

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

September 27, 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: City Manager Kyle Sonnenberg
City Secretary Patricia Fogg
City Solicitor Roger Akin
Electric Director Rick Vitelli
Finance Director Dennis McFarland
Planning & Development Director Roy 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-A-2, ELECTRIC RATE STUDY – STAFF RECOMMENDATIONS, BE ADDED TO THE AGENDA, AND THAT ITEM 2-H, APPOINTMENT OF ROBERT DETWILER, 77 MADISON DRIVE, TO COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE, BE DELETED FROM THE CONSENT AGENDA AT THE REQUEST OF THE NHA (FOR THEIR CONSIDERATION AT THE END OF OCTOBER.)

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

There were no comments forthcoming.

4. **1-B. UNIVERSITY**
1. Administration

01:28

Mr. Armitage reported the University's enrollment numbers as of the tenth day into the year which totaled 21,178 students as follows: Undergraduates – 15,886; Graduate – 3,670; Associate of Arts – 774; Professional and Continuing Education Studies – 848.

On September 29, the University scheduled a decommissioning forum for the community about the former Chrysler site to detail site plans over the next 16 months. This will be an opportunity for nearby residents to meet with URS as well as representatives from the University and from the Department of Natural Resources to hear a briefing and to be able to ask questions.

Mr. Armitage introduced two colleagues, David Singleton, Associate Vice President for Facilities and his assistant, Drew Knab. Mr. Singleton planned to

comment on the electric rate study and will return on November 8 to report on facilities and building plans at the University.

5. 1-B-2. STUDENT BODY REPRESENTATIVE

There were no comments forthcoming.

6. 1-C. COUNCIL MEMBERS

03:58

Mr. Temko

- Today marked the start of Delaware Dines Out week with several Newark restaurants participating in the event.
- Would like to see statistics on the nonprofit and community groups that participated in Community Day and a financial comparison to previous years to determine the impact of the fee increase and the two hour time reduction of the event.

7. Mr. Pomeroy

- Asked Mr. Lopata for an update on the Newark Train Station study. Mr. Lopata reported the study was commissioned with the task of analyzing whether it was feasible to keep the train station in its current location while meeting the needs of the Newark community and the greater area for transit service and meeting the concerns of Amtrak as well as the Norfolk Southern Railroad. Logistical railroad issues were part of the driving force to originally move the station. The University's acquisition of the Chrysler site which would lead to redevelopment of that area was unanticipated at the time the decision for moving the train station was originally made. A consultant was to examine whether it was feasible to move the station. It was; however, there would be significant additional expenditures. If it could not be done, the station would have been relocated to the old South Chapel Street site. A grant application was currently underway for a U.S. Department of Transportation fund that provided much larger grants for the next phase of a study. This phase would be planning and preliminary engineering to see if what is called "Track F" (a new track to primarily serve Norfolk Southern's needs), a new station built, and what is being called a Newark Regional Transportation Center could be constructed roughly at the site of the current center. He was optimistic that someday the City would get a real transportation facility in the community that will meet our needs as well as the needs of the University, the state and the region.
- Mr. Pomeroy reported that he will not run for another term on Council in the April 2011 election. He expressed his gratitude to the residents of District 1 for the opportunity he had to act in this capacity and to his family for their support. Several Council members recognized Mr. Pomeroy for his dedication and service to the City.

8. Mr. Athey

- Noted Mr. Sonnenberg would be in Rehoboth where the Main Street Association will present the City with two awards for programs implemented downtown – the gift card program and the Food and Brew event.
- Enjoyed the Film Festival where he thought they did an excellent job and offered choice movies.
- Thanked Messrs. Sonnenberg and Emerson for their efforts in working with Tyler Jacobsen on a skateboard park. Some potential sites were visited, and Mr. Emerson will come back to Council in the future with recommendations.

9. **Mr. Clifton**

- Recognized Jane Groo who passed away at 87 years of age. Ms. Groo was a dedicated Newarker who was involved in a number of community organizations.

10. **Mr. Tuttle**

- Acknowledged the University for reaching out to the community in the vicinity of the Chrysler property and was pleased area residents were notified of the meeting.

11. **Mr. Markham**

- Enjoyed walking around and talking to various groups on Community Day.

