

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**September 12, 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  
City Secretary Patricia Fogg  
City Solicitor Bruce Herron  
Finance Director Dennis McFarland  
Planning & Development Director Roy Lopata  
Assistant to the City Manager Carol Houck  
Assistant P & D Director Maureen Feeney Roser

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

2. **PUBLIC HEARING FOR 2012-2016 CAPITAL BUDGET**

**00:30**

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE 2012-2016 CAPITAL IMPROVEMENT PROGRAM BE APPROVED AS PRESENTED.

The 2012-2016 Capital Improvement Program was reviewed by Messrs. Sonnenberg and McFarland. The five-year financial forecast provided a context to make the determination whether the City could afford the planned Capital Improvements. The program consisted of the following expenditures:

Electric Fund	\$ 6,049,287
Water Fund	\$ 8,041,950
Sewer Fund	\$ 2,285,000
Public Works (General) Fund	\$14,593,500
Public Works (Maint.) Fund	\$ 331,000
Police Dept.	\$ 999,480
Parks & Recreation Dept.	\$ 5,055,920
Parking Fund	\$ 4,006,908
Other Departments	<u>\$ 481,350</u>
<b>TOTAL</b>	<b>\$41,844,395</b>

Mr. Sonnenberg explained the goals of the CIP which were to maintain and enhance the City's physical and utility infrastructures and ensure the City's financial strength through prudent investments. He then reviewed the planning process and an outline comparison between the current year and 2012.

Significant projects for 2012 included the More Parking System for Lot #3, the annual Street Program, the SCADA System and Automated Switching Project, the Curtis Paper Mill Park, water tank/main maintenance and equipment

replacement. Mr. Sonnenberg then outlined major projects over the five-year period.

Mr. McFarland reviewed the financial forecast which showed overall inflation of 2.5%, wages and pensions averaging a 4% annual increase and health care with a projected increase of 10%. Utility load growth showed a moderate increase of 1% annually, and all utilities had a 20% margin. To achieve the desired margin, there was a 2.5% increase in the electric utility proposed in 2012 and a 5% increase proposed in 2015. The water utility had a more significant increase in the range of 10%-15%, and the sewer utility had a one-time increase in 2012 of 10% proposed.

Assumptions for revenues in the General Fund forecasted a 5% property tax rate increase annually and assumed other revenue streams in the General Fund (transfer taxes, licenses, permits, and fines) would increase 2%.

Also reviewed was the five-year forecast which highlighted the annual surplus or deficit.

According to Mr. McFarland, watching the cash balance and cash reserve position was critical. The forecast showed about \$26 million by 2016, which was a good number to obtain a AA credit rating for the City.

Mr. Funk questioned why the parking garage cost of \$3.5 million was included since the project would be financed. Mr. McFarland responded that it was listed under the Gross Capital Program and in the Other Funding Sources.

Mr. Clifton raised a question about accounting in the Capital Budget as it related to grant funding. Mr. McFarland explained any leftover grant money for the capital project would be in capital reserves. In the past at year end unspent capital reserves would be reviewed with the department to determine if the work was completed for that capital program. Remaining funds would be moved to an unappropriated capital reserve.

Mr. Athey asked if the electric rate increases were inflationary in order to hit the 20% margin. Mr. McFarland said maintaining the margin required recovering operating expenses as well as capital expenses. Even though a rate increase was shown in electric for 2012, as a practical matter that was not going to happen because of over collections this year due to weather swings, etc. Thus, from a customer's perspective, it was likely rates would go down next year.

In response to Mr. Markham's statement that the assumptions were just working numbers to work off of and Council would not know the real numbers until October, Mr. McFarland said they would have a water rate recommendation in October but would not know what next year's electric rates were going to look like for several weeks.

Mr. Tuttle observed that getting further out toward 2016, this became more of a projection with some growth in the bottom line in the cash reserve. He asked if getting to the projected \$25 million in reserves was doable by 2016. Mr. McFarland said in his experience actual results were always worse than forecast. He felt this was viable and painted the picture that the City was not flush with cash, but at the same time there were municipalities in much worse shape than Newark.

Mr. Morehead commented that in prior years, infrastructure maintenance, specifically water and sewer, had been put off. He asked if there was enough funding in this plan to correct those past situations. Mr. Sonnenberg thought this was a step in the right direction. He said part of the issue with water and sewer was that almost everything was underground, making it difficult to assess problems, and projections will continue to be refined going forward.

