

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

October 10, 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 to the City Manager Charles Zusag

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

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

A. Public

00:33

Catherine Ciferni, a Newark resident, thanked the City for arranging a prescription drug drop off event at the Newark Senior Center on October 29th from 10 am to 2 pm.

Mr. Ciferni expressed her concern with lengthy Council agendas where some items are discussed very late in the evening when many people were no longer in attendance to hear or make comments. She referred to a remark she thought was made in the past by Mr. Tuttle that some cities hold one Council meeting as a workshop and one meeting for business and suggested that Council look into that format.

3. **1-B. UNIVERSITY**

1. Administration – there were no comments forthcoming.

4. **1-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

5. **1-C. COUNCIL MEMBERS**

03:12

- Messrs. Temko and Athey congratulated Roy Lopata on receiving the Public Service Award from the Delaware Association of Public Administration this year.

6. **Mr. Temko**

Mr. Temko commented on Ms. Ciferni's comments regarding the agenda and suggested that Council should be more cognizant as to items that could be moved up on an agenda. For example, Council recently granted a Special Use

Permit to allow piano lessons in a home. He thought that item could have been moved to the front of the agenda.

- Mr. Temko asked if any research was done on whether the Council Chamber entrance could be converted into a ramp for easy accessibility to all disabled persons. Mr. Sonnenberg advised that no research had been done. Mr. Temko suggested that the City should look into providing a ramp into the Chamber.

7. Mr. Tuttle

- Mr. Tuttle acknowledged the progress being made on Elkton Road.
- Mr. Tuttle responded to Ms. Ciferni's comments about Council's agenda format by informing her that some municipalities have a workshop meeting and then a business meeting. However, he never indicated that the City should follow that format.

8. Mr. Funk

- Mr. Funk noticed in the Alderman's Report that there was a large decrease (15% to 17%) in parking ticket revenue over the last three months. Mr. Sonnenberg assured him more revenue would be collected from the meters.

9. Mr. Morehead

- Mr. Morehead reported he attended the Delaware School for the Deaf dedication and said the Greater Newark community was blessed to have such a wonderful facility in the area.
- Mr. Morehead advised he attended the 50th Anniversary celebration of the Newark Day Nursery on Thursday, and he thought the community was fortunate to have this facility in Newark.
- Mr. Morehead thanked the City for supporting the prescription drug drop off event scheduled at the Newark Senior Center on October 29th from 10 am to 2 pm.

10. Mr. Athey

- Mr. Athey acknowledged the Police Department participation at the recent College Park Civic Association meeting.
- Mr. Athey recognized the progress that was being made on the Pomeroy Trail near Wyoming Road.
- Mr. Athey commented on Ms. Ciferni's comments regarding the agenda and acknowledged there were many different ways to prepare an agenda; however, he thought the current form suited the City of Newark very well. He noted if they held a workshop at the first meeting of each month, the second meeting would almost seem like a rubber stamped meeting.

11. Mr. Clifton

- Mr. Clifton recognized the 50th Anniversary of the Newark Day Nursery celebration which he attended with Mr. Morehead, Lt. Governor Matt Denn and area legislators. He noted that local resident Wally McCurdy presented a very early history of the Nursery and the obstacles they faced at that time.
- Mr. Clifton thanked Roy Simonson for his assistance in resolving a problem with a water main break at Haslett Park over the weekend. The break

was repaired late this afternoon, and he appreciated the work involved in getting it resolved.

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

- A. Approval of Regular Council Meeting Minutes – September 16, 2011
- B. Receipt of Alderman’s Report – October 6, 2011
- C. Receipt of Planning Commission Minutes – September 6, 2011
- D. ***First Reading - Bill 11-22*** – An Ordinance Amending Chapter 30, Water, Code of the City of Newark, Delaware, By Establishing a Water Rate Schedule Effective January 1, 2012 - ***2nd Reading October 24, 2011***
- E. ***First Reading – Bill 11-23*** – An Ordinance Amending Chapter 20, Motor Vehicles and Traffic and Chapter 2, Administration, Code of the City of Newark, Delaware, to Provide Parking Enforcement Officers the Authority to Issue Summons for the Unlawful Removal of Vehicles from Municipal Parking Areas – ***2nd Reading October 24, 2011***

10:59

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: 7 to 0.

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

13. **3. ITEMS NOT FINISHED AT PREVIOUS MEETING**

- A. Review of Town & Gown Committee & Appointments (***Tabled September 12, 2011***)

12:11

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT THIS ITEM BE LIFTED FROM THE TABLE.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Mr. Temko asked if there was any outreach to the SGA or to the Greek Council regarding their interest in the Committee. Mr. Funk advised that he spoke with the president of the SGA, and she was willing to come to the meetings. He noted that last September there were members from the student body present at the meeting who agreed to continue attending the monthly meetings, but they never returned for a second meeting. Mr. Funk believed the representative from the University’s administration was the highest level representative they were going to send to the meetings. That representative attended only one or two meetings in the past year.

Mr. Funk noted that the *You Don’t Need It* project which started at Town & Gown was being handled completely by Carol Houck from the City. The Chapel Street situation was being handled by the two police chiefs and landlord representative John Smith. He further reported that the City and the University were getting along quite well, and he felt very comfortable talking to the major players at the University and always received a positive reaction which was not always true in the past.

Mr. Funk thought there were two options for the future of this Committee. One, appoint the committee members for another three-year term with the understanding that they meet and decide how often they should meet, if at all.

