

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

March 14, 2011

Those present at 7:00 pm:

Presiding: Mayor Vance A. Funk, III
District 1, Paul J. Pomeroy (arrived 7:10)
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
Electric Director Rick Vitelli
Finance Director Dennis McFarland
Planning & Development Director Roy Lopata
Asst. Planning & Development Director Maureen Roser

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 2-I, REAPPOINTMENT OF NADINE BANGERTER TO THE CONSERVATION ADVISORY COMMISSION, AND ITEM 9-B, REQUEST FOR AN EXECUTIVE SESSION RE POTENTIAL LITIGATION, BE ADDED TO THE AGENDA.**

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Pomeroy.

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

A. Public – There were no comments forthcoming.

4. **1-B. UNIVERSITY**

1. Administration – There were no comments forthcoming.

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

There were no comments forthcoming.

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

01:03

Mr. Clifton

- Mr. Clifton thought it was a good idea for the City to participate in the National Prescription Drug Take Back Initiative suggested by the Conservation Advisory Commission. He thanked Mr. Sonnenberg for taking the lead on bringing the event to Newark. The City was seeking a location and a partner for the initiative.

7. **Mr. Athey**

- Will provide Council with a summary of the DeIDOT Transportation Trust Fund Committee meeting after the delayed 3/15 meeting is rescheduled.

8. **Mr. Markham**

- His prayers go out to the people in Japan following the recent earthquake/tsunami disaster. He encouraged periodic review of the City's emergency plan.

9. **Mr. Tuttle**

- Acknowledged the good turnout at the DeIDOT Elkton Road construction project meeting, and reported the next meeting will be held 4/4/11 at 2:00 pm in the Council Chamber for the public to be brought up to date on the project.

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

- 03:55**
- A. Approval of Regular Council Meeting Minutes – February 28, 2011
 - B. Receipt of Alderman's Report – March 7, 2011
 - C. Appointment of Dick Prettyman, Victor Bernstein, Bernie Dworsky, George Irvine, Amy Shay, Steven Levine and John Suchanec to the Reapportionment Committee (Ad hoc)
 - D. Reappointment of Ann Morrison to the Conservation Advisory Commission – Term to Expire March 2014
 - E. Reappointment of Thomas Fruehstorfer to the Conservation Advisory Commission – Term to Expire March 2014
 - F. ***First Reading – Bill 11-04 – An Ordinance Amending Chapter 20, Motor Vehicles and Traffic, Code of the City of Newark, Delaware, To Bring the Code Into Conformance with State Code, By Prohibiting Operating a Motor Vehicle During an Emergency – 2nd Reading March 28, 2011***
 - G. Cancellation of April 11, 2011 Regular Council Meeting
 - H. Approval of District One Polling Location (Pilgrim Baptist Church, 1325 Barksdale Road) for April 12, 2011 Election
 - I. Reappointment of Nadine Bangerter to the Conservation Advisory Commission

Ms. Fogg read the Consent Agenda in its entirety.

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

Mr. Markham asked what the next step would be with the Reapportionment Committee. Mr. Lopata replied once the latest data had been gathered a meeting would be convened, and he would coordinate with New Castle County and the State Board of Elections. He noted that a computer program was available which made the reapportionment relatively easy to complete.

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

12. **4. FINANCIAL STATEMENT** – None

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

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

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

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

A. Council Members:

1. Discussion re Downtown Economic Development – Temko

07:32

Mr. Temko was seeking comments from Council on the subject of downtown business recruitment and development.

In regard to vacancy rates, Mr. Temko felt a thriving downtown helped build the City's economy and was critical to the community. The vacancy rates on Main Street were low relative to the nation but were not as positive in the shopping centers. While he did not favor a vacancy fee to discourage vacant properties, he thought it might be helpful to establish a vacancy registry where the City could provide information such as square footage and other records to aid with business recruitment.

Mr. Temko felt Council should consider what they wanted to invest in business recruitment downtown and should explore the City's current strategy for business recruitment. He thought it was important to have an updated database of available properties. He said the Planning and Development Department did a good job in many arenas but believed they were spread thin with all they had to cover.

Mr. Temko reported that several business owners raised the issue of chains vs. local independent businesses in the downtown. He recognized that local businesses recirculate more money within the community and could more freely engage in community events. In order to retain the City's unique character, he felt this issue should be confronted in a smart way and suggested that the City might want to give consideration to the possibility of instituting additional aesthetic requirements so the chains would blend into the character of the downtown. While he believed the Main Street design guidelines helped somewhat, he thought many businesses appeared to retain more of their national character than the character of Newark.

