

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**January 10, 2011**

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  
Interim City Solicitor Bruce Herron  
Assistant to the City Manager Carol Houck  
Assistant to the City Manager Charlie Zusag  
Finance Director Dennis McFarland  
Planning & Development Director Roy Lopata  
Assistant P&D Director Maureen Feeney Roser  
Public Works Director Rich Lapointe

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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. ATHEY, SECONDED BY MR. CLIFTON: THAT ITEM 2-C, APPOINTMENT OF HOWARD SMITH TO BOARD OF ADJUSTMENT, BE ADDED TO THE CONSENT AGENDA.

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

**01:03**

Mr. Armitage thanked the fans from Delaware who attended the UD national championship football game in Texas.

Mr. Armitage referenced a UDaily article regarding a cooperative effort between the City and a UD graduate student who was examining ways to make trash collection in the City more efficient.

Regarding the December Council presentation by Roberta Gealt on alcohol abuse in the City, Mr. Armitage said the Director of the Wellspring program would present a follow up at a future Council meeting to discuss plans for trying to curb alcohol abuse in the City.

Mr. Armitage reported there would be a community forum from 7:00-8:30 p.m. on 1/12/11 at Clayton Hall to update area residents on progress at the University of Delaware's Science and Technology Campus (former Chrysler site.)

5. **1-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

6. **1-C. COUNCIL MEMBERS**

**02:43**

**Mr. Tuttle**

- Advised DelDOT announced a public workshop on 1/31/11 between 4:00-7:00 p.m. at McVey Elementary detailing plans to change the intersection at Rt. 896 and West Chestnut Hill Road to permit left turns.

7. **Mr. Markham**

- Thanked Public Works for looking at snow removal efforts in District 6 where some adjustments were made that he hoped would solve snow removal issues in his district.
- Expressed appreciation to the Police and Building Departments for helping with the dumpster issue at the Shoppes at Louviers.
- Noted that elections for County Council President were scheduled for 1/13/11 and encouraged everyone to get out to vote.
- Reported that Restaurant Week would be held 1/24 – 1/30.

8. **Mr. Athey**

- Welcomed Bruce Herron, who was recently appointed as Interim City Solicitor.
- Commended the Public Works Department for a good job on snow removal.
- Referenced the recent shooting tragedy in Arizona and the threat to those who work in public service. He requested an update from Mr. Sonnenberg on a security study performed by the Newark Police Department at the Municipal Building as a result of another public shooting incident. Although he recognized that security was time consuming and costly, he proposed that Mr. Sonnenberg explores building security and report back to Council with recommendations for their consideration.

9. **Mr. Pomeroy**

- Applauded the University of Delaware football team for a great season.
- Thanked the Police Department for all they have been dealing with lately.
- Congratulated Public Works for an excellent job with snow removal.
- Conveyed appreciation to Mr. Sonnenberg and Staff for prompt response on several recent issues.

10. **Mr. Funk**

- Thanked Mr. Lopata and Ms. Fogg for going to Texas to support the University of Delaware football team.

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

**11:45**

- A. Approval of Regular Council Meeting Minutes – December 13, 2010

- B. Receipt of Alderman's Report –December 20, 2010
- C. Appointment of Howard Smith to Board of Adjustment

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.

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

13. **4. FINANCIAL STATEMENT**

12:39

Mr. McFarland reviewed the November 2010 Financial Report which showed results almost \$2.8 million ahead of budget with positive variances in all the relevant categories.

The Governmental Funds were \$2 million ahead of budget. Revenues were about \$1 million over budget, and there were positive variances in almost every revenue category. Transfer taxes were \$151,000 over budget, parking meter revenues were \$214,000 over budget, permit revenues were \$220,000 over budget and fine revenues were \$236,000 over budget.

Mr. Funk questioned the real estate taxes which Mr. McFarland said were seasonalized. Typically there were a lot of transfers at the end of the year, so on a seasonalized budget basis, figures were ahead of budget for November. Also in December transfer revenues would be realized for the closing on the former Rittenhouse Dodge property.

