

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**March 22, 2010**

Those present at 7:30 pm:

Presiding: Mayor Vance A. Funk, III  
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: District 2, Jerry Clifton

Staff Members: City Manager Kyle Sonnenberg  
City Secretary Patricia Fogg  
City Solicitor Roger Akin  
Finance Director Dennis McFarland  
Planning & Development Director Roy Lopata  
Assistant to the City Manager Carol Houck  
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. ATHEY, SECONDED BY MR. POMEROY: THAT ITEM 8-A-1, RESOLUTION 10-\_\_: IN APPRECIATION TO ROBERT DETWILER, BE MOVED TO ITEM 2.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton.

2. **8-A-1. RESOLUTION 10-\_\_: IN APPRECIATION TO ROBERT DETWILER**
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**00:32**

Mr. Athey read the resolution which was unanimously endorsed by Council.

**(RESOLUTION 10-K)**

3. MOTION BY MR. TEMKO, SECONDED BY MR. POMEROY: THAT ITEM 8-A-5, DISCUSSION RE EARTH HOUR, BE CONSIDERED AFTER ITEM 7-A.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton.

**(SEE ITEM 21)**

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

**02:50** A. Public

Robyn Harland, a Newark resident, thanked the Public Works Department and Messrs. Lapointe, Bartling and Pomeroy for helping to resolve a situation that she felt would be instrumental in changing the environment in her community. Mr. Pomeroy stated both Ms. Harland and Public Works have done a lot in the community to make a difference.

5. **1-B. UNIVERSITY**

1. Administration

There were no comments forthcoming.

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

There were no comments forthcoming.

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

04:45

**Mr. Markham** – congratulated Messrs. Funk, Tuttle and Temko on their re-election; issued a reminder about Wine and Dine on 3/27 from 4-8 pm; regarding past conversations on green energy and geothermal, he clarified that he was talking about geothermal not in terms of energy production but in terms of the heat pump operation (more of a multiplier for use of energy) and thought there should be some incentive for people to use geothermal since the City was subsidizing it with grants, and the City would get the revenue back for electricity.

**8. Mr. Temko** – congratulated the Mayor and Council members who were elected to another term; his website, [www.ezratemko.com/platform](http://www.ezratemko.com/platform), listed items he will be working on in the future; complimented the City for proactive measures with signage announcing water main flushing to begin on 3/26; issued an invitation to the green ribbon cutting celebration of the City signing on to the U.S. Mayor's Climate Protection Agreement on 4/19 at 7:00 pm in the Council Chamber; reminded residents to complete their U.S. Census forms.

**9. Mr. Funk** – reported there would be a Town Hall meeting regarding alcohol abuse sponsored by the University of Delaware on 3/24 at 7:00 pm in the Kirkbride Lecture Hall; was disappointed that a City trash can was laying in the road on Main Street on Saturday and had not been promptly removed by City workers.

**10. Mr. Pomeroy** – congratulated the Mayor and Council members who were elected to serve another term; referenced the News Journal article on March 11 discussing the Governor's proposal for a renewable energy push in Delaware; thanked CAC Chair Tom Fruehstorfer for discussing the prospects of solar use in Newark with the Committee; he also appreciated Mr. Sonnenberg's efforts in reaching out to the University to engage in dialog regarding renewable energy; commended Planner Mike Fortner and the Planning & Development Department for compiling the 2009 Resident Survey.

**11. Mr. Tuttle** – questioned whether automated carts could be used on Green Wednesdays – Mr. Lapointe encouraged the use of carts which saved time but reminded residents that the carts were strictly for brush on that day; congratulated the fifth and eighth grade teams from Newark Charter School who placed first in their categories at the Odyssey of the Mind competition and will go on to World Finals at Michigan State in May.

**12. Mr. Athey** – congratulated the four candidates who will continue to serve on Council; biked at the reservoir on the weekend which was packed and continued to be a great amenity for many people; acknowledged the Planning and Development Department for the Resident Survey; commended Roy Simonson and Dana Johnston for their efforts on the "Fix a Leak Week" campaign.

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

**16:00**

- A. Approval of Regular Council Meeting Minutes – March 8, 2010
- B. Reappointment of Community Development/Revenue Sharing Members Dana Dimock, Wally McCurdy, Peter Weil & David Robertson; Appointment of Clinton Tymes and Robin Harland; Terms to Expire March 2013
- C. **First Reading – Bill 10-08** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Adding Continental Avenue to the List of Exempted Streets from the Student Home Ordinance – **2<sup>nd</sup> Reading 4/26/10**
- D. Receipt of Alderman’s Report dated 3/19/10

Mr. Athey requested that Item 2-B be removed from the consent agenda.

