

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**November 22, 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  
Finance Director Dennis McFarland  
Planning & Development Director Roy Lopata  
Planning & Development Planner Mike Fortner

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT ITEM 8-A-1, RESOLUTION 10-\_\_: IN MEMORIAM ADA LEIGH SOLES AND JAMES SOLES, BE MOVED TO ITEM #3.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

A. Council Members:

1. Resolution No. 10-

**00:45**

In Memoriam Ada Leigh Soles and James Soles

The resolution unanimously endorsed by Council was read by Mr. Clifton and presented to Nancy Beth Garrett and Catherine Pomeroy, daughters of Ada Leigh and James Soles.

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

4. **PUBLIC HEARING OF 2011 GENERAL OPERATING BUDGET**

**04:56**

Mr. Sonnenberg reviewed a PowerPoint presentation for the 2011 Operating Budget. He reported the City's financial goals were to maintain the credit rating, to have sufficient cash reserves, utility rate predictability in order to reduce broad swings in the utility rates and to exercise strong cost management while maintaining infrastructure and service levels. Mr. Sonnenberg offered the following comments during his presentation.

Utility revenues were relatively stable. The City was seeing the second half of the property tax increase from last year hit in 2011. Realty transfer taxes and various other taxes, fees and fines indicated signs of an increase. Permits, park fees and refuse collection were down for a variety of reasons. Parking was

up significantly as a result of increased days and hours of operations. Investment income showed a decline based on low interest rates and low cash reserves while subventions showed a slight increase which was a reflection of the University's new bookstore.

The most pertinent aspect in the breakdown in revenue streams was the large utility contribution made to the budget. With one-third of the City's assessed value represented in non-taxable property, Mr. Sonnenberg thought it was fortunate to have the utility systems generate revenue for the overall operation of the City.

In the different cost categories, there were continuing increases in pension fund costs, post retirement healthcare and healthcare costs in the personnel service areas.

There was little to no change in Materials and Supplies. Contractual Services were up slightly due to the Community Development Block Grant Program.

In the capital budget there were significant expenditures to maintain infrastructure in the utility funds including the substation expense and the Electric fund, expenses related to impoundment on the White Clay Creek and the raceway in the Water fund. The Public Works general fund was primarily for the street maintenance program where a significant increase was indicated for maintenance to avoid further escalating costs.

Among the funding sources, some reserves have been used, there was an equipment replacement fund set aside, and grants were received for some of these costs. The City did not have any bond issues that were done in recent years to fund any of the capital, and none were proposed into the future.

Mr. Sonnenberg reported one change proposed in the budget which involved a federal grant to fund two vacant police officer positions. The grant funding could only be used to fund new positions, and he proposed using it to increase staffing from 66 officers to 68 officers which matched the level approved in the 2009 budget. Two positions were cut in the 2010 budget, and this would restore those positions using federal funding. The federal funding will last for three years, and the City will then be obligated to fund the positions.

Mr. Athey asked if this was a permanent commitment to increase the work force by two as he was opposed to staff increases in any department. Mr. Sonnenberg said the City was not committing to always having 68 filled positions but was committing through the four year period covered by the grant process. The reason he was in favor of this was based on the very difficult year for off-campus issues, and he proposed that any staff additions be put into foot patrols or off-campus patrols. Mr. Athey commended Messrs. Sonnenberg and McFarland for a great job on putting together the budget and meeting Council's challenge to have a zero tax or fee increase.

Mr. Clifton clarified that in the 2009 budget, the City increased the staffing to 68, albeit not filled. Thus the budgeted line in the Police Department was 68, not 66. Mr. Sonnenberg said in the current budget it was 66.

Mr. Pomeroy said the summary estimated cash reserves by year end to be \$14.7 million, and he asked how that coincided with the \$17.7 cash balance in the October financial statement. Mr. McFarland explained the cash reserves would be appreciably higher (by approximately \$3 million) than the \$14.7 million that was forecast in July. Mr. Pomeroy questioned the predicted increase on the transfer taxes. Mr. McFarland said this year's budget was \$800,000 which was tracking a little bit higher, and there was optimism that at some point the housing market had to turn around, hopefully in time to affect the 2011 revenues. Mr. Pomeroy asked for an explanation of the increase in contractual services with the

largest percentage being credit card fees and utility operations. Mr. McFarland reported anytime a customer made credit card payments to the City, the City paid a processing fee, and the increase was based on the expectation of more credit card payments.

