

*City of Wilmington
Louis L. Redding
City/County Building
March 6, 2014*

Council met in regular session on the above date at 6:30 p.m., President Theopalis K. Gregory, Sr. presiding.

Invocation was given by Joe Garcia.

The Pledge of Allegiance was recited by City Council.

ROLL CALL

The following members responded to the Call of the Roll: Council Members Chukwuocha, Congo, D. Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, M. Brown, Cabrera, Walsh, and Wright*, and Council President Gregory. Total, thirteen.

MINUTES

After reading a portion of the minutes of February 20, 2014, upon a motion of Ms. Walsh, seconded by Mr. Freel, it was moved they be accepted as written. Motion prevailed.

REPORT OF COMMITTEES

The City Clerk read the following committee report:

<u>Health, Aging & Disabilities Committee Member</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Robert A. Williams	X		
Darius J. Brown		X	
Charles M. "Bud" Freel		X	
Sherry Dorsey Walker	X		
Justen A. Wright	X		

President and Members of Council of
The City of Wilmington

February 26, 2014

Ladies and Gentlemen:

We, your Health, Aging & Disabilities Committee, met on the above date at 5:00 p.m., Chairman Robert A. Williams presiding. The following item was discussed:

- A presentation on Affordable Care Act Market Place enrollment by Westside Health

Respectfully submitted, Members of
Health, Aging & Disabilities Committee
/s/Robert A. Williams, Chair
/s/Sherry Dorsey Walker

***Note: Although Councilman Wright was present at the above aforementioned committee meeting, his signature was inadvertently missed. Also, the above referenced item that was discussed in committee does not require to be voted out of committee.*

Upon a motion of Mr. Williams, seconded by Ms. Walsh, the aforementioned Committee Report was received, recorded, and filed. Motion prevailed.

The City Clerk read the following committee report:

<u>Housing, Licenses & Inspections Committee Member</u>	<u>Present</u>	<u>Absent with Leave</u>	<u>Absent w/out Leave</u>
Samuel Prado	X		
Darius J. Brown		X	
Maria D. Cabrera		X	
Nnamdi O. Chukwuocha		X	
Hanifa G.N. Shabazz		X	
Sherry Dorsey Walker	X		

March 5, 2014

President and Members of Council of

The City of Wilmington

Ladies and Gentlemen:

We, your **Housing, Licenses & Inspections Committee**, met on the above date at 4:30 p.m., Councilman Samuel Prado presiding. The following items were discussed:

- A Resolution authorizing the Department of Real Estate and Housing to dispose of a large commercial property located at 303 N. Pine Street to F and L Properties
- A Resolution authorizing the Department of Real Estate and Housing to dispose of a property at 528 South Claymont Street to the Neighborhood House as a Southbridge Community Garden Project

Respectfully submitted, Members of
Housing, Licenses & Inspections Committee
/s/Samuel Prado, Chair
/s/Sherry Dorsey Walker

Upon a motion of Mr. Prado, seconded by Ms. Walsh, the aforementioned Committee Report was received, recorded, and filed. Motion prevailed.

TREASURER'S REPORT

The following Treasurer's Report dated March 6, 2014 was read into the record by the City Clerk, and upon a motion of Ms. Walsh, seconded by Mr. Freel, the Report was received, recorded and filed. Motion prevailed.

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF WILMINGTON March 6, 2014

102	Community Development Block Grant	M & T Bank	\$ 1.00
104	Old Non-Uniform Pension Account	M & T Bank	\$ 1,527.81
105	Police Pension Account	M & T Bank	\$ 2,025.30
106	Fire Pension Account	M & T Bank	\$ 4,104.65
107	Evidence/Found Currency Account	M & T Bank	\$ 118,861.97
108	Rent Withholding Escrow	M & T Bank	\$ 4,137.97
110	Capital Projects Account	M & T Bank	\$ 59,783.59
113	Non-Uniform Pension	M & T Bank	\$ 1,111.82
114	Central Deposit	M & T Bank	\$ 242,892.23
117	Cement Workers	Wilmington Savings Fund	\$ 33,381.23
118	Worker's Comp. 3 rd Party Account	M & T Bank	\$ 13,003.24
124	Non-Uniform Pension Act of 1990	M & T Bank	\$ 43,607.21
130	Payroll	M & T Bank	\$ 74,506.91
131	Pension Payroll Account	M & T Bank	\$ 91,282.98
139	Pension Healthcare Account	M & T Bank	\$ <u>7,131.53</u>
	Total Cash on Hand		\$ 697,359.44