12. **2. APPROVAL OF CONSENT AGENDA**

- 17:59**
- A. Approval of Regular Council Meeting Minutes – September 13, 2010
 - B. Receipt of Alderman’s Report – September 23, 2010
 - C. Resignation of Gene Graham from Board of Adjustment
 - D. Appointment of Martin Wollaston, 432 Arbour Drive, to Community Development/Revenue Sharing Advisory Committee – term to expire March, 2011
 - E. Resignation of Margaret Catts from Community Development/Revenue Sharing Advisory Committee
 - F. **Bill 10-21** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Permitting Commercial Indoor Recreation in MOR (Manufacturing Office Research) District with Said Use Requiring a Special Use Permit - **2nd Reading October 25, 2010**
 - G. Planning Commission Minutes – September 7, 2010

Ms. Fogg read the Consent Agenda in its entirety.

MOTION BY MR. ATHEY, 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.

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

14. **4. FINANCIAL STATEMENT**

19:23

Mr. McFarland presented the financial statements for August 2010 showing results \$687,000 ahead of budget.

The Governmental Funds, consisting primarily of the General Fund, had an operating deficit for the first eight months of \$6.7 million which was \$672,000 less than budgeted. Transfer taxes were \$140,000 over budget. Parking meter revenues were \$150,000 over budget. There were some slight negative variances in commercial refuse fees and recreation fees. Operating expenses were \$400,000 under budget. A positive variance in the Public Works Department more than offsets year to date overruns in Finance and Legislative. The Governmental Funds should come in very close to budget.

Year to date the Enterprise Funds in the aggregate were very close to budget. The electric margins currently were right on budget. Sales volumes were up almost 3% due to the very warm summer. The weather was 33%

warmer than normal, and the revenue shortfalls experienced in the first four months of the year were more than offset by the higher volumes and the PPCA increase that went into effect in May. Water margins were slightly under budget by \$121,000. Sewer margins were under by about \$300,000 which was a recurrence of the quarterly timing difference between bills from the County and the City's revenues from large sewer customers. Margins in the Parking Fund were over budget by about \$130,000 due to fee increases instituted after the 2010 budget was approved. The Enterprise Funds were expected to achieve or slightly exceed budgeted margins by year end. Ongoing operating expenses in all four funds were roughly on budget.

The cash balance at the end of August was \$12.5 million which was the same balance as the beginning of the year and should continue to grow through the balance of the year with property tax revenues and the working capital demands from the electric utility diminish.

Regarding the transfer tax revenues which were \$140 thousand over budget, Mr. Pomeroy asked whether this resulted from large transfers as opposed to smaller transactions. Mr. McFarland said most of it was attributable from routine transactions and was largely due to governmental incentives during the first half of the year. Mr. Funk reported one large settlement was expected in the end of October or November.

Mr. Markham questioned the negative variances in the Finance and Legislative Departments. Mr. McFarland said the Finance Department would be on budget by year end and the Legislative overage resulted from legal costs.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT THE AUGUST 2010 FINANCIAL REPORT BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

15. **5. RECOMMENDATIONS ON CONTRACTS & BIDS** – None

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

- A. **Bill No. 10-14** - An Ordinance Amending Chapter 16, Garbage, Refuse and Weeds, Code of the City of Newark, Delaware, By Revising the Collection Schedule and Fees To Be Charged and Exemptions To Be Granted to Certain Categories of Non-Residential Customers

24:55

Ms. Fogg read Bill No. 10-14 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL NO. 10-14.

Mr. Sonnenberg explained this bill would implement changes previously discussed concerning private, nonprofit organizations and established a threshold for free collection. Any nonprofit exceeding that threshold must pay for all of their refuse collection. In recognition of the services provided to the City by Aetna Fire Company and the Newark Senior Center, the ordinance will include the provision for free collection to those organizations.

Mr. Pomeroy asked how this impacted the public schools. Mr. Sonnenberg stated the schools would use outside contractors for their refuse collection.

Mr. Markham clarified that the City would realize a savings based on providing two carts with standardized pickup. Mr. Sonnenberg said Council proposed two carts each, and these were easier to pickup than dumpsters.

Mr. Temko thought this was a positive step since there was now a consistent, clear policy that was not discriminatory, and the City had tools to insure nonprofits would not be charged unfairly for their service. He believed this change would also encourage recycling.