The Chair opened the discussion to the public.

Catherine Ciferni, a Newark resident, asked if funding for the ADA curb cut ramp 20-year program would come from the regular budget or from the CDBG funds that were not yet voted on by the Committee. Mr. Sonnenberg advised that \$60,000 per year was from current resources and \$60,000 per year was from CDBG funds. Ms. Ciferni stated this would be a redo. Mr. Sonnenberg explained in some cases there were no ramps, in other cases the existing ramps did not meet current Federal standards, and a number would have to be redone. Ms. Ciferni asked if the funding would include a ramp in the Council Chamber. Mr. Sonnenberg confirmed this funding was for streets only.

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

Question on the Motion was called.

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

**32:40**

Catherine Ciferni, a Newark resident, expressed frustration that the curb cuts had to be redone, that the tree pits were redone several times, that recycling containers were not painted to distinguish them from trash receptacles and that recycling was not adequately promoted. She was also disturbed about the placement and coloring of the bike racks which made them difficult to see and prone to damage. Mr. Sonnenberg reported that the recycling containers were currently being painted.

**4. 1-B. UNIVERSITY**

1. Administration - None

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

There were no comments forthcoming.

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

**37:30**

- Messrs. Clifton, Athey, Morehead and Funk commended the response by employees of the Public Works, Code Enforcement and Electric Departments during the recent hurricane. In acknowledging the work of the crews during the hurricane, Mr. Tuttle thought it was important to recognize the preventive work done by the City (such as tree trimming) which he felt was money well spent. Mr. Temko thought people were happy to be in Newark (as opposed to other places) during storms and disasters like this one.

**7. Mr. Morehead**

- Mr. Morehead proposed a Council workshop on the issue of street flooding during large storms. Mr. Athey reported there were significant efforts ongoing at the State level with a great deal of master planning being done. Mr. Sonnenberg will request a report from Mr. Lapointe on areas where flooding routinely occurs and whether there were any possible solutions. Mr. Athey believed Kells Avenue had a bigger drainage issue and suggested a comprehensive look at how drainage problems were identified. Mr. Temko suggested that the City be proactive in identifying other ways the City might be impacted from storms and referenced two bridges in West Branch and Christianstead that were not maintained after the developments were completed.

Mr. Markham noted the importance of protecting the water treatment plant along the White Clay Creek from flooding.

- Mr. Morehead referenced the recent Council workshop on rental apartment housing and felt Mr. Lopata should have been given further direction on reducing density limits in the BB zone. Mr. Temko said it was brought to his attention that the public did not have the opportunity to comment during the workshop and suggested adding it under item 8A at the 9/26/11 Council meeting.

**8. Mr. Markham**

- In recognition of the tenth anniversary of September 11th, Mr. Markham offered his thanks to members of the military, first responders, firemen and others for their outstanding efforts on that day.
- Mr. Markham was pleased to report that the Pomeroy Trail had broken ground.
- Regarding the Stopyra Tract, the Planning Board voted to reject the changes, and a super majority of County Council would be required to pass the project.
- Mr. Markham said the dumplings served at the new vending cart located at the Campus Colonnade were highly recommended.

**9. Mr. Tuttle**

- On the flooding issues, Mr. Tuttle thought it was appropriate to catalog the known problem areas.

**10. Mr. Temko**

- Mr. Temko was pleased that the two different recycling projects were included in the Capital Budget.
- Related to the CDBG issue raised by Ms. Ciferni, Mr. Temko noted Council highly encouraged the Committee to evaluate each project on its merits, and it was the Committee's decision whether to fund the ADA ramps.
- Mr. Temko expected the Traffic Calming Committee to have a proposal for Country Club Drive in the near future.
- In conjunction with a previous Council discussion about whether people were still flying as many flags to commemorate September 11th, Mr. Temko said his young niece commented about how many American flags she saw in the City on 9/11.
- Mr. Temko suggested that Council adopt a resolution for National Diversity Day (October 7).
- Mr. Temko reported the Traffic Committee would discuss the elimination of parking at the intersection of Freemont and Lynn Drives in Fairfield Crest. This related to concerns about parking during swim meets when vehicles do not have visibility in the intersection.
- Mr. Temko hoped to see many people at Newark Community Day on 9/18.

