

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**November 8, 2010**

Those present at 7:00 pm:

Presiding: Mayor Vance A. Funk, III  
District 2, Jerry Clifton  
District 3, Doug Tuttle  
District 4, David J. Athey  
District 5, Ezra J. Temko  
District 6, A. Stuart Markham

Absent: District 1, Paul J. Pomeroy

Staff Members: City Manager Kyle Sonnenberg  
City Secretary Patricia Fogg  
City Solicitor Roger Akin  
Community Affairs Officer Dana Johnston  
Finance Director Dennis McFarland  
Planning & Development Director Roy Lopata  
Code Enforcement Supervisor Steve Wilson

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

**2. PRESENTATION OF CERTIFICATES TO CITIZENS ACADEMY PARTICIPANTS**

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**00:33**

Community Affairs Officer Dana Johnston announced the first class of participants who successfully completed the Citizens Academy. The program was an educational experience that gave insight into Newark's history and governmental process, and the goal was to increase civic participation and leadership within the City by residents. The following residents received certificates for their participation:

Paul Bielewicz	Eric Mailman
Deana Burd	Virginia Mailman
Catherine Ciferri	Vickie McCardle
Cathy Davies	Nancy Pedrick
Debbie Dintenfass	Bud Neu
Rose Gallante	Rebbecah Neu
Lynn Julin	Lynn Nickle
Justin Kates	Brent Rhodes

3. MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT ITEM 2-G, APPOINTMENT OF PAUL FAUST, 25 E. MILL STATION DRIVE TO THE BOARD OF ADJUSTMENT, BE ADDED TO THE CONSENT AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Pomeroy.

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

A. Public – None

**5. 1-B. UNIVERSITY**

**1. Administration**

**08:33**

Mr. Armitage introduced two colleagues from the University of Delaware, David W. Singleton, Vice President for Facilities and Auxiliary Services, and Peter Krawchyk, Director of Facilities. They reviewed a PowerPoint presentation about the major projects being undertaken by the University over the next five to seven years. Overall, the projects represented an investment by the University of \$500 million. New projects, additions and renovations reviewed included the Interdisciplinary Science and Engineering Building, East Campus Utility Plant, McKinly Animal Care Facility, Alison Hall, Barnes & Noble Bookstore, Frazer Field Synthetic Turf, Bob Carpenter Center addition, Carpenter Sports Building, East Campus Housing and the Science and Technology Campus.

Mr. Athey questioned whether the University contemplated any improvements to College Avenue based on the activity in that area. According to Mr. Singleton, part of the planning currently underway involved traffic engineers to address that issue. He said at its peak, the Chrysler plant employed about 4,000 people, so there was existing traffic infrastructure with significant capacity. However, as the site develops, he agreed it would be necessary for the University to work closely with the City and DeIDOT on upgrades.

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

There were no comments forthcoming.

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

**43:54**

**Mr. Markham**

- Congratulated Catherine Rooney's for their Downtown Newark Partnership award.
- Rode along with the Newark Police on Halloween Eve which provided an interesting viewpoint from the perspective of the Police Department.
- Recognized the City for converting to electronic paystubs.
- Remembered and recognized Jim Soles, father-in-law of Councilman Paul Pomeroy. He was a good man with a great wit who liked to help all students and advise those who had lost their way and also had a big influence on the political process in the state.

**8. Mr. Athey**

- Commended Mr. Temko for his role in suggesting the Citizen's Academy.
- Thanked Messrs. Lopata, Wilson and Chief Tiernan for assistance with some rental issues.
- Recognized the efforts of Messrs. Emerson and Zaleski for working with the College Park Civic Association while they considered the Adopt-A-Park program for Dickey Park.
- Noted Mr. Funk was appointed by DeIDOT Secretary Carolann Wicks to the Municipal Street Aid Program Committee, and advised he received a similar appointment from Secretary Wicks to a task force on the Transportation Trust Fund.

**9. Mr. Temko**

- Acknowledged area legislators who were elected or re-elected to represent the Newark area.
- Congratulated the graduating members of the Citizen's Academy and hoped the City would continue to look for opportunities to build civic leadership in the community.
- Questioned when the City's 2011 proposed Operating Budget would be available online. Mr. McFarland thought the document had been posted under the Finance Department link on the City's website, but would verify that it was available.
- Regarding the Electric Rate Study, asked if the consultant had provided any new information about the electric heat component. Mr. McFarland advised he sent that information to Mr. Temko via email. Mr. Temko was also interested in reviewing information from the consultant on inclining block rates for Council's final discussion of the study.

