

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**February 22, 2010**

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  
Finance Director Dennis McFarland  
Parks & Recreation Director Charles Emerson  
Planning & Development Director Roy Lopata  
Assistant P&D Director Maureen Feeney Roser  
Public Works Director Rich Lapointe

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

1. MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT ITEM 8-A-2, RESOLUTION 10-\_\_: RETIREMENT OF CAROL YOUNG, BOOKKEEPER, BE MOVED TO ITEM 2 AND THAT ITEM 9-A-2, RECOMMENDATION RE 2010 RENEWABLE ENERGY PURCHASES, BE REMOVED FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

2. **8-A-2. RESOLUTION 10- : RETIREMENT OF CAROL YOUNG, BOOKKEEPER**

**00:43**

The resolution recognizing Carol Young, Bookkeeper, for 43 years of service to the City, was read by Mr. Clifton and was unanimously endorsed by Council.

**(RESOLUTION 10-C)**

3. Mr. Funk acknowledged the AP Government and Politics class from Newark High School.

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

**06:55** A. Public

Jean White, a Newark resident, recognized and commended the employees of the Public Works, Parks and Recreation and the Electric Departments for their efforts during the recent snow storms and particularly for working under adverse, dangerous conditions.

5. **1-B. UNIVERSITY**

1. Administration

There were no comments forthcoming.

6. **1-B-2. STUDENT BODY REPRESENTATIVE**

08:24

Dina Tews represented the University of Delaware Graduate Student Senate. Ms. Tews said she was working toward a PhD in Math at the School of Education and looked forward to attending Council meetings and becoming involved in the community.

7. **1-C. COUNCIL MEMBERS**

09:08

**Mr. Clifton** – commended the City on the arduous task of snow removal; related to the severe winter storms, thought it would be helpful to have a list of those willing to shovel sidewalks to provide to residents in need of assistance as well as a database of individuals willing to check on senior citizens on a regular basis; suggested the City have a list of contractors available who do sidewalk replacement work.

**8. Mr. Markham** – said the plows had trouble with people parking on the streets in outlying neighborhoods and perhaps residents should be instructed to park on one side of the street to provide an unimpeded path for plowing; asked if there was a central contact to report large potholes on Elkton Road – Mr. Sonnenberg said the request was on DelDOT’s work order list; issued a reminder about the Paper Mill Master Design Plan meeting on 3/4 from 7-9 pm in the Municipal Building and the NHA Sunset Review Committee meeting on 3/1 at 5:30 pm; commended NPD Officer Skinner for rescuing several people from a car that was driven onto the railroad tracks.

**9. Mr. Temko** – was pleased the recommendation for 2010 renewable energy purchases was removed from the agenda because he thought it indicated the City’s sincere intent to meet the State’s renewable portfolio standards; thanked City staff for their work during the recent snow storms.

**10. Mr. Pomeroy** – acknowledged State Representative Kowalko; thanked Ms. Fogg for helping a constituent with an issue and noted they sent a letter of appreciation; recognized Linda Burns who will be resigning from the Newark Memorial Parade after thirty years as well as Bob Moon and Carol Young on their retirements; commended Officer Skinner’s efforts; recognized the NPD, Aetna, Parks, Public Works and Electric Departments for many hours worked during the storms; offered congratulations to Mr. Funk who was awarded Legislator of the Year by the Hotel and Lodging Association; suggested Council consider creating a rainy day fund by capping the revenue line item for transfer taxes at \$750,000. The practice would be kept in place until reserves were built up to re-establish the City’s bond rating to a AA. Mr. Athey suggested this be discussed at a quarterly budget workshop and that Council repeat the exercise they went through last March where services were prioritized. Mr. Pomeroy agreed there should be quarterly budget workshops but proposed a separate discussion on working toward rebuilding reserves.

