

City of New Castle Delaware
Regular City Council Meeting
Meeting Held in Person and via Zoom
Tuesday, October 10, 2023
7:00 p.m.

Call to Order: 7:00 PM

Roll Call

Present: Councilperson Suzanne M. Souder
Councilperson Nermin Zubaca
Councilperson Andrew Zeltt

Absent: Councilperson Joseph F. Day

Also present: William J. Barthel, City Administrator,
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

Councilperson Souder called the October 10, 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

September 12, 2023 Regular City Council Meeting

A motion to approve the Minutes of the September 12, 2023 regular Council Meeting Minutes as amended was made, seconded and unanimously carried.

September 21, 2023 Special City Council Meeting

A motion to approve the September 21, 2023 Special City Council Meeting minutes as presented was made, seconded and unanimously carried.

Approval of the Treasurer's Report

Ms. Carlin presented the unaudited Treasurer's Report as of September 30, 2023:

Total unrestricted funds	\$10,191,196.49
Total restricted funds	2,853,046.85
Total cash	\$13,044,243.34

Ms. Carlin noted that the percentage of delinquent taxes collected is currently 230%. She explained that 18 properties were sent to monitions and seven of those properties paid in full. Since last month another \$5,000 has come in.

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

Reports from the City Administrator and Staff

Mr. Barthel reported the following:

- Stage – Mr. Barthel met with Scott Humphrey of Light Action Productions out of Wilmington, Delaware, to discuss locating vendors for a stage. Mr. Humphrey will research a stage that was recommended to Mr. Barthel by Astra Stages with the manufacturer and look into several other potential companies, including a company out of Canada that Mr. Barthel had already contacted. The cost of the stage Mr. Barthel is looking at is approximately \$55,000 to \$60,000. Mr. Barthel will introduce Mr. Humphrey to Councilperson Souder to facilitate moving forward with the purchase of a stage.
- Security at 220 Delaware Street – Ms. Hamroun is ready to bring a presentation to Council for security at 220 Delaware Street. Mr. Barthel suggested that she wait until there is a full complement of Council members to make her presentation.
- Dog Park – Ms. Hamroun is in the process of simplifying a layout for the Dog Park. Once that is completed the job can be put out to bid. Mr. Barthel added that the City has not yet received the MOU from the Trustees. Mr. Walton will reach out to the Trustee's attorney, Andrew Taylor, to follow-up on the matter.
- Separation Day – Mr. Barthel met with representatives from Event Allies and suggested that they speak with Ms. Souder to discuss next year's Separation Day celebration. Event Allies is preparing an Agreement for next year. The City currently has \$68,243 for Separation Day, which includes a check received for Fiscal Year 2024 of \$36,050.
- New Castle Senior Center – The Senior Center notified the City that effective January 1, 2024, the room rent for City Council meetings will increase from \$75 to \$250. This increase is due to logistical issues and added costs to the Senior Center.
- Bull Hill Boat Club – Mr. Barthel explained the background of extending the lease for the Bull Hill Boat Club (the Club), which included providing insurance. The Club was unable to obtain insurance and eventually disbanded and the City took control of the property. Mr. Barthel was approached by a former member of the Club who stated there is interest in getting another lease for the property; however, they were advised that the best way to obtain insurance was to tear down the old dock. The interested group stated they would be willing to take down the old dock themselves. Mr. Barthel expressed his concerns from a liability standpoint and recommended that Council discuss the matter with the new group at the November Council meeting. Mr. Barthel will provide Councilperson Souder with the contact information of the new group. In response to a question from Councilperson Zubaca, Mr. Barthel opined that there was never a formal long-term agreement with the Club.