**10. Mr. Funk**

- Met Jim Soles when he first started teaching at the University of Delaware and said he was an incredible, special person who would be sorely missed.

**11. 2. APPROVAL OF CONSENT AGENDA**

- 50:57**
- A. Approval of Regular Council Meeting Minutes – October 25, 2010
  - B. Approval of Special Council Meeting Minutes – October 25, 2010
  - C. Receipt of Alderman's Report – November 4, 2010
  - D. Setting Date for Public Hearing of 2011 General Operating Budget for November 22, 2010
  - E. Receipt of Quarterly Pension Report
  - F. Receipt of Real Estate Tax Assessment Quarterly Supplemental Roll
  - G. Appointment of Paul Faust, 25 E. Mill Station Drive, to the Board of Adjustment

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE CONSENT AGENDA BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Pomeroy.

**12. 3. ITEMS NOT FINISHED AT PREVIOUS MEETING**

- A. **Bill 10-09** – An Ordinance Amending Chapter 7, Building, Code of the City of Newark, Delaware, By Establishing a Newark LEED Based Energy Conservation Program (***Tabled 6/14/10 – Revised 10/7/10***)
  1. Authorization to Execute Licensing Agreement with U.S. Green Building Council, Inc.

**51:47**

Ms. Fogg read Bill 10-09 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT BILL NO. 10-09 BE LIFTED FROM THE TABLE.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.  
Absent – Pomeroy.

Mr. Lopata said when the bill was previously discussed in June, the City was on the verge of adopting the first set of required energy conservation measures based on the LEED program. This was the culmination of many years of work begun by the Conservation Advisory Commission, by Steve Dentel and by members of the Code Enforcement Division who had put together a set of standards making energy conservation measures mandatory beyond current requirements in the ICC Code.

During the discussion in June, issues were raised about copyright provisions since the City was adopting LEED requirements into the Code. The United States Green Building Council, owner of the LEED program, was contacted. They were pleased by what the City was doing and said the copyright question had never previously been raised. They then produced a licensing agreement which was a companion piece to the proposed bill for the City to adopt in order to formalize the relationship with the Green Building Council.

Mr. Lopata noted that several areas of flexibility were added to provide additional LEED points, primarily for projects in the downtown area.

The Chair opened the discussion to the public.

Steve Dentel, Conservation Advisory Commission member and former Chair, previously made presentations and provided details about the conservation advantages of the measures. He thanked Mr. Lopata for the time he spent working through all the details. He felt this was a very positive step for the City and would set an example that would be emulated elsewhere. Mr. Dentel pointed out the standards were currently limited to buildings of 20,000 square feet or larger and hoped going forward that the standards could be applied to smaller construction projects.

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

Mr. Athey referenced past comments made by architect Ralph Olivier where he stated since the City adopted the International Building Code, these requirements would be incorporated there within a year or two and therefore the City could do nothing. Mr. Lopata said while the ICC had strengthened its regulations over time, this program went well beyond those regulations.

Regarding the licensing agreement, Mr. Athey asked if the City could make a change to Attachment A. Mr. Lopata discussed this question at length with the Chief Legal Counsel of the USGBC and had confirmation that the City could make modifications, provided it was done in tandem with what LEED proposed.

Mr. Markham questioned if the City needed to have a LEED certified engineer on board, and Mr. Lopata responded that was not necessary. Further, he verified that no builders had participated in the voluntary LEED-based checklist experiment. Mr. Markham commented there was some question at the last meeting regarding the cost to developers. Mr. Lopata replied the jury was still out on that point, and as Mr. Dentel noted, people in the environmental field claimed if you build to LEED standards, you will eventually recoup your investment. Others in the field say that was not the case. Mr. Lopata noted the standards the City adopted were not full LEED. Rather, the City took what was felt to be tough and rigorous while still being fair, and staff would be back to CAC and Council if they found any items that were onerous.

Mr. Temko recognized the Conservation Advisory Commission and Mr. Lopata for their hard work. If the LEED program was adopted, he thought the

City should revisit it in the future to assess successes and failures and discuss the point system and whether smaller projects should be included.

