

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**January 11, 2010**

Those present at 7:30 pm:

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

Absent: Mayor Vance A. Funk, III

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

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The meeting began with a moment of silent meditation and pledge to the flag. Mr. Clifton asked those present to remember Marilyn Amick and Judy Michini who passed away this week. Mrs. Amick was the mother of former State Senator Steve Amick, and Mrs. Michini was the wife of Pat Michini, a long-time employee of the Public Works Department.

1. MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT ITEM 2-H, REAPPOINTMENT OF JANE CRESWELL TO NEWARK ELECTION BOARD, AND ITEM 5-A, CONTRACT 09-09, PURCHASE OF (1) MINI-BUS, BE ADDED TO THE AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

2. **1. ITEMS NOT ON PUBLISHED AGENDA**

**01:56** A. Public

Catherine Ciferni, a Newark resident, was concerned that the building replacing the demolished structure at 108 E. Main Street (former CVS site) was not approved by Council, nor was there an opportunity for public comment. She requested that Council establish guidelines stipulating what changes would be deemed significant enough for a project to be brought back to Council thereby allowing public comment. Mr. Markham asked Mr. Lopata if this was the same building design with the same footprint. Mr. Lopata said he explained at a previous Council meeting that based on structural concerns, the developer was not able to construct the two new floors above the original floor. Thus, an opinion was obtained from the City Solicitor and discussed at length regarding Council's approval of the new three-story building which was essentially the same design already approved by Council.

Mr. Temko asked how similar renderings approved by the Design Committee and Council were to completed buildings. Mr. Lopata said the artist's

rendition was not a final spec architectural drawing and would not be identical to the finished structure, and when there was enough difference between the rendering and the approved subdivision plan, it was a judgment call as to whether Council should review it again.

3. Michael Conway, a Newark resident, was disturbed that he was given a written warning for putting his regular trash can out on a recyclable pickup day. The warning carried an 18-month probationary period, and a \$100 minimum fine could be imposed for a second violation. He asked if trash was that important for the City to put people on probation and levy a fine and asked if Public Works employees had the authority to give out tickets. Mr. Markham thought Public Works should use discretion for repeat offenders and Mr. Clifton questioned the legislative authority for the Public Works employee to levy a ticket. Mr. Clifton felt there was a series of communications with constituents that lacked common sense, were not consumer friendly and needed to be improved. Mr. Athey pointed out that the semi-automated refuse program was based on efficiency which would be impacted any time a driver was delayed, so there was logic to the ticket. Mr. Temko added that the City could be fined for trash being mixed with recycling. According to Mr. Akin, Council delegated the authority to enforce trash ordinances to the Public Works Director or to his designee and presumably the employees working on the trucks have been designated to post tickets on non-conforming trash cans. Regarding fines, the range was \$100 to \$250 for a first offense or any subsequent offense occurring within 18 months, and he believed any further violation of any provision in the ordinance could result in the writing of a citation and being processed in the Alderman's Court where a fine of \$100 to \$250 could be imposed. Mr. Tuttle felt the Public Works employee on the truck should be the individual responsible for writing the tickets. Mr. Athey added if the operator bypassed a home, the resident would probably contact the City to find out why their trash was not picked up. Mr. Pomeroy believed this issue should be revisited.

4. **3-B. UNIVERSITY**

1. Administration

There were no comments forthcoming.

5. **3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

6. **3-C. COUNCIL MEMBERS**

31:14

**Mr. Markham** – congratulated the Newark Post on their 100<sup>th</sup> anniversary; issued a reminder for Restaurant Week January 18-24; was pleased that online bill pay was now available; suggested starting budget workshops again and re-examine the individual services while looking at the side benefits provided by the City and the true cost of services. Mr. Sonnenberg said his intent was to get down to the actual cost of individual services and contact Council with available workshop dates.

7. **Mr. Temko** – commented on the online payment system which he was pleased to see and appreciated that the online feedback form was more prominent on the home page on the City's website; reported on the current exhibit at the Newark Arts Alliance "Branching Out" which included work by a number of local artists.