The Expense side was about \$1 million under budget with a large positive variance in Public Works and, to a lesser extent, in the Police Department. Permit revenues were expected to come in substantially higher in December because the University paid the building permit of \$670,000 on their Science and Engineering Building.

Similarly, the Enterprise funds came in above budget by about \$700,000. Electric margins through November were about \$370,000 better than budget ending the year with a positive variance of about \$450,000 due largely to summer weather and the PPCA adjustment being done early enough to get back to budget. There will be an issue to address in terms of the over-collection on the PPCA for the calendar year.

The Water fund came in about \$240,000 over budget, while Sewer margins through November were about \$200,000 under budget. This was expected to even out by the time all year-end adjustments were made.

The Parking fund was \$260,000 over budget due to fee increases within the lots.

The cash position was about \$18.4 million at the end of November which was a substantial improvement of about \$6 million from the beginning of the year. According to Mr. McFarland, 2010 was shaping up as a solid year from a financial perspective.

Mr. Pomeroy complimented the work of City staff in achieving the positive numbers, especially in terms of the cash position.

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THE NOVEMBER 2010 FINANCIAL REPORT BE RECEIVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**14. 5. RECOMMENDATIONS ON CONTRACTS & BIDS**

**A. Recommendation to Waive Bidding and Purchase Police Department Radios from a State of Delaware Awarded Contract**

**18:50**

Ms. Houck reviewed her memo of 12/10/10 wherein it was recommended to waive the bid requirement to authorize the purchase of portable radios through a State of Delaware contract. The handheld radios were in use for quite some time and were experiencing issues including hard to locate parts. Approximately 50% of the radios would be replaced at this time, and the additional replacements would come later in the year. Funds were available from the 2011 Capital Project.

It was therefore recommended to waive the bidding requirement purchase 30 portable radios at a total cost of \$97,725.60 from State Contract No. DTI-04-008.

Mr. Markham remembered that problems had been experienced in the past with the 800 MHz system and asked if the issues were resolved. Ms. Houck said they were resolved, and Mr. Clifton confirmed in a discussion with Captain Potts that the problems occurred because of the placement of the towers.

MOTION BY MR. TUTTLE, SECONDED BY MR. TEMKO: THAT THE BIDDING REQUIREMENT BE WAIVED AND THE PURCHASE OF 30 PORTABLE RADIOS BE AUTHORIZED FROM STATE OF DELAWARE CONTRACT NO. DTI-04-0089 FOR A TOTAL AMOUNT OF \$97,725.60.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**15. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING –  
None**

**16. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS –  
None**

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

**A. Council Members:**

1. Resolution No. 11-\_\_: Support of the Downtown Newark Partnership Entry Into the Great American Main Street Awards Competition

**21:32**

Ms. Roser reported that the Downtown Newark Partnership applied to be a Great American Main Street and was selected as one of the ten semi-finalists. This would be the highest honor for a revitalization organization on a national level. She requested Council to support this effort with a resolution as part of the semi-finalist application due on February 10. Notification of the selection was expected prior to the national conference in May.

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

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: 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. 11-A)**

**18. 8-A-2. DISCUSSION RE DOWNTOWN RECYCLING**

**22:55**

Mr. Sonnenberg explained the downtown recycling pilot program had been underway since May. The findings were contamination at unacceptable levels in the recycling cans. Initial adjustments were made to improve the contamination, but even with the adjustments, the average contamination level was 20% which exceeded the acceptable level for the Delaware Solid Waste Authority. Consequently, Mr. Sonnenberg did not recommend continuing the pilot program or implementing it on a full-scale basis. In addition, even if the contamination issue was resolved, the financial analysis showed the amount saved would be a very small fraction of the cost of operating the program.

Mr. Temko suggested engaging community groups such as the Sierra Club or Friends of the Environment at UD to help with raising public awareness and to outreach to other communities with successful recycling downtown.

Mr. Funk did not want to give up on downtown recycling because it was so symbolic of what the City should be doing.