Report from Chief McCabe

Chief McCabe reported on the following:

- At approximately 3:00 p.m. officers responded to the BuyRite Liquor Store parking lot in response to a road rage incident that led to a double stabbing. Officers are still on the scene collecting evidence and a large group is looking for the suspect.
- A number of complaints of drug activities in the Shawtown area have been received and an arrest was made on September 24th that led to identifying an individual who was wanted in the Dominican Republic for murder.
- Chief McCabe explained what the new marijuana laws mean for the City and the Department:
 1. It is now legal to possess no more than 1 oz. of marijuana if you are 21+ years old.
 2. It is illegal to consume marijuana in public areas or in a moving vehicle
 3. Sidewalks, streets, alleys, parking lots, parks, playgrounds, stores, restaurants or other areas to which the general public are considered “accessible to the public”.
 4. Paraphernalia used with marijuana is now legal.
 5. Marijuana remains in the Controlled Substance Law and personal use of over 1 oz. is considered an unclassified misdemeanor.
 6. Consuming marijuana in an area accessible to the public or in a moving vehicle is an unclassified misdemeanor.
 7. Individuals under the age of 21 who use or possess marijuana are subject to a civil citation.
 8. An outdoor location 10 feet from the entrance, exit, window or open ventilation intakes or of any public or private building would be an area where intervention or arrests may be made.
 9. The odor coming from one house to another cannot be controlled by the Police. The Department will respect the complaints of residents where marijuana is being used within 10 feet.

Chief McCabe is available to discuss the matter with all residents who have concerns. In response to a question from Councilperson Souder regarding the use of marijuana on the steps of row homes or duplexes, Chief McCabe stated that Officers will take into consideration locations noted under Item 3 above.

- The Department is taking suggestions for families to adopt for the Christmas holidays.
- Chief McCabe thanked Mr. Barthel for his guidance and support during his tenure as City Administrator.

Council Communications

Councilperson Zeltt

- 6th and Delaware Street Intersection – Councilperson Zeltt asked if the City is doing anything to get a blinking stop sign at the intersection of 6th and Delaware Streets. Mr. Bergstrom stated that DelDOT’s opinion is that blinking stop-sign lights are inappropriate and detract from public safety. DelDOT recommended that after the blinking light is removed a “Stop Sign Ahead” sign be installed to bring attention to the

Stop Sign. Mr. Bergstrom added that any signage not approved by the State Department of Transportation will be removed. Councilperson Souder noted that Councilperson Zubaca suggested “Yield to Pedestrians in Crosswalk” signs be put up and suggested that the City request they be installed while up new signs are being put up. Mr. Bergstrom suggested that the City ask DelDOT about signage when they do the work. Mr. Barthel added that DelDOT is reevaluating the timeline and will inform the City when the work will begin. Mr. Barthel also noted that he had a discussion with Peter Haag to see if the City can use the same paving contractor and piggy-back on the paving job to continue paving to 5th Street. Mr. Barthel will follow-up with the Regional Office.

Councilperson Zubaca

- Playground Dedication – Today was the official opening of the Battery Park Playground. There was a ribbon-cutting ceremony that was attended by City and State officials. Councilperson Zubaca thanked everyone who helped make this a reality.
- Election – Councilperson Zubaca asked if the City could look into doing a mailing to inform residents how, when and where to register and to vote. Mr. Walton stated that would probably to be done via Ordinance post-election. Councilperson Zubaca encouraged everyone to vote on November 4th.
- Newsletter – Councilperson Zubaca’s newsletter is not yet up-and-running, but he hopes it will be by the end of the month.
- Councilperson Zubaca thanked everyone for attending the Block Party and Art on the Green.
- Councilperson Zubaca thanked Mr. Barthel for 14 years of service to the City as City Council President and City Administrator.

Councilperson Souder

- Transportation Plan – Councilperson Day’s review of the Transportation Plan will be presented at a Special City Council Meeting.
- Playground Dedication – Councilperson Souder attended the dedication of the Playground in Battery Park and thanked Ms. Swift and the Task Force for their work on the project.
- Councilperson Souder thanked Mr. Barthel for his 4 years of service as City Council President and 10 years as City Administrator.

Business From the Mayor

Mayor Leary reported that:

- October is Breast Cancer Awareness month, and Mayor Leary reminded everyone, men and women, to be aware of any irregularity that might appear without specific injury or enlarged lymph nodes, and to be checked out by a physician as soon as possible after an irregularity is discovered. She noted that the Delaware Breast Cancer Coalition is an excellent resource.