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

- A.** Approval of Regular Council Meeting Minutes – August 8, 2011
- B.** Receipt of Alderman's Report – August 17, 2011

- C. **First Reading - Bill 11-18** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Revising the Alcoholic Beverage Regulations for Bars – **2nd Reading October 10, 2011**
- D. **First Reading – Bill 11-19** - An Ordinance Amending Chapter 20, Motor Vehicles and Traffic, Code of the City of Newark, Delaware, Schedule X, Parking Meter Zones, By Adding Municipal Lot #6 – **2nd Reading September 26, 2011**
- E. **First Reading – Bill 11-20** - An Ordinance Amending Chapter 20, Motor Vehicles and Traffic, Code of the City of Newark, Delaware, By Bringing the Code Into Compliance With Amendments to State DUI Law Regarding Second Offense DUI's – **2nd Reading September 26, 2011**
- F. Reappointment of Jeff Bergstrom to Board of Adjustment – 4-Year Appointment to Expire September, 2015
- G. Reappointment of Patricia Brill, District 1, Peg Brown, District 5 and Angela Dressel, District 6 to Planning Commission – 3-Year Appointments to expire September 2014
- H. Recommendation from Community Development/Revenue Sharing Committee re Target Funding for 2012 Revenue Sharing Program
- I. Planning Commission Minutes – August 2, 2011
- J. Pension Plan Performance Report – 2nd Quarter 2011

**56:57**

Ms. Fogg read the Consent Agenda in its entirety.

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

**13. 4. FINANCIAL STATEMENT**

**59:06**

Mr. McFarland reviewed the July 2011 Financial Report which showed results at about \$1.6 million over budget for all funds on a consolidated basis. The Governmental Fund showed an improvement of \$1.2 million with \$1 million attributable to higher than budgeted revenues, primarily permit revenues of about \$350,000, higher fine revenues of \$214,000 and higher property tax collections of \$200,000.

Operating expenses were approximately \$150,000 under budget due to lower personnel costs.

The Enterprise Funds were about \$350,000 over budget with higher budgeted sewer revenues and higher parking lot revenues. Revenues in the electric utility met budget due to adoption of deferred accounting. At the end of July there were over collections in the electric fund of about \$2 million which would be tracked through the end of September and refunded to residents in 2012. Operating expenses were slightly over budget in the Enterprise Fund, reflecting contractual payments made in the first half of the year.

The cash balance was \$21.6 million at month end which was an improvement of \$2.6 million from the beginning of the year.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT THE JULY 2011 FINANCIAL REPORT BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

**A.** Recommendation on Contract No. 2011-09, Purchase of (1) Mini-Bus

**1:02**

Ms. Houck reviewed her memo dated 8/19/11 wherein she recommended the purchase of a 2013 International Chassis and Body mini-bus to replace existing Unicity bus #1304. The State of Delaware would reimburse the City and the University for costs associated with operating the Unicity Bus system including the purchase cost of the bus. Three sealed bids were received, and funding was available from DelDOT totaling \$101,300. The City realized \$2,500 in deductions which reduced the cost contribution from the Equipment Replacement Program to \$3,430. It was therefore recommended that Council award this contract to Wolfington Body Company, Inc. for their total bid of \$104,730.

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT CONTRACT NO. 2011-09 FOR THE PURCHASE OF A 2013 INTERNATIONAL CHASSIS AND BODY MINI-BUS BE AWARDED TO WOLFINGTON BODY COMPANY, INC. AT THE TOTAL COST OF \$104,730.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**15. 5-B. RECOMMENDATION ON CONTRACT NO. 11-08, COOCHES BRIDGE PUMPING STATION IMPROVEMENTS**

**1:04**

Ms. Houck detailed her memo dated 9/1/11 wherein she recommended awarding Contract No. 11-08 which would convert the Cooches Bridge Pumping Station into a submersible-type wastewater pumping station. This will eliminate the need to enter a confined space to work on the pump and improve the station's maintenance and operation efforts to make them more efficient. Seven bids were received, and funds to cover the cost of the project were planned for and available in Capital Project S1001 totaling \$137,351. It was therefore recommended to award the contract to Blooming Glen Contractors, Inc.

