

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

July 26, 2010

Those present at 7:00 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: Assistant to the City Manager Carol Houck
City Secretary Patricia M. Fogg
City Solicitor Roger A. Akin
Finance Director Dennis McFarland
Planning & Development Director Roy H. Lopata
Police Chief Paul Tiernan

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

2. PRESENTATION AND APPROVAL OF 2009 AUDIT REPORT

00:24

J. Michael Stephens, Partner with the audit firm of Clifton Gunderson LLP, presented the audit results of the City's financial statements for the year ended December 31, 2009. He advised that four reports were completed (but it was determined that the reports were not provided by the Finance Department to Council prior to the meeting.) A copy of Mr. Stephens' presentation is available in the City Secretary's Office.

The audit results of the finance statements for the year showed an unqualified opinion (no issues) with respect to financial reporting.

On the single audit side, two reports were issued. One was a report on internal controls as they related to federal awards. The second report was as it related to compliance with federal awards. On the internal control report, the comment in this area regarded segregation of duties resulting from the size of the City's accounting staff. There were no indications of fraud or misuse of funds. The second issue was a comment regarding delays in performing bank reconciliations. The situation had already been remedied.

There were several audit adjustments related to accruals at year end which were timing issues. Management attempted to estimate liability and accruals at year end, but those estimates had to be finalized and adjusted to actual which was done as part of the audit process.

From an audit trail standpoint, there was an issue with certain grants being closed out and a concern about tracking that activity, so it was recommended to provide back-up support of the transactions until the audit was completed.

With respect to the single audit (compliance with federal awards), the City received an unqualified opinion on handling and using the funds properly. The major programs audited were the Community Development Block Grant and the Homeland Security Grant. There was a significant change in the single audit this year in the Recovery Act of stimulus monies. The big focus there was

transparency in reporting, so a number of additional steps had to be performed for this funding. There was only one compliance issue which related to expense allocation, and that issue was identified last year. It was corrected during the year but transactions occurred in fiscal year 2009 that were not properly allocated or the documentation could not be supported for that allocation, and the auditors were required to report that issue. The expectation was that the comment would go away in subsequent years.

Under certain auditing standards, the auditors were required to report audit results to Council. The only item of note was the disclosure to Council of significant accounting policies with respect to estimation. The primary areas of estimation were: depreciation of capital assets – estimating the useful life of all capital assets set up to be depreciated; the pension benefit assumptions – the pension liabilities came from the actuary; benefits other than pension assumptions (the OPEB liability) were also calculated by the actuary; and the liability for injury and damage claims – estimate of outstanding claims for any potential litigation.

Regarding the tracking of grants and the closing of the accounts, Mr. Pomeroy asked if the audit recommendation was that those accounts be closed once the audit was completed or that the accounts be kept open beyond a particular calendar year. Mr. Stephens said they would at least like to see them kept open through the external independent audit.

Mr. Clifton referenced page 51 of the report regarding the extrapolation and diversification of funds in the Pension Plan. About 29-30% was in fixed income mutual funds and he asked if that percentage was reasonable in today's economic climate. Mr. McFarland said the decision to move from a 60-40 equity fixed income allocation to 70-30 was adopted several years ago in order to increase the long-term returns of the fund. The investment allocation was looked at every quarter when the pension results were reviewed and discussed twice a year with the City's pension advisors.

Since Council members wanted to review the supplemental information prior to accepting the report, it was decided to schedule this item on the Consent Agenda for August 9.

3. 1. ITEMS NOT ON PUBLISHED AGENDA

A. Public

23:42

Tyler Jacobson, a Newark resident, discussed the need for a skateboard park and noted that it has been two years since the Friends of Curtis Paper Mill submitted a proposal for a recreational facility at the Old Paper Mill site that included a skate park. He stressed the importance of developing a free concrete skateboard park in Newark and suggested moving forward in an area where basic parks and recreation infrastructure already existed. He supported a skateboard park development in the Olan Thomas Park or other suitable area and volunteered to organize a committee with planning and fundraising. It was pointed out that staff members were meeting in August to discuss this issue.

