

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

June 27, 2011

Those present at 7:00 pm:

Presiding: Mayor Vance A. Funk, III
District 1, Mark Morehead
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
Deputy City Secretary Alice Van Veen
City Solicitor Bruce Herron
Finance Director Dennis McFarland
Planning & Development Director Roy Lopata
Public Works Director Rich Lapointe
Chief Paul Tiernan, NPD
Captain John Potts, NPD

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. MARKHAM: THAT ITEMS 2-E, 2-F, 2-G, 2-H AND 8-B-4 BE ADDED TO THE AGENDA.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

A. Public

00:59

Nick House, a Newark resident and student at Pencader Charter High School, reported that Pencader was placed under financial review, and the Delaware Department of Education announced they were recommending the revocation of Pencader's charter. He requested the full support of Council in this matter. Mr. Funk explained there was not much the City could do since this was under State review.

4. Laura House, a Newark resident, briefed Council on the status of Pencader Charter High School and the potential negative impact of deliberations by the State DOE Charter School Accountability Committee on Newark residents.

5. Edward Carl, a Wilmington resident, asked Council to pass a resolution to support passage of Glass-Steagall Bill H.R. 1489 and said the fiscal crises would not get better until this was passed on a national level. The bill would restore the separation between commercial banking and the securities business provided in the Bank Act of 1933, and Mr. Carl urged Council to reconsider their reluctance to intervene on a national level.

6. Ron Walker, a Newark resident, reported that Mr. Athey and Chief Tiernan joined in a recent community meeting where concerns about the Kells, Academy and East Park neighborhood were discussed. Some negative issues they would

like to see addressed include foot traffic from Ivy Hall, property damage, fraternity parties, and noise resulting from buses running all night. Mr. Walker said they do not support the idea of the UD Police taking on duties and policing non-University property as they believed Newark's police force was outstanding and the policing should be done by City personnel. Mr. Walker urged Council to turn down any such proposal if it came before them and offered support from the concerned residents. Regarding student alcohol abuse, they felt the problem was horrendous and thought there was much to be discussed about the issue. Mr. Athey stated there were about seven or eight residents in the audience from his district who endorsed Mr. Walker's statements.

7. 1-B. UNIVERSITY

20:31

1. Administration – U of D Wellspring Presentation

Mr. Armitage introduced Nancy Chase, Director of Wellspring at the University of Delaware and Tracy Downs from the U. S. Department of Education Higher Education Center for Alcohol, Drug Abuse and Violence Prevention who directed the Robert Wood Johnson program when it was active at the University. Ms. Chase and Ms. Downs reviewed a PowerPoint presentation during which the following points were discussed.

- Wellspring assisted students to understand the consequences of their drinking and to make better choices about their personal decisions regarding drinking to avoid negative consequences.
- They had a strong interest in trying to form an allegiance with the community to address issues.
- Information was provided about the University's plans for dealing with alcohol abuse which would be aided by a new grant from the state.
- A 2002 study (updated in 2007) from the National Institute on Alcohol Abuse and Alcoholism reported 1,700 student deaths every year from college drinking. Other statistics drew attention to the high level of alcohol being imbibed by UD's student population.
- Strategies to address the problem included: Increased enforcement of underage minimum drinking age law, publicity in enforcement of laws to reduce drunk driving, restricting the density of retail outlets, responsible beverage service policies for servers and sellers of alcohol, reinstating Friday and Saturday classes, more alcohol-free late night student activities, having Resident Assistants and older staff living in residence halls, controlling alcohol at sporting events, refusing sponsorship from the alcohol industry, safe rides, regulating happy hours, being consistent in enforcement, etc.
- The University was in the process of re-establishing a campus task force to explore why the high-risk drinking rate was so high, what was already being done, where the gaps were and what might be implemented to try to address this problem even more strongly. Also under consideration was a campus community coalition similar to one during the Robert Wood Johnson days.
- Appealed to the City Council to work together with the University as a team to get this situation under control. Research showed this was the most effective method that could be implemented.

Mr. Clifton thought on-campus enforcement should be dealt with first or at least simultaneously. Ms. Chase felt there had to be a comprehensive approach and said there were just as many problems occurring on campus in residence halls as there were off campus in private apartments and homes. Based on the

grant funding being infused into the program, Mr. Clifton questioned how it would be determined if the program was successful. Ms. Chase informed him that the grant required the implementation of a number of assessment strategies.