**11. Mr. Tuttle** – thought Mr. Pomeroy’s proposal should be talked about in the context of the whole economic picture; joined in accolades for City staff for working through the storms; questioned the sidewalk snow clearing requirement at corners as he observed a number of areas where people were forced to walk in the street. Mr. Sonnenberg said it was the responsibility of the adjoining property owners, and Mr. Tuttle felt further discussion and public education were warranted; commended Officer Skinner for his life-saving actions in getting the driver and passenger out of the vehicle on railroad tracks; welcomed UD graduate student representation at the meeting.

12. **Mr. Athey** – complimented City staff for a top-rate job with snow removal; regarding Earth Hour which coincided with Wine and Dine, thought it would be a good idea to promote the two together; requested that a quarterly budget workshop meeting be scheduled on Monday, 4/12/10, in place of the City Council meeting for that date which is normally cancelled due to the election. It was the consensus of Council to cancel the regular meeting.

13. **2. APPROVAL OF CONSENT AGENDA**

**32:31**

- A. Approval of Regular Council Meeting Minutes – February 8, 2010
- B. First Reading – Bill 10-05 – An Ordinance Amending Chapter 27, Subdivisions, Code of the City of Newark, Delaware, By Revising the Definition of Public Improvements – 2<sup>nd</sup> Reading 3/22/10
- C. First Reading – Bill 10-06 – An Ordinance Amending Chapter 11, Electricity, Code of the City of Newark, Delaware, By Increasing Green Energy Fees – 2<sup>nd</sup> Reading 3/8/10
- D. Resignation of Linda Burns from Newark Memorial Day Committee effective 7/31/10
- E. Receipt of Alderman’s Report dated 2/17/10

Ms. Fogg read the Consent Agenda in its entirety.

MOTION BY MR. TUTTLE, SECONDED BY MR. POMEROY: THAT THE CONSENT AGENDA BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

15. **4. FINANCIAL STATEMENT** - None

16. **5. RECOMMENDATIONS ON CONTRACTS & BIDS** - None

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

**37:05**

- A. **Bill 10-04** – An Ordinance Amending Chapter 20, Motor Vehicles and Traffic, Article XVII, Code of the City of Newark, Delaware, Article XVII, Parking Meters and Schedule X, Parking Meter Zones, By Clarifying the Hours and Holidays During Which Parking Shall Be Free

Ms. Fogg read Bill 10-04 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 10-04.

Ms. Roser stated that the ordinance resulted from the August workshop on municipal finances during which the Downtown Newark Partnership was asked to consider alternatives and recommend ways to raise revenues and cut costs downtown. She said the Board will continue to discuss this information, particularly about the business license fee where they believe some adjustment is appropriate. The Board felt Sunday parking fees were an equitable and fair way to distribute costs to raise revenue downtown because parking fees were user fees as opposed to a direct tax against businesses or residents. The Board also believed it would spread the expense over a larger population base, so they made the recommendation to move ahead with Sunday fees. The Partnership did some outreach to find out how the change would impact businesses in the community. There were also meetings with the Newark United Methodist Church and other churches downtown after which the Board decided to recommend

charging for parking at 1:00 pm which would generate considerable revenues for the City while addressing concerns about church parking. Although no one was excited about charging for Sunday parking, they felt it was important to try to address some of the City's financial concerns. The Merchant's Committee emphasized the importance of good signage, informing the public of the change, using common sense with enforcement during the implementation period and a real push to advertise the customer validation program.

Based on necessary changes to signage and software, Ms. Roser anticipated a start date of early April.

Mr. Markham asked how revenue calculations were determined for Sunday usage. Ms. Roser said they took a very conservative approach based on calculations from meter and parking lot receipts on a summer weekday. Mr. Pomeroy said the assumption was based on the same volume of people coming to town after the change. Ms. Roser said the Partnership did not expect much negative impact on business in light of the validation system.

Mr. Markham noted the lots and parking spaces appeared to be packed on Sundays, although restaurants and stores were not. Mr. Funk believed employees of Main Street businesses who would normally park elsewhere were taking advantage of the free parking.