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**14. 2-B. REAPPOINTMENT OF COMMUNITY DEVELOPMENT/REVENUE SHARING MEMBERS DANA DIMOCK, WALLY McCURDY, PETER WEIL & DAVID ROBERTSON; APPOINTMENT OF CLINTON TYMES AND ROBYN HARLAND; TERMS TO EXPIRE MARCH 2013**

**16:08**

Mr. Athey asked for an explanation of the memo regarding the Newark Housing Authority appointment. Mr. Funk said the Housing Authority was awaiting a ruling from the Attorney General’s office as to whether it would be a conflict of interest having a Newark Housing Authority representative on the Committee as a result of the Joint Sunset Committee hearing. Ms. Fogg explained Mr. Detwiler would not be serving because he was no longer on the Newark Housing Authority. The AG’s ruling would determine whether Clinton Tymes would replace Mr. Detwiler. At this meeting Council was reappointing Dana Dimock, Wally McCurdy, Peter Weil and David Robertson. Gene Danneman would be replaced by new member Robyn Harland.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT ROBYN HARLAND BE APPOINTED TO THE CD/RS COMMITTEE AND WALLY McCURDY, PETER WEIL AND DAVID ROBERTSON BE REAPPOINTED TO THE CD/RS COMMITTEE; TERMS TO EXPIRE MARCH 2013.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

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

**16. 4. FINANCIAL STATEMENT – None**

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

- A. Recommendation to Purchase Vacuum Excavation Equipment from a Competitively Solicited Purchase Contract in Association with the National Joint Powers Alliance

**18:14**

Ms. Houck explained that the National Joint Powers Alliance was a governmental agency that provided participating organizations the opportunity to reduce the cost of equipment purchased by leveraging combined purchasing power. Twelve bidders responded to the contract, and she recommended that the City purchase the Vermeer Air Vacuum with an optional air blower at a cost of \$70,272. Funds were available from two Capital projects, and it was therefore recommended that Council waive the required Newark specific bidding and authorize the purchase through the Joint Powers Alliance.

Mr. Markham asked if Ms. Houck did a cursory check to make sure the bid was in range. Ms. Houck said she received a price of \$110,000 for a less substantial piece of equipment. She also asked for a written quote from the same vendor as a non-member in the NJPA and learned the City saved approximately \$5,000 plus an additional \$800 in advertising costs. There was also a time savings for Ms. Houck and the Water Department.

Mr. Athey felt this teetered somewhat on policy, since at two consecutive meetings, the process was waived to piggyback onto a larger process. He questioned the grading criteria used by the organization which Ms. Houck had explored and felt very comfortable with. Mr. Athey wanted to be sure the City's purchases were consistent with the values Council was trying to maintain. Mr. Markham encouraged thinking outside business as usual and was pleased the City was able to take advantage of this opportunity for cost reductions.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE CITY MANAGER BE AUTHORIZED TO PURCHASE ONE VERMEER AIR VACUUM FROM VERMEER MID ATLANTIC OF ANNAPOLIS AT THE TOTAL COST OF \$70,272.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

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

**A. Bill 10-05 – An Ordinance Amending Chapter 27, Subdivisions, Code of the City of Newark, Delaware, By Revising the Definition of Public Improvements**

**22:57**

Ms. Fogg read Bill 10-05 by title only.

MOTION BY MR. TEMKO, SECONDED BY MR. TUTTLE: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 10-05.

Mr. Lopata explained this was a housekeeping item to close a loophole noted by Mr. Lapointe in the area of public improvements. These were common improvements on a site that were turned over to the City. For example, one concern was in a condominium where nothing was turned over to the City. The issue could be raised that condos did not have to bond their improvements since they would stay private and would not be turned over to the City, they did not have to be insured, etc. The ordinance insured that private developed sites with common areas must also meet the requirements in terms of development approval.

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, Funk, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Clifton.

**(ORDINANCE 10-11)**

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

**24:59**

A. Request of Willard F. Hurd for a Special Use Permit to Allow a Professional Office in His Home at 115 Lovett Avenue, Newark, Delaware

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

Willard Hurd, a Newark resident, requested approval to locate his architectural firm in his home in the City. The Special Use Permit would allow him to do this rather than seek commercial real estate. He contacted his neighbors about his plans prior to the meeting and received no objections. No changes were planned to the house, there would be no employees and few, if any clients were expected. However, his driveway was large enough for the three off-street parking spaces required in the Code. Mr. Hurd anticipated no impact on the neighborhood from the business.

Mr. Funk noted that Mr. Clifton had no opposition to the request.

