

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

February 12, 2007

Those present at 7:30 p.m.:

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

Staff Members: City Manager Carl F. Luft
Deputy City Secretary Patricia M. Fogg
Assistant to the City Manager Carol S. Houck
Assistant to the City Manager Charles M. Zusag
City Solicitor Roger A. Akin
Planning Director Roy H. Lopata
Public Works Director Richard M. Lapointe
Building Director Thomas J. Sciulli
Acting Chief of Police John Potts
Acting Finance Director Wilma Garriz
Assistant Electric Director Sam Sneeringer

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1. The meeting began with a moment of silent meditation and pledge to the flag
 2. **1-B. PRESENTATION OF JEFFERSON AWARDS CERTIFICATES OF EXCELLENCE**
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Mr. Funk introduced this year's nominees:

Padmini Manrai – recognized for her outstanding service to the Girl Scouts of America, and especially for her 15 years of volunteering in mentoring teens through the Girl Scout program.

J. Harold Hambleton – recognized for his outstanding volunteer service to the Newark Senior Center and his continual devotion to caring for the needs of the elderly.

Cpl. Gregory Micolucci – recognized for his outstanding service to the students of Newark High School where he works as a Community Resource Officer; especially noted for his diligent work with at risk males in the school population.

The following two nominees were not able to attend:

Sarah Hurst – recognized for her outstanding service as a Newark High School student with the Future Farmers of America and the many other organizations and volunteer groups she was involved with.

Rose Overbey – recognized for her outstanding work with the Town & Gown, Committee, especially for her many efforts to bring the University students and the City of Newark residents together.

Mr. Funk gave a brief description of the Jefferson Awards and welcomed Vincenza Carrieri-Russo, the Newark and Delaware nominee, who won the Jacqueline Kennedy Onassis National Public Service Award last year. Ms. Carrieri-Russo congratulated this year's winners and expressed her gratitude for being a part of the program. She said it was an honor for her to receive the award from Newark that led her to receiving the national award in Washington, DC.

William Osborne, with the National Jefferson Awards, was introduced, gave a brief explanation of the program, and thanked Mr. Funk for inviting him to be a part of the ceremony.

3. MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE AGENDA BE AMENDED BY ADDING PERSONNEL TO THE EXECUTIVE SESSION.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

4. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL**
 - A. Regular Council Meeting of January 22, 2007

Mr. Tuttle noted that his name was omitted from the minutes on the first page.

Mr. Markham noted that on the first page, item 2, the motion should read that it was made by Mr. Clifton and seconded by Mr. Osborne.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT THE MINUTES OF JANUARY 22, 2007 BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

5. **3. ITEMS NOT ON PUBLISHED AGENDA:**
 - A. Public

There were no comments forthcoming.

6. **3-B. UNIVERSITY**
 1. Administration
 - a. Update of University Building Plans

Mr. Armitage provided a power point on the University's building plans. He advised that the University owned 443 buildings (over 7 million gross square feet) and holdings of over 2000 acres as of September 2006. Enrollment over the past five years has been steady with a small decrease this year in undergraduate enrollments (15,211). The total number of students was 20,380. This year they had close to 23,000 applicants—more undergraduate students applied to the UofD than any other publicly funded school in the country. He also noted the overall economic impact, which included student, faculty and staff expenditures and University purchases totaled over \$735 million. At the present time the University has about 1000 faculty members and 3000 staff members.

He reviewed the 2008 state capital requests that totaled \$12.5 million dollars; however, the Governor only allocated \$3.5 million. Before and after photos were shown of the following completed projects: Laird Campus Residence Halls; Center for Arts; 461 Wyoming Road; and BCC-football office. Construction projects in progress included: Brown Lab and Equine addition. Projects in the

Planning/Design phase included: Russell Complex renovation; Enrollment Services building; Undergraduate Science Building; and Pearson Parking garage. Projects recommended for construction included: Laird Residence Hall Phase III; McKinley Lab Plaza; and Manure Storage Facility.