4. Eric Mayer, a Newark resident, discussed the need for additional parking downtown and the fact that his tenant at 92 E. Main Street was moving for several reasons, one being no parking for their clients. Mr. Mayer claimed he planned to take back parking spaces that belonged to him in Lot #3.

5. 1-B. UNIVERSITY

1. Administration

30:40

Mr. Armitage reported on the progress of the sidewalk consolidation project on Delaware Avenue at the Green and said there were no plans to signalize that crosswalk. He also noted another diseased Elm tree had to be taken down in the same area.

When the University closed the Blue and Gold Club about a year ago, Mr. Armitage said they created an affiliate program with downtown restaurants, and there were 15 restaurants currently participating. From August 7, 2009 through July 23, 2010, University faculty and staff using this program spent \$398,000 in those restaurants. This was another example where the University continued to support the business community on Main Street.

6. 1-B-2. STUDENT BODY REPRESENTATIVE

There were no comments forthcoming.

7. 1-C. COUNCIL MEMBERS

32:17

Mr. Temko

- Discussed signing up for the voluntary renewable energy subscription program as part of the customer's electric usage. The limit changed this year, and customers can sign up for 12 times the lowest usage amount in green energy. He asked Mr. McFarland to continue discussions with DEMEC about the possibility of looking for an alternative source for clean energy.
- Noted that \$45,000 was included in the 2010 budget for a conservation advancement program which will not be developed during 2010. The utility assistance program was allocated \$25,000, and \$10,000 was used to date. Because the \$45,000 was not being used, he suggested shifting that money to the utility assistance program to assist residents with their utility bills in light of the present economy and the very hot summer. The utility assistance program was administered by Catholic Charities of Delaware who had a screening process to insure individuals were Newark residents. Mr. McFarland recommended if additional monies were to be put into this program that the City waits until being advised by the agency that the original \$25,000 was nearly depleted. Mr. Markham suggested looking at the Newark Welfare assistance program and perhaps the two agencies could work together. Once both agencies exhausted their monies, Council could consider providing additional funding.

8. Mr. Pomeroy

- Complimented the Food & Brew Fest held on Saturday. He received a lot of comments from folks that lived outside the City and chose to participate in the event.
- Commented on a recent article in the *News Journal* on water quality in Delaware that mentioned Newark but did not distinguish between the City and the unincorporated area. The City will be providing a statement to the newspaper regarding water quality within the City of Newark.

9. Mr. Athey

- Attended Food & Brew and commented on the very hot day for the event.
- Expressed appreciation to Ms. Houck for letting Council know the City will receive municipal street aid this year in the amount of \$380,000. He thanked Senator Sorenson (who was in attendance) for her support with the funding.
- Thanked everyone involved in addressing the issue of feral cats.
- Suggested that staff begin working on plans for Earth Hour (3/26/11) and possibly coordinate with the Conservation Advisory Commission. He would like to see suggestions in a few months. It was also noted that the City of Newark was not included on the Earth Hour website as signing on to participate.

10. Mr. Clifton

- Thanked Ms. Houck for working on several issues he brought to her attention last week.
- Thanked Mr. Lopata for his help with a nuisance property in his area.

11. Mr. Tuttle

- Referred to a flyer that was included in recent electric bills regarding Green Wednesday collection encouraging residents to use the wheeled carts. The carts could be purchased for \$50 from the City in either 65 or 95 gallon size.

12. Mr. Markham

- Complimented Food & Brew held on Saturday and noted the extreme heat.
- Recognized Senator Liane Sorenson who was in attendance at the meeting.
- Referenced a complaint he received about sidewalks on Main Street. Ms. Houck stated she took care of one issue, and the other issue will be finalized shortly.