Mr. Markham asked if this project would help with flooding issues at the location. Ms. Houck said it would help, but this location was not impacted as much by flooding issues as some other areas that will be addressed in the future.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT CONTRACT NO. 11-08 FOR IMPROVEMENTS TO COOCHES BRIDGE PUMPING STATION BE AWARDED TO BLOOMING GLEN CONTRACTORS INC. FOR THE BID PRICE OF \$137,351.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**16. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

**A.** **Bill 11-15** – An Ordinance Amending Chapter 25, Sewers, Article IV, Regulations on Nondomestic Waste Water Discharges Into the Public Sewer System, By Incorporating Certain Amendments of the New Castle County Code

**1:06**

Ms. Fogg read Bill 11-15 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-15.

Mr. Sonnenberg confirmed the primary purpose of this bill was to be consistent with the County and EPA requirements.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(ORDINANCE NO. 11-11)**

17. **6-B. BILL 11-17 – AN ORDINANCE SUPPLEMENTAL TO ORDINANCE NO. 93-17 RELATING TO THE CURRENT REFUNDING OF \$2,700,000 CITY OF NEWARK GENERAL OBLIGATION BONDS, SERIES OF 2000 AND THE ADVANCE REFUNDING OF \$18,600,000 CITY OF NEWARK GENERAL OBLIGATION BONDS, SERIES OF 2002**

**1:07**

Ms. Fogg read Bill 11-17 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-17.

Mr. McFarland confirmed that this action would refinance the debt to lower the City's costs and would save in the range of \$60,000-\$90,000 annually.

In response to Mr. Morehead's question about how soon this would be completed, Mr. McFarland said the target date was October 7.

Mr. Markham asked if Newark was still considered a good buy based on its bond rating. Mr. McFarland responded that during this process, the City's credit will be revisited by Moody's. Mr. McFarland advised that Council's action was sufficient for the City to go forward with the transaction without going back to Council.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(ORDINANCE NO. 11-12)**

18. **6-C. BILL 11-13 – AN ORDINANCE AMENDING PLANNING SECTION D OF THE COMPREHENSIVE DEVELOPMENT PLAN IV FOR THE CITY OF NEWARK AS IT RELATES TO 70-74 AMSTEL AVENUE - SEE ITEM 6-D, 7-A AND 7-B**

**1:10**

Ms. Fogg read Bill 11-13 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-13.

(Note: The public hearing for Bill 11-13, Bill 11-14, the major subdivision and the Special Use Permit for this property were held under Item #18.)

Lisa Goodman, Esq. represented Carroll Commons LLC. She was accompanied by Victor David, Principal of Shilling-Douglas School of Hair Design, Joe Charma, Landmark Engineering, and Dan Hoffman, Project Architect from Architectural Alliance. This was a rezoning request for two parcels on Amstel Avenue, both owned by Carroll Commons LLC and the current home of Schilling-Douglas. The other property was a small rental home next to the A-frame housing the school. The two parcels were zoned RM and BN, and the request was to zone them BB which would then make Amstel Avenue consistent BB for use as commercial, retail and townhouse-style apartment.

Ms. Goodman referred to visuals of the project. On an average day the school had 80 students on site with about 130 enrolled at any one time. The school had outgrown the site and wanted to move to a larger property in the City with more parking. Currently they used stacked parking which was not ideal.

The proposal was to redevelop the current site with approximately 1,100 square feet of commercial space and 16 two-story townhouses with ground level parking. The commercial portion would be a beauty salon run by Schilling-Douglas who wanted to retain a presence on the site on a full-time basis.

The density proposed was 20.78 per acre which was consistent with other projects in the area. Parking was more than compliant with 56 spaces required and 71 spaces provided.

The Comprehensive Plan modification would amend Planning Section D to commercial (pedestrian oriented). Ms. Goodman noted that both the zoning and Comprehensive Plan amendment were consistent with the street. All of it would be BB, and that side of Amstel Avenue would then be fully redeveloped. She believed the plan met the criteria for the rezoning, was consistent with the area and was not detrimental to the neighbors.

Mr. Clifton commended the developer for a great job on providing more parking than required.

Mr. Markham commented that compared to the townhouses next door, the height appeared lower. Mr. Hoffman confirmed they were several feet lower in height than the neighboring property.

Ms. Goodman noted that Mr. David was comfortable with an overall limit on the number of tenants of 76, and Mr. Morehead requested adding the restriction to the agreement.

Mr. Morehead asked to revisit whether the parking was adequate for the project. Mr. Charma referred to the plans to explain the parking, and said it exceeded Code with four spaces provided per unit and only three required. Mr. David reported the four-station beauty salon would not generate the need for much parking, and a number of their clients were walk-in customers.