Mr. Athey said a number of options were discussed for Main Street services at the August budget workshop meeting. He asked Ms. Roser if the DNP would be looking at other revenue generation downtown. She reported the next step for the Partnership was to take a look at business license fees and report back on that discussion. Mr. Athey hoped to see other additional ideas brought back to Council.

Mr. Tuttle felt having parking available for potential patrons was a real value to the businesses and said when convenient parking was not available, people would be less likely to come to the City.

Mr. Funk stressed the importance of advertising and promoting the fact that parking was still free to business patrons through the validation system.

The Chair opened the discussion to the public.

Amy Roe, a Newark resident, asked if all City parking meters would be included. Mr. Funk understood this was for all meters. She said there was a lot of overflow parking in front of her house on Saturdays and was concerned about having the same situation on Sundays. She was disturbed that the outreach for this initiative was limited to the downtown business community and felt it should have included the residential areas which also would be impacted.

Mr. Funk thought her concern should be referred to the Traffic Committee. Mr. Tuttle noted that most parking district permits were in effect seven days a week. Ms. Roser responded that it was possible to extend the special parking district restriction to weekends through the Traffic Committee if Ms. Roe's neighborhood chose to do so. Further, she noted six public meetings were held about this issue, and these were open to public comment.

John Corradin, owner of the retail business The Days of Knights for approximately 28 years, felt the City should look closely at the impact before moving ahead. He was concerned Council was rushing their decision and that this would add to the negative public perception of parking in the City. He commented that a number of businesses had closed since last year on Main Street.

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

Mr. Temko did not think the timing was right for the City to proceed with charging for Sunday parking. He received feedback from a handful of people who said they understood it was a good revenue source but heard more than double the comments who responded that this was a bad idea. He said the perception about going to Newark was: 1) rates were just raised at meters and were among the most expensive parking costs in the area; 2) meter enforcement was very effective; 3) predatory towing was an issue, although it was being addressed.

Mr. Clifton pointed out that water and electric rates, which impacted only homeowners and businesses in the City, were recently raised. Charging for Sunday parking was a user-based fee which he felt was more equitable when implementing fees related to the downtown area. He noted the \$68,000 in projected income was close to a one cent tax increase. He believed the City needed to operate like a business, and this was one more step towards achieving that goal.

Mr. Sonnenberg explained this was part of the objective to identify additional revenue sources for the future while keeping in mind the vast investment the City made in services to the downtown were not covered by revenues from there.

Mr. Athey thought there could have been many different options chosen by the DNP to spread out costs. He said the plan could always be changed if Council was presented with another \$68,000 in programs by the DNP. Absent that, he did not see there was much of a choice.

Mr. Tuttle, who ran the UD parking program in the past, thought it was worth trying this out. The disincentives he heard about people coming to Main Street were based on the lack of parking, and he believed people would gladly pay to have available parking options.

Mr. Pomeroy remarked that people from outside the City frequently complain they cannot find anywhere to park. He said the availability of parking for merchants was an overriding factor as it related to this issue, and there should be better communication about parking validation.

Mr. Markham quoted a constituent's comment that "parking downtown is not that expensive."

Mr. Temko asked Ms. Roser to explain the plans to further promote validation parking. She reported there was a new sticker being developed, and the Merchant's Committee was interested in advertising the validation program to customers as well as to businesses. In addition, the Parking Committee organized a sub-committee to discuss promoting the validation program. Ms. Roser also reported that 15-18 businesses had signed on to the friendly change-providing business sticker promotion that advertised businesses which provided change for parking meters.

Question on the Motion was called.

MOTION PASSED: VOTE: 6 to 1.

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

**(ORDINANCE 10-09)**

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

- A.** Request of SSN Hotel Management, LLC, for the Major Subdivision of 1119 South College Avenue, Newark, Delaware, In Order to Construct a Six-Story, 101-Room Candlewood Suites Hotel (**See Item 7-B**)

**1:12**

(Note: The public hearing was also held on Item 7B.)