- Art on the Green, the Block Party on the Green, and the Belgium Brewfest were all very successful events in October. The Block Party raised between \$15,000-\$17,000 for the New Castle Senior Center.
- Mayor Leary asked Mr. Barthel to speak about the meeting held with DNREC regarding Rt. 9 flooding. Mr. Barthel stated that the biggest discussion point that was made by Mr. Bergstrom and Mr. Connolly from the Conservation District was that to dredge the marsh would not be particularly doable because (a) cost and (b) it would fill back in within a very short period of time. Mr. Barthel requested that DelDOT backhoe the area by Three Countries Pizza. Mayor Leary added that DelDOT will put the City on its schedule to backhoe the area on a regular basis. Mr. Barthel noted that the consensus was that to fix the problem the road needs to be raised.
- Mayor Leary attended the Delaware League of Local Governments dinner where City Solicitor Max Walton and Molly DiBianca of Clark Hill gave presentations on Weed and Work and Land Use relating to the recent marijuana legislation.
- Mayor Leary attended the grand opening of the DEMEC Line Workers Training Facility in Smyrna. The City flag was displayed at the top of a telephone pole by Bil Lindberg, one of the City's Line workers.
- The Mayor's Proclamation was read at the Bridgewater Jewelers 140th Anniversary Event.
- Due to the forecast of adverse weather the first Community Outreach scheduled for October 7th was postponed to Sunday, October 15th from 12:00 to 2:00 p.m. at Susi Park, with Councilpersons Souder and Zeltt. The next Community Outreach event is scheduled for Saturday November 11th, with Mayor Leary and Councilpersons Day and Souder from 1:00 – 3:00 p.m. in Dobbinsville.
- The annual Halloween Parade will be Monday October 30th at 6:00 p.m.
- Mayor Leary thanked Mr. Barthel for his dedication to the City and wished him well in his future "retirement" endeavors.

Public Comment

Dorsey Fiske – 21 East 3rd Street

Ms. Fiske asked that Council do a long-term plan for development in the city. She noted that there are many apartments being built and expressed her understanding that renters are not as good for the tax base as homeowners. She suggested that Council looks at the Kennett Square template where they got a large company to come in which revitalized the downtown area.

Bill Emory

Mr. Emory stated that the Planning Commission voted to eliminate the requirement for a conceptual drawing to be presented as part of the permitting process to get approval to build projects in the City. He noted that conceptual drawings show residents exactly what is going to be built, and the recent vote of the Planning Commission takes that away so residents no longer have the option to see what is proposed to be built. Mr. Emory urged City Council to not approve the Planning Commission's decision.

Dr. Somasunderam Padmalingam

Dr. Padmalingam noted that he has observed flooding in the City and on Rt. 9 and asked Council what plans they have for 6th Street and the outskirts on Rt. 9. He stated it is a priority and must be addressed and suggested that the City reach out to the State and County. Councilperson Souder explained that the City has had extensive conversations on these issues and the Sea Level Rise Task Force has gotten the City into a Federal program to address flooding.

Mr. Padmalingam noted that the increase in room rental for space at the Senior Center will greatly benefit the Senior Center and the citizens.

Phil Gross – 1301 13th Street

Mr. Gross stated that in State Law if someone runs unopposed they are still on the ballot to allow write-ins; however the City is not having the seat for City Council President on the ballot because there is only one candidate. He added that the City is not being transparent and there is a problem in the City that needs to be recognized.

Mr. Gross asked that Council change its policy of not allowing citizens to ask questions during Public Comment, adding that as taxpayers they deserve answers.

Councilperson Souder recognized Mr. Walton. Mr. Walton addressed the matter of the City Council Presidency and read from Title 15 of the State Code which states “where the number of qualified candidates for an office is equal to or less than the number of seats up for election the Board of Elections shall declare the candidate or candidates elected” and there is no requirement for a write-in candidate.