Mr. Funk asked if the number of beds increased on campus. Mr. Armitage explained that ultimately there would be more beds on campus. Right now they had about 7200 beds and while various complexes throughout the whole east campus were renovated over the next ten years, eventually there would be more beds. Mr. Clifton added that he remembered when talking about the renovations on north campus hearing there would be about a 250-bed increase.

Mr. Clifton asked if the numbers given earlier about the total number of buildings and acreage was for just the University's holdings within the City of Newark. Mr. Armitage said he would have to look into that.

Mr. Armitage said he would leave the disc of the presentation with Ms. Fogg and reminded Council he sent the text he used to Council in advance. He also noted that the presentation was available on the University's website as well as the Town & Gown website. Also, anyone could go to the University's website and look at facilities and find details of the projects.

Mr. Markham asked Mr. Armitage if he was planning on coming back to Council when the final plans were made for the building on Winslow and S. College Avenue. Mr. Armitage said he first wanted to speak with the immediate neighbors of the project. Once he had some definite drawings he would be happy to come back before Council or send the plans electronically.

7. **3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

8. **3-C. COUNCIL MEMBERS**

Mr. Pomeroy commented on awaiting the news of the future of the Chrysler Plant and said that situation showed how important economic development issues were to this area and to all municipalities. He believed the residual effects of the Chrysler Plant were as significant as its actual tax impact. He referred to some of the economic development initiatives he has been interested in and working on with the support of Mr. Lopata. One of the things they have talked about was the consideration of some sort of an economic development overlay district where they provide a package of incentives to use as a tool to help recruit businesses. This whole issue has been on the back burner and he would like to bring the discussion to the front burner. Another issue he thought was worth bringing up was the opportunity to look at bigger picture issues, especially budgetarily. He thought it was a notable achievement that there was no tax increase this year. Now was the time to be thinking about how to soften the blow for the taxpayers especially when you look at potential tax and fee related increases from the County and/or the school district, not to mention what the end result of the reservoir case might cost. He thought they should make a real concerted effort to think about what they could do to deal with those issues proactively before getting to the point where the end result was to go to the taxpayers. Although he had nothing specific regarding this, he wanted to put it back on Council's radar.

9. Mr. Pomeroy referred to his previous idea of engaging a consulting firm to do a management study—an audit of the City's operations—that Council agreed to do. They decided their first task was to ask the City Secretary to collect information on potential firms that could do that work. He thought Ms. Lamblack did a good job collecting some preliminary information. After talking with other Council Members, Doug Tuttle in particular, they needed to come up with a good work statement to provide to firms. Mr. Pomeroy suggested a workshop to achieve: 1) a work statement; and 2) to review the firms that were researched and determine whether

the work statement should be sent to other folks and eventually have the firms provide what the needs were for the City of Newark.

Mr. Funk said he had no problem with Mr. Pomeroy's recommendation. When he read the proposals, he was disappointed because there were only two companies he thought the City would want to deal with. Mr. Pomeroy indicated that Mr. Athey thought there may be other companies that Council needed to proactively seek out. Mr. Funk thought one of the reasons more companies did not respond was because the City's request was so vague. Mr. Pomeroy agreed and thought that was the reason for drafting a work statement. Mr. Athey concurred that a written statement was needed and the scope of work would probably be about a page long. Therefore, he thought they could discuss it further at the March 12th meeting rather than holding a workshop. Another reason for not having a workshop was if they got three or four firms they wanted to interview, that would be a reason for a workshop. Mr. Tuttle interjected that he would not be at the March 12th meeting, and Mr. Clifton said he would not be at the March 26th meeting. It was the consensus of Council to hold a workshop on March 5th in the City Manager's Conference Room to discuss the next step for a management study.

10. Mr. Pomeroy thanked staff for being proactive with reviewing the Christina Basin Action Team recommendations.

11. Mr. Pomeroy asked about green energy technology as it related to green building that was given to the Conservation Advisory Commission for their review. He was told that Charlie Emerson was the staff representative to the Commission, and it was Mr. Luft's understanding that the Commission was ready to give Council a preliminary report. Mr. Luft will get an update from Mr. Emerson.