While Mr. Athey agreed with the proposal, he pointed out the possibility that the City might lose some of the benefits derived from the schools with regard to the City's recreation programs such as losing priority status. Mr. Sonnenberg reported the schools discovered they could not continue on their part with the system the City had set up.

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

Nay – 0.

(ORDINANCE NO. 10-19)

17. 6-B. BILL NO. 10-16 – AN ORDINANCE AMENDING CHAPTER 25, SEWERS, CODE OF THE CITY OF NEWARK, DELAWARE, BY DELETING SEWER UNIT CHARGES AS REFLECTED IN THE CODE

28:29

Ms. Fogg read Bill No. 10-16 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL NO. 10-16.

Mr. Akin reported that Council recently adopted Ordinance No. 25-17 which delegated the authority to the Finance Director to make adjustments in the City's sewer service charges. Rather than reflect actual rates for sewer charges in the Code which might make the Code obsolete more often than accurate, staff suggested the bill which acknowledged its delegation to the Finance Director.

Mr. Athey asked if the electric and water rates were in the Code. Mr. McFarland said this was not an issue with the water rates which do not change frequently and when they do change it was at the result of Council action. With respect to the electric rates, the base rates for electricity were stated in the Code. The PPCA mechanism stated that number could change and current rates would be available on the City's website or through the Finance Department. He said the difficulty with the sewer rates was that the County rate, when changed, effectively changed almost two dozen rates listed in the Code.

Mr. McFarland clarified that this would not affect the notification process. He also explained the pass through sewer rate increase at Mr. Pomeroy's request. Generally, the City paid the County to process and transmit a certain portion of the City's sewage. They charge a rate for that which has three components – a volume metric rate, a BOD rate and an SS rate. The rates the City charged by contract with the County for BOD and SS had to be the same as the County rates. The volume metric rate could be different, and that was where the City recovered its charges. There was a component in the volume metric charge that was just for the City, but the other half of the volume metric charge and the BOD and the SS were set essentially by the County and were typically

reset every year on July 1. Thus if they changed their rates and the City did not, there would be a mismatch between expense and revenue.

Mr. Sonnenberg noted that SS was suspended solids and BOD was biological oxygen demand. Both were reflections of the concentration of the wastewater.

Mr. Markham asked if the City's increase was limited to the same percentage as the County's increase. Mr. McFarland replied the City had to use the same rate the County used for BOD and the SS.

Since the rate change occurred only once a year, Mr. Clifton felt for the sake of transparency that Council should take the time to publicly vote on and codify the change. He regretted Council's decision in February to delegate the pass through to the Finance Director to make the sewer rate adjustment.

Mr. Markham thought the issue was in having to track backwards from when the County notified the City of the increase. Mr. McFarland said notification of the July rate change typically came in May. Mr. Tuttle added the City had to go through the public hearing process which involved advertising and notice before the change could be acted on, and said it was unlikely Council would decide not to track the County for the next twelve months. He felt time and resources would be expended on something that was not a discretionary item and thought the change should be automatic.

Mr. Pomeroy saw the sewer change as the polar opposite of the PPCA since this was a one-to-one County pass through with no room for the City to make increases above the County threshold.

Mr. Clifton asked what would prevent the City from deviating above the County's threshold. Mr. McFarland said he would be violating the Code that was amended in February that allowed for a one-to-one pass through charge which also provided for a margin.

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

Nay – 0.

(ORDINANCE NO. 10-20)

- 18. 6-C. BILL NO. 10-20 – AN ORDINANCE AMENDING CHAPTER 26, STREETS, CODE OF THE CITY OF NEWARK, DELAWARE, BY EXTENDING THE TIME TO REMOVE SNOW AND ICE FROM SIDEWALKS AND PRIVATE PROPERTY; AND REVISING THE ENFORCEMENT AND PENALTY**

40:33

Ms. Fogg read Bill No. 10-20 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL NO. 10-20.

Mr. Sonnenberg reported the ordinance extended the current 24 hour time limit for removing snow from sidewalks to 48 hours. In addition, fines in the current Code were based on electric service rate classifications which made it overly complex and had no relationship to snow removal. The language was

simplified, and the fine for residential units was increased from \$5-\$25 to \$100-\$300. He noted the City rarely, if ever, issued a fine for this purpose.

The following concerns were expressed by Council members about the proposed ordinance.