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FUND CODE	FUND	INSTITUTION	INVEST. TYPE	MATURITY DATE	INTEREST RATE	INTEREST RECEIVABLE	INVESTMENT AMOUNT
116	General	M&T Bank	RP	03/06/14	0.01%	\$ 1.70	\$ 6,192,748.00
116	General	TD	CD	03/07/14	0.25%	\$ 2,520.55	\$ 2,000,000.00
116	General	TD	CD	03/07/14	0.25%	\$ 383.57	\$ 2,000,000.00
116	General	TD	CD	03/21/14	0.25%	\$ 2,424.66	\$ 2,000,000.00
124	Non-Uniform 1990	WSFS	CD	03/28/14	0.30%	\$ 771.08	\$ 3,235,000.00
106	Fire Pension	WSFS	CD	03/28/14	0.30%	\$ 73.89	\$ 310,000.00
105	Police Pension	WSFS	CD	03/28/14	0.30%	\$ 87.00	\$ 365,000.00
116	General	WSFS	CD	04/01/14	0.30%	\$ 2,576.71	\$ 1,900,000.00
116	General	TD	CD	04/04/14	0.25%	\$ 2,232.88	\$ 2,000,000.00
116	General	WSFS	CD	04/17/14	0.30%	\$ 2,745.20	\$ 2,000,000.00
116	General	TD	CD	04/25/14	0.25%	\$ 1,816.44	\$ 1,700,000.00
116	General	TD	CD	05/02/14	0.25%	\$ 958.91	\$ 2,000,000.00
110	Capital	WSFS	CD	05/06/14	0.30%	\$ 18,105.53	\$ 24,476,000.00
116	General	WSFS	CD	05/16/14	0.30%	\$ 1,298.63	\$ 2,000,000.00
116	General	WSFS	CD	05/30/14	0.30%	\$ 1,528.77	\$ 2,000,000.00
110	Capital ³	TD	CD	06/02/14	0.25%	\$ 959.99	\$ 1,540,195.00
116	General	WSFS	CD	06/02/14	0.30%	\$ 3,871.23	\$ 3,000,000.00
116	General	WSFS	CD	06/02/14	0.30%	\$ 2,878.35	\$ 3,400,000.00
116	General ¹	TD	CD	06/05/14	0.25%	\$ 9,957.28	\$ 14,537,615.00
116	General	WSFS	CD	06/10/14	0.30%	\$ 2,260.27	\$ 1,375,000.00
116	General	WSFS	CD	06/10/14	0.30%	\$ 1,503.08	\$ 1,375,000.00
514	Risk Management	WSFS	CD	07/11/14	0.30%	\$ 8,687.31	\$ 2,895,775.55
515	Worker's Comp.	WSFS	CD	07/11/14	0.30%	\$ 8,687.31	\$ 2,895,775.55
104	Escrow Pension	Affinity Wealth					\$ 1,511,381.00
104	Escrow Pension	Vanguard					\$ 31,522,348.00
104	Escrow Pension	Black Rock					\$ 26,697,419.00
104	Escrow Pension	Edgar Lomax					\$ 18,981,886.00
104	Escrow Pension	Wilmington Trust					\$ 45,785,039.00
104	Escrow Pension	Manning & Napier					\$ 21,816,570.00
104	Escrow Pension	Earnest Partners					\$ 15,425,291.00
104	Escrow Pension	GMO					\$ 11,391,950.00
104	Escrow Pension	MFS Management					\$ 18,766,289.00
139	Medical Escrow	Black Rock-OPEB					\$ 11,416,278.00
116	Deferred Comp.	MassMutual					\$ 37,604,874.00
	Total Investments						\$ 326,117,434.10
	Total Cash on Hand						\$ 697,359.44
	Grand Total						\$ 326,814,793.54

¹ Budget Reserve

³ SEU

/s/Henry W. Supinski
City Treasurer

NON-LEGISLATIVE BUSINESS

Upon a motion of Mr. M. Brown, seconded by Ms. Walsh, the following non-legislative resolutions were accepted into the record and motion prevailed:

All Council	Sympathy John Henry Johnson
D. Brown	Sympathy Patricia Ann Williams
D. Brown	Commend National Association of Black Veterans – Chapter 0094
D. Brown	Recognize City of Wilmington Vacant Property Delegation (Center for Community Progress)
Cabrera	Salute Dr. Renee Du Jean
Cabrera	Retirement former Police Chief Christine Dunning
Chukwuocha	Welcome Abiodun Oyewole (The Last Poets)
Gregory	Commend Christiana Care Wilmington
Shabazz	Recognize Delaware Juneteenth Association

President Gregory acknowledged County Councilman Penrose Hollins who was sitting in the audience.