MOTION BY MR. TEMKO, SECONDED BY MR. POMEROY: THAT THE RESOLUTION AND AGREEMENT BE ACCEPTED AS PRESENTED.

Lisa Goodman, Esquire, presented the subdivision plan and the special use application for the proposed six-story, 101-room all suites higher-end hotel geared to the business traveler.

The recommendation in favor of this application from the Planning Department and adopted by the Planning Commission had a fiscal note stating the net revenue to the City per year for the project was almost \$37,000. Ms. Goodman reported the 5.02 acre project was zoned BC. Howard Johnson's on the site was also owned and operated by the applicant as were 13 additional hotels. Other planned changes would integrate the Friendly's Restaurant to get a nice site with good traffic circulation, safe pedestrian access and additional landscaping.

A meeting was held with homeowners in March at the site and was attended by Messrs. Clifton and Tuttle. The proposed addition of the hotel was discussed as were improvements during the tenure of the client's ownership of Howard Johnson's. According to Ms. Goodman, residents came out of the meeting with the feeling that there would be improvement with the redesign.

Traffic was discussed by the Planning Commission who requested DeIDOT to conduct a traffic analysis. Since DeIDOT concluded a traffic analysis was not required for the site, one was completed by the applicant and reviewed by DeIDOT. The projections for the hotel were 49 am peak trips and 54 pm peak trips. The Planning Commission also requested the applicant to complete traffic counts for comparison purposes at the S. College Avenue and Christina Parkway location of Embassy Suites, Homewood Suites and Sleep Inn. Traffic counts at 896 and the Howard Johnson's entrance and 896 and the Friendly's entrance found those currently functioned at a level of service C and would function at C in the future with or without the proposed hotel. There were also counts at Welsh Tract Road and the site entrance which functioned at A and B now and would not change in the future. The Old Cooches Bridge and Welsh Tract Road intersection had the same findings. This was the intersection the community raised concerns about, and Ms. Goodman felt the results would give the residents some comfort on the traffic issue. They also looked at 896 and Welsh Tract Road, the main intersection coming onto S. College Avenue. In the morning that functioned at level E and at level D during the pm peak. In 2011 if the site does not change, it would continue to function at E in the am and at E in the pm. With development it would function at F in the morning and at E in the pm, so that was the one intersection the hotel would impact. DeIDOT concluded the hotel contributed little traffic to the intersection and requested the owner to enter into a signal agreement, meaning the owner would contribute or pay for future improvements. DeIDOT concluded the only way to improve the intersection was to add a full additional lane in both directions which was not the direction they wanted to pursue.

Regarding the legal standards for the Special Use Permit, the plan was a permitted use in the BC zoning district, met the three requirements for the permit and was consistent with the Comprehensive Plan and the development of this corridor.

Mr. Clifton asked for clarification on the Planning and Development report, Item 6, regarding stormwater management and the site's poor infiltration rates. Bruce Tease, Landmark Engineering, explained options for addressing the quantity and quality of stormwater management which he believed would be acceptable to Public Works. There would be an added benefit since the runoff from Friendly's would be included in the new stormwater system, adding quality control not presently available from that site.

Mr. Clifton questioned what type of shrubbery was planned along Old Cooches Bridge Road as neighbors were concerned about headlights from the parking area on 896 shining into their windows. Mr. Tease said the proposed landscaping on the perimeter was a mixture of evergreen and deciduous shrubs, and a 6' high stockade fence would run the length of the entire property line along Cooches Bridge Road (as far as permitted by DeIDOT).

Mr. Clifton said one of the concerns brought to him regarded police calls for service at the Howard Johnson site and, more importantly, the use of the site for long-term residency exceeding the 30 days limited by Code. Ms. Goodman said this issue was discussed at their meeting with the residents. Howard Johnson's did not allow extended stays, and the owners wanted to run a safe and quiet business while not discouraging legitimate calls for service. They looked at calls from several years ago, met with the Newark Police Department and felt the upscale use would help to upgrade the entire area.