- Need to publicize change in time and fines.
- Fine amount should differ between residential and business.
- Provide list of individuals/contractors (paid and/or volunteer) willing to assist elderly/infirm with shoveling.
- Would there be legal impediments to distributing list of private contractors?
- Property owners who are out of town should plan ahead and make arrangements for someone to clear snow while they are away.
- Clearly define property owner as responsible party for rental units.
- Consider making owner and/or tenant responsible in the case of commercial properties.
- Enforcement notices should be sent to the landlord as well as placed on the property.
- Insure that ADA ramps are cleared.
- Ordinance targets equally those who willfully break the law and those who are unable to comply with it – need to use discretion with enforcement.
- Duplicate language in sections D and E – eliminate section E.
- Unoccupied properties (such as vacant lot at Elkton Road/Park Place) – should City remove snow and bill property owner, and if so set a deadline.

The Chair opened the discussion to the public.

Amy Roe, a Newark resident, requested the data that was used to set the fine which she said represented a 1200-2000% increase. She thought the fine should be more reasonable and suggested comparing the fine structure in neighboring areas.

Richard Smith, a Wilmington resident, said snow must be removed there within eight hours after the snowfall ends, and snow clearing responsibility is on the owner. He suggested a waiver for elderly and infirm residents.

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

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT BILL NO. 10-20 BE TABLED TO INCORPORATE REVISIONS DISCUSSED BY COUNCIL.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

19. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS**
None

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

A. Council Members:

1. Presentation on Status of Diversity in Newark by Gary Hayman - Temko

1:20

Mr. Temko referenced Council's past discussion of his civic health study in the City, and noted one of the areas that raised a red flag was bridging diversity. He asked Mr. Hayman to provide his perspective on the status of diversity in the City.

Gary Hayman, President of the NAACP Newark Branch, believed the community was not well connected against ethnic and cultural lines. As a result, he felt most of the citizens viewed diversity as a hindrance. Traditionally, most ethnic and cultural groups living in Newark were not involved in making day-to-day community decisions or policies. He said the leadership of the community did not reflect the diversity of the residents, and the City should develop a plan of action to achieve a shared vision of diversity. Further, no government or community could be effective or accountable without a plan to deal with racial equity, leadership development and community engagement. The plan needed to address items such as affordable housing and educational opportunities for all segments of the community through effective problem-solving leadership skills. In addition, the plan must address the promotion of diversity and social change through civic engagement and should encourage more dialogue from the citizens with the City government. All segments of Newark should contribute by having input through public committees and sharing innovative ideas for a better community. In addition, youth must be encouraged to be active and given a voice in policy making decisions. According to Mr. Hayman, the quality of the community's health depended on civic, economic and social issues.

Mr. Temko noted Mr. Hayman touched on several specific issues such as affordable housing and educational opportunities, but regarding civic engagement, he thought this touched on systematic changes the City needed in terms of its culture and approach. He thought there should be more outreach to diverse segments of the population in areas such as the Citizens' Academy, when forming partnerships, and at events such as Community Day. He felt the community would be strengthened from being a pluralistic community where diversity was celebrated and included.

Mr. Funk said he personally developed relationships with the black community through his relationships with the church ministers who provided a great deal of insight into their congregations.

Richard Smith, Vice Chairman of the Democrat Party – City of Wilmington, felt Newark needed diversity classes which he said were important to foster understanding among groups of individuals.

21. **8-B. OTHERS:** None

22. **9. SPECIAL DEPARTMENTAL REPORTS**

A. Special Reports from Manager & Staff:

1:40

1. Resolution No. 10-__: Approving a Project to be Undertaken by the Delaware Municipal Electric Corporation; Authorizing the Execution of a Power Sales Contract Between the City of Newark and the Delaware Municipal Electric Corporation; Authorizing the Refunding By the Delaware Municipal Electric Corporation of Certain Bonds; and Authorizing Other Matters Related Thereto

The resolution presented by Mr. McFarland would authorize the City to be a participant in DEMEC's project to expand the existing Beasley Power Plant in Smyrna, Delaware. The Beasley plant was a gas peaker plant with a nominal capacity of up to 45 megawatts. DEMEC deliberated over the past several years about the feasibility and economics of expanding Beasley by adding another generation unit, and the Board of Directors voted earlier this year to approve the project expansion. It would add a second unit at the station, also gas fired, with a capacity of up to 67 megawatts. The cost of the project would range from \$34-\$36 million, largely dependent upon the price of the equipment, in particular, the turbine. The City had a 47.4% interest in Beasley Unit #1, and interest allocations in the second unit had not yet been determined by DEMEC members. It was likely the City would begin with a 35% interest and then work to a mutual agreement among all the parties as to their participation levels.