8. **Mr. Pomeroy** – said the City would be in for a year that would rival, if not exceed, the challenges faced in 2009, and it will be important to look at the costs associated with programs and consider them from a cost-benefit analysis; expressed thanks to those who contributed to the Downes Elementary School Mitten Tree which raised donations of approximately \$2,500.

9. **Mr. Tuttle** – appreciated efforts of the Public Works Department in working in the extreme cold to maintain services; commented on the send off for the UD competitors attending the National Figure Skating Championships in Spokane and offered his best wishes to those from Newark.

10. **Mr. Athey** – commended the outstanding efforts by City staff on snow removal and suggested rental property landlords be courtesy copied on sidewalk shoveling notices; regarding a summary report from Mr. Lapointe recommending fencing in the Cleveland Avenue landfill site, Mr. Athey asked if the intent was to fence the site indefinitely until other options came along. Mr. Sonnenberg said the site was used for many years as a park, and due to DNREC’s recent review, they decided there should not be any public contact with the land. The City hoped removing the playground equipment would be an adequate resolution. However, it fell into a restricted contact category, and the least expensive way to restrict access was to install a fence around the site. Other options would be putting additional cover material on the site or removing the material buried in the landfill and transporting it to a different landfill. In Mr. Sonnenberg’s view, until the City had more financial resources and decided to change the use back to a park, restricting the access with fencing was the most economical solution. Mr. Athey questioned the possibility of selling the property as he did not see the economic feasibility in remediating the site as open space and did not believe the best solution was to leave it fenced in indefinitely. Mr. Pomeroy discussed waiting for the disposition of the Newark Housing Authority site which might help with the City’s decision. Mr. Sonnenberg agreed it was desirable to put it off and believed DNREC would not require the fence to be installed until after the public comment process which would be in a few months. Mr. Athey concurred because of the expense and the unique situation of the adjoining usage going through the same voluntary clean-up program. He suggested a longer term viewpoint of what could be practically done other than just fencing it in. Mr. Markham believed at one time the Housing Authority had an interest in combining the two properties but did not know if that was still the case. He referenced how long it took to come up with a plan to move the Curtis Paper Mill remediation forward. Mr. Pomeroy thought waiting for the disposition of the Housing Authority was the best option. Mr. Clifton asked about the option of sealing the property, and Mr. Sonnenberg thought additional cover material could be used to seal the site.

11. **Mr. Clifton** – offered his condolences to Pat Michini on the loss of his wife and to Senator Amick on the loss of his mother; complimented Public Works on the arduous task of snow clearing; reported on a conversation with Governor Markell who said it was going to be a really bad budget year, and Mr. Clifton’s feeling was the City would have to go it alone on some other things and needed to prepare for that.

12. **2. APPROVAL OF CONSENT AGENDA**

**54:40**

Mr. Athey removed item 2-A, Approval of Regular Council Meeting Minutes-December 14, 2009, in order to make a correction.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE MINUTES OF DECEMBER 14, 2009 BE AMENDED BY DELETING THE SECOND WORD “THERE” IN THE LAST PARAGRAPH, FIRST LINE.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Funk.

- B. **First Reading – Bill 10-01** – An Ordinance Amending Chapter 20, Motor Vehicles and Traffic, Code of the City of Newark, Delaware, By Increasing the Load Restrictions Upon Motor Vehicles Parking in Residential Districts; and Removing Three Parking Spaces at 41, 43 and 45 North Chapel Street – **2<sup>nd</sup> Reading 1/25/2010**
- C. **First Reading – Bill 10-02** – An Ordinance Amending Chapter 7, Building, Code of the City of Newark, Delaware, By Amending the 2006 International Building Code as it Relates to Building and Permit Fees – **2<sup>nd</sup> Reading 1/25/2010**
- D. **First Reading – Bill 10-03** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BC (General Commercial) to BB (Central Business District) a 1.165 Acre Parcel at 136 Elkton Road – **2<sup>nd</sup> Reading 2/8/2010**
- E. Reappointment of Sam Burns to Newark Election Board
- F. Receipt of Pension Plan Performance Report – Third Quarter, 2009
- G. Receipt of Alderman’s Report – Dated December 17, 2009
- H. Reappointment of Jane Creswell to Newark Election Board