The Chair opened the discussion to the public.

Denise Gaines, a Newark resident, lived directly behind Howard Johnson's. She said over the last year and a half the deteriorating conditions started to improve thanks to the assistance of Mr. Clifton. She had concerns based on noise, lights, more people, and traffic and safety issues. She noted that none of the other four hotels in the area backed up to a residential area and thought there should be some type of study before Council approved the request.

Mr. Athey asked how long the applicant owned the Howard Johnson's. Ms. Goodman responded ten years. Mr. Temko asked if there were plans to include the adjacent neighbors in discussions while details were being finalized. Ms. Goodman said they would be happy to continue an open dialog with the community.

Donald Gaines, a Newark resident, was concerned the applicant was the owner of Howard Johnson's. He said crime at the hotel required an almost daily police presence in the past and gave kudos to the Newark Police Department for their effort which he believed contributed to improved conditions at the hotel. He was also concerned with the height of the proposed building and the need for another hotel in the area.

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

Mr. Athey asked Ms. Goodman to counter some of the accusations made. Regarding the number of police calls, she said there was a difference between public perception and reality. The traffic counts showed adequate levels of service at Old Cooches Bridge with no delays. She felt they had a very productive meeting talking about issues with the Police Department whose only comment on the plan addressed traffic concerns. She stressed that the owner was working diligently to improve the site.

Mr. Markham thought there should be additional effort from the owner to clean up the criminal activity at Howard Johnson's. Ms. Goodman believed her client had demonstrated a willingness to work with the City and with the police, noted they installed a security system, increased signage and emphasized they would be happy to implement other strategies suggested by the City.

Mr. Clifton wanted the community to have direct contact with the property owners (such as mailings and bi-annual meetings) to provide for discussion of issues before they became problems. Ms. Goodman said the owners distributed their business cards at the community meeting and would abide by the City's requests for open dialogue with the community.

Mr. Temko agreed with Mr. Clifton's comments about community dialog and accessibility. He felt there were still some unresolved and continuing concerns of residents, especially with Howard Johnson's. He noted if there was a perception of crime there, it would be difficult to attract customers to the new hotel. He hoped the project would lead to greater improvements with the landscaping and the stormwater management. He suggested that Candlewood consider pursuing DNREC's Green Lodging certification.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(RESOLUTION NO. 10-D)**

**19. 7-B. REQUEST OF SSN HOTEL MANAGEMENT, LLC, FOR A SPECIAL USE PERMIT IN ORDER TO CONSTRUCT A SIX-STORY, 101-ROOM CANDLEWOOD SUITES HOTEL AT 1119 SOUTH COLLEGE AVENUE, NEWARK, DELAWARE (SEE ITEM 7-A)**

**2:20**

(Note: The public hearing was held under Item 7A.)

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT THE SPECIAL USE PERMIT BE PERMIT BE GRANTED AS REQUESTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

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

**A. Council Members:**

1. Resolution 10-\_\_: Retirement of Robert (Bob) Moon Maintenance IV

**2:21**

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT THE RESOLUTION BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(RESOLUTION NO. 10-E)**

**21. 8-A-2. RESOLUTION 10-\_\_: RETIREMENT OF CAROL YOUNG BOOKKEEPER**

**(See Item # 2)**

**22. 8-A-3. APPOINTMENT TO NEWARK HOUSING AUTHORITY**

**2:21**

MOTION BY MR. TEMKO, SECONDED BY MR. CLIFTON: THAT ANNETTE CORNISH, 47 CORBIT STREET, BE APPOINTED TO THE NEWARK HOUSING AUTHORITY; SAID TERM TO EXPIRE JANUARY 2016.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Athey

**23. 8-A-4. DISCUSSION RE IMPACT OF ORDINANCE 10-05 (NEW FEE IMPOSED ON COMMERCIAL REFUSE COLLECTION EFFECTIVE 3/1/10.)**

**2:37**

Mr. Athey explained the reason he proposed to bring this discussion back to the table was the concern that there may not have been good public dialogue before the ordinance was adopted.