Adopting the resolution would approve the City's participation in the project and would also authorize City staff to enter into a power sales agreement to take the power generated by the second unit. The resolution would also permit DEMEC, with the City's consent, to refinance the bonds that financed the initial Unit #1 several years ago. Interest rates were such that DEMEC would save about \$2 million annually in interest costs by refinancing at this time. Mr. McFarland explained the proposal was a follow up to the presentation by DEMEC President Patrick McCullar to Council in May.

Mr. Markham noted the next agenda item (electric rate study), encouraged conservation. If the City's electric demand dropped, he asked whether there would be an impact to the City's interest. Mr. McFarland said there would be no direct correlation, as the whole region was starved for peak capacity and would benefit from the plant's ability to meet peak demand.

Mr. Athey asked how the estimated project cost of \$34 million would be funded. Mr. McFarland explained DEMEC would issue bonds for essentially the full amount of the project cost.

Regarding the capacity surcharge elimination which freed up more money to be invested in additional renewal resources in Delaware, Mr. Athey thought that surcharge was reflected in the City's rates. If there was a reduction in the surcharge, he questioned if the City would reduce rates. Mr. McFarland said this was a generic surcharge, and it was more expensive to buy power on the Delmarva Peninsula because there was not enough capacity to get alternative power supplies. The point Mr. McCullar tried to make was if the surcharge was eliminated, the cost of the power the City was buying today would go down and savings there could be redirected.

Regarding the rate study and the projections that were used going out multi-year, Mr. Pomeroy asked whether that took into account any fiscal impact the plant expansion might have or whether it was a negligible issue. Mr. McFarland said it was largely negligible, because if this project was not done, DEMEC would buy peak power from some other source. Once built, this would be a cheaper source.

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

(RESOLUTION NO. 10-V)

23. 9-A-2. ELECTRIC RATE STUDY – STAFF RECOMMENDATIONS

1:47

Mr. McFarland referred to his memo to Council dated 9/10/10 that documented recommendations regarding the key elements of the electric rate study completed by Black & Veatch which was discussed at Council's Workshop on 9/21/10. Staff's preferred positions on the various rate issues included the following:

- The amount of revenue to be collected under the rates to be established would be \$56 million for the test year, a reduction of 4.7% or \$2.8 million from the current rate level.
- The cost of service for various customer classes (the revenue the City would collect from each class of customers) would be determined such that residential and general service customer rates would remain the same, but that the \$2.8 million overall rate reduction would be allocated amongst the large customers (large commercial, industrial and the University).
- A customer charge should be established for each rate class—meaning a fixed rate would be charged every month regardless of the consumption. For residential customers there would be a \$10 per month fixed customer charge. However, the rate study justified a \$33 customer charge. This movement toward fixed charges would further the City's goal of revenue decoupling.
- The utility should establish seasonal block rates for residential and general service classes. This would include inclining block rates in the summer to promote conservation with a single unitary block in the winter where the goal of achieving conservation was less likely.
- The utility should establish a similar rate design of summer/winter rates with an inclining block structure for the large demand metered customers as well.
- The rate classes should be reconfigured so the University was in a rate class by itself since it was the City's largest utility customer.
- The City should attempt to decouple the University of Delaware's rates from consumption by establishing a fixed charge so that all non-variable costs would be recovered from the University.

Mr. McFarland concluded by saying this was an opportunity to share with Council the direction in which staff was headed and advised a rate recommendation should be provided to Council by November.

Mr. Athey asked if the intent was to start with a \$10 monthly charge and eventually increasing it to the \$33 recommended by the consultants. Mr. McFarland said that would be a policy goal that Council could adopt. Staff wanted to move towards decoupling and believed it should be done incrementally as there could be a rate shock in starting with the \$33 monthly charge, particularly with the low consumption customers.

Mr. Athey liked how the recommendations were structured because it avoided steep changes either way and transitioned into a more equitable system. However, while being optimistic about the proposal, he was still concerned that the City was continuing to rely on electricity. He believed it was time to start backing off from 50% of the City's revenues coming from this utility. Regarding the University, he acknowledged there had been outreach efforts, and there would be more dialogs if Council proceeded with the recommendations. He also suspected that Black and Veatch would be back in a year or so to help restructure things a little bit differently.