The Chair opened the discussion to the public.

Steven Dentel, a Newark resident and Conservation Advisory Commission member, stated there was another side to this. He believed the wrong message was being sent if students were told there was plenty of parking for everyone to bring a car. From an environmental standpoint in terms of sustainability and

traffic control, he thought the downtown area needed viable mass transit and all the planned bike paths completed so students could be told they do not need a car in Newark.

Kevin Heitzenroder, a Newark resident and developer of Amstel Square, voiced his support of the project. His townhomes had two parking spaces each which he said worked very well. He liked the brick and the rendering and looked forward to seeing the new project which he felt was a better fit in this area.

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

Question on the Motion was called

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(ORDINANCE NO. 11-13)**

- 19. 6-D. BILL 11-14 – AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BN (NEIGHBORHOOD SHOPPING TO BB (CENTRAL BUSINESS DISTRICT) A .48 ACRE PARCEL OF LAND LOCATED AT 70 AMSTEL AVENUE AND FROM RM (MULTI-FAMILY DWELLINGS – GARDEN APARTMENTS) TO BB (CENTRAL BUSINESS DISTRICT) A .29 ACRE PARCEL OF LAND LOCATED AT 74 AMSTEL AVENUE - SEE ITEMS 6-C, 7-A AND 7-B**

**1:42**

(Note: The public hearing for Bill 11-13, Bill 11-14, the major subdivision and the Special Use Permit for this property were held under Item #18.)

Ms. Fogg read Bill 11-14 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-14.

Mr. Clifton said the redevelopment of this area worked well and the zoning fit this location, and he planned to support the rezoning.

Mr. Athey believed rezoning the project to BB made it more consistent overall. Also, it was clear Amstel Avenue was working well, and he would support the rezoning.

Mr. Morehead planned to support the rezoning for the same reasons mentioned by Messrs. Clifton and Athey.

Mr. Markham would support the rezoning since the proposal fit and moved more cars out of the area than it brought in. He appreciated the business keeping a presence in the City.

Mr. Tuttle was supportive of the fact that the project increased the consistency of the zoning in the area.

Mr. Temko thought the Comprehensive Plan and zoning reflected the existing uses and that changing the zoning made it more consistent with the area.

Mr. Funk was pleased the family was able to develop this project consistently with what already existed in the area and would support it.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(ORDINANCE NO. 11-14)**

**20. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:**

- A.** Request of Amstel Avenue, LCC, for the Redevelopment and Major Subdivision of the .77 Acre Parcel Located at 70 and 74 Amstel Avenue, In Order to Demolish the Existing Buildings on the Property and Replace with Two New Buildings Containing Commercial Space, 16 Townhouse Style Two-Story Apartments and Ground Level Parking, to be Known as Carroll Commons ***(Resolution and Agreement Presented) - See Items 6-C, 6-D and 7-B***

(Note: The public hearing for Bill 11-13, Bill 11-14, the major subdivision and the Special Use Permit for this property were held under Item #18.)

MOTION BY MR. TEMKO, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION AND AGREEMENT BE APPROVED AS PRESENTED.

AMENDMENT BY MR. ATHEY, SECONDED BY MR. MOREHEAD: THAT THE SUBDIVISION AGREEMENT BE AMENDED TO INCLUDE THE STIPULATION THAT THE PROJECT BE LIMITED TO 76 TOTAL OCCUPANTS.

AMENDMENT PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Question on the Motion as Amended was called.

MOTION AS AMENDED PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(RESOLUTION NO. 11-I)**

**21. 7-B. REQUEST OF AMSTEL AVENUE, LCC, FOR A SPECIAL USE PERMIT TO PERMIT 16 TOWNHOUSE STYLE TWO-STORY APARTMENTS AT 70 AND 74 AMSTEL AVENUE – SEE ITEMS 6-C, 6-D, AND 7-A**

(Note: The public hearing for Bill 11-13, Bill 11-14, the major subdivision and the Special Use Permit for this property were held under Item #18.)

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Nay – 0.

**22. 7-C. REQUEST OF MS. KATHERINE APPELHANS FOR A SPECIAL USE PERMIT TO ALLOW A PROFESSIONAL OFFICE TO PROVIDE ONE-ON-ONE PIANO LESSONS IN A RESIDENTIAL DWELLING AT 203 WILSON ROAD**

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**1:48**

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: THAT THE SPECIAL USE PERMIT BE GRANTED SUBJECT TO THE STIPULATION THAT ONCE MS. APPELHANS VACATES THE PREMISES THE SPECIAL USE PERMIT WILL EXPIRE.