Mr. Athey reiterated Mr. Clifton's view that there was a lot happening on campus which fueled some of the issues off campus and appreciated the University's comprehensive approach. In response to his question about when the program would be implemented, Ms. Chase explained it was a long-range plan that was in the planning process, and once the strategic plan was approved, implementation would begin, hopefully early in September or October.

Mr. Morehead asked what time period the grant covered. Ms. Chase reported this was a 15-month grant with the possibility of continued funding.

As an alumnus of the Building Responsibility Coalition, Mr. Tuttle remarked it was nice to see the University refocusing on this issue, and he looked forward to its progress.

The Chair opened the discussion to the public.

Newark resident John Kalmer asked what level of alcohol offense had to occur to affect the student's status at the University. Ms. Chase explained if the first offense was significant with the blood alcohol concentration above a specific level, the student was referred to an education class or referred to her office to meet with a counselor and assessed for alcohol or drug-related problems. They received probation, a letter home to their parents and a fine. With a second offense they were probably referred to probationary suspension. The third offense was when the student would be considered for termination from the University for at least one year. Each incident was reviewed on a case-by-case basis.

Since this issue was a priority for the University, Mr. Temko asked if they had any internal metrics for overall success. Ms. Chase said they were presently in the beginning phases of re-forming their own campus task force and she thought that group would determine those expectations or benchmarks. If the funding did not continue, Mr. Temko questioned whether the University would internalize these priorities. Ms. Chase responded that the purpose of the campus task force was to make sure the issue remained a priority for the administration. During the past two years the University participated in membership in a national alcohol prevention coalition which had enormous resources including a guide on how to institutionalize this type of action on campus. Ms. Downs added that sustainability was one of the most difficult challenges for campuses to achieve.

Mr. Funk believed the students had too much free time and until the University began classes on Fridays and Saturdays, the problem would not go away.

Mr. Morehead requested Ms. Downs to provide a copy of the NI AAA report to the City Secretary for distribution to Council members.

8. 1-B-2. STUDENT BODY REPRESENTATIVE

There were no comments forthcoming.

9. 1-C. COUNCIL MEMBERS

1:00

Mr. Temko

- Since the last Council meeting, Mr. Temko received many more constituent comments opposing the refuse privatization issue.

10. **Mr. Tuttle**

- Regarding trash privatization, Mr. Tuttle said his experience was very similar to Mr. Temko's.

11. **Mr. Markham**

- Mr. Markham said the electric bill he received for June was very confusing, and he hoped next month the break points could be spelled out in order to help residents better understand their bill.
- Mr. Markham reported that the Stopyra tract meeting was held last week with about 250 people in attendance for the presentation. The majority opposed the project. Although the project was outside the City, it would directly impact his constituents. Lanes would be added to Possum Park Road up past Holy Angels Church and on one side of the bridge on Kirkwood Highway across the creek.

12. **Mr. Morehead**

- Mr. Morehead claimed the Church Road resurfacing was very poorly done by the State with a very thin liquid coating. He received complaints from residents in his district about difficulty getting into their neighborhood in this vicinity and the liquid surface being tracked into driveways.
- Continued to receive complaints about the possibility of refuse outsourcing.

13. **Mr. Athey**

- Thanked Chief Tiernan and Cpl. Bryda for a great job of demonstrating their professionalism at the Kells Avenue meeting last week.
- Noted that the State Municipal Street Aid would receive about \$1 million but Mr. Athey was not aware of Newark's portion. Mr. Funk added that the State legislators had additional funds that could be tapped into by the City.

14. **2. APPROVAL OF CONSENT AGENDA**

- A. Approval of Regular Council Meeting Minutes – June 13, 2011
- B. Receipt of Alderman's Report - June 22, 2011
- C. ***First Reading – Bill 11-11*** - An Ordinance to Adopt Revisions to the Amended Pension Plan for Certain Employees of the City of Newark, Delaware, to Comply with State of Delaware Law Recognizing Civil Unions Effective January 1, 2012 – ***2nd Reading July 11, 2011***
- D. Planning Commission Minutes – June 7, 2011
- E. Appointments of Joe Charma, Kay Snelling, Marilyn Minster, Sally Miller, Carol Boncelet and Bob Chadwick to Downtown Newark Partnership – 3 Year–Term
- F. ***First Reading – Bill 11-12*** - An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from RM (Multi-Family Dwellings – Garden Apartments) to BB (Central Business District) .49 Acres Located at 116 Amstel Avenue – ***2nd Reading August 8, 2011***
- G. Cancellation of July 11 Regular Council Meeting
Cancellation of July 25 and August 22 Regular Council Meetings for Council Workshops:
 - July 25 – Financial Workshop
 - August 22 – Proliferation of Apartments
- H. Receipt of Proposed Capital Improvement Program 2012-2016