13. 2. APPROVAL OF CONSENT AGENDA

52:22

- A. Approval of Regular Council Meeting Minutes – July 12, 2010
- B. Receipt of Alderman’s Report – July 20, 2010
- C. Receipt of Planning Commission Minutes – July 6, 2010
- D. Reappointment of Victor Bernstein to the Personnel Review Committee – Three Year Term to Expire July 23, 2013
- E. Reappointment of Ryan German, Caffe Gelato, 90 East Main Street, and Suzy Rogers, 307 Kinross Drive to the Downtown Newark Partnership – Three Year Terms to Expire July 23, 2013
- F. Receipt of Real Estate Tax Assessment Actual Annual Billing Roll – July 1, 2010 – June 30, 2011

Ms. Fogg read the Consent Agenda in its entirety.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: 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

53:30

Mr. McFarland reviewed the Financial Report from the five months ended June 30, 2010. Year to date the City was \$837,000 below budget from an operating surplus perspective, but showed significant improvement over the prior month when the shortfall was \$2.3 million.

The governmental funds, including the general fund, had an operating surplus of \$218,000 less than budget. Transfer taxes through June were over budget by \$52,000, and parking meter revenues were \$121,000 over budget. Those positive variances effectively offset negative variances in transfer station and grant revenues.

Operating expenses were \$269,000 below budget. Mr. McFarland expected governmental funds and general operating funds to be close to budget by year end.

The enterprise funds were \$837,000 below budget, with the bulk of the shortfall due to lower electric margins of nearly \$718,000 below budget. Sales volumes for the year were about 1.7% over budget, and with the very warm weather in June, electric delivery was 14% over budget.

Mr. McFarland noted that June was 67% warmer than normal, and the year to date was 74% warmer than normal. The month of July to date was 33% warmer than normal. Also, it has been wetter this year than normal.

The margins in the water fund have been close to budget as a result of the recent rate increases. Sewer funds trailed budget by \$537,000 due to timing differences between the payment of County charges and the billing of large sewer customers.

Mr. McFarland concluded by stating that the cash balance at month end was \$11.2 million, a decrease of \$1.3 million from the beginning of the year. That decrease in cash was largely due to the operating shortfall incurred so far this year and increased working capital needs during the summer months.

Mr. Pomeroy asked Mr. McFarland if he saw trends holding for the next six months. Mr. McFarland said it was difficult to predict because of the flux with the transfer tax revenues which had been up through June because of the government incentives. Mr. Funk interjected that real estate transfers were dying and added that a large transfer tax check would be coming from the County in the next few weeks which should appear on the next Financial Statement. Overall he said real estate sales had drastically reduced, and no change was expected in next few months.

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: THAT THE JUNE 2010 FINANCIAL REPORT BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

16. 5. RECOMMENDATIONS ON CONTRACTS & BIDS

None

17. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING

A. Bill 10-13 – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BC (General Business) and RR (Row and Townhouse) to BB (Central Business District) a 4.39 Acre Property Located at 250 Elkton Road, Newark, Delaware (Vacant Newark Auto Dealership)

1:01

Ms. Fogg read Bill 10-13 by title only.

(SECRETARY'S NOTE: Mayor Funk indicated he would abstain from voting on Items 6-A, 7-A and 7-B because he was the attorney in this real estate transaction. Also, the public hearing for all three items was held under Item 6-A.)

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 10-13.

Lisa Goodman, Esquire, representing the Bariglio Corporation, made the following presentation. This project received the recommendation from the Planning Department and the unanimous recommendation from the Planning Commission.

A PowerPoint presentation was provided by Ms. Goodman beginning with a review of the 4.39 acre site, the former home of the Newark Dodge. The front parcel of the site was currently zoned BC, and the rear parcel was currently zoned RR. The front BC parcel was 3.36 acres and the rear RR parcel was 1.04 acres.

