

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

October 26, 2009

Those present at 7:30 pm:

Presiding: Mayor Vance A. Funk, III
District 1, Paul J. Pomeroy
District 2, Jerry Clifton
District 3, Doug Tuttle
District 4, David J. Athey
District 5, Ezra J. Temko
District 6, A. Stuart Markham

Staff Members: City Manager Kyle Sonnenberg
City Secretary Patricia Fogg
City Solicitor Roger Akin
Assistant to the City Manager Carol Houck
Finance Director Dennis McFarland
Planning & Development Director Roy Lopata

1. The meeting began with a moment of silent meditation and pledge to the flag.

2. MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: THAT ITEMS 10-A-3, 2009 BUDGET AMENDMENT FOR THE WATER AND SEWER FUNDS AND ITEM 10-C, ADD LABOR NEGOTIATIONS TO EXECUTIVE SESSION, BE ADDED TO THE AGENDA; THAT ITEM 6-A, BILL 09-28, BE TABLED; AND THAT ITEMS 8-A, BILL 09-31, AND 10-A-1, DOMESTIC PARTNERSHIPS, BE REMOVED FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL**

01:00 A. Regular Council Meeting of October 12, 2009

There being no additions or corrections to the minutes, they were approved as received.

4. **3. ITEMS NOT ON PUBLISHED AGENDA**

A. Public

There were no comments forthcoming.

5. **3-B. UNIVERSITY**

1. Administration

There were no comments forthcoming.

6. **3-B-2. STUDENT BODY REPRESENTATIVE**

01:53

David Tusio, President of UD Student Government Association, said SGA continued to be committed to benefiting the public welfare of the City and to living in an inclusive community offering equality for all.

7. **3-C. COUNCIL MEMBERS**

02:25

Mr. Athey – felt the purchase of the Chrysler facility by the University of Delaware would be a plus for the City; thought the most important benefit of acquiring security cameras through grant funding would be the deterrent aspect and suggested widespread publicity by the City.

8. Mr. Tuttle – acknowledged the Police Department ceremony where Lt. William Hargrove, Sgt. Scott Rieger and Master Cpl. Michael Van Campen were promoted; discussed the implementation of a consent agenda. Mr. Pomeroy clarified that any item could be removed from the consent agenda by an individual Council member. Ms. Fogg explained if Council wanted to pursue implementation of a consent agenda, a resolution would be required to modify the rules of procedure. She suggested the resolution include the items Council wanted on the consent agenda. Council members agreed that recommendations on contracts and bids would not be included on the consent agenda. Ms. Fogg was directed to prepare a resolution authorizing the implementation of a consent agenda.

9. Mr. Pomeroy – congratulated staff on the Halloween Parade; said it was incumbent upon the City to work with the University to try to realize the full economic potential at the Chrysler site.

10. Mr. Funk – said although the City would lose transfer taxes, he was pleased with the acquisition of the Chrysler site by the University; congratulated the Parks & Recreation Department for a great Halloween Parade and noted the traffic flow was very smooth; announced that the Newark High School Art Club, in conjunction with the Arts League, agreed to paint murals at the train station to help cut down on graffiti.

11. Mr. Temko – issued a reminder of the Community Clean Up on 11/14 beginning at 9:00 a.m. at City Hall; reported the Domestic Partner Registry was removed from the agenda but said it would likely be on a future agenda following further research by Mr. Akin; acknowledged an e-mail from Amy Roe regarding DEMEC’s proposal to purchase a coal plant in Ohio – Mr. Temko stated he was not in support of coal; the option of a community calendar was still being explored by Mr. Temko.

12. Mr. Markham – offered kudos on the Halloween Parade; suggested that DEMEC give a presentation regarding their plan to purchase a coal plant at a future Council meeting; thanked staff for working on removal of the dirt pile at Stonevale; commented on the progress of the Chapel Street mural which was planned to discourage graffiti; referenced the recent armed robberies.

13. Mr. Clifton – reported that the UD Dean of Students updated the Town & Gown Committee on attendance statistics, and he found their efforts to admit every qualified Delaware resident to be admirable; thanked Mr. Lopata for his assistance at George Reed Village; believed the recent police promotions were well-deserved; noted Mr. Lopata will look into issues at Fountainview regarding curb heights and wheelchair ramps.

14. **4-A. ITEMS NOT FINISHED AT PREVIOUS MEETING**

None

15. **4-B. FINANCIAL STATEMENT**

None

16. **5. RECOMMENDATIONS ON CONTRACTS & BIDS**

None

17. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING**

- A. Bill 09-28 - An Ordinance Annexing and Zoning to RT (Single-Family, Detached) a .6536 Acre Parcel of Land Located at 911 Church Road

(Tabled at applicant's request – see item #2.)

18. **6-B. BILL 09-29 - AN ORDINANCE AMENDING CH. 32, ZONING, ARTICLE XXI, AMENDMENT, CODE OF THE CITY OF NEWARK, DELAWARE BY AMENDING AMENDMENT PROCEDURE TO REQUIRE SITE POSTINGS**

36:51

Ms. Fogg read Bill 09-29 by title only.

MOTION BY MR. TEMKO, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING OF BILL 09-29.

The Chair opened the discussion to the public.