1:07

Ms. Van Veen read the Consent Agenda in its entirety.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT ITEM 2-G, CANCELLATION OF JULY 11 REGULAR COUNCIL MEETING AND CANCELLATION OF JULY 25 AND AUGUST 22 REGULAR COUNCIL MEETINGS FOR COUNCIL WORKSHOPS, BE REMOVED FROM THE CONSENT AGENDA FOR FURTHER DISCUSSION.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT THE SECOND READING FOR ITEM 2-C OF JULY 11, 2011 BE CHANGED TO AUGUST 8, 2011.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT THE CONSENT AGENDA BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

15. 2-G. CANCELLATION OF JULY 11 REGULAR COUNCIL MEETING AND CANCELLATION OF JULY 25 AND AUGUST 22 REGULAR COUNCIL MEETINGS FOR COUNCIL WORKSHOPS

1:09

Mr. Clifton expressed concern about the cancellation of two Council meetings in July which meant the public would not have access to the Council for over one month. He felt there should at least be one meeting a month.

Mr. Athey agreed and was concerned about a precedent being set. He suggested further discussion before cancelling the meetings.

Mr. Markham thought there should be at least one public meeting a month where Council could make decisions. He did not remember ever substituting a Council meeting for a workshop.

Mr. Funk said an alternative was to hold the Council meeting on July 25th and adjourn into a workshop at the conclusion of the regular meeting.

Regarding the August 22nd Council workshop about the proliferation of apartments, Mr. Athey noted there were numerous single-family conversions to rentals in the Fourth District during the last year. He did not know if this fit with Councilman Clifton's intent for the workshop but believed there was a broader issue to discuss than proliferation of apartments. Mr. Clifton agreed, and the discussion at the workshop would be "Proliferation of Rental Housing in Newark."

Mr. Funk pointed out that throughout the state the number of rental houses dramatically increased during the last six months because of the slow real estate market. He thought the City should reinstate some incentive programs such as POOH.

Mr. Markham said he did not want to end up with four hour meetings because a meeting was cancelled during the month.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT ITEM 2-G BE APPROVED WITH THE AMENDMENT THAT THE 7/25/11 MEETING NOT BE CANCELLED BUT CHANGED TO A REGULAR COUNCIL MEETING FOLLOWED BY A FINANCIAL WORKSHOP.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

16. 3. ITEMS NOT FINISHED AT PREVIOUS MEETING: None

17. 4. FINANCIAL STATEMENT:

1:19

Mr. McFarland reviewed the May 2011 Financial Report. Results on a consolidated basis were about \$795,000 ahead of budget for the first five months of the year. Most of that was due to an over collection of electric margins of about \$750,000, and he said plans were discussed to refund the over collections.

Governmental Funds were about \$190,000 ahead of budget. Revenues were about \$105,000 under budget but that was due largely to timing differences in the receipts of certain grants and franchise taxes. Offsetting those revenue shortfalls was a large building permit fee of \$140,000. Operating Expenses for the Governmental Funds were running about \$300,000 under budget across almost all departments based more in personnel costs than any other cost element. That was offset by somewhat higher contractual services on a year-to-date basis.

Enterprise Funds were \$616,000 over budget for the five months. Revenues were over budget by \$753,000 largely because of higher electric margins. Those higher margins were generated by delays in the implementation of the new electric rates which were planned for the beginning of the year and went into effect June 1. Water and Sewer margins were lagging budget through the second quarter. That was a timing difference with some of the larger sewer and water bills which were expected to turn around during the third quarter. Operating Expenses were \$137,000 over budget due to the overweighting of contractual services in the first half of the year.