LEGISLATIVE BUSINESS

President Gregory: Mr. Chukwuocha.

Mr. Chukwuocha: Yes Mr. President. I have an Ordinance to present and call for the first and second reading.

Mr. Chukwuocha presented and called for the first and second reading Ordinance No. 14-009 entitled:

AN ORDINANCE TO RENAME THE PARK LOCATED
AT TATNALL STREET AND 24TH STREET FROM
TATNALL PLAYGROUND TO “ONE LOVE PARK”

Mr. Chukwuocha: Mr. President, I would like to ask - - add Councilwoman Walsh as a sponsor as well.

President Gregory: So noted but hold on.

This Ordinance was given two separate readings and upon a motion of Mr. Chukwuocha, seconded by Ms. Walsh, was received, recorded, and referred to the Education, Youth & Families Committee. Motion prevailed.

President Gregory: We add folks, you know, not necessarily here because it's first and second and you also get an opportunity to add it before the 3rd & Final but there will be an administrative process not necessarily here.

Ms. Walsh: Mr. President.

President Gregory: Yes.

Ms. Walsh: I asked him to do that.

President Gregory: I'm fine. I'm fine.

Ms. Walsh: You can lecture me.

President Gregory: No, you have privilege. Okay?

Ms. Walsh: First time I had heard that....

President Gregory: Loretta and I came on at the same time. You got privilege.

Mr. M. Brown: Can I get it too?

President Gregory: No, no, no. Not yet. The only person who's got privilege is Councilwoman Walsh because she and I came on together. Okay. Mr. Congo.

Mr. Congo: Nothing tonight Mr. President, thank you.

President Gregory: Mr. Darius Brown.

Mr. D. Brown: Yes Mr. President, nothing tonight.

President Gregory: Thank you. Ms. Shabazz.

Ms. Shabazz: Yes Mr. President. I have two Resolutions to present.

Ms. Shabazz presented Resolution No. 14-005 as follows:

WHEREAS, pursuant to Wilm. C. (Charter) § 8-205, a department, board or commission of the City of Wilmington (the "City") shall not sell or exchange any real estate belonging to the City or grant any license, easement, right-of-way or other interest over or in such real estate without advertised public notice appearing in at least one daily newspaper of citywide distribution and authority by general ordinance and later resolution from Council of the City (the "Council") to do so; and

WHEREAS, Wilm. C. § 2-622(1) provides that the Council shall by resolution declare a property approved for disposition and authorize the conduct of disposition proceedings by the Real Estate and Housing Department (the "Department"); and

WHEREAS, the City is legal owner of the property located at 303 North Pine Street, Wilmington, Delaware, being Tax Parcel Number 26-043.40-170 (“Property”); and

WHEREAS, a request for proposals was issued by the Department in accordance with the procedures set forth in Wilm. C. § 2-622 through § 2-624; and

WHEREAS, the proposals were advertised on August 28, 2012 and again on September 4, 2012; and

WHEREAS, a proposal in the amount of \$10,000.00 was received from F&L Properties, LLC (“F&L”), a general contractor, and F&L proposes to operate its business from the Property and beautify the facade of the Property; and

WHEREAS, City will maintain a \$100,000.00 lien on the Property until construction on the Property is complete; and

WHEREAS, in accordance with the recommendation of the Department and the procedures set forth in Wilm. C. § 2-622 through § 2-624, the City desires that the Property be awarded to F&L for \$10,000.00, subject to a \$100,000.00 lien to be maintained by the City until construction completion.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Council hereby authorizes the disposition, sale, transfer and conveyance of the Property to F&L Properties, LLC for \$10,000.00, subject to a \$100,000.00 lien to be maintained by the City until construction completion.

BE IT FURTHER RESOLVED that Council authorizes the Mayor or his designee to execute any and all documents necessary to effectuate the transfer of the Property, including any and all undertakings and assurances heretofore.

Ms. Shabazz: This Resolution authorizes the City to dispose of the property located at 303 North Pine Street to the F & L Properties, LLC for the total amount of \$10,000.00 subject to a \$100,000.00 lien to be maintained by the City until the construction is completed. The property will be used by F & L Properties for its business operation. This organization did meet with the Neighborhood Planning Council of the 4th District and as well as other entities in the 4th District and the community had no objections to its disposition.