Ms. Goodman reviewed the surrounding parcels to the site which included the municipal building zoned BC, the VFW property zoned BL, the Newark car wash zoned BC, West Knoll Apartments zoned RM, and the Madison Drive townhouses zoned RR.

The site would be developed as follows: along Elkton Road a three-story building with 17,000+ square feet of retail on the lower floor and 20 apartments on the upper floors. Brick was proposed on the bottom and on the top, with detailed molding and glass on the side to modernize the building's appearance, and entrances to the retail from both Elkton Road and the rear of the buildings. The building that would face Veterans Lane would be a three-story building with parking on the ground level. As required by Code, 279 parking spaces will be provided for the project.

The proposal was to downzone the front parcel from BC to BB and upzone the small parcel in the back from RR to BB to make the entire site BB and to make it one parcel. In the back parcel, nine townhomes were proposed, each with a two-car garage and two additional parking spaces in the driveway with two levels of living space.

Ms. Goodman referred to the half acre of open space that will include a small clubhouse (with workout equipment), a half basketball court and a sand volleyball court. She noted the developer was not wedded to these amenities if Council did not support the provisions.

Ms. Goodman pointed out that Veterans Lane was owned by the City. The portion from Elkton Road to the entrance of the Municipal Building currently had an easement in favor of the 250 Elkton Road property. The remaining part of Veterans Lane was private. The developer proposed to repave and restripe Veterans Lane which would continue to be owned by the City. The back portion was currently used for overflow parking for the ball field. Repaving will improve the function and the appearance, make it safer, and will provide the City with 63 striped parking spaces (those spaces were in addition to the 279 parking spaces required for this project.) She suggested the City may want to consider metering the spaces.

At the request of the Planning Department, Ms. Goodman consulted with DeIDOT and they reviewed the traffic projections and provided a letter that required the following (all of which the developer agreed to): close the entrance from the site onto Elkton Road which is a major safety benefit; dedicate a cross access easement for use between Veterans Lane and Rittenhouse Road; make a contribution to the capital improvement project in an amount to be determined by DeIDOT; enter into a signal agreement at the intersection of Veterans Lane and Elkton Road which was already a planned improvement to that intersection; dedicate property along Elkton Road for improvements; provide a temporary easement for construction; and to allow future sidewalk interconnection along Elkton Road.

Ms. Goodman addressed issues that were expressed at the Planning Commission hearing. First, the proposed townhouses would sit somewhat higher than the townhouses on Madison Drive. A concern was raised about

whether there was a view from the townhouse windows into the bedroom windows of the Madison Drive townhouses because the three-story buildings would sit across from the two-story townhouses. In response, the developer added more landscaping along the rear of the open space, which could be fully evergreen, and the trees planned will be as large as possible to survive, but up to the top of the second floor windows of the Madison Avenue townhomes within five years.

Mr. Temko asked about eco-friendly design and what green components might go into the project. Ms. Goodman reported there will be insulated and tinted windows, sustainable bamboo flooring, all Energy Star appliances, all Energy Star rated HVAC units, all Energy Star rated light fixtures, low-flow toilets, reflective colored roofing, reuse of demolition materials and an increase in pervious coverage on the site. Options for solar panels were also being explored. Ms. Goodman stated the developer was currently in discussions with a company that installed solar panels on roofs of large buildings under several different scenarios. She noted if there was interest from the City, the developer was willing to enter into discussions about partnering with the City in this regard. The developer would benefit by obtaining electricity at discounted rates, and more electricity would probably be generated from the two large roofs than they needed, thereby allowing the City to sell the excess electricity generated.

There was concern from landlords about additional competition. Ms. Goodman said any project of this size which expected bank financing performed a market study. Their survey of rental properties within the City concluded Newark had a vacancy rate of approximately 6.7%. A 5% minimum vacancy rate was typically described as healthy. Anything below that did not provide the needed fluidity in the market.