Mr. Clifton questioned the estimated operating cost of \$25,000 which seemed an astronomical cost in his opinion. According to Mr. Lapointe it included overtime which represented about 80% of the total cost and reflected the department's reduction in employees and subsequent revamping of the collection process and the addition of programs such as Green Wednesdays. It was reiterated that the \$25,000 would be for a full recycling program downtown.

Regarding the contamination, Mr. Temko said people may be unfamiliar with what could be recycled.

Mr. Markham observed mostly paper plates in the three recycling cans and asked if they were permitted. Mr. Lapointe affirmed paper plates were permitted if they contained no food or grease. Mr. Markham would like to find a way to continue recycling downtown and encouraged finding a way to make it work.

Mr. Sonnenberg pointed out it would not be economical to do this type of program downtown and reminded Council they had urged Staff to be more attuned to financial realities. Therefore, he recommended stopping the pilot program on that basis, regardless of the contamination levels.

Mr. Tuttle agreed it did not make sense to continue this pilot program because it was not working and was not economical but felt the City should continue looking for success stories to find out what worked. He suggested recycling bottles and cans only.

Mr. Athey agreed if the program cost was \$25,000, it did not make sense to do it, but he would not want to abandon the idea until they researched other areas where recycling was successful.

The Chair opened the discussion to public comment.

Catherine Ciferni, a Newark resident, had been observing the recycling effort since it began. Early on in the program it appeared the cans were not easily distinguishable from trash cans. Although they were retrofitted with a donut hole, they were still the same color and relative size to the trash cans. Looking at recycling models around the nation, recycling containers were clearly distinguishable from trash cans. At an earlier meeting it was publicly noted that there was cross contamination, and from that time she was not sure there was a great shift to change how items were being collected. Further, when you try to change the culture, she believed it was imperative to advertise the change, and she was not sure if there was any partnering with the DNP. When she noticed this was an issue, she approached the CAC on three separate occasions for their support. She went online looking for financial support to market a campaign and found the Community Involvement Advisory Committee, a division of DNREC, had grant funding available which she said Newark would qualify for had they written a grant to help promote the pilot recycling program downtown. She did not feel a concerted effort was made to make it worth the City's while. In the future she suggested the City make efforts to try to change a culture for a higher yield on their return.

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

Mr. Sonnenberg said the City would have to collect 55 pounds per container per pickup for the economics to work, and that goal could not be reached. Even if the contamination was eliminated, it was highly unlikely that enough recyclables would be generated to offset the cost of the program.

Mr. Clifton had a level of discomfort that the \$25,000 was not an actual depiction of the true cost of the program. He felt it was socially responsible for the City to recycle downtown and pointed out in operating a government, not everything could be profit generating. He encouraged continuing the program.

Mr. Temko urged Staff to search for other sources of funding to expand the program.

Mr. Athey reiterated looking into ways of refining the program.

Mr. Sonnenberg said he would look at other college communities where similar program were successful and report back to Council with his findings.

Mr. Markham suggested including the UD who was recycling on campus.

Mr. Pomeroy thought the trial program was helpful in that it provided information about the challenges, effecting behavior change, the need for a citywide public outreach program, educating people regarding the contamination issue and the need to find other successful models in order to do the program right and make it successful.

Mr. Clifton asked what standards Mr. Sonnenberg thought had to be met to have a successful program. Mr. Sonnenberg was looking at the financial picture, and he suggested there were better ways to spend this amount of money in other areas. He said the City was mandated by the State to provide recycling containers to all residents, and the City might be more successful at recycling more materials if we focused on educating those residents who have chosen not to participate rather than pursuing this particular program.

Mr. Temko said visitors expected to see recycling downtown, and they judge towns for the better or for the worse when they do not see recycling in a downtown.

The consensus of Council was to keep the pilot program in effect and to research other college towns that have successful recycling programs in their

downtown. Then Council could revisit the program to find what changes could be implemented to make the recycling program successful.