President Gregory: Clerk will call the roll.

Upon a motion of Ms. Shabazz, seconded by Ms. Walsh, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Chukwuocha, Congo, D. Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, M. Brown, Cabrera, Walsh, and Council President Gregory. Total, twelve. Nays, none. Absent, Council Member Wright. Total, one.

President Gregory: Declare it adopted. Ms. Shabazz.

Ms. Shabazz: Yes Mr. President. I have another Resolution to present.

Ms. Shabazz presented Resolution No. 14-006 as follows:

WHEREAS, pursuant to Wilm. C. (Charter) § 1-101, the City of Wilmington (the “City”) may acquire, hold, manage, and dispose of property on such terms it deems appropriate for any municipal purpose; and

WHEREAS, the Department of Real Estate and Housing of the City (the “Department”) is the legal owner of the property located at 528 South Claymont Street, Wilmington, Delaware, being Tax Parcel Number 26-058.101-99 (“Property”); and

WHEREAS, the Department has determined that the City no longer needs the Property and therefore offered to transfer the Property to Neighborhood House, a nonprofit organization, for the Southbridge Community Garden Project; and

WHEREAS, the Council of the City of Wilmington (the “Council”), upon the recommendation of the Department, hereby authorizes the City to dispose of the Property to Neighborhood House; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON that the Council hereby authorizes and approves the disposition of the Property from the City to Neighborhood House, a nonprofit organization.

BE IT FURTHER RESOLVED that Council authorizes the Mayor or his designee to execute any and all documents necessary to effectuate the transfer of the Property, including any and all undertakings and assurances heretofore.

Ms. Shabazz: Mr. President, this Resolution is another disposition of property located at 528 South Claymont Street in Wilmington, Delaware to the Neighborhood House a non-profit organization for their Southbridge Community Garden Project. The Southbridge Community Garden Project has expanded. We have such requests for urban gardens that we want to take advantage of this vacant lot and turn it into another product producing garden grounds. So, I’m in full support of this.

President Gregory: Clerk, will call the roll.

Upon a motion of Ms. Shabazz, seconded by Ms. Walsh, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Chukwuocha, Congo, D. Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, M. Brown, Cabrera, Walsh, and Council President Gregory. Total, twelve. Nays, none. Absent, Council Member Wright. Total, one.

President Gregory: Declare it adopted. Mr. Prado.

Mr. Prado: Nothing tonight Mr. President, thank you.

President Gregory: Ms. Dorsey Walker.

Ms. Dorsey Walker: Nothing tonight Mr. President, thank you.

President Gregory: Mr. Williams.

Mr. Williams: Sir, nothing tonight. Thank you.

President Gregory: Mr. Freel.

Mr. Freel: Yes, I have two Ordinances for first and second.

Mr. Freel presented and called for the first and second reading Ordinance No. 14-010 entitled:

AN ORDINANCE TO REZONE THE PROPERTY COMPRISING THE FORMER WILMINGTON FINISHING COMPANY SITE FROM C-6 (SPECIAL COMMERCIAL DISTRICT) TO W-4 (WATERFRONT RESIDENTIAL COMMERCIAL DISTRICT) AND R-1 (ONE-FAMILY DETACHED DWELLINGS) ZONING CLASSIFICATION

This Ordinance was given two separate readings by title only and upon a motion of Mr. Freel, seconded by Ms. Walsh, was received, recorded, and referred to the Finance Committee and the Planning Commission. Motion prevailed.

Mr. Freel presented and called for the first and second reading Ordinance No. 14-011 entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS OR GENERAL OBLIGATION BOND ANTICIPATION NOTE, IN ORDER TO PROVIDE THE FUNDS NECESSARY TO FINANCE THE STREET PAVING AND RECONSTRUCTION OF VARIOUS STREETS AND ROADWAYS LOCATED WITHIN THE CITY LIMITS; PROVIDING FOR THE SALE OF THE BONDS OR THE NOTE; AND AUTHORIZING OTHER NECESSARY ACTION

This Ordinance was given two separate readings by title only and upon a motion of Mr. Freel, seconded by Ms. Walsh, was received, recorded, and referred to the Finance Committee. Motion prevailed.

Mr. Freel: That's all I have. Thank you.

President Gregory: Thank you. Mr. Michael Brown.

Mr. M. Brown: Yes Mr. President, nothing tonight. Thank you for asking.

President Gregory: You're welcome. Ms. Cabrera.