Jean White, Newark resident, thanked the Planning Department for working to develop the ordinance which she felt was an effective means of public notification. In addition to requiring signage for annexations and zonings, she recommended postings be required for major subdivisions and for Board of Adjustment hearings involving commercial properties. Mrs. White also suggested adopting specifications similar to New Castle County.

There being no further comments, the discussion was returned to the table.

Mr. Pomeroy agreed with Ms. White on requiring major subdivision postings and asked why they and Board of Adjustment hearings were excluded from the ordinance. Mr. Lopata explained the issue was discussed at great length by the Planning Commission and was researched nationwide. Most communities did not include major subdivisions or Board of Adjustment hearings. Rezoning and annexations differed, however, as they were a change in land use. Mr. Athey felt major subdivisions should be included as amendments could be made and they often required a special use permit. Mr. Funk believed any change in the Board of Adjustment procedure would have to be done as a separate administrative function. Mr. Athey pointed out that Board of Adjustment cases typically involved immediate neighbors rather than the entire community. Mr. Clifton thought signage would provide an additional layer for more public awareness and felt public input would yield a better end product.

Council members concurred that major subdivisions should be included in the site posting requirement. Mr. Markham noted that developers had not had the opportunity to address this requirement since it was not a provision of the bill's first reading. Mr. Akin advised that including major subdivisions was a significant change and would require another first and second reading.

Council also agreed to add the word "only" under Amendment 1, subsection (3) to prevent use of the signs for advertising purposes.

Bill 09-29 was withdrawn as presented. A new bill will be drafted reflecting the changes discussed.

19. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS**

None

20. 8. ORDINANCES FOR FIRST READING

- A. Bill 09-31 - An Ordinance Amending Ch. 20, Motor Vehicles and Traffic, Schedule X, Parking Meter Zones, By Eliminating Free Parking on Sundays

(Removed from agenda at the request of staff – see item #2.)

21. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA

- A. Council Members: None

22. 9-B. COMMITTEES, BOARDS & COMMISSIONS

- 1:14** 1. Appointments to Personnel Review Committee (Mayor Appointments)

MOTION BY MR. TEMKO, SECONDED BY MR. CLIFTON: THAT RON GARDNER, 8 FARM HOUSE ROAD, BE REAPPOINTED TO THE PERSONNEL REVIEW COMMITTEE; SAID TERM TO EXPIRE JULY 23, 2012.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT JOHN HORNOR, 113 E. MAIN STREET, UNIT 401, WASHINGTON HOUSE, BE APPOINTED TO THE PERSONNEL REVIEW COMMITTEE; SAID TERM TO EXPIRE JULY 23, 2012, AND THAT THE RESIGNATION OF JOHN SINCLAIR BE ACCEPTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

23. 9-C. OTHERS

None

24. 10. SPECIAL DEPARTMENTAL REPORTS

- A. Special Reports from Manager & Staff:
 - 1. Domestic Partnerships

(Removed from agenda at the request of Councilman Temko – see item #2)

25. 10-A-2. BUILDING LEADERSHIP

1:15

Mr. Sonnenberg proposed establishing a Citizen's Academy in response to interest in building leadership within the community which evolved from Mr. Temko's community survey. There would be a series of classes over an eight-week period where participants would receive an overview of City services by department heads. After being questioned about the cost to the City, Mr. Sonnenberg reported there would not be a significant budgetary impact since only in-house resources would be utilized. Messrs. Clifton and Pomeroy expressed concern about suspension of other important community programs based on budgetary considerations. Mr. Sonnenberg explained this program was a very cost-effective means to communicate with the public. Council members concurred that the program should proceed.

26. 10-A-3. BUDGET AMENDMENT FOR THE WATER AND SEWER FUNDS

1:23

Mr. Simonson's memo dated 10/22/09 detailed increased costs due to repairs of water lines and associated costs in pavement restoration. In addition, repairs were necessitated to various sewer lines as defects were found in those lines. Mr. Sonnenberg said historically, sufficient funds were not budgeted for these types of repairs. He was trying to get the budget process on a more systematic format and said the upcoming budget would provide for an increase in the City's expenditures.

Messrs. Clifton, Athey and McFarland discussed whether the City's wholesale contract rates allowed Newark to remain competitive with the County rate since the City had the added burden of maintenance costs. Although firm data was not available, it was believed the City's rates were competitive.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT AN ADDITIONAL \$82,000 BE APPLIED FROM THE WATER FUND TOWARD CONTRACTUAL SERVICES FOR LINE MAINTENANCE ACCOUNT #8260 AND AN ADDITIONAL \$65,000 BE APPLIED FROM THE SEWER FUND TOWARD CONTRACTUAL SERVICES FOR LINE MAINTENANCE ACCOUNT #8260.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

27. 10-B. ALDERMAN'S REPORT

1:29

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORT DATED OCTOBER 20, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

28. 10-C. REQUEST FOR EXECUTIVE SESSION RE LABOR NEGOTIATIONS AND PERSONNEL

1:30

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS LABOR NEGOTIATIONS AND PERSONNEL.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

Council entered into Executive Session at 8:59 p.m. and returned to the table at 10:07 p.m. Mr. Funk reported that no further action was required.

29. Meeting adjourned at 10:08 p.m.

Patricia M. Fogg, CMC
City Secretary