

City of New Castle Delaware
Regular City Council Meeting
Meeting Held in Person and via Zoom
Tuesday, December 12, 2023
7:00 p.m.

Call to Order: 7:00 PM

Roll Call

Present: Council President Suzanne M. Souder
Councilperson Nermin Zubaca
Councilperson Andrew Zeltt
Councilperson Joseph F. Day, III
Councilperson Brian M. Mattaway

Also present: Max Walton, Esquire, City Solicitor
Mayor Valarie Leary
Janet E. Carlin, City Treasurer
Jeffrey A. Bergstrom, City Building Official
Chief of Police Richard P. McCabe
Christopher Rogers, City Planner

Council President Souder called the December 12, 2023, regular City Council meeting to order at 7:00 p.m. The assembly stood for the Pledge of Allegiance. Roll call followed and a quorum to conduct business was declared.

Approval of the Minutes by Date

November 7, 2023 Special City Council Meeting

A motion to approve the minutes of the November 7, 2023 special City Council Meeting as submitted was made, seconded and unanimously carried. Councilperson Zeltt abstained from voting.

November 14, 2023 City Council Public Hearing

A motion to approve the minutes of the November 14, 2023 City Council Public Hearing as submitted was made, seconded and unanimously carried.

November 14, 2023 Regular City Council Meeting

A motion to approve the minutes of the November 14, 2023 regular City Council meeting as submitted was made, seconded and unanimously carried.

November 20, 2023 Special City Council Meeting

A motion to approve the minutes of the November 20, 2023 special city Council meeting as submitted was made, seconded and unanimously carried.

November 29, 2023 Special City Council Meeting

A motion to approve the minutes of the November 29, 2023 special City Council meeting as amended was made, seconded and unanimously carried.

Approval of the Treasurer’s Report

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

Total unrestricted funds	\$ 9,804,690.70
Total restricted funds	2,709,019.11
Total cash	\$12,513,709.81

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

Ms. Carlin stated that she will be stepping down from her position of City Treasurer. She will remain in office as long as she is needed and until a replacement has been appointed. Ms. Carlin thanked her colleagues and especially the residents of New Castle for their confidence in her, adding that it has been a privilege to serve.

Reports from the City Administrator and Staff

Council President Souder gave an update on administrative issues:

- Band Shell– No further progress has been made on ordering a new band shell.
- Intersection of Delaware and 6th Streets – Mr. Bergstrom reported that there is still no date for the repaving of the intersection.
- Boothurst Repaving – Mr. Bergstrom reported that repaving in Boothurst is completed.
- 2nd and Chestnut Streets – Mr. Bergstrom reported that the contractor is hopeful that the curbing will be completed within two weeks.
- Dog Park – The City Solicitor received a draft MOU from the Trust’s attorney and Mr. Walton’s staff is reviewing the document. Council President Souder noted that the American Kennel Association’s recommendation for a successful dog park requires, in part, the establishment of a citizen committee to manage it. Council President Souder asked anyone willing to volunteer to be part of this committee contact Councilperson Zeltt.
- Proposed Housing Projects – Council President Souder noted that in response to Councilperson Day’s request to have a presentation of proposed housing projects in New Castle, including what permits have been issued or requested for large projects, and Councilperson Zubaca’s interest in making the information available to residents on the City website, she discussed the matter with Ms. Margo Reign, Chair of the Planning Commission and Adjunct Professor at the University of Delaware’s School of Business and Economics. She learned that as part of the University’s Management Information Technology for Small Businesses and Local Governments’ course students are required to work with a business or local government to design a system that they need. Council President Souder, Councilperson Zubaca, and Ms. Reign have scheduled a zoom meeting to learn more about the program and the potential to have a system to make information

regarding proposed housing projects available to the Planning Commission and the residents.