Ms. Cabrera: Nothing this evening. Thank you.

President Gregory: Ms. Walsh.

Ms. Walsh: Yes, I have a Resolution Mr. President.

Ms. Walsh presented Resolution No. 14-007 as follows:

WHEREAS, the Delaware General Assembly has proposed legislation known as the "Delaware Crime Prevention and Rehabilitation Act"; and

WHEREAS, the principal goal of this Act is to align our State's criminal justice system with its original statement of purpose as stated in the Delaware Code: "To provide for the treatment, rehabilitation and restoration of offenders as useful, law-abiding citizens within the community"; and

WHEREAS, the Act will eliminate costly, ineffective, counterproductive mandatory minimum sentencing requirements for non-violent offenders and will return sentencing discretion to our State's highly competent Judges; and

WHEREAS, City Council for the City of Wilmington asks that special consideration be given to the non-violent offenders that are incarcerated and suffering from mental illness; and

WHEREAS, according to a *Psychology Today* article published on February 5, 2014, "14.5% of males and 31% of females in our jails suffer from serious mental illness. America's jails have become our largest psychiatric facilities"; and

WHEREAS, "now, with the failure of the deinstitutionalization movement when people's illnesses cause them to self-medicate, commit misdemeanors or minor felonies directly related to the symptoms of their untreated mental illnesses, they're dumped in jail," as stated by Rachel Pruchno, Ph.D (*Psychology Today*); and

WHEREAS, it is the expectation of City Council that the Act will give sentencing discretion to our Judges to allow court-ordered individualized programs to be completed in a facility equipped to address the offender's needs, thereby enabling them to become productive, law-abiding citizens within our community.

NOW, THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF WILMINGTON, that Council supports the "Delaware Crime Prevention and Rehabilitation Act" and encourages the General Assembly to vote to approve this Act.

Ms. Walsh: Mr. President, this is going to the General Assembly. I believe some Council members might have been at a briefing on this the Saturday before last. I also believe its being sponsored by Senator Margaret Rose Henry and Representative Potter down in Dover. Because of what we have gone through, especially with the mentally ill in our City for the last couple of years, I thought it was spot on for us to get behind this type of legislation. As many people know, when they changed the rules for how one could be institutionalized with mental illness, many people went out on the streets. Many times families couldn't handle the problems that they were having that currently, and then they ended up committing crimes, which ultimately ended up in there being incarcerated too, currently over 14% of the men in our prison system have mental illness and 31% of the women and, because of mandatory sentencing so many cases judges do not have discretions. This addresses a whole other - - a whole bunch other issues in the criminal justice system but this Resolution is focusing on the mentally ill, which will allow the judges to be very circumspect when it comes to giving prison sentences to those who are mentally ill and that they will be able to provide a (inaudible) needs thereby enabling them to become productive, law abiding citizens within our community. So, I ask my fellow members to please support this. I think it's very, very important. You know, the prisons have gotten away from their main mission statement and they've been asked to deal with all sorts of other problems that they really shouldn't even have to deal with and subsequently what has happened is, you know, we have all sorts of people within our criminal justice system now who just don't belong there. But, unfortunately the lines got blurred and a lot of the agencies that used to provide for them are no longer in existence.

President Gregory: Ms. Shabazz.

Ms. Shabazz: Thank you Mr. President. I asked the sponsor if I can also be a co-sponsor on this legislation and as one who works for - - an organization that deals with individuals with mental illness as well as addiction, this is long been needed to come to the forefront so that we can address this seriousness of the illness in our community as well as crime. So, I am very much in support of it.

President Gregory: Ms. Dorsey Walker.

Ms. Dorsey Walker: Thank you Mr. President. I just wanted to go on record and saying that this is an opportunity for us to support a former member of Council, current State Representative Potter, but more importantly addiction is a disease and it needs to be treated properly and I think it's a really good idea that don't incarcerate non-violent offenders. I won't get - - Councilwoman Shabazz, excused me, Councilwoman Walsh already did a really good job of explaining the legislation so I won't get into that but I just want to go on record and say it's a really good opportunity to support those who've come from here.

President Gregory: Mr. Williams.