The Chair opened the discussion to the public.

Amy Roe, a Newark resident, asked if Mr. McFarland's memo would be made available to the public. Ms. Fogg advised the memo was available on the City's website. Ms. Roe made the following points:

- The City made commitments to renewable energy that she hoped it would keep.
- The rate study presentation assumed the price of electricity would remain stable for the next five years. The Energy Information Administration disagrees with that assumption and she questioned if the study also assumed the City would be able to meet those commitments (Resolution 05-H).
- Would the City be buying its share of renewable energy for the RPS in 2010 and would that change the price of wholesale power because renewable energy was wholesale.
- In June, Governor Markell amended the state's renewable portfolio standard that required equitable participation by municipalities by 2013. She asked if that would change the City's wholesale price of power. She suggested that these two renewable energy commitments should at least be discussed in the rate study.
- She questioned if the City's rates going forward would be affected by the energy efficiency research standard signed by the Governor requiring municipalities to lower their use 15% by 2015.
- How were the budgeted energy based programs budgeted were incorporated into the rate study? For example, in 2010 a conservation advancement program was budgeted for \$45,000. She questioned if the energy assistance program budgeted at \$25,000 for 2010 would be paid for by the electric rate. If so, how did it work into the electric rate study?
- Expressed concern about the seasonal rate proposal and how that pertained to estimated billings since the meters were read only four times a years. If meters were going to be read every month, did the new rate study included the capital costs and the staff costs of having meters read monthly for all residences.
- Supported the idea of decoupling. Would like to see the PPCA solution an accurate naming of what that money was going to as part of the rate study.
 - Supported an inclining block rate.
- Questioned the stakeholder group that was developed by staff as she believed it needed to abide by FOIA, i.e., meetings should be published seven days in advance and open to the public.

David Singleton, University of Delaware Vice President, advised that the University was glad the City had undertaken a cost of service study which provided information they had not had before. The University was concerned the cost of service study indicated they were paying approximately \$2 million more than what could be called their fair share on top of the City's markup on electricity. He also mentioned if the University was a customer of Delmarva Power, they would be paying about \$4.5 million less. The University thought it raised some significant issues of equity and was glad the City was addressing the situation. They looked forward to providing input to the administration and to the Council as they dealt with this issue. He pointed out while the University was considered a tax-exempt entity; they paid about \$19 million a year to the City, the largest piece of which was for electricity. There were other significant amounts

such as the subvention payments, parking meters, water and with their construction program currently gearing up they would be paying about \$1.5 million in building permit fees over the next couple years. The University felt they made a very fair contribution to the City and hoped the City would look at that carefully as electric rates were considered. The University looked forward to being part of that discussion.

Laura Henderson, a Newark resident, agreed with some of Ms. Roe's comments and received clarification on a misunderstanding of there being no incentive to conserve energy.

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

Mr. Temko commented on several issues raised by Ms. Roe. He said the change in cost of power was something people were concerned with but was somewhat outside of this study in the sense that this study was about how the City was splitting up those costs as opposed to what would happen with the cost of power.

In terms of the PPCA name, he believed the City was going to include a name change in the adoption of an electric rate change.

Regarding the Conservation Advancement Program, he advised the program was not started this year because there were some issues with the state program the City tried to latch onto. There was \$45,000 budgeted, and he believed \$20,000 or \$25,000 was transferred to the low income utility payment assistance program because most of the funds delegated for that program were going to be used. With the severe heat this summer, Council wanted to make sure that need was met.

Regarding the RPS credits, he believed Council was waiting to see what was going to happen with the solar program. Mr. McFarland added that the buying of credits was placed on hold pending the outcome of what was decided on solar projects within the City. Ms. Houck was working on an RFQ, and the process will take several weeks.

Mr. Temko asked Mr. McFarland to comment on the meter reading issue raised by Ms. Roe. Mr. McFarland said there was nothing in the rate study that took into account changing the City's meter reading practices. He agreed that it became more important to have accurate estimates because they were actually going to be estimating each month by a third and factoring in what the change will be, making it more difficult. Mr. Athey asked if that would self correct over time because the rate in July one year was going to be the same rate the next July. Mr. McFarland thought it would get better over a number of years.