Chief David Majewski – Good Will Fire Company

Chief Majewski reminded everyone that October is Fire Prevention Month and urged everyone to check smoke and CO detectors in their homes. If smoke detectors are more than 10 years old, he recommended replacing them. Smoke detectors are available at the Fire Station at no cost, and help installing them is also available.

The Fire Station Open House is Saturday October 28th from 11:00 a.m. to 3:00 p.m. and everyone is invited to attend.

Chief Majewski thanked everyone who attended the Fire Station Food Truck Fundraisers. The last fundraiser is Thursday, October 19th from 5:00 to 8:00 p.m. at the Fire Station.

On Sunday, October 21st, a promotional ceremony and press conference will be held at the Fire Station at 10:00 a.m. and the community is invited to attend.

Brian Mattaway – 628 Delaware Street

Mr. Mattaway thanked Mr. Barthel for his dedication and commitment to the City.

Mr. Mattaway thanked the Sea Level Rise Task Force for its continued efforts in safeguarding the City, and Ms. Riehl for her contributions.

Mr. Mattaway noted that lighting at the 6th and Delaware Street intersection is poor and asked if something can be done to brighten and illuminate the area.

Mr. Mattaway noted that the New Castle Sailing Club is doing a beach cleanup this weekend and encouraged everyone to come by to say hello or to help out.

Old Business

Second Reading of Ordinance No. 542 – An Ordinance to Amend Chapter A236 Affirmative Action – A236-1 Intent and A236-3 Promotion of equal opportunity programs to eliminate discrimination.

Chairperson Souder read the Ordinance by title and opened the floor for Council discussion.

Council Discussion, Possible Motion and Vote on Ordinance No. 542 – An Ordinance to Amend Chapter A236 Affirmative Action – A236-1 Intent and A236-3 Promotion of equal opportunity programs to eliminate discrimination.

Councilperson Zeltt

Councilperson Zeltt stated that the City is going with what the State does and coordinating with the State protects us all as a community.

Councilperson Souder

Councilperson Souder noted that concerns were raised about making the City open to liability and asked Mr. Walton to address that concern. Mr. Walton stated that his colleague researched the Ordinance and stated that all the provisions are within State Law already and the proposed Ordinance brings the City in alignment with the State. Councilperson Zubaca suggested that Council check into whether there is a potential to lose Federal funding, and added it is better to be proactive than reactive.

A motion to approve Ordinance 542 was made and seconded. A roll call vote was taken:

Councilperson Andrew Zeltt – Yes

Councilperson Nermin Zubaca – Yes

Councilperson Suzanne Souder – Yes

The motion was unanimously carried.

New Business

Council Discussion, Possible Motion and Vote on Resolution 2023-31 – A Resolution appointing Cynthia Batty as the Planning Commission Representative to the Historic Area Commission to fulfill the unexpired term of Matthew Lovlie.

Cynthia Batty – Planning Commission Representative to the Historic Area Commission
Term Ending November 12, 2025

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A motion to read Resolution 2023-31 was made and seconded. Councilperson Souder read the Resolution. She noted that the appointment of a Representative to the Historic Area Commission is in the Code.

A motion to approve Resolution 2023-31 appointing Cynthia Batty as the Planning Commission Representative to the Historic Area Commission to fulfill the unexpired term of Mathew Lovlie was made, seconded and unanimously carried.

Council Discussion, Possible Motion and Vote on Resolution 2023-31 – A Resolution converting the temporary Task Force of Citizens to Research Existing Information Concerning the Impact of Sea Level Rise.

A motion to read Resolution 2023-31 was made and seconded. Councilperson Souder read the Resolution.

A motion to approve Resolution 2023-31 converting the temporary Task Force of Citizens to Research Existing Information concerning the Impact of Seal Level Rise on the City of New Castle to a Standing Flood Resiliency Committee was made, seconded and unanimously carried.

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

A motion to adjourn was made, seconded and unanimously carried and the meeting adjourned at 8:19 p.m.

Respectfully submitted,

Kathleen R. Weirich
City Stenographer

Next Regular Meeting Date: November 7, 2023
Posted: 10/03/2023