Ms. Fogg read the Consent Agenda in its entirety. The First Readings were read by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE CONSENT AGENDA BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

13. **3. ITEMS NOT FINISHED AT PREVIOUS MEETING** – None

14. **4. FINANCIAL STATEMENT**

**57:57**

Mr. McFarland presented the Financial Report through November 2009. The results for the first eleven months reflected continuation of trends that began mid-year. Utility revenues were off substantially for the year by \$5.3 million with over half that amount attributable to the electric load where consumption continued to be below budget and below what was construed as normal levels. Water margins trailed the budget by \$936,000 but stabilized in November with the rate increase put into effect during the fourth quarter. Sewer revenues were also below budget, but it was anticipated they would stabilize with the upcoming rate increase.

Non-utility revenues tracked trends over the last five months, with transfer tax revenues lagging the budget by \$1.1 million. Transfer revenues would likely end the year in the \$800,000 level. Also, as anticipated, property tax revenues were \$436,000 over budget because of higher valuations than what was included in the budget. All other non-utility revenues were down about \$200,000 with transfer station revenues down \$162,000 and the absence of the Municipal Street Aid funds. In the first eleven months, fines and parking revenues exceeded budget by about \$234,000.

Operating expenses were more than \$2 million under budget, largely due to lower personnel and certain other costs. All departments other than Parking were currently running under budget and that department should come close to budget by year end.

The cash balance declined \$900,000 since the beginning of the year. Considering operating budget losses, cash held up well due to some changes made in the capital program through the course of the year.

Mr. Markham asked if the results were as negative as expected for November and December. Mr. McFarland said the electric revenues came in lower than anticipated. In addition to consumption being down, peak consumption by big users was down, also depressing revenues.

Mr. Pomeroy questioned the Pension Fund status which Mr. McFarland said dropped as low as 55% but was nudging back up a few percentage points. He said the number would take a period of years to show much movement.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE FINANCIAL REPORT FOR THE ELEVEN MONTHS ENDING NOVEMBER 30, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Funk.

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

**1:04** A. Recommendation on Contract No. 09-09  
Purchase of (1) Mini-Bus

Ms. Houck reported Contract 09-09 provided for the purchase of a mini-bus to replace a 2002 International bus. Two sealed bids were received, and Delaware Transit Corp. confirmed funding totaling \$98,400 towards the purchase of the bus, leaving the City a balance of \$372. It was therefore recommended to award this contract to Wolfington Body Co. Inc. at a total cost of \$98,772. Mr. Athey asked if there was any possibility that the funds would not come through from DeIDOT. Ms. Houck said DeIDOT reconfirmed the funding today. Mr. Clifton asked if there was any trade-in value on the 2002 bus, and Ms. Houck said that bus would go to the state who would sell it.

MOTION BY MR. TEMKO, SECONDED BY MR. TUTTLE: THAT CONTRACT NO. 09-09 FOR THE PURCHASE OF A MINI-BUS BE AWARDED TO WOLFINGTON BODY CO. INC. AT A TOTAL COST OF \$98,772.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Funk.

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

**1:08** A. **Bill 09-32** – An Ordinance Amending Chapter 27, Subdivision and Development Regulations, Code of the City of Newark, Delaware, Regarding Wetlands Protection and Buffers

Ms. Fogg read Bill 09-32 by title only.

Ms. Fogg said the public hearing would be held at the same time for Bills 09-32, 09-33, 09-34 and 09-35 since the ordinances were related and each bill would then be voted on separately.

MOTION BY MR. ATHEY, SECONDED BY MR. TEMKO: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-32.

Mr. Lopata explained the development of the environmental regulations had been a lengthy and detailed process and reflected the work of many people in the community, members of the Planning and Conservation Advisory Commissions and other citizen volunteers who helped to produce them. The

Comprehensive Plan contained a set of action items related specifically to recommendations made by the Planning Commission and the Planning Department based on recommendations derived from the City's participation on the White Clay Wild and Scenic River Management Committee. This year began the implementation process of the Comprehensive Plan, and a series of ordinances were developed in conjunction with representatives from the White Clay Creek Management Committee. Mr. Lopata thanked John Gaadt and Linda Stapleford for their assistance as well as Joe Charma who participated in several meetings to help develop the series of ordinances that went to the Planning Commission.