12. Mr. Pomeroy thought the lights on Main Street looked terrific and raised a festive atmosphere.

13. Mr. Pomeroy thanked everyone who met with the principal of Downes School regarding a recent situation they were dealing with.

14. Mr. Osborne noted the recent death of Leroy Hill, a past member of Council and the Planning Commission. He understood a proclamation was issued to Mr. Hill's family at the time of his funeral. Mr. Funk advised that he attended the viewing and presented the proclamation to Mr. Hill's family.

15. Mr. Athey proposed a workshop on the Downtown Newark Partnership's Design Committee's design guidelines they have been working on for some time. He understood that document was completed and suggested a workshop with Council and the Planning Commission to review the guidelines that he felt could change the face of Main Street. He thought it would be beneficial to have the Design Committee present their plan. It was agreed to hold the workshop following the organizational meeting on April 17th and it was agreed that the organizational meeting would start at 7:00 pm.

16. Mr. Athey expressed his appreciation for the efforts made to get the area legislators to attend the February 5th workshop. He thought it was a real good opportunity for everybody to share ideas and areas of common concern.

17. Mr. Athey complimented everyone involved with the Downtown Partnership's volunteer reception held at Klondike Kate's.

18. Mr. Athey advised that Steve Hegedus, 116 Manns Avenue, has the first house in Newark connected to the grid under the new energy program. Mr. Hegedus said he got a real kick out of watching the meter go backwards. Mr. Hegedus got the grant through the program and now has the solar panels on his roof.

- 19.** Mr. Markham thanked the area legislators for meeting with Council on February 5th.
- 20.** Mr. Markham advised that Council got an update on Commerce Bank that indicated everything was resolved regarding setbacks. Mr. Luft interjected that an easement document was still needed, but as far as the City was concerned, everything was done. Mr. Funk understood they would start on the road around the 29th of March while the University students were on spring break.
- 21.** Mr. Markham asked if anyone had seen the letter from the Newark Housing Authority they wanted Council to acknowledge. Mr. Lopata said he met briefly with the Newark Housing Authority and discussed several scenarios about how to get the information to Council. They promised they would send Council a confidential letter with as much information as they felt comfortable to release.
- 22.** Mr. Markham thanked staff for putting on the website how snow routes and streets were cleared, especially with the predicted ice storm for Tuesday night.
- 23.** Mr. Markham referred to the current plan for scheduling a yard waste pickup for every other Wednesday. He asked if he read correctly that the grass pickups were slowing down. Mr. Lapointe said the grass pickup service would continue on Saturdays and would begin in mid-April. He thought the grass pickup service was inefficient and had stayed about the same for the last five to six years. Mr. Markham suggested looking at alternating grass and yard waste pickups on Saturday. Another suggestion he made was to schedule a neighborhood a day for picking up grass and yard waste. Mr. Lapointe thought they were good ideas but suggested waiting to see if the yard waste program was successful.
- 24.** Mr. Markham thought the *News Journal* had an interesting article on water supply. Although the City has the reservoir as a back up, he noted that the City still pulled water from wells. He asked if the Conservation Advisory Commission or the Water Department should be looking at any long-term issues or water saving issues. Mr. Luft said he would discuss this with Mr. Simonson.
- 25.** Mr. Markham asked if the City was considering using Smart Readers to which Mr. Luft said no.
- Mr. Funk asked if the City was out of parking meters because he noticed there were poles on Main Street that haven't had meters for a long time. Ms. Houck advised that it was just a problem of keeping up with the repairs of the parking meters. Mr. Funk said he read about parking meters that were programmed to charge a certain amount during peak times and less during other times.
- 26.** Mr. Markham asked if the recent water main breaks were due strictly because of the cold weather. Mr. Luft said it was also because they were older lines.
- 27.** Mr. Markham asked if the reservoir had ice on it to which he was told there was some ice.
- 28.** Mr. Tuttle expressed his thanks for the great turn out at the legislative workshop on February 5th.
- 29.** Mr. Tuttle advised that he was appointed to the University Communities Council, a subset of the National League of Cities. Specifically, he was appointed to the steering committee of that Council. Their objectives were to assist cities, the National League itself, and state municipal leagues in gathering, sharing and analyzing information about university-related issues, opportunities and policies. Also, they serve to foster a spirit of cooperation between colleges and universities and their host municipalities. The Council will meet as a group during their

conference in March. Therefore, he would not be at the first Council meeting in March.