Mr. Temko asked Mr. Akin to comment on Ms. Roe's comment about the stakeholder group. Mr. Akin advised this group was not a public body as defined under the Freedom of Information Act but was a group formed by staff. It was not a committee designated by City Council. Ms. Roe's communication contended that staff did not have the authority to form a group to study an issue such as this, and he took issue with that statement. Had the Council formed this as a committee charged with the authority to study electric rates, then it would be a committee of Council, and it would be a body covered by the Freedom of Information Act.

Mr. Temko said he was very excited about the rate study and moving in the direction of seasonal rates, inclining block rates, and having more information for making professional decisions about how the electric rates were determined. He supported having multiple blocks and pursuing a process for budget billing and also addressed the issue of electric heat and the fairness and affordability for electric heat customers. He suggested considering to what degree the City

should be subsidizing electric heat customers and what their fair market share was as well.

Mr. Temko questioned with seasonal rates in place whether there would be a cost of service differential between electric and gas heat customers. He was told by Mr. McFarland that the consultants would have to look at that separately. Mr. Temko thought that information would be very useful considering over 10% of the City's residential customers used electric heat. He was also curious if the seasonal rate was expanded whether it would encourage consumption in the winter and discourage consumption in the summer.

Mr. McFarland commented that all-electric customers were encouraged to use more electricity because their rates would be lowered, and the signal being sent was they could use more in the winter. It was important to remember there were cost shifts, so by lowering the cost for all electric heating customers, the costs were shifted onto all the other customers, presumably in the summer months.

Mr. Temko asked if that was something the consultant could look at in terms of the cost of service. Mr. McFarland explained that the City did not have a fixed-price contract with the consultant, and further studies would have an incremental cost. Anytime two groups of customers were compared, it would show the cost of service differentials. Mr. McFarland asked the consultant the additional cost for another study in terms of making a decision about whether there was a market magnitude of difference or if this issue had been taken care of through seasonal rates and was it fair and affordable to the City's customers. Mr. McFarland said to keep in mind through the whole process they do the revenue requirement every time they run the model. The total revenues from all the classes had to come back to that revenue requirement. Any time the cost of service was juggled, costs shifted from one group of customers to another.

Mr. Athey asked if it would be solely within residential classes or within all classes. Mr. McFarland said it would generally be within the residential because they had already allocated all the costs. Mr. Temko added that it would be breaking that group into two groups and then computing the cost of service within that subgroup.

Mr. McFarland interjected that more work would be involved because they would have to generate a new class of customers, go back into the billing records, pull the electric heating customers out, and generate billing frequencies on them as to what their consumption was each month.

Mr. Athey confirmed that he would like to see the data requested by Mr. Temko, but to keep it within residential customers. Mr. McFarland claimed the way they were doing the cost of services would allow them to go outside of residential. Mr. Markham interjected that it was important to define an electric customer.

Mr. Clifton commented on the fact that the meters were read quarterly because of the cost incurred for monthly readings. To make residents become more conscious of their usage and conservation, he thought they needed to be given the proper tools and, in his opinion that did not seem to be a difficult process in today's IT world.

Mr. McFarland said that various alternatives to the existing metering system had been discussed, but there were difficulties with all of them. If residents called in their readings, there would be a need for more customer service reps. There would also be questions about the liability and the validity of the readings phoned in. This system was used now when someone has a problem, but it fell short as a mass solution. Mr. Clifton asked when the City would stop living in the 1950's. McFarland said the issue was funding whether for an automated meter reading system or whether for more meter readers. Mr.

Markham said there were ways to deal with the validity of readings on the IT side.

Mr. Athey thought the issue might become a moot point in the near future with Smart Meters. Mr. McFarland agreed that was the direction to go if the technology stabilized and one system became dominant. However, there was currently a huge cost factor and the question of which technology to latch onto.

Mr. Tuttle added that the City's current practice of quarterly readings mitigated against saving costs by going to Smart Meters with monthly readings. Mr. Athey commented he was not talking so much about the expense but the accuracy.