- Direct Energy – 302 Connections applied to the City for and was granted a permit with conditions to market for Direct Energy beginning January 1, 2024. Direct Energy promotes alternative sources for purchasing electricity and natural gas. Direct Energy’s associates will be going door-to-door in New Castle. The conditions of the permit are:
 - The City will receive a list of the names of each salesperson making calls.
 - Each salesperson must carry a copy of the permit and produce it on request.
 - Sales calls cannot begin before 10:00 a.m. and cannot be made after 7:00 p.m.

Council President Souder stated that the fact that the permit was issued is not an endorsement by City Council or the City of New Castle of the service being marketed by Direct Energy.

Council President Souder added that as a municipal power provider, MSC has exclusive rights to sell electricity in the City of New Castle and the only service residents can choose to purchase from Direct Energy is natural gas. She noted that Delmarva, who currently provides natural gas for New Castle, does not have an exclusive right to sell in the City.

Information on this matter will be posted on the City website and published in the last 2023 issue of The Weekly.

- Leaf Pick-up / Street Sweeping – Due to equipment failure, Public Works has been picking up leaves manually, which is slower. The equipment has been repaired and street sweeping will resume. Council President Souder stated that a schedule for street sweeping has been established and is posted at the City Office and on the City website, and has been published in the Town Crier and The Weekly. She requested that residents move their cars off the street on the days scheduled for street sweeping in their area. Signage will be posted to alert residents when street sweeping will occur on their street. She added that ultimately vehicles will be ticketed if they are not moved on their designated street sweeping day.

Report from the Building Official

- 10th Street – Mr. Bergstrom reported that the 10th Street project has been completed.

Report from Chief McCabe

Chief McCabe reported on the following:

- 7th and Delaware Streets – There was a crash at 7th and Delaware Streets due to a DUI that shut the road down. Chief McCabe thanked the Good Will Fire Company, MSC and Public Works for their quick response.
- Rt. 9 Closure – Chief McCabe recognized Ric Delgado of Public Works and the Good Will Fire Company for their quick response and assistance with flooding on Rt. 9 in closing the road and setting up advance warning signs. He noted that DelDOT has provided the City with the authority and equipment to manage this type of incident before DelDOT is on the scene. In response to a question from Councilperson Zeltt regarding

setting up a separate Facebook page to notify residents of road closures, Chief McCabe stated that the Department recognizes that notification can be an issue, and the Department is supportive of any outreach ideas to get the message out. He added that the Department is researching funding for permanent signage north of the City to notify drivers of road closures and recommending that they seek an alternate route. Mayor Leary added that the City has a website that residents can access for this type of information. Chief McCabe added that road closures that are noticed in advance are posted on the Department Facebook page.

- Dobbinsville School Bus Stop – Chief McCabe noted that residents in Dobbinsville have expressed concern that students must cross the road in order to board the school bus in Dobbinsville. Chief McCabe discussed the situation with the County School Bus Supervisor and asked for an assessment to see if it warrants having a crossing guard at that bus stop, and he should have the results of the assessment by early next week.
- Data Collection – Chief McCabe is working with the County and Recon to get a breakdown of call responses to apartment complexes in New Castle. He explained that calls are being identified by street address and not by an apartment complex name, which can cause delays in response, and stated that they are working on a solution for data collection.
- Traffic Enforcement – After investigation, an increase in traffic enforcement has been instituted at Delaware Street and the Carrie Downie Elementary School to reduce traffic accidents.
- Spirit of Christmas – Officers reported some concerns with parking and pedestrian traffic being mixed with vehicular traffic during the Spirit of Christmas event. The Department recognizes the potential need for additional resources and will meet with the committee earlier next year to discuss needs and the possibility of combining the Spirit of Christmas with other events being held at that time.
- Adopt-a-Family – Saturday is the Department’s Adopt-a-Family Christmas celebration. All families have been identified and gifts wrapped. Chief McCabe thanked the organizations and residents who contributed to the event. He also thanked the committees that were asked to move their meeting location in order to accommodate gift wrapping for the event.
- City Treasurer – Chief McCabe extended his congratulations and thanks to Ms. Carlin for her years of service.