Ms. Roser reported the Planning and Development Department worked closely with the Downtown Newark Partnership to coordinate business recruitment efforts. As a result of this collaboration and several visioning processes, energy was focused on attracting unique, independently owned retail stores and restaurants that complement the existing mix. Specifically they have focused on attracting businesses that sell apparel and accessories, home accessories, gourmet groceries, shoes, art, a small boutique in a hotel, craft stores with lessons, party supplies, paint your own pottery, adult destination restaurants and gifts, stationery and cards. An extensive business recruitment package was developed providing detailed information about downtown Newark and the advantages of opening a business in the City. Recruitment and vacancy information was available on the DNP website. Ms. Roser added that one of the recommendations of the recent Newark Economic Development Study was to provide standardized information and to consider expanding the inventory Citywide.

Ms. Roser further reported that business start up grants were offered to cover \$1,500 in utility expenses for eligible new businesses (those limited to the targeted business list), and funding for the grants came from the DNP budget. In addition, the Newark façade improvement program offered loans up to \$2,000 at 0% interest for signage, etc. One-stop shopping and handholding were offered to get businesses through the start-up process quickly and easily.

According to Ms. Roser, recruitment was fairly successful with Newark recognized in 2010 by Business Weekly as best in the region for launching a new business. There were 18 new businesses in the downtown area in the last year, and 17 were still in operation. Three more (all chains) were in various stages of completion. As far as the ratio of independently owned commercial businesses vs. national and regional chains, 70% of the businesses were independently owned, 22% were national chains or restaurants and 8% were regional or local chains.

Mr. Temko asked Ms. Roser what resources the City needed to have an ideal business recruitment program as far as staffing and other tools. From an overall perspective, Ms. Roser said the response most heard from independent retailers about why they chose not to come to Newark was the parking challenge. Available space of first-floor vacancies and size requirements also presented challenges to some independent retailers.

Ms. Roser said the Partnership discussed ideas for attracting independently owned retailers, and four Board members agreed to serve as a working group to attract businesses to complement the mix in the downtown. They will then report back about what obstacles they found.

Mr. Clifton did not want the chain stores villainized and referenced Home Depot which opened with a work force of 135 and currently employed 145 local residents. There were also smaller networks of chains in the City such as Pat's Pizza and Buffalo Wild Wings owned by local individuals who contributed to the community. Mr. Clifton's prime concern was the vacancy rates at the shopping centers, and he felt more attention should be focused there.

Mr. Markham said a registry offered by the City would require staffing to maintain it and asked how that would differ from using a commercial real estate agent to find vacant properties. He pointed out there were a number of useful databases available such as New Castle County's parcel search which contained information about property size, assessed value and taxes.

Mr. Funk was concerned about having a public discussion about the downtown at this time in view of the City's national consideration as a great American downtown. He felt it was very hard to be dissatisfied with Main Street based on the very low vacancy rate and said the Newark Shopping Center would eventually be redeveloped, and College Square was poorly designed and overbuilt.

Mr. Athey felt the City should be working towards constant improvement downtown. Regarding the aesthetics, he agreed there was an opportunity to craft more uniqueness there and thought Council might want to consider how to move that initiative forward.

While Mr. Pomeroy agreed the City should never become complacent in striving for a better downtown, he felt adding layers of government involvement would stifle economic growth. He believed the shopping centers were totally different in terms of management recruitment possibilities and applauded Mr. Temko for raising the economic development issue.

Mr. Tuttle felt parking was the one area where it was appropriate for City government to become involved since the parking situation majorly impacted business life on Main Street, and this was an issue where local government could make positive improvements.

The Chair opened the discussion to the public.

Catherine Ciferni, a Newark resident, said there were opportunities that were not discussed to accommodate the changing available market on Main

Street. She noted UD's English Language Institute had 600 international students, and she felt there was potential for growth in the City to meet their needs by encouraging a cooperative or an international market.

There were no further comments forthcoming.

17. B. Others: None

18. **9. SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. Certification of Demand Response Service Providers

52:08

Mr. McFarland advised Council that staff needed policy guidance on the authorization or certification of demand response aggregators. The program offered by the operator of the wholesale electric power transmission grid was the demand response program where the grid operator paid an end use electric customer if they agreed to reduce their demand during peak times when the grid operator was struggling to balance the system. The payment was made to the end use customer whether they were asked to reduce their demand or not. Additional payments were made to customers who reduced their demand when requested to do so. According to Mr. McFarland, the end use customers who would most benefit from this system were large industrial or very large commercial customers. There were a number of firms in the Delaware market who placed themselves between the end use customer and the grid operator in aggregating metering information and processing payments back and forth. Currently, none of the City's customers participated in the demand response programs, although several customers expressed an interest in it.