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

1. Request from University of Delaware to Amend City Code to Allow Food Carts Adjacent to Campus

**1:04**

Mr. Armitage referenced the letter from Margot Hsu Carroll of the University of Delaware requesting the City to allow two food carts to be placed on the sidewalk adjacent to campus (on Amstel Avenue) that would not be competing with the food served at restaurants on Main Street. The University was trying to diversify the foods they offered to the very large international student body. The current ordinance permitted such vending on Main Street, and they hoped the City would amend their current ordinance to allow this vending in the proposed location.

Mr. Temko asked what kinds of food were not represented on Main Street that the carts would be able to service. Mr. Armitage could not recall the exact food but referred to the University of Penn campus where there were numerous vendors with carts.

Mr. Markham asked why the need for food carts because there was food in Smith Hall at the same location. Mr. Armitage advised that they went to Aramark (food supplier on campus) and asked if they would provide this additional diversity of food. Aramark said no and claimed the food carts would not violate their contract with the University. Mr. Markham asked why the University would not just give them space on campus, and Mr. Armitage stated that space on campus was very difficult to find.

Mr. Tuttle questioned why the carts were not on campus, thereby eliminating the need to have the City involved. Mr. Armitage said the other practical difficulty was that vendors who were on campus needed \$6 million in liability insurance which was a detriment to finding willing vendors.

Mr. Pomeroy asked if the City would be setting any sort of precedent where they would need to be aware of any carryover beyond this and asked Mr. Lopata if there was any feedback on this topic.

Mr. Lopata said there had been no feedback because nothing was proposed or finalized at this point. He believed the City could develop an ordinance that avoided competition with downtown businesses and met the needs for the University's interest. He said any ordinance drafted will be reviewed by Mr. Herron to be sure it does not conflict with appropriate legal requirements. Mr. Athey thought the ordinance would also have to address the number of carts. Mr. Clifton asked if the size of the carts and the width of the sidewalks would have to follow current regulations to which Mr. Lopata said those issues would be addressed.

There were no objections to the Planning Department moving forward to drafting an ordinance.

The Chair opened the discussion to the public.

David Robertson, a Newark resident, had difficulty hearing the discussion about why the University did not want the carts on University property. He was advised it was due to the University's requirement for \$6 million of liability insurance. While Mr. Robertson did not object in principle to a variety of foods being available to students, he thought there was a problem about establishing the kinds of foods that would be permitted and did not now appear on Main Street. He thought this could lead to pre-empting some interesting developments of new kinds of restaurants on Main Street, and he did not want that to happen. He thought Main Street should be the center of commerce in the City and said if

the University wanted to have vendors on its property, they would find a way to do it.

**20. 9. SPECIAL DEPARTMENTAL REPORTS:**

**A. Special Reports from Manager & Staff:**

**1. Parking Lot #1 Preliminary Parking Garage Construction Plan**

**1:17**

Mr. Lopata said this was a proposal for a Memorandum of Understanding between the City and a group of investors, developers and construction folks who came to the City with a proposal to set up a limited liability company established for the purpose of constructing a parking garage on Lot 1 behind the Galleria. The City would grant them a three-year right to seek funding for the land assembly and design the construction of the facility including commercial space at Municipal Parking Lot #1. The group included Thorp Moeckel and Dave Brodey of Wohlsen Construction, Jim Tevebaugh, Tevebaugh Associates, and Darryl Carmine and Richard Gessner from Community Development Capital Partners.

Mr. Gessner, Principal in Newark Development Trust, LLC (NDT), discussed the proposed MOU between the City and Newark Development Trust. The purpose of the MOU was to implement a strategy that would lead to the development of a mixed-use, parking deck facility on the current site of Lot #1. This would be done at no cost to the City. NDT consulted with City officials over the past several months to develop this proposal and believed it met the City's needs.

NDT was formed as a Delaware limited liability company to enter into the MOU to work on this project. Under the memorandum, NDT would determine the feasibility of the project and undertake its development. NDT was comprised of representatives of three firms that brought substantial expertise in design, finance, construction management and development.

The three groups included Tevebaugh Associates which combined architectural design and land-use planning with a strong background in parking design.