Mr. Williams: Thank you Mr. President. First of all, I'd like to ask to be a co-sponsor. This actually assists to getting to the root cause. A lot of times folks are adjudicated based on their actions and not adjudicated based on the processes that lead them to their action. We have a first offender's program for DUI's and we have other means of trying to get people to rehabilitate themselves and see the errors of their ways. In going to this presentation on that Saturday I had an opportunity to speak with a bunch of folks that were attending there and this will take you - - it's not an easy pass. It's not a get out of jail free card. This is not a, we'll look the other way and you know, you have special needs and we're going to let you go. This puts them into scenarios where they're going to help identify what caused this problem to get them the medications that they need; to get them the counseling that they need and allow folks to really touch home with what they're doing and why they're offending in the first place. So, I'm in favor of this legislation and I hope that this thing goes through and I hope that we as a society really take a step back and start thinking about how we're warehousing people and where we're placing them based on their actions and not just because the criminal code says that we have to do something, there are alternative methods for rehabilitation and I think this is a first step in that direction.

President Gregory: Mr. Darius Brown.

Mr. D. Brown: Thank you Mr. President. I want to say that this is a piece that many in the communities here in the City of Wilmington are looking to be one that is a (inaudible); one that helps in addressing many issues that many residents have when they have just dealing with and interacting and trying to provide help for relatives but also in the conversations that we continue to have within the city and throughout the state and throughout our country around topics of reentry as we look at health services and how health services became more community based and even with correction services, the idea of providing more community base correction services that we can look at this legislation and it not just be community based but there has to be dollars that follow this and so I think this is an admirable piece of public policy to ensure that there's dollars; that there's coordination between the State's Health Department and DOC in trying to provide some solution that helps the community and also rehabilitation. A lot of times when we see treatment or entities and organizations that provide treatment, having this legislation will now allow us to identify those organization that provide good services around these area and then that we can have them in the pipeline for treatment and recovery for our residents in the City but throughout the State.

President Gregory: Mark Mr. Wright present please.

**Note: At this time, Councilman Wright was marked present.*

President Gregory: Ms. Cabrera

Mrs. Seijo: So noted.

Ms. Cabrera: One thing I'd like to know is that in many cases these people who are now the offenders have at one point been victims themselves of some type of abuse or neglect, which has caused and has triggered whatever symptoms we label under mental illness. The other thing is that you know we look at mental illness with this stigmatism but yet if you broke your leg and there was something wrong everybody would feel sorry for you. When there's something wrong with our mind, which is the most powerful part of our body, we look at it as, oh no, you know we don't want to deal with that or you're just crazy and I'm glad that the mindset has changed where there's been more attention put on mental health and recovery. One of the things that were mandatory with the Affordable Care is that there has to be mental health provided, services provided for everyone under every insurance plan and I think that's a step in the right direction. We cannot keep locking people up and expect the problem to go away. It is not a deterrent. So, this is a very good piece of legislation and I too would like to have my name added to it and that we should continue to support this cause so that we can get to the root of the problem and start to solve the problems at that level.

President Gregory: I've been both a prosecutor and a defense attorney and I've never been a proponent for mandatory sentencing. The policy behind mandatory sentencing was two-fold. One, you want to get tough on crime and secondly, it was to preclude discrimination. The thinking being individualized sentences permitted judges to sentence people of color to more time than non people of color. So, if you have mandatory sentencing, everybody gets the same thing but that's flawed. It's a flawed system because discretion as I've indicated on this floor before begins with the police officers. Discretion and discrimination begins with how you execute the laws. Discretion and discrimination begins with what you criminalize. So, mandatory sentencing was flawed from the outside but in our infinite wisdom as legislators in federal or state level and I guess from time to time us at the city level, we take and perform radical surgery on this system that only needs to be tweaked a little bit. We go in with a bad heart and the surgeon cut your whole heart out and tells you, now you're well go home. Well, this is what happen with mandatory sentencing years ago and we try to address those two public policies.

I'm a proponent for individualized sentencing. That means you take into account the person as an individual, which means than you go to restorative justice; punitive; deterrence; retribution and all the other policy considerations for sentencing. But, mandatory sentencing it's just wrongheaded thinking. Now, I would assume that there was a time when we would have all sat here and said, let's get tough on crime but mandatory sentencing does not mean you're getting tough on crime. It's symbolic. It's symbolic and it just creates all kinds of problems. Now, what I do believe in is truth in sentencing. I believe that if a person is sentenced to ten years, they should do thirteen years. You should minimize the amount of time that's cut because if I'm the victim and you get ten years and I see you out of jail in five years, than for me I'm losing confidence in the system. Do we do have truth in sentencing. We have truth in sentencing and we have SENTAC, which causes a person to do most of the time that they are sentenced to.