Mr. Pomeroy pointed out that Carol Houck was working diligently to identify solar sites that were appropriate for putting forth as recommendations for locations, and this should be done sometime in the fall. He felt he was the Council member most philosophically opposed to decoupling, mainly because it ran contrary to natural market forces, but also because decoupling traditionally tended to have a disproportionately negative impact on lower income families. He believed affixing a larger flat rate in perpetuity assumed that was your base cost with the potential for increase there and that there were no other efficiencies to be gained. He thought the big issue in the rate study was when you looked at the numbers, residents were, in theory, underpaying 17%, the University was under 11%, but perhaps most importantly, large commercial customers were overpaying about 23%. He did not think anybody on Council was ready to ask residents to pay 17% higher rates, in fact, they hoped to see a rate decrease. The study showed about 40 customers (P and U customers) in the City contribute close to 60% of the revenue and they were the costumers that were now significantly overpaying for electricity. Mr. McFarland qualified there was no characterization in a study (nor would a consultant ever tell you) that you overpay or underpay. They would simply say this was the cost of service. Mr. Pomeroy continued by saying it appeared as if customers, especially the larger commercial customers were overpaying. As it related to future economic development initiatives, the farther the rates get away from competitiveness in relation to Delmarva, the harder it was going to be to attract and retain the type of businesses that everyone wanted to come to Newark. He thought it was important to keep this in mind because all the other issues related to conservation would be academic if half of the 40 customers decided they could find greener pastures in another area. He did not believe that would happen, but from a standpoint of recognizing the impact this study had on economic development, Council needed to be cognizant of the rates relative to Delmarva for the businesses they were trying to attract to the area.

Mr. Athey said he if was a business owner, the first thing he would look at was property taxes. He would not make a decision to come to Newark based solely on electric rates but instead would look at the whole package.

Mr. Pomeroy said his experience with the Greater Newark Network recognized that the businesses most likely to locate in Newark were major consumers of electricity, and their biggest line item was electricity. They were wet labs, and they run 24-7, thereby they were interested in efficiency, energy efficiency, energy pricing, and the sources of energy, particularly green forms of energy. He pointed out the real benefit of a business coming to Newark was that it took only three months to go through the process to open a business compared to two years through the County. He believed it was important to keep an eye on where rates were set for industrial customers.

Mr. McFarland said the preferred option would still yield a 17% rate reduction for the P class customer which was only 6% off the unbundled cost of service. Mr. Pomeroy added it also assumed there was no reduction in the cost for residents, and he understood there was a great decrease proposed for the University.

Mr. Pomeroy clarified that he may be the only Council member who suggested a plan for no movement towards decoupling, and, from a consumer standpoint, he did not think decoupling was the best way to go.

Mr. Temko explained the reason he was able to support decoupling was because at the same time they were also adopting inclining block rates. This meant that smaller customers would be paying a lower rate, and he hoped that would balance it out for lower income customers to a certain extent.

Mr. McFarland was asked to explain decoupling. He said at the broadest level decoupling made the City indifferent to the consumption levels of the customers. The City would recover all of its fixed costs which were almost all operating costs, margins and essentially the cost of the facilities. All those costs were collected under pure decoupling into a fixed charge, and the customer paid only for the cost of power on a unit basis.

Mr. Athey disagreed with Mr. Pomeroy as he thought the logic was the fact that the City incurred costs to serve a customer whether they had the light switch on or not. Thus, there was logic to recovering those costs through a fixed mechanism.

When an ordinance was presented in November, Mr. Athey questioned whether the proposal would be to adopt rates for five years. Mr. McFarland said this ordinance would be presented with rates to be effective 1/1/11, and those rates would stay in effect until some other action was taken.

Mr. Markham disagreed with the inclining block rates and referred to the workshop where it was stated that more than half the City used less than 500 kilowatts a month. Mr. Markham thought if you set the first rate at 500, that whole group of customers had no incentive to save or be more efficient and automatically got a lower rate because they were below a certain threshold. Mr. McFarland explained in that case, their incentive was the absolute cost of the bill they were paying. There was no rate design mechanism that provided a greater incentive to conserve other than the absolute amount of the rate.

Mr. Markham was not sure that was an incentive. He pointed out that there had not been inclining block rates for the past four years, and there were many quarters during that timeframe where electric use had declined and the City had to adjust the PPCA. Having the higher rates across the board would give everybody incentive to lower their consumption.

Mr. Temko asked Mr. McFarland whether the electric usage was projected to increase in Newark. Mr. McFarland projected slight increases.

There were no further comments.

23. Meeting adjourned at 9:35 p.m.

Patricia M. Fogg, CMC
City Secretary

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