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, Funk, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

Absent – Clifton.

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

A. Council Members:

1. **Resolution 10-\_\_**: In Appreciation to Robert Detwiler

**(SEE ITEM 2)**

**21. 8-A-5. EARTH HOUR**

**27:13**

**(Secretary's Note: This item was moved up on the agenda at the request of Mr. Temko.)**

Tom Fruehstorfer, Chair of the Conservation Advisory Commission, reported that Earth Hour was a movement organized by the World Wildlife Foundation and was intended to raise awareness of climate change issues. The plan was to have as many people as possible turn out their lights on March 27 from 8:30 to 9:30 pm. Unfortunately, this was the same night as Wine & Dine, but he hoped Main Street businesses could turn off non-essential lighting that night. The movement started in 2007 in Australia and that year 2.2 million homes and businesses turned out their lights. In 2009 it grew to hundreds of millions of people with 4,000 cities in 88 countries participating. He said the intent of the

movement was to start the conversation in order to get people thinking about what they could be doing differently to conserve energy.

Mr. Temko said the State of Delaware was an official signatory to Earth Hour this year, and he believed the City should sign on as well. Mr. Athey had no problem with signing on, but asked whether the City planned any action. Mr. Funk felt it was late to do anything other than publicize the event and ask people to cooperate.

Mr. Pomeroy asked if there was anything that could be done as it related to municipal lighting. Mr. Sonnenberg said City Hall had approximately 37 light fixtures, and the bulbs had to be removed to turn them off. The work could be done on Friday and reinstalled on Monday.

Mr. Athey suggested publicizing Council's endorsement of Earth Hour on Channel 22 and on the City's website and also thought an article in the Newark Post would be helpful.

MOTION BY MR. TEMKO, SECONDED BY MR. ATHEY: THAT THE CITY OF NEWARK ENDORSE EARTH HOUR ON MARCH 27, 2010 AND ENCOURAGE RESIDENT AWARENESS OF THE EVENT.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton.

**22. 8-A-2. DISCUSSION RE CONSIDERATION OF CHANGING THE START OF COUNCIL MEETINGS FROM 7:30 TO 7:00 PM**

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**34:39**

Messrs. Markham and Pomeroy said the change to an earlier start time would be somewhat difficult for them. Ms. Fogg noted Council could try the change on a trial basis by voting to do so at the Organizational meeting.

The Chair opened the discussion to the public.

Jean White, a Newark resident, urged Council to maintain the 7:30 pm start time. She felt the real issue was not the start time of the meeting but rather the total length of the meeting. She also commented that if there was a topic of interest to the public, the public should be allowed to speak without being cut off.

Mr. Athey acknowledged the two issues Mrs. White touched upon – convenience for people attending the meetings and convenience for Council. He was concerned about Council's ability to focus when making important decisions late at night, such as during Executive Sessions following long Council meetings. He thought consideration should be given to scheduling workshop meetings for major subdivisions to shorten the time of regular Council meetings.

Mr. Sonnenberg commented on the inconvenience faced by applicants and others who came to make presentations before Council because of late meetings.

Mr. Funk believed the meetings should be held at 7:00 pm to be consistent with other evening meetings such as Planning Commission, Board of Adjustment, Town & Gown and Conservation Advisory Commission.

Mr. Markham was willing to try 7:00 pm, and Mr. Pomeroy agreed to go along with the majority of Council.

Robyn Harland, a Newark resident, believed topics brought before Council should be brief and to the point and that a pre-determined time limit should be set for public presentations and comment.

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

Mr. Pomeroy asked if it was possible to schedule a separate third monthly meeting specifically when lengthy development issues arose and where Council decisions could be made. Mr. Funk said the City Secretary could be asked to schedule a meeting devoted to that specific item.

**(Secretary's note: A decision will be made on this item at the 4/20 Organizational meeting.)**

**23. 8-A-3. DISCUSSION RE FORMAT OF APRIL 12, 2010 COUNCIL WORKSHOP**

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**51:05**

Mr. Temko thought it would be helpful to determine whether the workshop would be open to public comment prior to the meeting. He cited two recent examples where he felt there should have been more opportunity for public input and supporting documents made more readily available; these were the dumpster collection fee for apartments and the stormwater utility fee, both of which were discussed at a Council workshop well before implementation. However, feedback indicated the public was surprised by the fees. At the upcoming workshop he thought members of the public who wished to speak should each be permitted three minutes per item for comment and that public comment should be held before the end of the meeting.

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

Mr. Funk said Council had some serious items to discuss at the upcoming workshop; thus, he did not think the format for the workshop should be changed to accommodate a public hearing.