Council Communications

Councilperson Zubaca

- Councilperson Zubaca extended his congratulations to Mr. Tom Clayton on his election to the Trustees of the New Castle Common. He expressed his hope for continued relationship building between the City and the Trustees to benefit the town.
- Councilperson Zubaca thanked the community businesses and volunteers who organized and worked to make the Spirit of Christmas a successful event.
- Councilperson Zubaca thanked the Good Will Fire Company and the Lion’s Club for hosting Breakfast with Santa.

City Council Regular Meeting
December 12, 2023

- Councilperson Zubaca echoed Chief McCabe’s appreciation for the quick response to the crash at 7th and Delaware Streets by the Fire Company, Public Works and MSC.
- Councilperson Zubaca congratulated Ms. Carlin and thanked her for her service as City Treasurer.
- Councilperson Zubaca thanked Good Will Fire Company and noted that he will be happy to connect residents with organizations collecting donations during the holidays.
- Councilperson Zubaca wished everyone a happy and safe holiday season.

Councilperson Mattaway

- Councilperson Mattaway expressed his condolences on the passing of Mr. William Simpson, Jr., and Mr. Gerald “Gerry” Toner.
- Councilperson Mattaway highlighted the community work done by the Police Department.
- Councilperson Mattaway thanked the committee, organizations, and volunteers that worked to bring about a successful Spirit of Christmas, as well as those who attended the event. He particularly noted the beautiful wreaths donated by Arasapha Garden Club to adorn the City.
- Councilperson Mattaway thanked the Lion’s Club and Good Will Fire Company for hosting Breakfast with Santa.
- Councilperson Mattaway stated that he participated in the 5-K in Battery Park, noting that it was a very good event.
- By honoring his campaign promise, Councilperson Mattaway noted that he donated \$450 to the Friends of the Library and his donation was matched by his employer.
- Councilperson Mattaway thanked Ms. Carlin for her years of service to the City, noting that she will be sorely missed.

Councilperson Zeltt

- Councilperson Zeltt reiterated Council President Souder’s request to have anyone interested in volunteering with the dog park to contact him.
- Councilperson Zeltt thanked Ms. Carlin for her years of service to the City.
- Councilperson Zeltt noted that his donation to the New Castle Senior Center was double-matched by his employer, and he assisted Good Will Fire Company with a new Keurig coffee maker in their conference room.

Councilperson Day

- Councilperson Day noted that the new paving in Boothurst looks very nice, and thanked Mr. Bergstrom for seeing that done.
- Councilperson Day attended the Spirit of Christmas, and thanked those who worked to make it a successful event.
- Councilperson Day attended Breakfast with Santa hosted by Good Will Fire Company and the Lion’s Club.

- Councilperson Day met with interested citizens regarding the Bull Hill Boat Club.
- Councilperson Day congratulated Mr. Tom Clayton on his re-election to the Trustees of the New Castle Common.
- Councilperson Day thanked Councilperson Mattaway for mentioning the recent passing of Messrs. Simpson and Toner and recognized their contributions to the City.
- Councilperson Day thanked Ms. Carlin for her years of service.

Business From the Mayor

- Mayor Leary thanked everyone who helped bring about a wonderful Spirit of Christmas event.
- Mayor Leary noted that there are still families whose children attend Carrie Downie who are in need this holiday season. Anyone wishing to make a donation can contact Mayor Leary.
- Wreaths Across America takes place Saturday, December 16th at the Veteran's Cemetery in Bear, Delaware. There will be a service and ceremony, and the laying of the wreaths. This is a voluntary event and is open to everyone.
- Dates and locations for the January and February outreach events are still pending. Mayor Leary asked that anyone who has a contact at Buttonwood School to let her know.
- Mayor Leary congratulated and thanked Ms. Carlin on her years of service to the City.
- A Tree lighting was held on Saturday night at which Mayor Leary read a Proclamation in honor of Mr. Gene Dempsey, who recently passed away. Mayor Leary read the Proclamation.
- Mayor Leary wished everyone happy and safe holidays.