MOTION BY MR. CLIFTON, SECONDED BY MR. TEMKO: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 10-09. **(MOTION FROM 6/14/10 COUNCIL MEETING)**

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**(ORDINANCE NO. 10-26)**

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO APPROVE THE LICENSING AGREEMENT BETWEEN THE U.S. GREEN BUILDING COUNCIL, INC. AND THE CITY TO INCORPORATE LEED RATING SYSTEM AND REFERENCE GUIDES IN THE MUNICIPAL CODE.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

- 13. **4. FINANCIAL STATEMENT** – None
- 14. **5. RECOMMENDATIONS ON CONTRACTS & BIDS** – None
- 15. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING** – None
- 16. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS**
  - A. Request of Janet E. Jacobson for a Special Use Permit for a Proposed Customary Home Occupation in a Residential Dwelling in Order to Sell Home Baked Pretzels Wholesale at 22 Minquil Drive in Silverbrook, Newark, Delaware

**1:03**

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

Ms. Jacobson will bake pretzels at her home in Silverbrook and planned to sell them wholesale. She sent letters to her neighbors informing them of the proposed business, and Ms Fogg reported the neighbors within 300 feet were notified by the City of the public hearing.

Mr. Clifton asked if there would be traffic generated to distribute the pretzels, and Ms. Jacobson said she would make deliveries from her personal vehicle once a day.

The Chair opened the discussion to the public.

Allan Crowe, a resident of Minquil Drive, felt there would be no negative impact to the neighborhood from the business and thus supported the request.

Charles Scott, a Minquil Drive resident, was also in favor of the request.

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Pomeroy.

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

A. Council Members:

1. Resolution No. 10-

**1:09** In Appreciation of Representative Michael N. 'Mike' Castle

The following resolution was presented.

**IN APPRECIATION OF REPRESENTATIVE  
MICHAEL N. 'MIKE' CASTLE**

WHEREAS, the Honorable Mike Castle has served the citizens of the State of Delaware since 1967 when he was first elected to the Delaware State House of Representatives, then elected as a Delaware State Senator in 1969, became Lieutenant Governor in 1981, elected as Governor in 1985, and has served as Delaware's Congressman in the United States House of Representatives since 1993; and

WHEREAS, Representative Castle, as Governor and Congressman. provided funding assistance for improving Newark's highway system, and our parks and bikeways, and our public transit service; and

WHEREAS, most recently, Representative Castle played a major role in providing the funding for the proposed Newark Transportation Center; and

WHEREAS, Representative Castle has been a major supporter of Municipal Street Aid which has benefitted the citizens of the City of Newark for many years; and

WHEREAS, Representative Castle will be remembered not only for the important legislation he supported, but for always being there for his constituents, and for his participation at Newark's Community Day, walking in Newark's Memorial Day Parade, and frightening Newarkers as Frankenstein in Newark's annual Halloween parade;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Newark wishes to commend Representative Mike Castle for his effective leadership, his dedication to the State of Delaware and its citizens, his true professionalism, and extend its heartfelt thanks and appreciation for his service to the State of Delaware.

RESOLVED at a Regularly Scheduled Meeting on November 8, 2010.

Mr. Funk said that Mike Castle was an incredible friend of the City and would definitely be missed from his service on the Delaware legislature.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT RESOLUTION 10-\_\_\_, IN APPRECIATION OF REPRESENTATIVE MICHAEL N. 'MIKE' CASTLE, BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Pomeroy.

**(RESOLUTION NO. 10-X)**

18. **8-B. OTHERS:**

1. WILMAPCO Presentation re Regional Transportation Plan

**1:10**

Heather Dunigan, Principle Planner for WILMAPCO, distributed a draft of WILMAPCO's twenty year, long-range regional transportation improvement plan. The plan was updated every four years and contained a specific list of projects that could realistically be funded within the next twenty years. Approval of the plan by WILMAPCO Council was scheduled for January. For the New Castle County portion of the plan, WILMAPCO was projecting that beyond 2020, they would have no funding for capital projects. Newark projects included Elkton Road from Casho Mill Road to Delaware Avenue, a safety project for South College Avenue at Old Chestnut Road, minor improvements along Possum Park Road from Possum Hollow to Old Possum Park and the MARC train extension to Elkton in service by 2020 (which WILMAPCO thought would be more realistic and a better project with the extension to Newark included.)

Ms. Dunigan issued an invitation to the public forum to discuss the transportation plan on November 17 at 4:00 p.m. at the Embassy Suites hotel. DelDOT will be present to discuss their statewide transportation plan as would the Office of State Planning to discuss the updated growth area. She also announced the Newark Transportation Plan Public Workshop on November 16 at 7:00 p.m. at WILMAPCO.

- 19. 9. SPECIAL DEPARTMENTAL REPORTS**  
**A.** Special Reports from Manager & Staff: None

- 20. Meeting adjourned at 8:12 p.m.**

Patricia M. Fogg, CMC  
City Secretary

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