Secondly, apartment vacancies were falling nationwide. During the second quarter of 2010, apartment vacancies fell from a nationwide rate of 8% to 7.8%. Newark was a full percentage point below this right now. Rents also increased by .7% nationwide during the second quarter which she thought was a huge improvement.

Third, any difficulty landlords were currently having in the Newark market was not the result of supply and demand; it was the result of the economy.

Next, this would be a very high-end project. It would include a large list of amenities such as granite countertops, built-in 40" flat screen televisions and assigned parking spaces, so it was going after a different market segment not well represented in the City.

Ms. Goodman summarized the rezoning: It was consistent with the Comprehensive Plan – the area called for commercial and pedestrian oriented, and they will provide both; it was consistent with surrounding properties – apartments and townhouses to the side, with commercial immediately next to them; it was consistent with the larger area; it followed the types of projects Council had been approving for Elkton Road; and it was on the low side of density at 14.81 dwelling units per acre in comparison to other projects.

Mr. Athey did not think there was adequate space for planting large trees in the area where screening was needed and suggested shifting the nine townhouses to the east or northeast to provide more room on the southwest portion to provide the best buffer possible. Ms. Goodman said they would try to move them as far as they were permitted based on Mr. Lopata's Code analysis and would use their best efforts on the landscaping.

Mr. Lopata added that subdivision plans were approximate locations, and the final detailed engineering would be done through the Construction Improvement Plan. Thus, the developer had some flexibility.

Mr. Markham asked if the project affected the vacancy rate. Ms. Goodman said it did not and explained their analysis of projected growth rates looking at absorption of new units. With the addition of this project and everything in the pipeline, and adding the growth rate, Newark was approximately 13 units from ideal in terms of absorption.

Since the site was a car dealership, Mr. Markham asked whether environmental testing had been conducted. Ms. Goodman replied that a Phase 1 and Phase 2 environmental site assessment was done, and limited clean up was required. The developer would do the clean up and bring the site into the standard it needed to be for retail and residential development.

Mr. Markham asked why this project would succeed where similar high-end townhouses were not selling. Ms. Goodman said they were aiming for a different market, and their units were rentals as opposed to sale units. Their project will be designed to convert to condos if the market changes. She added that Newark was really strong with rentals, a huge upside from the University.

Mr. Temko asked if the central business district ended at Apple Road and whether the retail businesses would be able to participate in downtown Newark. Mr. Lopata said the informal designation stopped on the northeast side of the Municipal building. There were no real hard and fast boundaries, and this was an example of how difficult it was to plan.

Mr. Temko thought the developer might be interested in talking to DeIDOT about continuing the brick striping on the sidewalk past the Municipal building to their project. Mr. Lopata noted that cost sharing was involved there.

The Chair opened the discussion to the public.

Steve Dentel, a Newark resident and member of the Conservation Advisory Commission, hoped that bike lanes would be provided to the site and pointed out that bike racks were already planned. He was interested in why the developer was not seeking LEED certification for the project.

Ms. Goodman said they would be happy to pursue the bike lane situation and would work with Mr. Lopata on it. She noted that Mr. Bariglio was still thinking there may be LEED certification possibilities for part of the project, and this would probably depend on what happened with the decision regarding the installation of solar roof panels.

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

Mr. Markham would support the project as he believed it was consistent with the area, was an extension of Main Street, and he was glad there was no parking waiver. He was impressed with the energy efficiency. In the construction plan, he preferred that there be no sidewalk obstructions.

Mr. Tuttle planned to support this project as it was consistent with the surrounding uses and with the Comprehensive Plan. He felt the project would strengthen the residential character of what existed there now and was a great positive.

Mr. Clifton would support the project which was consistent with the Comprehensive Plan and was a downzoning. He liked the fact that a parking issue did not exist here, which was important if there was a market change and the units were sold as condos.