Bill 09-32 expanded and redefined the City's wetland protection and buffer regulations, was much more extensive and had detailed restrictions, most importantly a 50-foot buffer around wetland areas.

Bill 09-33 proposed a set of riparian (water) protection and buffer stipulations. Definitions were established for riparian streams and provided a 50-foot buffer around the streams and other related regulations to protect the streams in the area.

Bill 09-34 was a set of steep slope protections which was a relatively minor, but important, change. Currently there was a prohibition against construction on slopes that exceeded 25%, and a restriction was being added to require specific Public Works approval for construction on properties with slopes of 15-25%.

Bill 09-35 was a set of landscaping and tree protection measures that were developed as part of the process, and one set of them had to do with protecting trees during construction. He believed the City had important landscaping protection regulations for existing trees, but if those trees were not protected during construction, the language in the Code was relatively meaningless. Thus, the Parks & Recreation Department proposed these regulations which were important in protecting existing vegetation. The landscape and screening requirements were also expanded, especially in parking areas.

Mr. Lopata noted it was important to understand the four sets of ordinances impacted new construction only. Any existing approved subdivisions would not come under these regulations. Also important was the ultimate goal of the regulations – water resource protection.

Mr. Markham asked if the regulations would apply to current property owners if they decided to make improvements. Mr. Lopata said it affected only new development and new subdivisions.

Mr. Markham questioned if property owners of the undeveloped land that the new regulations would impact were notified of the change. Mr. Lopata said the Subdivision and Zoning Codes were frequently changed, and we do not notify everyone in the community who could be impacted. In theory, he said, this could affect every property owner in the City if someone took an existing property and redeveloped it. Mr. Athey said short of an annexation, there were not many properties this applied to.

The Chair opened the discussion to the public.

Linda Stapleford, a Newark resident, spoke on behalf of the White Clay Wild and Scenic Management Committee. She said the Wild and Scenic Management Plan addressed the objectives of how to protect certain natural resources. About four years ago, the Management Committee began to review the municipal ordinances protecting natural resources within the watershed beginning with the Pennsylvania section where most of the open space existed. The Committee began looking at the City's ordinances about two years ago for

consistency and hired John Gaadt for that review. Although the Committee was pleased with the final product, Ms. Stapleford said not every ordinance change they would like to have seen was in the new document. However, the City as the signatory to the Wild and Scenic Memorandum of Understanding said they would try to meet the objectives of the Management Plan, and she felt this product accomplished that goal.

Bill Stritzinger, a Newark resident, agreed with protecting resources. However, he did not believe it was necessary to pass ordinances to do so and felt this added one more layer of oversight. He primarily objected to Bill 09-35 for tree protection and said the change in breadth size of the trees from 24 to 18 inches could be a problem on a redesign (which he promised) of the Newark Country Club site. In addition, the regulations added costs at a time when developers and contractors were fighting for their lives. Mr. Stritzinger asked if Council would consider tabling the ordinances until the next meeting to allow him more time to evaluate their impact.

Jean White, a Newark resident, referenced Bill 09-32 and requested that the wetlands report be required to be available a week prior to the Planning Commission meeting. Mr. Lopata did not believe any additional burden should be added to the regulations in terms of the developer's responsibility and thought this should be left to the discretion of the Planning and Development Department to allow them to keep projects moving. She questioned the buffer area mentioned in the last sentence under item c-2 on page 2 which applied to wetlands located on previously developed parcels. Mr. Lopata explained this was to insure there would be a buffer to protect wetlands in areas where there was potential for redevelopment. Mr. Tuttle further clarified the intent was in circumstances where there was less than a 50-foot wide buffer so it did not get any smaller.

Regarding Bill 09-33, Mrs. White said since stormwater management could be put in the 50-foot buffer, she felt this should be added to the ordinance under item 6 on page 2. She also requested a punctuation change, adding a colon at the end of the first line on page 2, item a.

Regarding Bill 09-35, Mrs. White suggested that clusters of trees be given protection because the roots were intertwined. She also noted that studies show a smaller caliper tree has a better chance of survival. She did not understand the logic of reducing landscaped islands in parking lots from 330 square feet of area per 25 parking spaces to 250 square feet.