Mr. Pomeroy emphasized the importance of not making any policy decisions at workshop meetings. He commented it was good to start the budget process early because it allowed time for direction and then decision making by Council. He stated Council faced a great deal of homework in order to have a constructive workshop and felt that it would be a very lengthy meeting if public comment was invited. Further, there would be several opportunities for public comment later in the budget process.

Mr. Athey envisioned the meeting to be similar to last year's exercise where every City service was looked at and ranked.

Mr. Funk said he was not optimistic about the 90-day figures noting the City had a \$1 million deficit. He asked for a rough idea of the 90-day financials which he knew would not be a complete report. Mr. Sonnenberg thought Council should be focusing on 2011.

Mr. Temko felt the budget process should be more inclusive because it was so important. Over a year ago he discussed public budgeting and the process followed by many communities where the community was involved from the vision to ranking the services. He thought with that method was a lot more public buy in and appreciation for what the town needed to do financially, especially when towns faced less-than-optimal financial conditions. He believed a large part of the City's decision-making process occurred during workshops, and in terms of Council making critical decisions that would most impact constituents, he felt it was crucial to incorporate the public.

Mr. Athey asked for Mr. Sonnenberg's perspective on the subject. Mr. Sonnenberg said there were three primary elements to the workshop: 1) to review a financial forecast for 2011 setting the basis for the City's financial situation; 2) looking at the Capital Improvement Program since it would have a major impact on the City's financial status in 2011; and 3) discussing services. He acknowledged there would be discussion about Mr. Pomeroy's concept of the transfer tax set aside as well, and staff would give some thought about how best to incorporate citizen input into that process.

In response to Mr. Temko's question, Mr. Sonnenberg replied the workshop materials would be provided to Council as soon as possible. Mr. Temko requested that the materials be posted on the City's website. Regarding public comment, Mr. Sonnenberg's experience was that workshops were not designed for a lot of public comment but rather focused on allowing Council members to discuss items amongst themselves. Mr. Temko asked if Mr. Sonnenberg would have concerns about including public comment. Mr. Sonnenberg said he was most interested in statistically valid feedback, and the problem was that public input was skewed to people who showed up and may or may not be representative of the community as a whole.

MOTION BY MR. TEMKO, SECONDED BY POMEROY: THAT THE WORKSHOP BE OPEN TO PUBLIC COMMENT WITH THE FORMAT TO BE DETERMINED BY STAFF.

AMENDMENT BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE WORKSHOP BE OPEN FOR PUBLIC COMMENT AT THE END OF THE MEETING ON ITEMS TWO (CAPITAL IMPROVEMENT PROGRAM) AND THREE (DISCUSSION OF SERVICES).

Question on the Amendment/Motion was called.

MOTION PASSED. VOTE: 5 to 1.

Aye – Athey, Funk, Markham, Pomeroy, Tuttle.

Nay – Temko.

Absent – Clifton.

**24. 8-A-4. DISCUSSION RE DUMPSTER COLLECTION**

**1:12**

Mr. Sonnenberg reported that following the previous discussion, staff met with representatives of the apartment owners about ways to lower collection costs and spreading those costs over a larger group of customers. Some of the owners felt they needed only once a week collection instead of the twice weekly collection they had been receiving. Subsequently, staff examined the frequency of service to existing customers. Following a quick review of customer waste loads or quantities by the collectors, it appeared there were a number of customers who could be reduced to once a week pick up. The apartment owners seemed interested in that as an option. Staff also talked with private haulers regarding costs, and a favorable cost reduction would be realized by the reduced service and switching from two crews to one throughout the City.

The second proposal by the apartment owners was to distribute the cost over a large number of customers. In addition to businesses, the existing ordinance provided for dumpster collection fees for churches and non-profits. If the collection fee was implemented, the costs would be distributed over a larger number of customers, thereby meeting the owner's objectives. Another element of the owner's proposal was to consider distributing the fee to condominium properties. Mr. Sonnenberg reported in the discussions with the owners, staff did not get into that issue which he said would be a policy decision to be made by Council.

The Chair opened the discussion to the public.

Chris Locke, a Newark resident and representative of Lang Development Group, said he appreciated staff's efforts to find an equitable solution for all on the issue. At a later date, he thought Council should address the condominium issue and look at condominium lands that had a large majority of rental units.

Mr. Athey noted there was an inconsistency in that all the groups identified in the ordinance (such as non-profits) were not being charged. He felt the City should either start collecting fees from all the groups or change the ordinance. Mr. Sonnenberg said staff's recommendation would be to follow the ordinance and charge all customers identified therein.