Mr. Athey will support the project. He felt everybody was excited to see that Main Street had wrapped around Elkton Road. The project was a quality project and was very consistent with the Comprehensive Plan. He felt the City

was fortunate that the property was being redeveloped. He assumed the developer would make a good faith effort on the scale/privacy issue. Mr. Athey noted he reached out to the West Knoll apartment complex, and they chose not to get engaged in the process.

Mr. Pomeroy felt this was an excellent project and said it was the first redevelopment project in his time on Council that included a downzoning, provisions for extra parking, a lower than standard density and also discussion of solar. He will support it because it was consistent with the Comp Plan and provided a diversity of housing stock that was necessary and beneficial in a downtown environment. He would like to see bike access. Since there was a lot of Little League parking in the overflow parking area, he wanted discussion about Saturday parking if the City decided to meter those spaces.

Mr. Temko felt the rezoning made sense for this area. He liked to think of the downtown as being anchored by City Hall and the library, and he thought the project added to this perception. He appreciated the environmental aspects and the inclusion of stone with brick in the exterior design and looked forward to the project's completion.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Abstain – Funk.

(ORDINANCE NO. 10-17)

18. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS

A. Request of the Bariglio Corporation for a Major Subdivision to Construct a Mixed use Retail and Residential Building and Two Additional Apartment Buildings at 250 Elkton Road, Newark, Delaware, to be Known as Rittenhouse Station

2:00

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT THE RESOLUTION AND AGREEMENT BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Abstain – Funk.

(RESOLUTION NO. 10-T)

19. 7-B. REQUEST OF THE BARIGLIO CORPORATION FOR A SPECIAL USE PERMIT TO ALLOW 65 APARTMENTS TO BE CONSTRUCTED AS PART OF A MIXED USE RETAIL AND RESIDENTIAL PROJECT AT 250 ELKTON ROAD, NEWARK, DELAWARE, TO BE KNOWN AS RITTENHOUSE STATION

2:00

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT THE SPECIAL USE PERMIT BE APPROVED AS REQUESTED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Abstain – Funk.

20. 8. ITEMS SUBMITTED FOR PUBLISHED AGENDA

A. Council Members: None

21. 9. SPECIAL DEPARTMENTAL REPORTS

A. Special Reports from Manager & Staff
1. Approval of 2009 Audit Report – See Item #2

22. At the request of Councilman Pomeroy, Council considered Item 9-A-3 at this time.

9-A-3. 2010 OVERTIME BUDGET AMENDMENT – Police Department

2:01

Mr. McFarland reported the recommendation was to amend the 2010 Operating Budget for the Police Department to increase the cost by \$65,000. Reasons for the increase were detailed in Chief Tiernan's memo and included unexpected overtime due to the major snow storms earlier in the year and several major investigations. In addition, the department had a plan in place to provide additional police support at various City-sponsored events which would increase overtime for the balance of the year. Mr. McFarland explained the department had been struggling to stay within budget for the last several years.

MOTION BY MR. MARKHAM, SECONDED BY MR. POMEROY: THAT THE 2010 POLICE DEPARTMENT OVERTIME BUDGET BE AMENDED BY AN INCREASE OF \$65,000.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Nay – 0.

23. 9-A-2. REPORT ON SOLAR INITIATIVES

2:03

Ms. Houck said various sites were investigated to determine the feasibility of solar installations. It was determined that McKee's Park, Paper Mill Road, Old Paper Mill Road site (formerly the Moore farm property) and the Curtis Paper Mill site emerged as the three prime sites. Staff wanted Council's agreement before pursuing solar options for the City.

Mr. Pomeroy asked if hiring a consulting firm was consistent with other municipalities and the amount of investment that would be involved. Ms. Houck was waiting for an estimate which would include time and materials, and it was not yet clear as to the extent of services that would be required of the consultant. Mr. McFarland pointed out that Dover used a consultant to work through the process with their solar park. He said this was a complex market, and the City would take on a huge risk by moving forward without a consultant.

