

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

August 9, 2010

Those present at 7:00 pm:

Presiding: Mayor Vance A. Funk, III
District 1, Paul J. Pomeroy (arrived 7:03 pm)
District 2, Jerry Clifton
District 3, Doug Tuttle
District 4, David J. Athey
District 5, Ezra J. Temko
District 6, A. Stuart Markham

Staff Members: City Manager Kyle Sonnenberg
Deputy City Secretary Alice Van Veen
City Solicitor Roger A. Akin
Planning & Development Director Roy H. Lopata

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY, THAT ITEM 9-B, REQUEST FOR EXECUTIVE SESSION RE POTENTIAL LITIGATION, BE ADDED TO THE AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Pomeroy.

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

A. Public

00:44

Edward Streets, a Newark resident, referenced an article in UDaily about a plan to restore the shad population to the White Clay Creek by removing seven dams along the White Clay to allow the fish to reach their spawning grounds. He said the City had flood control with the dams in place and could easily increase its flood control with the ownership of the Curtis Paper Mill. However, without the dams on White Clay Creek, he believed there was no control of floodwater for 28 miles. He felt the shad population could not survive in the White Clay as the water was not cold enough to support the fish and said nitrogen in the water from the Pennsylvania mushroom houses raised the water temperature by about 20 degrees. He urged the City to consider the issue based on flood control and mentioned that the Creek Bend area was particularly susceptible to flooding. Mr. Funk explained the City did not control the dams but would look into Mr. Streets' concerns.

4. John Tanzilli, a resident on Sunset Road, reported there was a sewage backup at his home on February 23rd. He wanted to make Council aware of the incident and believed a blockage remained two feet out in the street from his property based on information provided by a plumber. He was disturbed by explanations from City personnel about the cause of the backup and was told that he had to install a clean out for the City to fix the problem in the street. Since he had a cutoff valve installed (at a cost of \$7,000) and his house was now 100% protected with electronic alarms in the drains, Mr. Tanzilli did not plan to

install a clean out. However, he gave the City permission to install one on his property.

Mr. Athey had spoken with Mr. Tanzilli about this situation several months ago. Since he was not aware that Mr. Tanzilli would be at the Council meeting, he was not prepared to offer a response. However, Mr. Athey noted that a minor adjustment was recently made to the sewer code (he believed in response to this issue) which clarified the City's responsibility.

Mr. Tanzilli said he did not plan to file a claim, but he wanted the City to resolve the blockage problem. He reported he had incurred about \$20,000 in expenses from the backup.

5. 1-B. UNIVERSITY

1. Administration

10:52

Mr. Armitage mentioned that three ongoing building projects included the animal care facility on Delaware Avenue, the bookstore and the undergraduate engineering laboratory off Academy Street. Construction cameras on the sites allow the projects to be viewed on the University's website.

Mr. Armitage noted the first reading of the cell phone ordinance for the City. He questioned whether the City would follow the state's effective date. Mr. Temko responded that the City's ordinance would be effective January 2, 2011, the same effective date as the state law.

Mr. Athey thanked Mr. Armitage for providing a follow up email regarding University building projects and asked if the University would make the master plan available showing the layout of buildings. Mr. Armitage said the plan was still being developed and as soon as he had something more concrete, he would share the information with Council.

6. 1-B-2. STUDENT BODY REPRESENTATIVE

There were no comments forthcoming.

7. 1-C. COUNCIL MEMBERS

13:55

Mr. Temko

- Reported staff had been working in conjunction with DEMEC to expand the City's energy source for the voluntary subscription program. Effective June 1, 2011, DEMEC would execute a wind agreement, and this alternate energy source should be available at little additional cost to participants.

8. Mr. Athey

- Received a comment resulting from the Planning Commission meeting that the developer of the WSFS project did not display a rendering of their project at the meeting. Mr. Lopata explained WSFS was a minor subdivision, and renderings were not required.

- Thanked the Water Department for replacing a water valve on Kells Avenue during the overnight hours. While he believed this timing made sense in lessening the inconvenience of lost water service for most residents, Mr. Athey heard objections to the overnight work from several constituents. Since another valve needed to be replaced in the area, he asked for Council's feedback. Mr. Markham pointed out that daytime work would be disruptive to traffic, particularly when the University was in session. Mr. Funk agreed this sounded reasonable.

9. **Mr. Markham**

- Advised that although there would not be a formal response from management at this Council meeting regarding the auditor's comments on the IT Department, Council would receive information from staff about the issues.
- Since Bluewater Wind was having their install ready-to-go date pushed back by two years and DEMEC had an agreement with them for the wind, Mr. Markham questioned how that would impact the City's future mix of electricity.

10. **2. APPROVAL OF CONSENT AGENDA**

18:46

- A. Approval of Regular Council Meeting Minutes – July 26, 2010
- B. Receipt of Alderman's Report – August 5, 2010
- C. Approval of Audit Report (Presented on July 26, 2010)
- D. Setting Date of Capital Budget Hearing for August 23, 2010
- E. ***First Reading – Bill 10-15 – An Ordinance Amending Chapter 20, Motor Vehicles and Traffic, Code of the City of Newark, Delaware, By Bringing the Code Into Conformity with the State Code Regarding the Prohibition of the Use of an Electronic Communication Device While Driving a Motor Vehicle – **Second Reading 8-23-10*****
- F. Resignation of Fred Stiegler from the Conservation Advisory Commission

Ms. Van Veen read the Consent Agenda in its entirety.

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

11. **3. ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

12. **4. FINANCIAL STATEMENT:** Next Meeting

13. **5. RECOMMENDATIONS ON CONTRACTS & BIDS:** None

14. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING**
None

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

- A. Request of Campus Living Villages for a Special Use Permit to Install an Enclosed Bus Stop Shelter Located in Front of the Studio Green Clubhouse at 9 Thorn Lane, Newark, Delaware

20:12

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

Mr. Lopata presented the request on behalf of the applicant who was not present at the meeting. He noted this was the first bus stop shelter request in the City, and it would be a positive addition to the location, particularly during inclement weather. The residents at Studio Green would be able to take advantage of this facility for both Unicity and University of Delaware bus service.

Mr. Tuttle said as one of the "godfathers" of the Unicity bus system, he was pleased that someone in his district presented the plan for the first private bus shelter.

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

16. 8. ITEMS SUBMITTED FOR PUBLISHED AGENDA

A. Council Members: None

17. 9. SPECIAL DEPARTMENTAL REPORTS

A. Special Reports from Manager & Staff – None

18. 9-B. EXECUTIVE SESSION RE POTENTIAL LITIGATION

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS POTENTIAL LITIGATION.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Council entered into Executive Session at 7:18 p.m. and returned to the table at 7:58 p.m. Mr. Funk said no further action was required.

19. Meeting adjourned at 7:59 p.m.

Patricia M. Fogg, CMC
City Secretary

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