Ms. Appelhans, a Newark resident, requested the Special Use Permit so she would be able to teach private piano lessons in her home studio. The lessons would be one-on-one. There was adequate space for parking in her driveway, and the total number of cars per week would be about 15 which would not have much of an impact on the neighborhood. Ms. Appelhans spoke to her immediate neighbors, and there was no objection to her request.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

**A.** Council Members: None

**24. 8-A-1. REVIEW OF TOWN & GOWN COMMITTEE & APPOINTMENTS**

**1:53**

Mr. Sonnenberg reported this was the three-year review of the Town & Gown Committee. Mr. Temko shared the results of the survey sent to the Committee members. Six responses were received - half thought the Committee should continue, and all agreed the Committee was ineffective.

Mr. Clifton suggested the communication between the City, the University and the public was better today than it had ever been. Based on the communication and spirit of cooperation at the higher levels between the City and University staff, he was not sure there was a need to continue on with the Committee. In his mind the openness of the University to listen and understand public frustration with issues was working well.

During Council's previous review of Town & Gown, Mr. Temko voted against the restructured Committee because he felt it was unwieldy and would not be effective. He did not think it was wise to have the Committee without giving them a defined role and purpose. He thought there were opportunities for the Committee to function with a small membership who were actively involved. He said University-community relations were still a big issue with constituents.

Mr. Funk's impression was that without participation by University students the Committee was a waste of his time.

Mr. Athey, who served on the Town & Gown Committee in the past, felt it was a bit one sided. He agreed communication with the University was far improved. Mr. Athey asked to hear from Committee members.

The Chair opened the discussion to the public.

Jim Neal, Town & Gown Chair (who lives outside the City), thought City residents only should serve on the Committee. He felt it was useful to have a venue where landlords and residents could address their concerns about problems they encounter with students who live off campus. However, since things were going along fairly well, he said it was a toss-up as to whether the Committee was needed at this time. If the Committee continued, he thought it should consist of the two police chiefs, the Dean of Students, several residents and several owners of off-campus housing, and they should get together periodically with Council.

Ron Walker, Town & Gown member, commented that the University was poorly represented - at times only the Police Department attended - and the Committee did not function as he envisioned since there was no interaction between students and residents. He thought the Committee accomplished a lot that never got into the minutes. He felt the exchange of ideas between both Police Departments was valuable, as was input to rental landlords. He added when all parties were not participating, he did not think the Committee could correctly be called Town & Gown.

Catherine Ciferni agreed part of the problem with Town & Gown was lack of student participation. She suggested coming up with a new plan for the Committee and giving the students a voice with more opportunities for them to become involved.

David Robertson, Town & Gown member, attended Town & Gown meetings for several decades. What he viewed as a major problem had to do with the future of Newark and with good planning. He felt there should be a place where discussion could take place and, from his point of view, that did not happen at Town & Gown. At a previous Town & Gown meeting Mr. Robertson said he asked that the minutes include a UD administrator's comments reiterating that the University was not going to be giving, working or sharing with the City, the UD had their own plans and were going to focus on those plans and that the City should not expect anything from the University in terms of sharing development. Mr. Robertson felt if the Committee was to continue they needed direction from Council and people who were engaged in trying to make something happen. He urged Council to decide whether the City's future depended on public cooperative planning between the University and the City.

Rick Armitage, University of Delaware representative, suggested tabling the discussion and bringing it back to a future meeting when senior University administrators could attend the discussion. Based on comments heard while attending national meetings, cooperation between the City and the University was almost unprecedented any place else in the country. Mr. Armitage felt there was a sincere interest on the part of the University in continuing to work in the best interest of the University, the City and its residents.

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

In regard to comments that Council should task Town & Gown with agenda items, Mr. Clifton felt the purpose of bringing the Committee together was that they should be aware of the issues – landlords, students, residents, etc.

Mr. Sonnenberg, also a Town & Gown Committee member, said the Committee served no purpose and that a Committee like this could not change student behavior. He felt the City was dealing with student behavior through the two police departments working together. He did not get the message that the University did not want to cooperate with the City on planning. He did not think there was a need for the Committee, did not feel it should be reconstituted and thought it was a waste of time. Mayor Funk agreed.