30. Mr. Clifton thanked the Police Department for the work they did on a recent burglary in Yorkshire Woods. The residents were beginning to have a certain comfort level.

31. Mr. Clifton thanked Mr. Sciulli for all the hard work he did on a radio tower issue in Yorkshire Woods.

32. Mr. Clifton commented that a constituent in Yorkshire got the name of a contractor from the list of contractors provided to her by the Public Works Department to do some repair work to her sidewalk. The contractor ground down eight of nine high points on her sidewalk and the cost was about \$700. He asked if providing a list of recommended contractors was the best way to do business rather than letting residents get their own contractor.

Mr. Lapointe explained that the list of contractors was not a recommendation by the City; rather it was a list of contractors that have done work to the City's satisfaction. Mr. Clifton said he understood the intent, but he did not think that was the way it was received by the people receiving the list.

Mr. Clifton asked when someone had to replace a sidewalk, were the contractors on the list suppose to adhere to the same contracted price if the City sent someone out to make the repair. Mr. Lapointe explained when the City had to hire a contractor to make sidewalk repairs, it goes out to bid and the City takes the lowest quotation.

Mr. Clifton said he was real uncomfortable having the list and it was the law of unintended consequences—the fact the City was not recommending anyone yet he did not feel that was they way it was being received by those getting the list.

Mr. Lapointe added that the list was generated because of requests the City received from residents. They would contact the City for names of contractors who did business in the City. Mr. Luft interjected that the City could do away with the list. Mr. Athey added that why not just make it clear that it was not an endorsement from the City. Mr. Lapointe said he did not give out the list unless it was requested. Mr. Clifton thought it was important to put a disclaimer on the list that said it was a list of contractors who had done business in the City, but it was not an endorsement. Mr. Lapointe will check on whether a disclaimer was on the list and if not, he would add one.

Mr. Markham asked if there was any way to give a typical price range on sidewalk repairs so people would have some kind of range on the price. Mr. Lapointe said he did not think that would be a good idea, especially if people were upset because they thought the list of contractors was an endorsement. They would really be upset with the City giving a price guideline.

33. Mr. Clifton expressed his condolences to the Hill family for the loss of Leroy Hill. Mr. Hill was a real military man and his viewing certainly showed that. He thought it was always a real pleasure to talk to Mr. Hill.

34. Mr. Clifton commented on the Newark Housing Authority and it was his opinion they wanted to hide under a veil of confidentiality. With Council being a public body, and considering the NHA was bringing their issue to Council, he questioned if there were any rights of confidentiality for the information they provided to Council.

Mr. Akin said his understanding of the situation was they may or may not be in the process of buying or selling real estate. He acknowledged that under the FOIA when a public body was considering the acquisition of land, it may go into to executive session so that a public discussion would not affect their rights to

negotiate a fair price. If the NHA was in that process right now, and they didn't want to share that information publicly, Mr. Akin believed that was their right.

Mr. Clifton asked if the NHA provided confidential information to Council, would the confidentiality still apply once that information was given to Council. Mr. Akin opined if one public body shared its private real estate negotiations with another public body, unless it was given under some privilege the City could assert, he was not sure it would not become public information at the time it was shared with Council.

Mr. Lopata added that it was his understanding that Council was interested in getting as much information as the NHA felt comfortable giving. He believed the NHA would be asking Council to keep confidential what they were proposing for the reasons Mr. Akin just referred to. If Council was not willing to do that, Mr. Lopata said he needed to let the NHA know that.