On a cash basis the balance at the end of May was \$21.6 million, an increase of \$2.6 million from the beginning of the year largely due to the operating results and some slight delays in certain capital expenditures.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE MAY 2011 FINANCIAL REPORT BE RECEIVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

18. 5. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Contract 11-02, 2011 ADA Handicap Ramp Installation Program

1:24

Ms. Houck detailed her memo of June 13, 2011 wherein it was recommended to award Contract No. 11-02 to Joseph Hardy & Son which provided for the installation of handicap ramps at 38 locations in accordance with current ADA standards and City of Newark standard specifications. Two bids were received, and the lowest bidder was qualified to perform this work. Funds were available from Current Resources and Community Development Grant funds totaling \$113,639.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT CONTRACT NO. 11-02 BE AWARDED TO JOSEPH T. HARDY & SON IN THE TOTAL AMOUNT OF \$113,639 FOR THE INSTALLATION OF 38 HANDICAP RAMPS.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

19. 5-B. CONTRACT 11-06, STREET AND PARKING LOT IMPROVEMENT PROGRAM

1:25

Ms. Houck detailed her memo of June 13, 2011 wherein it was recommended to award Contract No. 11-06 to Greggo and Ferraro, Inc. for improvements to the streets, curbs and ramps along 27 City-maintained streets. Three bids were received and Greggo and Ferraro satisfactorily completed the street improvement program in the past. Funds were available totaling \$1,693,377.50 from various Capital Improvement Programs in the Community Transportation fund.

Mr. Morehead asked if there was a schedule available to provide advance notice of the road work. Ms. Houck said notice was provided as the crew prepared to move into an area but it would be difficult to give notice sooner based on weather.

Mr. Markham asked how decisions were made on the work to be done as he was interested in finding out what work was scheduled in his district. Mr. Lapointe advised that last year an outside engineer was consulted to work up a more precise road plan. The consulting engineer provided a five-year projection of the streets he recommended which included details of the work to be done.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT CONTRACT NO. 11-06 FOR STREET AND PARKING LOT IMPROVEMENTS BE AWARDED TO GREGGO AND FERRARO, INC. FOR THE TOTAL AMOUNT OF \$1,693,377.50.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

20. 5-C. RFP NO. 2011-01, DESIGN-BUILD SOLAR PHOTOVOLTAIC ENERGY PROJECT(S) PURCHASE POWER AGREEMENT

1:29

Ms. Houck said her recommendation detailed the process followed for the design-build solar energy purchase power agreement project the City hoped to undertake. The RFP was issued in January identifying three sites and on April 26th proposals were received from three of the seven pre-qualified teams including Bancroft Construction, Standard Solar and Tangent Energy. The three proposals varied in approach and cost, and all struggled with presenting an economical option. They required up to a 200% premium for the energy the sites could produce, options that were essentially non-responsive as no firm pricing was submitted, or they attempted to match what the City currently paid for power by keeping the Solar Renewable Energy Credits (SRECs). This left Newark without having purchased any claimable green energy and without lowering energy costs.

Ms. Houck said she consulted with DEMEC and confirmed what was heard about the value of the SRECs in Delaware at this time and that efforts were underway to improve the value of SRECs in Delaware.

After their evaluation Staff recommended that Council reject all three proposals received in response to RFP No. 2011-01 and that reconsideration of such projects be made at a later date.

Mr. Clifton felt this was really disappointing news. He said the City was 46.5% funded into the peak load generating plant so DEMEC was roughly 50% funded. Yet he looked at the 15% DEMEC interest in Dover and the City was only 5% in that. He asked why that percentage was different than what it was traditionally through DEMEC participation. Mr. Clifton thought the City's ownership from DEMEC was based on peak generating. Mr. McFarland understood the City would get a proportionate share of the recs from the Dover plant comparable to the City's ownership in DEMEC, or a third of what DEMEC was getting (5% of the 15%).

Mr. Markham asked if the \$200,000 set aside to buy SRECs was still available. Mr. McFarland said there was no money set aside to buy SRECs. The recommendation from the CAC (with which he concurred) was that the City would spend a little over \$100,000 annually for the purchase of RECs (not just solar), and that recommendation was put on hold when it was decided to evaluate the potential for a solar park.

Mr. Temko and Mr. McFarland discussed the CAC's recommendation that the City buy recs directly if the solar project did not go forward, and Mr. Temko asked at what point Council would consider that option. Mr. McFarland said if Council accepted staff's recommendation not to go forward with the solar project, he assumed staff would make a recommendation on buying recs in the very near future. Mr. Temko suggested if home grown renewable energy did not happen, a combination of purchasing recs and putting solar panels on the Municipal Building to be an example for the City while decreasing its footprint. Mr. McFarland said the City will ultimately be responsible to have a renewable portion of their own portfolio, and solar panels would be an expensive way to meet that requirement.