Wohlsen Construction was one of the leading construction services company in the Middle Atlantic States. The firm's services included construction management, general contracting, project management, cost estimating, value engineering, capital planning and asset management. Wohlsen was familiar with Newark and with the University of Delaware. Their extensive experience in cost estimating and construction management would be important in bringing down the cost of the proposed parking garage project.

Community Development Capital Partners successfully raised and deployed \$35 million in equity and real estate investments under the New Markets Tax Credit program. They were one of two groups in Delaware that received a New Markets Tax Credit allocation. They were also successful in developing several applications last year for the issuance of Recovery Zone facility bonds throughout the State of Delaware. They will be responsible for developing strategies to finance a project using federal and state incentives, attracting other private equity and debt financing and will also be developing the leasing plan.

This idea started because they were looking at the downtown parking needs of the City. In 2006 the City hired Desmond Associates to prepare a downtown parking study which was issued in August 2006. The study found that all the groups consulted – business, municipal representatives, political leaders and the University, believed there was a shortage of parking downtown, and there has been more development since that time period. One option suggested in the study was to build a parking garage of at least 250 net spaces. The

concern expressed was the cost of constructing a parking structure and how that could be accomplished.

During the summer of 2010, representatives of Wohlson Construction became interested in the potential for developing such a parking facility. City officials were contacted, and there was a willingness to discuss how such a parking facility might be constructed. Wohlson then assembled the current team who met with the City in the fall of 2010 to understand the City's needs and were guided by the following considerations of the City in developing a strategy for this proposal:

1. Development of the new facility must be completed through private investment without expenditure of public funds by the City. The idea is to shift the risk from the City to a private entity using private equity and government incentives.
2. The City, through the Planning Department, would have a significant role in the operation of the actual completed parking deck.
3. Any new design on the site must reflect the needs of the University of Delaware to include a 50-foot setback from the existing dormitories and relocation of the current office structures on the site. One of the other University concerns was that any retail be of high quality on the site.

They believe the following strategies identified were important in developing the cost effective mixed-use parking deck facility while meeting the City's objectives:

1. Secure substantial private equity investment by utilizing the New Markets Tax Credit program administered by the U.S. Department of the Treasury.
2. Develop a mixed-use facility with retail space that would be attractive to national and regional credit tenants.
3. Obtain additional private equity investment which would be facilitated by the location, the design of the project and the strength of the national credit tenant.
4. Make it a cost-effective design with refinements and enhancements through the expertise of the architectural and construction management team that should lead to significant additional project cost savings.

To implement those strategies, the first step was assembling land that would go beyond Municipal Lot #1 which would be helpful in developing a more cost-effective facility. Second, a separate private entity needed to undertake the project, which was the reason for creating NDT. The private entity must have access to the potential for the land assemblage and also have enough time to do project feasibility. The private entity would obtain exclusive development rights for a specific period of time in order to attract investors and tenants and to secure government incentives. The project was probably feasible only with private equity investment and with additional government incentives such as the New Markets Tax Credit program.

To implement these strategies (working along with the City) they drafted the MOU that reflected the strategies they believed were essential to successfully undertaking the project while addressing the needs of the City.

Key features of the MOU were:

1. They were asking for exclusive development rights. They would have the right to design the facility, arrange for the financing, apply for governmental incentives, seek funding for design in planning the facility then assemble the relevant land parcels, construct the facility, lease the non-parking related portions of the facility and undertake all other activities normally associated with this type of development. All of this would be at no cost to the City.
2. Land assemblage – the City would sign the ground leases on Lot #1, and they would not be precluded from assembling a larger site by going to the surrounding property land owners. An essential part of this was that the City would operate and maintain the parking structure itself. The term of the MOU was 36 months. It was structured so there were incentive payments. The first 12 months they would be doing a feasibility study. Beyond that there would be payments in years two and three - \$20,000 in year two and \$40,000 in year three that would be required for them to keep moving on the project. Throughout this process the City would have a major amount of input. The MOU stipulates at least quarterly meetings between NDT and City officials to assess the progress of the project.
3. New Markets Tax Credits were designed to go into areas that needed investment, and it was a tax credit that could be sold to third parties, therefore lowering their taxes while at the same time providing equity for specific projects. The program was enacted by Congress in December 2000 to attract private sector capital to the nation's low-income and developing areas. Because of the number of students in the City, all students were put in for income tax purposes in the U.S. Census at zero dollars. Therefore, most areas around universities and colleges were called highly-distressed areas, and this was an incentive to help university towns.
4. Municipal Lot #1 was eligible for New Markets. The 2010 allocation would come out at the end of January/beginning of February. During that round, \$3.5 billion in the New Markets Tax Credits will become available. Thus, time was of the essence because if the allocation was not received during this time period, they would have to wait another year. This was a major point as to why immediate action was needed on this request.

Mr. Gessner reviewed some of the benefits to the City. The proposal addressed the downtown parking needs identified in the 2006 Desmond study at no cost to the City. Critical issues of project feasibility, financing and land assemblage were all addressed by private entity at no cost to the City. The MOU allowed for substantial input by the City in the design and the development of the facility through at least quarterly meetings.

Mr. Lopata interjected that this was a two-step process. Phase 1 was the approval of the MOU allowing the group to get the financing, get the New Markets Tax Credits, complete the land assembly and do the design. In the agreement, the second phase was mentioned, that is, the agreement itself about building a garage between the City and the group would come back to Council for approval.

Mr. Clifton asked if there was a potential of using eminent domain in order to bring in other lands. Mr. Lopata said as they moved forward if that turned out to be something that was useful, they would have to come back to Council for further discussion.

Mr. Athey assumed this was contingent upon getting the New Markets Tax Credit. Mr. Gessner responded the feasibility of the project was somewhat contingent on getting that tax credit but said there were also a number of

possible other incentive programs. They would try to maximize whatever they could to make the cost as low as possible.

Mr. Athey asked if the City would actually lease the garage so the City could operate it. Mr. Gessner said the details of that were in the second phase because they wanted to put together an economically feasible plan which would be cash flow positive from day one.

Mr. Athey commented the group must be confident they could package the deal so they did not see red ink for the foreseeable future and would not have to significantly jack up parking rates. The only risk he saw was if they entered into the first phase MOU, and then came back to the City with an agreement that was not palatable to the City which was then voted down. He asked if they were willing to take that risk. Mr. Gessner agreed that was the risk they were taking.

Mr. Athey asked if anything could result in the City incurring some costs. Mr. Lopata said NDT would actually pay the City – it gave them exclusive rights to try to develop the facility, so staff looked at this as a no lose situation for the City.

Mr. Pomeroy commented regarding the New Market Tax Credit. If that did not materialize, the three-year MOU would still be in place for the property without any other potential of looking into other options. He asked if other financing options would be looked into during that time frame. Mr. Gessner said although the New Market Tax Credits were very important, there were other government programs they were aware of that could potentially provide lower than normal cost funding for this type of project. Thus, they were going to try to bring as many things as possible to lower the overall costs.

Mr. Pomeroy thought if the eminent domain issue came back to Council it would be a hotly discussed issue. Mr. Sonnenberg pointed out that for some property owners there could be a significant financial advantage. Mr. Gessner explained in an eminent domain taking there were some tax advantages for the person selling their property in regard to capital gains.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE CITY MANAGER BE AUTHORIZED TO ENTER INTO THE MEMORANDUM OF UNDERSTANDING WITH NEWARK DEVELOPMENT TRUST, LLC.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**21. REQUEST FOR AN EXECUTIVE SESSION RE LABOR NEGOTIATIONS**

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**1:46**

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS LABOR NEGOTIATIONS.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Council entered into Executive Session at 8:45 p.m. and returned to the table at 9:20 p.m. Mr. Funk said no action was required at this time.

**22. Meeting adjourned at 9:21 p.m.**

Patricia M. Fogg, CMC  
City Secretary

/av