Mr. Clifton claimed the question was, by law, no matter what the NHA thought or what Council might think as a body, as a matter of state law, under FOIA, could NHA provide the information and ask Council not to share it with others, and could Council do that.

Mr. Lopata noted that people told him things confidentially all the time that he presumed he was not to tell if they told him not to. Mr. Akin claimed Mr. Lopata's mind was not accessible under the FOIA. On the other hand, if another public body shared a document with Council, and Council could not name some independent privilege that would allow them to withhold it from public disclosure, it was his sense the way the Department of Justice was currently interpreting the FOIA, the City would likely have to disclose it because the NHA waived their privilege by sharing it with Council.

Mr. Lopata thought they would be going in circles by doing that. The Council asked the NHA what their plans were and the NHA would be glad to do that if it was kept confidential. Mr. Lopata suggested that Mr. Akin might need to research it further; otherwise they would be back to square one if NHA could not tell the City in confidence. He also noted that he wanted them to tell Council in an executive session but Mr. Akin told him that they could not do that.

Mr. Pomeroy said if they were operating under the veil of confidentiality, the NHA could tell Council but there was nothing Council could comment on publicly. Mr. Lopata reminded Council that the NHA was still asking for a letter from the City, and if Council was uncomfortable giving them a letter based on the information given, then Council could decide publicly how they would like to respond or whether they wanted to respond.

Mr. Funk said he understood there was a HUD requirement that the City acknowledge receiving a copy of the plans filed with HUD in Chicago, which would be a public document anyway. He pointed out that they weren't being asked to comment on it, but to acknowledge receiving it. Mr. Lopata said the document they were sending to HUD talked about the disposition business—that they wanted to dispose of the Housing Authority site, which everybody already knew but Council was reluctant to acknowledge. Mr. Funk pointed out that the NHA did give Council a plan which they acknowledged getting. Now the NHA has amended it or wanted to amend it, and they wanted the City to acknowledge the amended plan that Council has not seen.

Mr. Lopata said he thought it was Council's interest to learn what the NHA had planned for Cleveland Heights. Mr. Pomeroy interjected that it was the community at-large who was interested in learning what the plan was and he thought that was the point. Mr. Lopata said he understood that as well, but he felt the NHA had a point—the point being they were just like Council in that when they were about to purchase land, they felt constraint in talking about it publicly. He said he could not talk the NHA out of taking that position. He also noted that he

suggested to the NHA that Council sit in on their executive session and they didn't like that idea. Mr. Lopata said all he was trying to do was come up with a way of meeting their desire for confidentiality and the community's desire to find out what they were proposing officially, not through rumors. He strongly believed Council deserved to know their plan even if it was confidential because Council had bigger issues to deal with. Mr. Lopata emphasized if the City didn't accept the letter, he was not sure what to do.

Mr. Clifton said his problem was blending two public agencies that each have their own FOIA privilege because he was not sure when they were intertwined whether that privilege still existed. He asked Mr. Akin to look into it further.

35. Mr. Funk asked if the one full-time parking enforcement officer that was now on leave was the same person that has been on leave. Acting Chief Potts said it was and she was being evaluated. One temporary employee has been hired and they plan to hire a second temporary employee to fill the position.

36. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

37. **5. RECOMMENDATIONS ON CONTRACTS & BIDS:**

A. Recommendation to Waive the Bid Process for the Purchase of Automated Refuse Carts

Ms. Houck summarized her memorandum to the City Manager, dated January 31, 2007, wherein she explained this purchase would complete the implementation of the automated refuse program. She recommended that the bid process be waived and authorization be given to purchase 1,425 refuse carts from Schaefer Systems International for the total cost of \$74,036.50.

Mr. Pomeroy asked if there were enough smaller carts available if there were requests for them. Mr. Lapointe explained that a letter was sent to every resident who would be a part of this program asking them to reply within a certain timeframe to advise the City what size cart they wanted. There were very few responses received. Therefore, Mr. Lapointe proposed ordering the recommended quantity based on previous orders. Mr. Pomeroy remembered there were issues with some communities where the larger carts would not fit into garages. He was not familiar with the neighborhoods that would receive the carts this time or whether there would be problems with the 95-gallon carts. Mr. Lapointe said if they would have a problem, they have not voiced that concern. The only community that had a lot of issues was White Chapel Village and that problem was resolved.