MOTION BY MR. CLIFTON, SECONDED BY MR. MOREHEAD: THAT STAFF'S RECOMMENDATION TO REJECT THE THREE PROPOSALS IN RESPONSE TO RFP 2011-01 FOR DESIGN-BUILD SOLAR PHOTOVOLTAIC ENERGY PROJECTS BE APPROVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

21. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**
None
22. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:**
None
23. **8. ITEMS SUBMITTED FOR PUBLISHED AGENDA**
 - A. Council Members: None
24. **8-B. OTHERS:**
 1. Proposal for a Sister City to Newark - Steve Dentel

1:42

Mr. Dentel explained that his role as a Professor at the University and as Faculty Advisor for Engineers Without Borders led to his association with Bamenjou, Cameroon. He proposed that Newark adopt Bamenjou as a Sister City and shared a PowerPoint presentation about the area and its population, housing, food, education, water supply and the volunteer work of the University's engineering students.

Mr. Dentel believed a Sister City could bring local awareness to both cities and as well as help Bamenjou with educational opportunities. Mr. Dentel would be seeking donations of laptop computers, and there could be letter writing exchanges between classes, cultural exchanges, etc.

Mr. Dentel provided a draft resolution for Council's consideration at a future meeting which he said should be renewed every five years. He said this would be an informal relationship and there was no cost associated with it, although he thought it would have some positive benefits.

Mr. Funk was in favor of the proposal and Mr. Athey added that he would endorse it. Mr. Temko asked if there were any advantages to going through the Sister Cities program that would not be realized through an informal relationship. Mr. Funk said he looked into that option and what Mr. Dentel had done and will do was far more than the City could expect to get through the Sister Cities organization.

The resolution will be presented at a future Council meeting.

25. 8-B-2. REQUEST FROM MARK SISK, ESQUIRE, REPRESENTING U.H.C.S., INC. T/A SANTA FE GRILLE, 190 E. MAIN STREET, TO AMEND ZONING CODE TO PERMIT SANTA FE TO UTILIZE A BAR

1:58

Mark Sisk, Esq. represented Santa Fe Grille which had been on Main Street since 2003. The request was to be able to utilize the existing service bar for customers. They believed they were currently at a competitive disadvantage without the use of the bar.

Javier Acuna, owner of Santa Fe, said they proved to the community that they have followed the City's rules and regulations. He was not interested in changing the restaurant's image but wanted to remain competitive with other Newark liquor license holders who had a sit-down bar. Mr. Acuna was aware this was a privilege and, as such, could be revoked. He also reported that he approached the church next door, and they did not oppose the change.

Mr. Clifton asked Mr. Lopata to clarify the steps needed to make this change. Mr. Lopata said this required amending the Code by removing from protected uses the property zoned residential directly adjacent to downtown restaurants. In 2005 when this was before Council, it was amended back in; thus, Council had to reverse what was done in 2005. In addition, Santa Fe had to apply for and Council had to grant a Special Use Permit.

Mr. Clifton asked if a similar request was made by an existing restaurant not under the Special Use Permit category, whether that fell under this same provision. Mr. Lopata said any restaurant that currently did not have a Special Use Permit and wanted to change their status in some way would need a Special Use Permit because all restaurants selling alcoholic beverages were required to have one. Mr. Lopata said that was needed in this case also. Santa Fe had to come back to Council and request a Special Use Permit to use the bar. Mr. Morehead asked if this could be done the other way and issue a Special Use Permit without approving the change in the Code. Mr. Lopata explained the Code would not allow a Special Use Permit to be issued in this circumstance as it was a conditionally permitted use and must meet certain preconditions to apply for it.

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

Mr. Sisk advised if this request was approved the restaurant was still required to meet the Alcoholic Beverage Control Commission's 60-40 ratio.

Mr. Markham heard some discussion about expansion to the restaurant. Mr. Acuna confirmed that remodeling was under consideration as he was committed to grow and expand his business in the City.

Mr. Funk had no problem with the request and confirmed it was the sense of Council to approve the request. Mr. Lopata said this would go back to the Planning Commission and back to Council since it was a change to the Zoning Code.

26. 8-B-3. REQUEST FROM MARK SISK, ESQUIRE, REPRESENTING CHRIS COCHRAN AND LISA BARTOLOZZI, TO DISCUSS OWNER OCCUPANCY AND OCCUPANCY LIMITATIONS FOR HOLLY WOODS

2:23

Mark Sisk, Esq. represented Chris Cochran and Lisa Bartolozzi, owners of Holly Woods townhomes. In 2009 they asked Council's permission to increase the number of occupants from four to five in each unit. At that time Council denied their request. The current proposal requested the same increase in occupancy but would designate one unit as an office space with no tenants occupying that unit. This would provide better control of the site and decrease the number of overall tenants in the complex by four. Mr. Sisk noted Council approved numerous projects since 2009 with five and sometimes six tenants and said the market demand was for units housing five or more people.

