed with a vote of five to zero.**

Council President Platt stated that the first, third and fourth Agenda items under New Business would be tabled.

**Council Discussion, Motion and Vote on Resolution 2023-15. A Resolution Appointing Art Walker to the Tree Advisory Commission to fulfill the unexpired term of Rick Starr.**

**Art Walker – Council Appointment – Term Ending December 11, 2024**

**A motion to read Resolution 2023-15 was made and seconded**.

Council President Platt read the Resolution.

**The motion was unanimously carried.**

There being no further business to discuss, Council President Platt called for a motion to adjourn.

A motion to adjourn was made, seconded and unanimously carried and the meeting adjourned at 10:41 p.m.

Respectfully submitted,

Kathleen R. Weirich

City Stenographer

**Next Regular Meeting Date: June 13, 2023**

**Posted: 05/02/2023**