Business from Good Will Fire Company

Chief Majewski thanked the community and City Council for their support of events hosted by Good Will Fire Company. He noted that Santa is out and about in the community and will be traveling through the downtown area on Saturday, December 23rd starting at noon.

Chief Majewski urged everyone to be stay safe during the holidays, and wished everyone happy holidays.

Public Comment

David Connell – 725 Clymer Street

Mr. Connell spoke in opposition of City Council extending Chief McCabe's contract under Resolution 2023-38.

Phil Gross – 1301 13th Street

Mr. Gross stated that Ordinance 540 must be defined to ensure that anything more than a single family dwelling is obligated to submit a concept plan.

Mr. Gross expressed his appreciation for Ms. Carlin's dedicated service during her years of service.

Mr. Gross noted that printed Agendas were not available for the public at the meeting and asked that Council see that they are available at every meeting.

Mr. Gross noted that the real estate matters discussed by City Council during the recent special meeting should not have been held in executive session.

Mr. Gross stated that anyone in an elected position should not endorse candidates for public office.

Council President Souder stated a matter of real estate was held during the special Council meeting in executive session, noting that Council does not make decisions at executive sessions. All decisions are made during public meetings.

Council President Souder informed Mr. Gross that there is nothing in the City Code that prohibits an elected official from endorsing a candidate.

Tera Hayward-Olivas – 114 East 3rd Street

Ms. Hayward-Olivas noted that she was part of the Spirit of Christmas committee and thanked everyone who volunteered the Fire Department and the Police Department for their support. Donations received for Friendship House exceeded past events. She added that she is looking forward to having more time to plan for next year and keeping the event ongoing.

Leo Matos – 154 East 2nd Street

Mr. Matos expressed his concern regarding street repairs in New Castle and the quality and effectiveness of the work, the height of curb heights, drains filled with asphalt and their functionality.

Council President Souder stated that a number of different contractors have worked on the City streets under a number of projects.

In response to a question from Councilperson Mattaway, Mr. Matos identified areas in the city where the paving, curbing, drains and drainage are particularly bad.

Council President Souder asked Mr. Matos to submit his concerns to her via email with a list of all the locations.

Business from the Council President

- Council President Souder echoed the thanks to Good Will Fire Company and the Lion's Club for Breakfast With Santa.
- Council President thanked everyone involved with Spirit of Christmas.
- Council President Souder added her congratulations to Mr. Tom Clayton on his reelection to the Trustees of the New Castle Common.

- Council President Souder gave an update on the search for a City Administrator, noting that the candidates that have been interviewed are all highly qualified.
- Council President Souder noted that the Planning Commission and Council both have an interest in having the Transportation Plan moved up on DelDOT's priority list. A joint special meeting of the City Council and the Planning Commission will be scheduled with the City Planner and DelDOT. It was agreed that it would be best to schedule the meeting after the new City Administrator is in place.
- In response to community questions regarding undergrounding utilities, Council President Souder explained where utilities have been undergrounded and why utilities were undergrounded in those areas. She noted that Verizon has overhead cable lines and will not underground their lines.
- Council President wished everyone happy holidays.

Old Business

Second Reading, Discussion, and Possible Vote on Ordinance 540

Councilperson Day summarized the Ordinance. He noted that most jurisdictions require a concept plan before a rezoning is granted.

During discussion, Council President Souder stated her understanding that the Planning Commission chose the option of not requiring a concept plan to avoid putting an undue burden on homeowners seeking a minor change, and asked if there were a way to define a "minor" change. Councilperson Zubaca concurred with the suggestion to define "minor" change. Councilperson Day stated that the concept plan can be as basic or as intricate as Council requires.

Council President Souder called for a pause in the meeting while the City Solicitor and City Planner discussed the matter. At the conclusion of the discussion between the City Solicitor and the City Planner, Council President Souder reconvened the meeting.