Regarding the City's concerns about parking, Mr. Sisk reported each unit had four legal parking spaces with one car parked lengthwise. While that might not be aesthetically pleasing, it was not a violation of the Code. He understood that University students with University parking permits could now park at Amy DuPont Hall 24/7 which was fairly convenient to this location and would provide additional parking when needed.

Ms. Bartolozzi noted the design of the townhome apartments was quite large with over three levels and three full bathrooms. A booklet was distributed to Council showing photos and the layout of the apartments.

Mr. Clifton asked whether the owners would be willing to permanently restrict one of the units for use as office space if this request was approved. Mr. Sisk replied that they would.

Mr. Temko asked the purpose of the owner-occupied office space. Mr. Sisk said it helped with parking by having four less tenants, and the on-site owner helped with control of the property. Mr. Temko noted in most apartment projects recently approved, Council specified an overall number of tenants rather than a per-unit restriction. Mr. Sisk responded that it was framed in terms of five against four as opposed to an overall number as they felt they had to frame the application in terms of what existed on the property now. Regarding parking issues, Mr. Temko asked if the owners would be willing to strongly discourage tenants from using the fourth method of parking. Ms. Bartolozzi said tenants were told to park only on hard surfaces and not within the sidewalk area or on the street. Mr. Tuttle confirmed the parking at Amy DuPont Hall was an option that was not available when the owners made their previous request.

Mr. Clifton felt the property lent itself to a limit of five tenants per unit versus an overall number at complexes with units of varying sizes. He also believed the increase was appropriate since there was a full bath for every two bedrooms and a full bath for the fifth bedroom. He added if there was a property that was sustainable for increased density and occupancy, it was this one.

Mr. Markham said he had a problem with the parking on this site. He felt having one more tenant would not help that situation and the tenants would park wherever it was free and close. Ms. Bartolozzi thought the students generally made proper accommodations based on police records which showed only one incident at the property since 2008.

Mr. Athey expressed concern about setting a precedent and said if this request was approved, Council needed to be exceptionally clear about their rationale. He asked how many hours a week the owners anticipated someone would man the office unit. Ms. Bartolozzi said their current property manager was available 8 to 5 or by appointment. Mr. Athey thought this was a great idea on their part and that it would be good policy for other complexes as well.

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

Mr. Morehead pointed out that this item was listed as a discussion item on the agenda rather than an item to be voted on, and Mr. Athey agreed with his concern.

Mr. Funk stated that Council was being asked to authorize the Planning Department to modify the deed restrictions by changing the maximum number of occupants from four to five subject to one unit being designated as owner occupied.

Mr. Lopata explained agenda items were worded this way many times in the past when Council voted on them, and a citizen with concerns would know the issue was going to be discussed if they wanted to offer comments on it.

Mr. Tuttle said everything under Item 8 was open for public comment. Mr. Sisk advised once Council authorized the change it was simply a matter of finalizing the paperwork and recording it. Mr. Herron concurred since this did not involve an ordinance.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT THE REQUEST OF HOLLY WOODS BE APPROVED TO ALLOW FIVE TENANTS PER UNIT SUBJECT TO ONE OF THE UNITS BEING AN ON-SITE OFFICE.

MOTION PASSED: VOTE: 6 to 1.

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

27. 8-B-4. DISCUSSION RE. APPOINTMENT OF DEPUTY CITY SOLICITOR

2:53

Mr. Herron recommended the appointment of Paul Bilodeau, Esquire, as the Deputy City Solicitor. In this capacity Mr. Bilodeau would assume responsibility for the prosecutions in the Alderman's Court. The proposed rate for the Deputy City Solicitor would be \$115 per hour. Mr. Herron noted that Mr. Bilodeau would be sworn in by the Attorney General.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: TO APPROVE THE APPOINTMENT OF PAUL BILODEAU, ESQ. AS THE NEW DEPUTY CITY SOLICITOR AT THE RATE OF \$115 PER HOUR.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

28. **9. SPECIAL DEPARTMENTAL REPORTS:**
A. Special Reports from Manager & Staff: None
29. **Meeting adjourned at 9:42 pm.**

Patricia M. Fogg, CMC
City Secretary

/av