The Chair opened the discussion to the public.

Kevin Heitzenroder, a property manager and a Newark resident, felt it was somewhat unfair that the only group of people affected by the ordinance was the most effective in generating additional revenue for the City. Amendment 1 of Ordinance 10-05 reclassified waste from garden apartment complexes or multi-family dwellings as commercial refuse. He did not think there was anything commercial about the refuse generated by these projects as it was similar to the quantity and quality of trash generated by every other residential dwelling unit in the City. In his opinion, commercial trash was generated from an end user that was a business. Historically, trash service for many residential dwellings had been picked up as a service paid for by property taxes, and he found it strange that a residential dwelling was reclassified based on the use of a dumpster. He said the owners did not choose to put dumpsters on these sites; rather, the City mandated how the trash would be picked up in the construction planning process. The owners paid for the cost of the dumpsters and now were told they had two options: have the City empty the dumpsters for a fee; or, find a private carrier. Unfortunately, the dumpsters they purchased had little value as they were rear-loading, and private carriers used front-loading dumpsters almost exclusively.

Mr. Heitzenroder reported the property taxes for Amstel Square were \$4351.64 in 2009. Under the current ordinance, the anticipated charge for dumpster collection would be \$2,220 annually. This was an increase of 51% for the same City services in 2010 vs. 2009. He urged Council to keep this item on the table for public discussion and said he was willing to help find a solution to the issue.

Kevin Mayhew, a property manager and a Newark resident, brought up the option of recycling which was not provided to the owners of multi-family projects. He knew single-family homes had reduced their regular trash pick up and believed multi-family housing would see a similar reduction if recycling was provided. The City would see reduced tipping fees by separating recyclables from the waste stream. Another option he thought worthy of consideration was phasing out rear-loading dumpsters. Private haulers charged more per month to pick up a rear-loading dumpster than a front-loading dumpster. He believed the City could reduce manpower by 50% with front-loading dumpsters and suggested property owners could share in the cost of these dumpsters if the City continued the service without a fee. If the ordinance remained unchanged, Mr. Mayhew would probably use Waste Management since they provided recycling services. Waste Management would supply an 8-yard front loading dumpster for

recyclables, and his two other dumpsters would be picked up once weekly, thereby reducing his costs. He added that most multi-family complexes do not use the City's leaf removal and snow plowing services although they were included in their taxes. Mr. Mayhew spoke with numerous property managers who were concerned with the impact the new fee would have on many families in the City. He was worried that rents would have to increase to incorporate the new fees and may make it impossible for many residents to be able to afford rent in the City. My Mayhew noted when Council made policy changes such as this in the past, they grandfathered in existing properties. In his opinion, grandfathering should have been considered with this ordinance.

Chris Locke, a Newark resident and representative of Lang Development, said the legislation was focused on a specific group of citizens in the City which raised the question of constitutionality of the legislation. He believed a government entity needed to show a compelling interest for singling out a group and felt this represented double taxation. He reported most of Lang Development's properties paid \$4,000-\$5,000 in taxes, yet were expected to pay \$2,220 in additional trash service fees. He said Lang Development's apartments generated about \$360,000 in utility fees, not counting commercial tenants. In addition, the tax base on new projects they brought into the City exponentially increased 500% which again was another increase in revenue to take care of the service for which Council was trying to tax them. While he understood Council was in a difficult position, he said the City and the community should work together to develop a fair legislative process to address this issue.

Mr. Funk asked how the City of Wilmington handled trash fees. He knew Bethany Beach did not charge for them. Mr. Mayhew said Wilmington included the fees with the real estate taxes and did not charge for trash pick up at apartment complexes.