Mr. Athey felt consideration should be given to groups such as schools and the Senior Center whose facilities were used by the City, as well as to Aetna since the City provided funding to them but would then be taking funds away with the fee.

Mr. Temko suggested going forward with the April 1<sup>st</sup> fee for the apartments but thought it would be disastrous in terms of public relations and customer service to start charging organizations such as Aetna, Newark Senior Center and schools without giving them an opportunity to comment. He recommended notifying all current customers who were not charged for dumpster collection to make them aware of the proposed changes. Messrs. Pomeroy and Funk agreed the City had to give notice and solicit feedback prior to making a change. Mr. Tuttle observed that most of the organizations, if they were not located in a municipality, had to use commercial haulers, but agreed they should not be surprised with a fee. Mr. Markham asked if all non-profits were exempt from the fee. Mr. Sonnenberg said it was inequitable, as only a few non-profits and religious institutions were provided with free service.

Mr. McFarland explained with respect to Mr. Athey's comments about Aetna that the City had transactions with numerous third parties where cash flowed both ways. He reminded Council that the agreement and discussions with the landlords were intended to be implemented as soon as possible to begin saving or collecting revenues.

Mr. Locke said the apartment owners were willing to pay the fee beginning April 1<sup>st</sup> based on the reduction of expenses by changing to once a week pick up, and when the other entities were given proper notice that they also had to pay, the apartment owners expected a further fee reduction (he anticipated that to be a 30-45 day time period.)

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

Mr. Pomeroy questioned the amount that would be realized from the reorganization that took place in the City. Mr. McFarland confirmed it was about \$115,000.

Mr. Athey said the point Mr. McFarland tried to make was the budget that started ticking on January 1 still had not seen this revenue. Mr. Sonnenberg said the apartment owners were agreeable to the fee starting on April 1 for service from that point at the lower cost. In the future, assuming the fee was distributed over a larger group of customers, the cost per customer would potentially decrease even further, although total revenue for the City would stay the same. Mr. McFarland noted if Council decided to exclude certain non-profits (as was current practice), the inequity problem would still not be resolved and the hole would be deeper in trying to recover revenue for the City.

Council agreed with Mr. Sonnenberg's memo that it would be appropriate to begin charging the apartment owners the new lower fees for service received

commencing April 1<sup>st</sup>. Non-profits and churches will be notified of the proposed change which will be discussed at the April 26th Council meeting.

**25. 8-B. OTHERS:** None

**26. 9. SPECIAL DEPARTMENTAL REPORTS**

A. Special Reports from Manager & Staff:

1. Recommendation for Insurance Coverages 2010-2011

**1:30**

Mr. McFarland reviewed his memo recommending insurance coverage for the period April 1, 2010-2011. There was a major restructuring in the insurance program last year when the carrier was changed from General Liability and the City's retentions and deductibles were significantly increased. It was decided to maintain that revised structure since it worked well in the first year as did the relationships with the carriers and the third-party administrators. The City did not go out and bid the whole program but looked for renewals from existing carriers. The total cost of the program on an annual basis was almost \$15,000 more than budgeted, which was about \$10,000 over budget for the calendar year.

Some additional coverages were considered including environmental, network security/privacy liability and fiduciary and terrorist policies. His recommendation was to look at these coverages over the coming months so they could be rolled into a recommendation for the next policy year.

Mr. Markham asked if the environmental coverage was for items such as spills. Mr. McFarland said it could cover exposure from spills as well as contamination. Mr. Markham questioned why automobile coverage showed a \$32,000 increase. Mr. McFarland said more vehicles were added, and trailers previously covered under the property policy were moved to the motor vehicle policy. Regarding the reservoir, McFarland explained the coverage was for any event which would cause property damage or if the reservoir property itself was damaged. Mr. Markham questioned the need to increase coverage at the reservoir from \$7 to \$10 million. Mr. McFarland said the cost of the excess policy was minimal – less than \$1,000 for the additional coverage.

Mr. Pomeroy asked whether the City could be involved in any litigation if, for example, there was an environmental issue involving a CSX spill. Mr. McFarland said it was primarily CSX's liability, but given the nature of environmental litigation, the City could become involved in litigation where there could be liability.

Mr. Funk said the City was receiving favorable insurance quotes because Council had done a good job keeping the City out of court. Mr. McFarland added the more time put between the City and major claims, the better the rates.

**MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE INSURANCE PROGRAM FOR POLICY YEAR 2010-2011 BE APPROVED AS RECOMMENDED.**

**MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.**

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

Nay – 0.

Absent – Clifton.

**27. Meeting adjourned at 9:04 p.m.**

Patricia M. Fogg, CMC  
City Secretary

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