DEMEC advised the City that PJM (operator of the electric grid within which the City's electric utility operates) will not work with any of the demand response aggregators unless those aggregators have been authorized by the local regulatory body (Newark City Council). DEMEC requested that all of its members designate DEMEC and its partner Comverge as the exclusive demand response aggregator within the City's jurisdiction. Comverge was chosen through a fairly comprehensive RFP process and was a well known national firm. DEMEC made the argument that by choosing an exclusive provider, it was administratively much easier to monitor the program. Moreover, because it was a DEMEC program, DEMEC had the ability to request customers to reduce demand when they were in a peak situation. If that occurred, DEMEC received the financial benefit of lower capacity costs to the grid, and those benefits would be passed on to the City. Mr. McFarland pointed out in an open market where numerous firms could be aggregators, all program benefits flow exclusively to the end use customers. Most of the other DEMEC members had already opted for or were leaning towards going exclusively with DEMEC, and two of the nine members had not yet made a decision.

Mr. Clifton asked how electric use was tracked by peak and non peak demand times for a moderate to heavy electric user. Mr. McFarland said equipment was required at the customer's location to measure and monitor usage on an hourly basis. Mr. Clifton asked whether the City got involved in that process. Mr. McFarland confirmed the local utility (the City) was not involved since it was the aggregator who sat between the end use customer and the grid operator.

In addition to Newark, Mr. Pomeroy asked what other DEMEC member had not signed on yet. Mr. McFarland believed it was Lewes. Mr. Pomeroy asked Mr. McFarland what gave him the confidence to recommend Comverge. Mr. McFarland said Comverge had been around for a long time and had a good reputation in the business. Both Mr. Vitelli and Mr. McFarland found Comverge to be thorough and professional at a day-long presentation on how their program would be operated. While it was tough to distinguish the best, he said they were one of the best. Mr. McFarland confirmed the agreement to certify Comverge as

a DSR provider was for a twelve-month period. After that term the City could revisit its decision.

Mr. McFarland confirmed to Mr. Markham that residential reduction and demand as discussed by the CAC would not meet the minimum requirements of the PJM program. Mr. Markham noted there was the potential for getting more Smart Meters into the system when businesses joined the program as consumption data gathered by this equipment would be required to participate in the program.

Mr. Funk asked Mr. Armitage if the University made any comments about the program. Mr. Armitage was not sure whether it had been discussed. Mr. Funk felt the program provided the opportunity for creativity that the City did not currently have and this would be helpful in attracting businesses to the former Chrysler site.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT THE CITY OF NEWARK, AS A MEMBER OF DEMEC, AGREES TO CERTIFY COMVERGE AS THE EXCLUSIVE DEMAND RESPONSE SERVICE PROVIDER FOR CUSTOMERS WITHIN THE CITY FOR A ONE-YEAR PERIOD.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

19. 9-A-2. RECOMMENDATION RE INSURANCE RENEWALS FOR 2011-2012

1:04

Mr. McFarland presented recommendations for renewal of the City's insurance coverage for the year from April 1, 2011 to March 30, 2012. There was essentially no change in any of the carriers and no real change in any coverage other than the City was provided with two additional new coverages at no incremental cost. One provided coverage for future environmental incidents up to \$5 million (this did not include any of the City's existing environmental sites.) In addition, the City was provided coverage of \$1 million for privacy events (processing credit card information, etc.) where the City had exposure to risk and liability. Mr. McFarland was pleased the total premiums increased only modestly by \$9,000 to approximately \$654,000.

Mr. Funk thought the 9% brokerage commission seemed high. Mr. McFarland reported it was held flat from the prior year, and he was very satisfied with the way Willis handled this renewal. He said versus the 2011 budget, the City would save about \$30,000 since an increase of approximately 8% had been budgeted for calendar year 2011.

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT THE CITY'S INSURANCE PROGRAM FOR POLICY YEAR 2011-2012 BE APPROVED AS RECOMMENDED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

20. 9-B. REQUEST FOR AN EXECUTIVE SESSION RE POTENTIAL LITIGATION

1:07

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Council entered into Executive Session at 8:06 p.m. and returned to the table at 9:14 p.m. Mr. Funk advised that no action was necessary.

21. Meeting adjourned at 9:15 pm.

Patricia M. Fogg, CMC
City Secretary

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