Mr. Athey respectfully disagreed this was a commercial use. He felt the recycling suggestion was a good one and perhaps there was a way to factor it into the program as a win-win. Regarding the expenditure on dumpsters, he thought some sort of phase in could be considered on those dumpsters purchased within the last several years.

Mr. Markham commented that he brought up recycling at a budget workshop and asked where that stood. Mr. Sonnenberg said it was discussed but noted there were practical difficulties for including it in such a way that would not increase the City's costs. With multiple dumpsters, one could be devoted to recycling and one to trash collection. He said some properties in town had a contamination problem with inappropriate materials being placed in with recyclables. As far as cost savings, recycling would save on the tipping fees, but Delaware Solid Waste Authority was dramatically increasing tipping fees on the garbage since they were not making it on the recyclables. Also, the City had only so many vehicles to devote to pick up, so in moving toward recycling, everybody would have to go in that direction to efficiently set up routes using the rear loaders. Another option was to eliminate all dumpster collection. During budget discussions, Council chose to continue providing the service while charging a fee that did not recover the full cost. Mr. Markham remembered that eliminating dumpster service would save more than the fee would generate. Mr. Sonnenberg agreed it could potentially do that.

Mr. Clifton felt there was a commercial component to these buildings. For example, at Amstel Square, there were 10 units, with 4-5 commercial components. In order to be competitive, he suggested the City use a business model to compare how a similar private sector business operated. With so much emphasis on cost savings, he found it disconcerting that the City used an archaic two-person operation rather than a one-person operation. He thought the ordinance was well founded and would not suggest scrapping it.

Mr. Funk said all the businesses on Main Street with dumpsters used private haulers, and they did not pay for the dumpsters if they signed a five-year contract. He said most contracted with Home Waste which had a one-person operation, and he did not understand why City garbage trucks had three people on them.

Mr. Temko asked Mr. Sonnenberg what the costs would be if half the dumpsters at a site would be used for recycling and the other half would be used for garbage with the same number of pick ups. Mr. Sonnenberg said there would be no reduction in collection costs but the tipping fees would be saved on the recyclables. He felt some of the challenges would be with sites having one dumpster and the contamination issue. Further, if carts were used for recyclables instead of dumpsters, there would be an additional cost for collection and for supplying the carts.

Mr. Heitzenroder did not believe the City would realize \$350,000 in revenues from the fee because the rate of \$185 per dumpster was not competitive with private haulers. He asked if the City had considered subbing out all the dumpsters, and since the City was not competitive or efficient at it, they should get out of the business. Further, if the tipping fees were going to continue to climb, that was a stronger reason to introduce recycling. He also commented that his tenants were disappointed that recycling was not available to them.

Mr. Athey suggested a 30-day moratorium during which the owners would meet with City staff. He was open to considering an approach that recognized the investment the owners may have made in dumpsters within the past several years.

Mr. Pomeroy believed the issue highlighted the fact that this would be a budget year with difficult challenges. He thought the arguments made by the owners had merit and agreed with the suggestion of a moratorium to allow further discussion between the owners and the City. In reality, he said this was a 30-day decision to see if the City would stay in the business.

Bill Stritzinger, a Newark resident, felt the costs of City services were starting to exceed their value. He understood why the property owners were so upset since they had to buy dumpsters and put in bigger pad sites to accommodate them. He thought the City was hitting the tipping point.

Since there were no further comments forthcoming, the discussion was returned to the table.