So, I just don't believe and never have believed in mandatory sentencing not even as a law student when it was being discussed because the policy that it was designed to attack - - discretion starts on the streets. It starts on how you execute the laws. It starts in what you criminalize. So, that's where I am. So, if there's anything else, does the sponsor want to come back and close out? If not, we'll call the roll.

Ms. Walsh: No, you can call the roll.

Upon a motion of Ms. Walsh, seconded by Mr. Prado/Mr. Freel, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Chukwuocha, Congo, D. Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, M. Brown, Cabrera, Walsh, Wright, and Council President Gregory. Total, thirteen. Nays, none.

President Gregory: Declared it adopted. Mr. Wright, you want to hold yours or go forward?

Mr. Wright: We can go forward please. I have a Resolution to present.

Mr. Wright presented Resolution No. 14-008 as follows:

WHEREAS, an Act to amend Titles 10 and 11 of the Delaware Code relating to the expungement of adult arrest records (House Bill No. 134) was proposed in the 147th Delaware General Assembly; and

WHEREAS, House Bill No. 134 makes the statutory scheme for expungement of adult criminal offenses more efficient and, by doing so, will require less Superior Court resources; and

WHEREAS, by including the successful completion of "probation before judgment" within the definition of "terminated in favor of the accused" the proposed legislation improves an unintended drafting oversight; and

WHEREAS, previously, all requests for expungement of probation before judgment cases had to be presented to the Court by way of the discretionary expungement process, regardless of nature of the charge, simply because "probation before judgment" was not specifically included within the definition of "terminated in favor of the accused"; and

WHEREAS, House Bill No. 134 which is sponsored by State Representative James Johnson, was unanimously passed by a vote of the Delaware House of Representatives and is being considered by the Delaware Senate.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON, that Council fully supports the Act to amend the Delaware Code regarding the Expungement of Adult Arrest Records, House Bill No. 134 and further encourages all Senate members to vote to approve the legislation.

Mr. Wright: Yes Mr. President. This Resolution here as it states is supporting House Bill No. 134. It has been passed in the House. It's going to the Senate to seek their approval. Basically, what this Resolution is its just supporting House Bill 134, which essentially it kind of minimizes the resources that are used in Superior Court when it pertains to someone that has their case been nolle prossed or terminated due to the accused not being found guilty and it allows the process just to go a little smoother for someone to get their record expunged. Also, basically, it expunges all adult criminal offences more efficiently. This also has to deal with when I talked about terminating in favor of the accused it has to deal with someone being acquitted of all charges related to a specific case and as I stated earlier someone's case being nolle prossed or entered on all charges related to the case and basically that's what this Resolution is doing.

Ms. Walsh: Mr. President.

President Gregory: Ms. Dorsey Walker.

Ms. Dorsey Walker: Thank you Mr. President. I commend Councilman Wright for bring this legislation to our attention and wholeheartedly agree with it and if he agrees, I would like to be a co-sponsor on this legislation.

President Gregory: Thank you. Ms. Shabazz.

Ms. Shabazz: I too would like to be a co-sponsor please.

President Gregory: Ok, fine. Ms. Walsh.

Ms. Walsh: Mr. President, I have a couple of questions. Could the sponsor explain what probation before judgment means?

Mr. Wright: Probation before judgment?

President Gregory: There are things in the criminal justice system where a person is put on probation; the case is deferred until such time as you meet all the conditions of that probation and once you meet the conditions....

Ms. Walsh: (inaudible) only known as the Attorney General's probation?

President Gregory: No, no. It all depends on which court you're in.

Ms. Walsh: Okay.

President Gregory: But so, the mechanics are the same whether you're in Family Court, Court of Common Pleas or Superior Court but they all have different names. So, at the end of the day, the judgment or adjudication it's not entered in against you but it stays on your record. So, in effect, the case was nol-prossed dismissed or you're found not guilty.

Ms. Walsh: I guess my one concern about this is such as the case in Ms. Dorsey Walker district in the park; the rapes in the park that they're not going through with rape charges, they didn't go through with rape charges, all sorts of things were nol-prossed in the course of that. I understand they're juveniles but the records are not expunged in juvenile court either and this doesn't address juvenile court.

President Gregory: Yeah, well you're right but records are - - if I - - are readily addressed in juvenile court by filing a petition. You - - the process is rather easy compared to adult court.

Ms. Walsh: No, I understand that.

President Gregory: Ok. So, you know.