Councilperson Day stated there are three ways to start a rezoning:

1. Planning Commission can start a rezoning;
2. Council can start a rezoning; or
3. A rezoning can be started by the property owner through a petition.

Mr. Walton presented his and Mr. Rogers' joint recommendation on how to address Council's concern regarding the requirement of a concept plan for a "minor" change and to correct the typographical error under Section 2. Mr. Walton recommended making two motions to amend the Ordinance.

Councilperson Day made a motion to amend Section 2 of Ordinance No. 540 by changing "Section 213-7" to "Section 230-61". The motion was seconded and the motion was unanimously carried.

Councilperson Zubaca stated his preference is to retain “described in Attachment 2 of this Chapter.” and add a sentence regarding a minor change for residential properties.

Mr. Rogers provided further clarification of the Code and the requirements for site plans for larger developments. Councilperson Zubaca reiterated his concern that it may be construed that Council is choosing whether a concept plan is required or not; opining that Council should rely on the Code to make that determination. After further discussion and clarification, it was concurred by City Council, the City Solicitor and the City Planner that the new language under Section 2 did not need to be amended in order to accomplish the intent of the Ordinance and City Council.

A motion was made by Council President Souder to change to Version 2 of Ordinance 540, with that version also having the correction previously approved. The motion was seconded by Councilperson Day and unanimously carried.

A motion for a roll-call vote on Ordinance 540 was made by Councilperson Day and seconded by Councilperson Mattaway.

Council President Souder – Aye

Councilperson Day – Aye

Councilperson Zubaca – Aye

Councilperson Zeltt – Aye

Councilperson Mattaway – Aye

The motion carried unanimously and Ordinance 540 was adopted.

New Business

- 1. Consideration and Vote on Proposed Changes to Chief McCabe’s contract and extending his contract to 2029.**

A motion to adopt the new contract for Chief McCabe was made and seconded. The motion carried unanimously.

- 2. Discussion of the possible purchase of an audio-visual system to be used for Council meetings at the Senior Center.**

Councilperson Day noted the initial quote was \$31,302 pending the cost of the projector screen. The final price was \$37,162. There are two options for projectors and Councilperson Day recommended going with the better projector. Councilperson Day recommended that this matter be reviewed during the Budget Review in 2024. Council President Souder explained the reasoning for purchasing the new audio-visual system for the Senior Center. The Council members concurred to revisit the audio-visual system during the Budget Review in 2024.

In response to a question from Councilperson Zubaca, Councilperson Day explained the quote being presented is awarded through a State contract.

3. Council Discussion, Possible Motion and Vote on Resolution 2023-38- Appointing Alice Riehl to the Tree Advisory Commission to fulfill the unexpired term of Sheila Shannon.

Alice Riehl – Tree Advisory Commission – Term ending November 13, 2024

A motion to read Resolution 2023-38 was made and seconded. Council President Souder read the Resolution.

A motion was made to approve Resolution 2023-38 to appoint Alice Riehl to the Tree Advisory Commission to fulfill the unexpired term of Sheila Shannon, with a term ending November 13, 2024. The motion was seconded and unanimously carried.

4. Motion, Discussion and Vote on Resolution 2023-39- Approving the Mayor’s appointment of J. David Majewski, Jr. as the representative of the Good Will Fire Company to the Planning Commission

J. David Majewski, Jr. – Good Will Fire Company Representative to the Planning Commission – Term ending December 12, 2026

A motion to read Resolution 2023-39 was made and seconded. Council President read the Resolution.

A motion was made to approve Resolution 2023-39 to appoint J. David Majewski, Jr., as the representative of the Good Will Fire Company to the Planning Commission. The motion was seconded and unanimously carried.

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

A motion to adjourn was made, seconded and unanimously carried and the meeting adjourned at 8:40 p.m.

Respectfully submitted,

Kathleen R. Weirich
City Stenographer

Next Regular Meeting Date: January 9, 2023

Posted: 11/20/2023

Updated: 12/0/2023