Mr. Pomeroy questioned the importance of trying to take advantage of government grants prior to year end. Mr. McFarland explained the developers tended to stress the incredible importance of the grants while he believed the grants would be replaced in like amount by tax credits. This was a significant decision, and he did not think the City should rush to get something done by year end.

Regarding the potential use of the Curtis Paper Mill site, Mr. Pomeroy asked what production capacity could be realized. Ms. Houck estimated between 200-400 KWH from the site.

Mr. Pomeroy questioned whether the City would have to maintain the area in the floodplain. According to Ms. Houck and Mr. McFarland, the developer would be responsible for maintaining the site. Ms. Houck received confirmation from two consultants that it was possible to build in the floodplain, although this would incur higher costs.

Mr. Athey asked how the consulting costs would be paid for, and Mr. McFarland said it would be dollars spent this year from the electric fund and would probably be in the range of about \$20,000.

Ms. Houck said moving forward, Council would have another opportunity to make a decision about proceeding with the solar. She said the sites were important, and if Council was not comfortable with any one site, it should not be included in the RFP.

Mr. Markham preferred that McKee's Park and the Curtis Paper Mill sites be used and did not want to give up the Old Paper Mill Park because he considered it virgin parkland, and his district basically had no park fields. To him, it made more sense to reuse a site that could not be used for something else. Ms. Houck said there was a possibility of doing some park and some solar. Mr. Markham suggested approaching the Newark Housing Authority to determine their interest in joining with the City to expand the McKee's Park site. Mr. Funk said the Housing Authority spoke to him about the possibility of being able to buy some City parkland so they could enlarge that area.

Mr. Lopata explained that although the City was technically exempt from zoning, in the past when building in the floodplain, the City went through the normal standard review process requiring Council approval. A solar project in the floodplain required a Special Use Permit and had to meet the criteria for floodplain construction.

Mr. Temko fully supported pursuing the solar option.

Mr. Pomeroy noted Mr. Markham brought up the Moore property where there was the prospect of some partial use of solar and asked if he wanted that removed from consideration. Mr. Markham could not see giving up the parkland. Mr. McFarland said Council was not making the decision as to particular sites tonight. Rather, the decision was which sites to include in the RFP for proposals. His perspective was to include all three sites in the mix to get creative and economically viable proposals.

Mr. Clifton said if the City wanted to move green energy forward, Council could not be territorial and needed to do what was best for bringing it forward.

Ms. Houck said staff had the necessary direction to proceed with the RFP.

24. 9-A-4. GUARANTEED ENERGY PERFORMANCE CONTRACT

2:24

Ms. Houck reported that the state created a Sustainable Energy Utility in 2009 which established a performance contracting program. The SEU also went through a prequalification for energy service companies and helped change a section of Delaware Code so that performance contracts through their program with tax-exempt funding would not constitute debt to municipalities. That was significant to the City because a bond referendum would not be required to fund a guaranteed performance contract.

The next step if Council chose to move forward would be to register all of the City's facilities and operations with the SEU and an energy performance contractor. She recommended Honeywell because they were familiar with the City's facilities and equipment and were already one of the approved vendors through the SEU. The first step would be to do the energy grade audit where they gather specifics about building and operational savings that could be achieved. The savings achieved from the energy conservation measures would be guaranteed in their agreement once the project had been agreed upon, and all of the improvements would be funded through the energy savings.

Mr. Markham asked if the City had to go through the competitive bid process. Ms. Houck said it did not because the SEU had already prequalified the energy service companies in their program.

Mr. Temko said he appreciated the work Ms. Houck was putting into this program.

Council agreed that staff should continue to move forward with initiating the Investment Grade Energy Audit of the City's facilities.

25. Meeting adjourned at 9:23 p.m.

Patricia M. Fogg, CMC
City Secretary

/av