Mr. Markham said there were several neighborhoods in his district scheduled to get these carts, in particular, Jenney's Run where several people wanted the smaller carts. He understood the City did not want an overrun of carts, but in previous years, people had a chance to trade in or up after a certain period of time. The letter that was sent to those neighborhoods said the residents would not have the opportunity to make a change, and Mr. Markham did not think that was fair. Therefore, he would like to see some extra carts ordered to allow people the opportunity to change the size of their cart. Mr. Lapointe said he had additional carts ordered in each size and that amount was based on the overall percent of carts in use. He also took into consideration new subdivisions that were now in the planning stage and the fact that the carts could get damaged or stolen. He claimed he had 100 additional 95-gallon carts, about 15 65-gallon carts, and about eight 35-gallon carts. When he came up with a percentage, he also took into account not only the size that was first ordered, but those who came back and requested a smaller size. Mr. Lapointe also noted that if he had to order more carts, he needed to order a minimum of 50 carts.

Mr. Pomeroy said he had a collection of communities in his district that wanted the smaller carts and the fact that that was taken into account with Mr. Lapointe's percentages made him feel comfortable with the purchase.

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT THE BID PROCESS BE WAIVED AND AUTHORIZATION BE GIVEN TO PURCHASE REFUSE CARTS AS OUTLINED FROM SCHAEFER SYSTEMS INTERNATIONAL FOR THE TOTAL COST OF \$74,036.50.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

38. 5-B. RECOMMENDATION TO WAIVE THE BIDDING FOR THE PURCHASE OF A CAMERA SECURITY SYSTEM FOR THE KERSHAW SUBSTATION UTILIZING HOMELAND SECURITY GRANT FUNDING

Ms. Houck summarized her memorandum to the City Manager, dated January 30, 2007, wherein she explained that the City was awarded a Homeland Security Grant totaling \$28,000 for the installation of security cameras and monitoring equipment at the Kershaw Substation. Following the discovery that the funds were misdirected to the City of New Castle an extension to use the funds was granted until March 30, 2007.

Ms. Houck further explained that W. L. Gore & Associates provided the use of their fiber optic cable for the camera system at the reservoir and agreed to do the same for this project by bringing a signal from the police dispatch to the Kershaw Substation to accommodate the monitoring system. The cost for this effort would be \$17,989 which covered only the cost associated with their private contractor's extension of the fiber between the two locations. It did not include the cost for the fiber optic cable because that was being provided at no cost by W. L. Gore.

A price quote of \$14,900 was provided from Security Instruments for the camera and associated equipment to complete this security package. That cost included the ability to pan/tilt/zoom from one camera as well as a fixed camera focused on the gate entrance to the substation. All hardware and associated equipment to install the cameras were included in the price. Security Instruments provided the camera system for the reservoir and was familiar with our needs and aware of the short time remaining before the grant monies must be utilized. She noted that the individual agreements fell under the \$25,000 threshold for sealed bid purchases.

Ms. Houck recommended that Council waive the bid process and enter into an agreement with W. L. Gore & Associates for \$17,989 and Security Instruments for \$14,900 for completion of this project.

Mr. Clifton thanked Ms. Houck for bringing this purchase to Council's attention even though both purchases fell below the \$25,000 ceiling for bids.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT COUNCIL WAIVE THE BID PROCESS FOR THE PURCHASE OF A CAMERA SECURITY SYSTEM FOR THE KERSHAW SUBSTATION AND APPROVE ENTERING INTO AN AGREEMENT WITH GORE AND ASSOCIATES FOR \$17,989 AND SECURITY INSTRUMENTS FOR \$14,900, UTILIZING HOMELAND SECURITY GRANT FUNDING.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

39. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**
A. Bill 07-03 - An Ordinance Amending Ch. 22, Police Offenses, By Providing Penalties for the Harassment & Assault Against Law Enforcement Animals

Mr. Luft read Bill 07-03 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. OSBORNE: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 07-03.