Mr. Tuttle understood, the affect of the amendment for the additional police officers on the bottom line would be to zero out the surplus for the year which Mr. Sonnenberg confirmed.

Mr. Funk commented that he did not understand why long-term service awards were being continued when there was a freeze on wages. Mr. Sonnenberg noted the awards were a contractual obligation of the union agreement. Mr. Funk added that management employees were not in a union.

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

Mr. Temko expressed his appreciation for the inclusion of the 2011 goals by department where there were interesting objectives such as having a strategic Information Technology plan, the ability to pay parking tickets on line and the possibility of branding for the entire City.

Mr. Clifton offered his congratulations to Messrs. Sonnenberg and McFarland and to the staff for a tremendous job in providing a budget neutral year.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO ADOPT THE 2011 GENERAL OPERATING BUDGET AS AMENDED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

A. Public – There were no comments forthcoming.

**6. 1-B. UNIVERSITY**

1. Administration

**28:09**

Mr. Clifton reported he was questioned by a student about why students were forced out of their dormitories over heavy holiday travel periods. Mr. Armitage will pass the concern along to the Vice President of Student Life.

**7. 1-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

**8. 1-C. COUNCIL MEMBERS**

**31:55**

**Mr. Markham**

- Recognized veterans for their service to the country.
- Announced the Winterfest event on Friday, December 3.

**9. Mr. Athey**

- Wished everyone a Happy Thanksgiving and announced the City's Thanksgiving breakfast at the George Wilson Center.

**10. Mr. Temko**

MOTION BY MR. TEMKO, SECONDED BY MR. POMEROY: TO ALLOW EXCESS FUNDS FROM THE 2010 CONSERVATION ADVANCEMENT PROGRAM TO BE USED FOR THE ENERGY ASSISTANCE PROGRAM.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**11. Mr. Pomeroy**

- Extended his heartfelt thanks to Mayor, Council, staff and the community for their support to his family during the loss of Ada Leigh and Jim Soles.
- The next public forum for the Greater Newark Network will be 12/6 at 7:00 p.m. at Newark High School.
- Commended Messrs. Sonnenberg, McFarland and staff for their hard work on the budget during a very challenging year. Mr. Athey concurred and felt staff should be recognized for acting as a team while working with no pay increases for some time. Mr. Funk said everyone should be proud of the City's success in helping Newark to become such a desirable location. Mr. Markham was pleased the City was able to add to its reserves during a tough budget year. Mr. Clifton agreed with Mr. Funk about the vibrancy of the downtown area but pointed out the importance of continuing the dynamic in other areas of the City. Mr. Pomeroy said the City should strive to foster redevelopment projects in other areas of Newark.

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

- 40:37**
- A.** Approval of Regular Council Meeting Minutes – November 8, 2010
  - B.** Receipt of Alderman's Report –November 17, 2010
  - C.** Cancellation of December 27, 2010 Regular Council Meeting
  - D.** Appointment of Robert Detwiler, 77 Madison Drive, as Representative from Newark Housing Authority to Community Development/Revenue Sharing Committee

Ms. Fogg read the Consent Agenda in its entirety.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: 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**

**14. 4. FINANCIAL STATEMENT**

**41:20**

Mr. McFarland presented the October 2010 Financial Report. For the first ten months, the City was approximately \$2.4 million over budget, a continuation of the positive trends that occurred during the past five to six months.

Governmental Funds were about \$1.8 million over budget, a combination of higher revenues and lower expenses. There were slightly higher revenues across all categories with transfer tax revenues \$184,000 over budget, parking meter revenues \$187,000 over budget, permit revenues \$262,000 over budget and fine revenues \$162,000 over budget. The operating expenses were about

\$800,000, and some of that was timing with the Delaware Solid Waste Authority. At a minimum, Mr. McFarland said expenses would come in at budget or perhaps a little under.

The Enterprise Funds were about \$564,000 over budget. Electric was a little over budget at about \$100,000, with sales volumes higher due to the very warm weather. Margins in the Water Fund were a little below budget from timing differences for some of the larger customers, so the margins should come closer to budget. Sewer margins were about \$120,000 over budget, and the Parking Fund was \$236,000 over budget due to expanded hours and increased rates. The Enterprise Fund was tracking very closely to budgeted expenditures.

At the end of October the cash balance was \$17.7 million, an increase of over \$5 million from the beginning of the year.