Ms. Walsh: I understand that. I'm just saying that the Attorney General plea bargains all the time. That more cases than not are plea bargain and that one can usually tell that I might have originally been arrested on first degree murder charge and that there wasn't any doubt in anybody's mind I did it but all of sudden witnesses start falling off and all sort of other things, a plea happens and then I'm being charged with involuntary manslaughter.

President Gregory: Well, you want me to respond as a defense attorney?

Ms. Walsh: No. You're the President. The sponsor should be...

President Gregory: Well, you're alleged - an indictment in a complaint or information. There's nothing more than an allegation. You didn't do until they found you guilty or you plead guilty.

Ms. Walsh: I understand that and you are being a defense attorney.

President Gregory: That's right. I'm being a defense attorney. This was merely allegation.

Ms. Walsh: No, I agree. I think there are too many people that have adult records that they're carrying through in life that should not have that at all. They've done the time; they've paid their dues; they shouldn't have a record at all if in fact they were put on certain types of probation too. But, I haven't seen the State Bill. That was my only problem. So, I don't know if some of these....

President Gregory: We have one here. It's here and it's very short....

Ms. Walsh: I (inaudible) the legislation. I just had a couple of questions.

President Gregory: Fine. Ironically, when this came to light a couple of weeks ago, I had gotten Mr. Garcia and we were doing research on this very issue. I didn't realize that State Representative Johnson had put the Bill in and Mr. Davis as I indicated earlier and Robert (inaudible) come to me with some materials and we were looking at doing something like this. So, thank you for putting your Resolution up in support of this. I think it does clean a lot of records up for a lot of things that people were not found guilty of; did not plead guilty to that should be off the records. Yes.

Ms. Cabrera: So, just to be clear. You have something on your record and now you don't have to go through this expungement process to take it off?

President Gregory: Yes. The current process is, the defense attorney files a petition; you just got to get finger prints, you got to get the records (SBI); you got to get all the records from every courts; you got to notify every police jurisdiction; every court; they state gets to who vetted; and they can agree or disagree; then after they vet it, then it goes to a judge, a judge's staff vets again and the judge will enter an order saying "yes" or "no". So, that process is eliminated once you walk out if it's nol-prossed, it's automatically expunged. Yes.

Ms. Cabrera: Would this apply to civil?

President Gregory: No. This is criminal.

Ms. Cabrera: Ok.

President Gregory: Ms. Shabazz.

Ms. Shabazz: One last comment Mr. President. I just think this is so great because there are so many people who are hindered from being able to get life sustaining careers because of an old, old criminal record that happened in something when they were in teenage years and they're grown men trying to take care of their families – men and women. So, this is so great. We need it and again Councilman Wright, I really commend you for it - - moving forward on this.

President Gregory: A prelude to this was the Apex's Project that was started last year as a pilot in Kent County and the demonstrated need was so high that they expanded in New Castle County and then the thinking was well, why don't we just go to a process of automatic expungement? It's my understanding that it passed unanimously in the House. It's now going over to the Senate. Anybody else? Clerk will call the roll.

Mr. Wright: The sponsor.

President Gregory: Oh, I'm sorry.

Mr. Wright: Thank you. I just want to say honestly kind of, I had spoke to State Rep. Johnson on a number of occasions regarding different legislation as well as this and it kind of believe or not it hit home because as a juvenile I was placed in a situation, it was nolle prossed as well. I had to go through a process and I thought that what I endured, lawyer fees and other things, you know, this is something that definitely need to be champion for others who may not have those resources available and also it cuts down on what our Superior Courts have to go through as well. So, we save some dollars all the way around.

President Gregory: Thank you. Clerk, call the roll.

Upon a motion of Mr. Wright, seconded by Ms. Walsh, the above aforementioned Resolution was received, adopted as read and directed to be recorded and filed by the following Yea and Nay Roll Call Vote: Yeas, Council Members Chukwuocha, Congo, D. Brown, Shabazz, Prado, Dorsey Walker, Williams, Freel, M. Brown, Cabrera, Walsh, Wright, and Council President Gregory. Total, thirteen. Nays, none.

President Gregory: Declare it adopted.

Upon a motion of Mr. Michael Brown, seconded by Ms. Shabazz, to suspend Petitions and Communications. Mr. Darius Brown opposed to the suspension of petitions and communications. Motion prevailed.

PETITIONS AND COMMUNICATIONS

There were no petitions and communications presented this evening.

ADJOURNMENT

Upon a motion of Ms. Shabazz, seconded by Mr. M. Brown/President Gregory, Council adjourned at 7:36 p.m. Motion prevailed.

Attest: 
Maribel Seijo, City Clerk