John Gaadt, Environmental and Land Planning Consultant for White Clay Wild & Scenic Management Committee, said he assisted the Committee in reviewing municipal codes in Delaware and Pennsylvania to protect the resources discussed. He was pleased with the outcome in coming up with appropriate regulations for the City and commended Mr. Lopata for his efforts and his willingness to work with them, and also the Planning Commission for their support and willingness to respond. Although national and state standards were in place, when it came to some of the resources, he said the municipalities played a key role and were the land use decision makers. Regarding tree disturbance standards, it was mentioned they were becoming stricter, but he thought reasonable leeway was being provided as well.

Mr. Pomeroy thought the hallmark of the proposed legislation was water resource protection which he believed was one of Newark's most valuable resources. He asked what constituted wetlands, and Mr. Gaadt explained the City adopted the same definition of jurisdictional wetlands used by DNREC and the Federal Corps of Engineers in terms of buffering.

Although he supported tree protection (Bill 09-35), Mr. Pomeroy addressed the significant cost to developers for fencing regulations in the tree protection zone and the associated penalties for tree damage. He questioned

whether the requirement to install fencing could be removed while keeping the penalty provision, thereby giving the developer the decision-making ability as to how they wanted to proceed. Mr. Lopata said the recommendations came from the Parks and Recreation Department based on years of experience with the current landscape ordinance and the difficulty in protecting trees. Mr. Emerson felt the City did not have adequate standards to make sure the developers knew what to do to protect trees during construction.

Mr. Clifton mentioned a past issue with a tree on Main Street where Council's directive to the developer was to save the tree. Mr. Clifton said the developer did not save the tree and although they were fined, the tree was gone. Thus, he endorsed the way the ordinance was written.

Mrs. White said the overall purpose of the ordinances had to be considered and that was the protection of the community's assets and the protection of water resources. She urged immediate passage of the ordinances.

Ms. Stapleford echoed the importance of considering the intent of the ordinances while looking at the whole City and how this would impact other properties coming into the City through annexation. Further, research showed there was nothing as important as trees in stormwater management, and that was the intent of the tree protection ordinance.

Joe Charma, a Newark resident, thanked the people who worked on the ordinances, and he was pleased to be part of that process. When the stormwater utility fee was passed, he assumed everyone would support it wholeheartedly.

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

Mr. Athey agreed with Mr. Pomeroy regarding the chain link fence requirement. If there were punitive measures in the Code, he did not know if it was necessary to specify the fencing. Mr. Sonnenberg related an experience in a community where the requirement for a physical barrier was as much for the person in the field doing the work as it was for the developer.

Mr. Temko felt the fee should remain a fee as opposed to becoming a tree waiver similar to parking waivers.

Mr. Tuttle observed that one of the values of the fence was to prohibit damage to tree roots which probably killed more trees than by them getting run into.

Mr. Athey said since the intent was to save trees, perhaps the penalty should be raised. Mr. Markham thought it could be handled similar to the speeding fines where the more damage done, the higher the penalty.

Mr. Lopata emphasized these recommendations were made by experts to protect the trees, and he urged Council to pass the ordinance as proposed. Mr. Clifton agreed it was the responsible thing to do for the continuation of Newark's resources.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Funk.

**(ORDINANCE 10-01)**

17. **6-B. BILL 09-33 – AN ORDINANCE AMENDING CHAPTER 27, SUBDIVISION AND DEVELOPMENT REGULATIONS, CODE OF THE CITY OF NEWARK, DELAWARE, REGARDING RIPARIAN (WATER COURSE) PROTECTION AND BUFFERS**

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**2:41**

**(Note: The public hearing was held under Item 16.)**

Ms. Fogg read Bill 09-33 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. TEMKO: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-33.

AMENDMENT BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT A COLON BE ADDED AT THE END OF THE FIRST LINE ON PAGE 2, AMENDMENT 1, ITEM 2-a.

AMENDMENT PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Question on the Motion as Amended was called.