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THE OCTOBER 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** – None

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

A. Request of Santa Fe Grill Restaurant, 190 East Main Street, to Amend the Special Use Permit Granted on April 24, 2006, by Modifying the Existing Limitation on the Sale of Alcoholic Beverages to Permit the Sale of Alcoholic Beverages Until 1:00 am Daily

44:45

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

Mr. Sisk represented Javier Acuna, owner of the Santa Fe Grille Restaurant. The approved hours for serving alcohol under the 2006 Special Use Permit were 10:00 p.m. on weeknights and 11:00 p.m. on weekends. In order to be more competitive with similar businesses downtown, the applicant requested to change the serving hours to 1:00 a.m. daily. Mr. Acuna would continue to operate the business as a restaurant, not as a tavern or bar, and he would still be required to meet the ratios imposed by the Alcohol Beverage Control Commission by way of sale of food vs. sale of alcohol of 60/40. Mr. Sisk reported one ABCC violation in 2007 where the server failed to check the ID and was cited.

Mr. Acuna pointed out the need for businesses to adapt and change to be competitive in the market.

Mr. Athey asked if there was any intention for renovations to the bar area, and Mr. Acuna said there was no plan to make any changes to the service bar.

Mr. Clifton questioned what safeguards would be put in place to maintain order during the late night hours at the restaurant. Mr. Acuna said they have experience with managing crowds in Wilmington and pointed out that he did not anticipate problems at Santa Fe with its atmosphere as a sit-down restaurant

The Chair opened the discussion to the public.

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

Mr. Temko commented that Santa Fe was a wonderful asset to the City, and he felt the City should do all they could to help support such businesses.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

**A. Council Members:**

1. Resolution No. 10-  
In Memoriam Ada Leigh Soles and James Soles

**(SEE ITEM #3)**

**19. 8-B. OTHERS:**

1. Recommendation from Community Development/Revenue Sharing Advisory Committee to Amend the 36<sup>th</sup> Year CDBG Budget

**1:01**

Mr. Fortner explained this was an addendum to the Community Development Block Grant for the 36<sup>th</sup> fiscal year starting July 1, 2010 through June 30, 2011 based on more than anticipated program income received from loan repayments mostly through the home improvement program. The total of \$69,498 was the amount recommended for reallocation by the Committee and was detailed on page 2 of Mr. Fortner's 11/12/10 memo.

There were no comments from the public.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE RECOMMENDATION TO AMEND THE 36<sup>TH</sup> YEAR BUDGET BE APPROVED AS RECOMMENDED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**20. 8-B-2. RECOMMENDATION FROM COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE – PROPOSED 37<sup>TH</sup> YEAR (JULY 1, 2011 – JUNE 30, 2012 COMMUNITY DEVELOPMENT BLOCK GRANT AND 2011 (JANUARY 1, 2011 – DECEMBER 31, 2011) REVENUE SHARING PROGRAMS**

**1:03**

Mr. Fortner explained the budget was calculated at \$280,000, and the amounts were recommended for Community Development Block Grant funding. The public services group was capped at \$42,000, or 15% of the total budget. The non-public services budget of \$238,000 was mostly rehab or capital programs.

Attachment 3, the contingency plan, was less than \$15,000 allocated to home improvement.

Attachment 4, the Revenue Sharing Program, had a budget of \$60,050 for local nonprofits and organizations that provided services to benefit Newark residents.

Attachment 6, the Parks & Recreation Department Fee Assistance Program, was the one program not funded as it had adequate surplus funding carried forward.

Mr. Markham noted the Welfare Committee was getting less funding than requested. Mr. Fortner said they were allocated \$14,000, and the majority of their funding went to emergency assistance with utility billing. There were now other programs created to help with that type of assistance such as the Empowerment Center.

Mr. Athey discussed attendance issues with some Committee members, and Mr. Fortner reported he would be proposing some reorganization of the Committee for next year.

There were no comments from the public.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE'S 37<sup>TH</sup> YEAR COMMUNITY DEVELOPMENT BLOCK GRANT AND 2011 REVENUE SHARING PROGRAMS BE APPROVED AS RECOMMENDED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

21. **9. SPECIAL DEPARTMENTAL REPORTS**
  - A. Special Reports from Manager & Staff: None
22. **Meeting adjourned at 8:08 p.m.**

Patricia M. Fogg, CMC  
City Secretary

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