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: TO DELAY IMPLEMENTATION OF THE REFUSE COLLECTION FEE TO COMMERCIAL APARTMENT COMPLEXES UNTIL APRIL 1, 2010 WITH THE EXPECTATION THAT THE LANDLORDS WILL DEVELOP A PROPOSAL TO SUBMIT TO THE CITY MANAGER AND PUBLIC WORKS DIRECTOR.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

24. **8-B. OTHERS:** None

25. **9. SPECIAL DEPARTMENTAL REPORTS**

A. Special Reports from Manager & Staff

1. Report on Patronage for Recreation Programs Since Fall 2009

**2:22**

Mr. Emerson reviewed information on the impact of the recreation program fee increases. There was a bit of a decrease in activity registration and revenues during the first month of the year, but he believed it was still somewhat early to determine the full impact of the new fee structure. In addition to the fee increases, he thought there were a number of factors that played into the decreased participation including the current economy and the change to an e-newsletter. Another reason the fees were down was that the City was no longer involved with the youth baseball/softball program. He said that decision was based on falling enrollment in the program to the point that a lot of games were forfeited from a lack of players. The program also had an impact on revenues as it brought in about \$7,200.

Mr. Markham said the complaints he heard related to the magnitude of the increase in fees. While an increase was thought to be appropriate, in comparison to the market, there was concern about the City pricing itself out of the market completely.

Mr. Emerson noted the summer playgrounds had been a free program and was one of the only programs where the direct costs were not being covered. The fee for last year's program was \$.52 per hour and was \$3.20 per hour this year. In comparison, the Rittenhouse Day camp program rate was \$3.41 per hour while a similar County program was about \$4.00 per hour.

In projecting the increases to recover overhead for playground costs, Mr. Temko asked if Mr. Emerson was concerned about declining enrollment. Mr. Emerson suspected there would be an impact on their numbers and revenues.

Mr. Clifton noted there had been 170 children enrolled in the league which no longer existed. He asked if the City should consider reversing what was done and not increase the fees over the next three years in order to regain some of the customers or reduce the fees, bring in more customers and serve more people.

Mr. Emerson thought the current fees were fairly competitive in the area. As the fees continued to increase, however, he felt there would probably be an impact of lower activity registration thereby affecting revenues.

Mr. Clifton suggested holding the line at this point. Mr. Temko agreed and recommended adding this item to the April 12 workshop agenda. Mr. Funk thought it was important to know if the City was losing non-residents or residents because of the increases. Mr. Pomeroy pointed out that Council already approved increases in perpetuity meaning there was no plan to review this on a yearly basis. Mr. Athey noted the decision to increase fees was logically thought out and thought Council should stick by their decision. Assuming no changes were made, he suggested reviewing this twice annually over the next few years to track the trend. Mr. Temko thought it made sense for Council to have another discussion before the next fee increase. To incorporate data from summer registration, Mr. Emerson recommended coming back to Council in June or July and will provide a breakdown by residents and non-residents.

**26. 9-A-2. RECOMMENDATION RE 2010 RENEWABLE ENERGY PURCHASES**

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(Removed from Agenda)

**27. 9-A-3. RESOLUTION 10-\_\_ : SUPPORTING THE U.S. MAYORS CLIMATE PROTECTION AGREEMENT**

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**3:27**

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: TO SUSPEND THE RULES TO ALLOW THE DISCUSSION TO BE OPENED FOR PUBLIC COMMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Jeremiah Couey, Chrysler Avenue resident, suggested Council support the Mayor’s Climate Protection agreement. He said the City had a responsibility to help residents save energy and save money on their utility bills through improvements such as weatherizing.

Mr. Sonnenberg said the City was already engaged in a number of activities that supported the individual action items. He saw this as a statement of the City’s interest in supporting the Mayor’s Climate Protection initiatives and added its voice to that effort. Further, it was consistent with the direction the City had been headed in and intended to go in for the future.

Mr. Temko was impressed that the Conservation Advisory Commission was already doing fairly sophisticated work identifying where most of the City’s carbon emissions came from and how they could be targeted.

MOTION BY MR. POMEROY, SECONDED BY MR. TEMKO: TO ADOPT THE RESOLUTION SUPPORTING THE U. S. MAYOR’S CLIMATE PROTECTION AGREEMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(RESOLUTION NO. 10-F)**

**28. Meeting adjourned at 11:00 p.m.**

Patricia M. Fogg, CMC  
City Secretary

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