MOTION AS AMENDED PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**(ORDINANCE 10-02)**

18. **6-C. BILL 09-34 – AN ORDINANCE AMENDING CHAPTER 27, SUBDIVISION AND DEVELOPMENT REGULATIONS, CODE OF THE CITY OF NEWARK, DELAWARE, REGARDING STEEP SLOPES**

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**2:42**

**(Note: The public hearing was held under Item 16.)**

Ms. Fogg read Bill 09-34 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. TEMKO: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-34.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**(ORDINANCE 10-03)**

19. **6-D. BILL 09-35 – AN ORDINANCE AMENDING CHAPTER 27, SUBDIVISION AND DEVELOPMENT REGULATIONS AND CHAPTER 32, ZONING, CODE OF THE CITY OF NEWARK, DELAWARE, REGARDING LANDSCAPING, LANDSCAPE SCREENING AND MATURE TREE PROTECTION**

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**2:42**

**(Note: The public hearing was held under Item 16.)**

Ms. Fogg read Bill 09-35 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. TEMKO: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-35.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**(ORDINANCE 10-04)**

- 20. MOTION BY MR. TEMKO, SECONDED BY MR. ATHEY: THAT ITEM 8-A-1, PRESENTATION BY CHAIR OF THE DOVER HUMAN RELATIONS COMMISSION, BE HEARD AT THIS TIME.**

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**21. 8. ITEMS SUBMITTED FOR PUBLISHED AGENDA**

- 2:43** **A.** Council Members:  
1. Presentation by Chair of the Dover Human Relations Commission (Councilman Temko)

Dr. Sam Hoff, Chairman of the Dover Human Relations Commission discussed the steps involved in forming a Human Relations Commission and said identifying the reason for forming a commission was paramount. He provided background information on the Dover Human Relations Commission which had 15 members, chosen by the Mayor or the City Council President. The members served three-year terms, received no compensation and could not run for elective office while serving on the Dover HRC. The local commission saw its critical function as defending the rights of Dover citizens against infringement, particularly based on allegations of discrimination. They reported to the City Council and had no enforcement power. If Newark decided to create a commission, he urged bringing the community together with as many groups as possible, getting committed citizens involved and making sure there was constant communication between the commission and Council.

- 22. 6-E. BILL 09-41 – AN ORDINANCE AMENDING CHAPTER 16, GARBAGE, REFUSE AND WEEDS, ARTICLE I. SOLID WASTE COLLECTION AND DISPOSAL, CODE OF THE CITY OF NEWARK, DELAWARE, BY REVISING THE DEFINITION OF COMMERCIAL REFUSE SO AS TO EXTEND THE LIST OF GENERATORS OF SUCH COMMERCIAL REFUSE**

**3:30** Ms. Fogg read Bill 09-41 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-41.

Mr. Sonnenberg explained this was a Code amendment allowing the City to begin charging apartment complexes for the dumpster collection currently provided. Mr. Athey asked if notification was made to those who would be impacted prior to the meeting. Mr. Sonnenberg reported the item was discussed extensively during the budget process and there were plans to send out notification of the new rates once the ordinance was adopted. Further, the President of the Newark Landlord Association spoke at the public hearing for the budget in opposition to this proposal.

The Chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned to the table

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Funk.

**(ORDINANCE 10-05)**

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

**A.** Discussion re Downtown “Above Ground” Utility Impact Fee

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT ITEM 7-A BE POSTPONED TO THE JANUARY 25, 2010 MEETING.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Funk.

**24. 8. ITEMS SUBMITTED FOR PUBLISHED AGENDA**

**A.** Council Members:

1. Presentation by Chair of the Dover Human Relations Commission (Councilman Temko)

**(See Items 20 and 21.)**

**25. RESOLUTION 10-\_\_ : RETIREMENT OF RICHARD C. “SONNY” CHIFFONS**

**3:32**

The resolution was read in entirety by Ms. Fogg and was unanimously endorsed by Council.

**(RESOLUTION 10-A)**

**26. 8-B. OTHERS – None**

**27. 9. SPECIAL DEPARTMENTAL REPORTS**

**A.** Special Reports from Manager & Staff: None

**28. Meeting adjourned at 11:02 p.m.**

Patricia M. Fogg, CMC  
City Secretary

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