Mr. Athey said he wanted to give the University the opportunity to have one more discussion on whether the Committee could be reconstituted and felt Council should accept Mr. Armitage's suggestion to table the discussion.

Mr. Morehead noted in the survey a lot of folks expressed discontent with the Committee, but there were several voices who responded that the Committee could be improved.

Mr. Temko did not think changing student behavior should be the purpose of the Committee. He thought there had to be a synergistic relationship between the University and the community in order to attain long-term success and sustainable civic health in the community. He suggested finding interested, passionate people who were willing to proactively address issues.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: TO TABLE THE DECISION ABOUT THE TOWN & GOWN COMMITTEE TO OBTAIN FEEDBACK FROM UNIVERSITY OF DELAWARE ADMINISTRATORS.

Mr. Markham recommended there be no Town & Gown Committee meeting until Council reached a decision.

Mr. Temko suggested inviting SGA and GSS members to the next discussion.

Ms. Fogg reminded Council that if they decided not to continue with the Committee, they could disband it and then reform it once they decided what type of Committee they wanted and the direction they wanted it to take.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**25. 8-A-2. RESOLUTION NO. 11- SUPPORT OF A SISTER CITY TO BAMENDJOU, CAMEROON**

**2:51**

Mr. Dentel, a Newark resident, spoke with the Mayor of Bamendjou who was excited and supportive about becoming a Sister City to Newark and planned to pass a reciprocal motion. Mr. Dentel mentioned that Mr. Simonson worked with Engineers Without Borders and because they were doing a water project in Bamendjou, Mr. Simonson was willing to serve as staff coordinator.

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

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE RESOLUTION BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(RESOLUTION NO. 11–J)**

**26. 8-A-3. DISCUSSION RE COMMUNITY CALENDAR**

**2:54**

Mr. Temko thought a community calendar was a tremendous tool for increasing the vibrancy of Newark because of all the events occurring in the City. He learned that a number of community calendars were maintained by

municipalities and located several having well-defined policies regarding what was allowed on the calendar. He felt the comments in Mr. Herron's memo were appropriate that this was something to be cautionary about in regard to discrimination.

Mr. Herron advised there were two ways to approach this – allowing unfettered access or restricting access. He felt either way could invite disputes over claims that the City endorsed or prohibited an activity.

Mr. Athey asked what amount of staff time would be involved. As Mr. Sonnenberg understood it, there was a way to set up a calendar where people could self-generate items, but it would be more complex if staff was involved with filtering. While he thought a calendar could be done technically, his concern was placing staff in the position of being subjected to a legal challenge because of decisions made about what went in and what was kept out of the calendar.

Mr. Clifton had issues with the fact that somebody on staff had to decide what was offensive. Mr. Temko said some municipalities do not allow anything political or religious and some do – the idea was to have a clear policy with no ambiguity.

Mr. Markham felt this would be a good economic development tool for the City and said it was a fairly straightforward thing to do.

Mr. Morehead suggested Council should determine if this was something they wanted to do. He wanted to pursue it.

The Chair opened the discussion to the public.

Catherine Ciferni, a Newark resident, felt a community calendar would market Newark in a quick and easy accessible way. She said she spoke to a number of Newark businesses who would like to see one for the City.

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

Mr. Tuttle thought having a calendar as one source of information on what goes on in the City would be helpful since currently there was no one place to look. However, he did not want to create a structure that consumed a significant amount of staff time.

Mr. Markham asked if the Downtown Newark Partnership calendar could include additional events. Ms. Roser confirmed the DNP calendar was limited to businesses, activities and events in the downtown. The businesses on Main Street were able to manipulate their own page and submit their events through the new website.

Mr. Athey requested Mr. Sonnenberg to discuss this further with IT and the Community Affairs Officer and asked Mr. Herron to take a harder look at how other communities wrestled with this issue.

**MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: TO TABLE THE DISCUSSION OF THE COMMUNITY CALENDAR FOR FURTHER STAFF CONSIDERATION.**

**MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.**

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

27. **8-B. OTHERS:** None
28. **9. SPECIAL DEPARTMENTAL REPORTS:**
  - A. Special Reports from Manager & Staff: None
29. **Meeting adjourned at 10:10 pm.**

Patricia M. Fogg, CMC  
City Secretary

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