Mr. Luft explained that in view of the Police Department's new canine program, it was necessary to adopt prohibitions against harassment and assault against law enforcement animals as contained in the State Code.

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: 7 to 0.

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

(ORDINANCE NO. 07-03)

40. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:**
None

41. **8. ORDINANCES FOR FIRST READING**
A. Bill 07-05 - An Ordinance Amending Ch 22, Police Offenses, By Reclassifying a Tampering with Firefighting Equipment Charge to a Disorderly Conduct Charge

Mr. Luft read Bill 07-05 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 07-05.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 2/26/07)

42. **8-B. BILL 07-06 - AN ORDINANCE AMENDING CH. 17, HOUSING & PROPERTY MAINTENANCE, BY EXPANDING PROPERTY MAINTENANCE STANDARDS TO INCLUDE IMPACTS ON OTHER PROPERTIES AND TO INCLUDE THE CONDITION OF OVERHANGING EXTENSIONS, AND TO LIMIT THE TEMPORARY BOARDING OF WINDOWS, DOORS, AND OTHER BUILDING OPENINGS**
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Mr. Luft read Bill 07-06 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 07-06.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 2/26/07)

43. **8-C. BILL 07-07 - AN ORDINANCE AMENDING CH. 7, BUILDING, BY PROVIDING FOR AN EXCEPTION TO THE REQUIREMENT FOR SPRINKLERS WHEN A CHANGE OF USE OCCURS IN AN EXISTING STRUCTURE WITH RESIDENTIAL OCCUPANCY**
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Mr. Luft read Bill 07-07 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 07-07.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 2/26/07)

44. **9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

A. COUNCIL MEMBERS:

1. Resolution No. 07-___: Amending the City of Newark Police Pension Plan

Mr. Luft read the resolution in its entirety.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(RESOLUTION 07-D)

45. **9-B. COMMITTEES, BOARDS & COMMISSIONS:**

1. WILMAPCO Regional Transportation Plan

Heather Dunnigan, WILMAPCO, gave a brief description of WILMAPCO and reviewed the draft regional transportation plan, which is on file in the City Secretary's Office. The final plan would be adopted sometime in March. If additional funding is provided by the state, the plan would need to be amended.

46. **9-C. OTHERS:** None

47. **10. SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. Appointment of Auditor

Ms. Garriz provided a memorandum to the City Manager dated January 16, 2007, wherein she recommended that Barbacane, Thornton & Company be appointed auditor for the calendar year ending December 31 2006 for a cost of \$28,000. The City would then do RFP's for 2007 to 2009 audits.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT BARBACANE, THORNTON & COMPANY BE RETAINED FOR THE 2006 AUDIT AT A COST OF \$28,000.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

48. 10-A-2. SETTING DATE FOR WORKSHOP RE CURTIS PAPER MILL PROPERTY

Mr. Luft advised that Mr. Emerson submitted site use options as stated in a memorandum to the City Manager, dated August 31, 2006. Before going any further, Mr. Luft recommended that Council conduct a workshop to review those options and then decide on the direction to take for development of this site. It was the consensus of Council to hold a workshop on May 8, 2007 to discuss this property.

49. 10-B. ALDERMAN'S REPORT

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORT DATED FEBRUARY 5, 2007 BE RECEIVED.

PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

50. 10-C. REQUEST FOR EXECUTIVE SESSION RE PENDING LITIGATION (Durkin v. Newark) & PERSONNEL

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS PENDING LITIGATION RE DURKIN V. CITY OF NEWARK & PERSONNEL

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Council entered into Executive Session at 9:37 pm and returned to the table at 9:56 pm. Mr. Funk announced there was no action necessary.

51. Meeting adjourned at 9:57 pm.

Patricia M. Fogg
Acting City Secretary

/pmf