Two, do not to renew the Committee at this time, and when the need arises, appoint a committee at that time.

Mr. Temko asked Ms. Fogg if committee members were just not showing up for meetings or were they notifying the office in advance that they had a conflict and were unable to attend the meeting. Ms. Fogg said in many cases, members of this Committee were not calling to let the office know they were not attending. She reported that her office sends out reminders asking the members to please provide advance notice so if there is not a quorum, the meeting could be cancelled in advance. Cancellations happened quite frequently over the past few months.

Mr. Clifton agreed with Mr. Funk that the City and the University were getting along well and saw no reason to keep putting staff time and effort into this Committee, especially when the equivalent people were not sitting across the table. He provided an example when there were alcohol issues in 1999 after five people were killed on Otts Chapel Road where an ad-hoc committee was formed to deal with that issue only, and then the committee was dissolved after it made its recommendations. He thought another ad-hoc committee could be formed if problems arose dealing with Town and Gown issues. He did not see any reason for a committee to meet every month or even every quarter to talk about crime statistics that were online, or to talk about other minutiae.

Mr. Funk said he attended these meetings for about eight years and understood the need for the Committee in the early years. Now, he thought some members attend grudgingly.

Mr. Athey agreed that communication with the University was at an all time high. One argument for keeping the Committee in place would be the fact that there was no guarantee another administration would not come in and revert back to older ways. He pointed out that he suggested this item be tabled at a previous meeting to get input from the University administration as to whether they were committed to the Town and Gown. However, he learned there was not that level of interest and agreed with Mr. Clifton that an ad-hoc committee could be created in the future, if needed.

Mr. Funk interjected that the Town & Gown Committee was created by ordinance so it would remain in the Code, and if the need arose, a new Committee could be created at a later date.

Mr. Temko pointed out that there were other Council appointed committees, such as the Board of Sidewalk Appeals that meet only on an as-needed basis. With regard to everyone feeling the communication between the University and the City was so great, he pointed out that the University's lack of willingness to be supportive of the Committee spoke negatively to the City's relationship with them. When he was on the Committee (prior to being on Council), they decided to send a letter to new students welcoming them to the community. The University since blocked that effort saying they did not want the students receiving an additional email. He acknowledged that there were some good conversations between certain people in a non-public setting, but he thought they needed the University to step forward as a partner here.

Mr. Funk questioned whether a motion was needed to nominate people to the Town & Gown or should nothing be done at this time. Mr. Clifton responded that the Committee would sunset if Council took no action. Mr. Athey asked Ms. Fogg for her opinion and she stated that the Town & Gown Committee was created by ordinance so it will remain in the Code. However, it did sunset in August and if Council wanted it to continue, they should make a motion for the Committee to continue for another three years; or Council could make a motion that nothing be done and let the Committee sunset. At a later date if Council found the need for the Committee and a new venue and purpose was established, new committee members could be appointed.

Mr. Markham said he was torn with this decision because although there was nothing specific for the Committee to address at this time, he thought it made sense to have a Town & Gown Committee.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT NO ACTION BE TAKEN TO CONTINUE THE TOWN AND GOWN COMMITTEE.

MOTION PASSED. VOTE: 6 to 1.

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

14. **4. FINANCIAL STATEMENT** - Next Meeting

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

A. Recommendation to Waive Bidding and Extend Contract No.07-01 Mowing of Reservoir and Basin/Open Space Areas

26:18

Ms. Houck reviewed her memo dated 9/29/11 wherein she recommended the City waive the bidding and extend Contract No. 07-01 for another two years (was previously extended in 2009 for two additional years). The contractor, Tri-State Lawn Care, was willing to extend the contract at the same cost for service. Since the original contract was awarded, the City added new locations to the mowing services contract including additional City owned/maintained detention basins, areas of the reservoir and open space areas that increased the contract by \$7,788, bringing the total cost to \$35,300.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT COUNCIL WAIVE THE BIDDING PROCESS AND EXTEND CONTRACT NO. 07-01, MOWING OF RESERVOIR AND BASIN/OPEN SPACE AREAS, TO THE SAME VENDOR, TRI-STATE LAWN CARE, FOR A TOTAL COST OF \$35,300.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

16. **5-B. CONTRACT NO. 11-05, PURCHASE OF A REAR MOUNTED DIGGER DERRICK, LINE CONSTRUCTION BODY AND CHASSIS**

27:37

Ms. Houck reviewed her memo dated 9/30/11 wherein she recommended awarding Contract No. 11-05 to Dueco, Inc. for the final cost of \$215,203 after trade-in and bid reductions. This purchase would replace the existing 2004 International 7400 digger/derrick that had become extremely unreliable. One bid was received. Funds to cover the cost of the purchase were available in the Capital Programs Equipment Replacement Schedule and Capital Reserves.

Mr. Funk expressed his concern with only one bid and questioned if it was because of the specifications. Ms. Houck advised that the bid documents were picked up or mailed to eleven possible bids. She also noted that the problems they had experienced with the existing equipment were very technical and involved continued malfunctions of the radio wave communication system that was installed when the unit was built. Inquiries made by the City's Chief Mechanic regarding the replacement of the radio wave system with a manual system were rejected by companies on the basis of liability as it related to the unit tipping over and the difficulty of by-passing the electronics of the existing body by installing a manual system.

Mr. Markham questioned whether the State had this type of contract and was told they did not. However, Ms. Houck said this similar vehicle had been purchased by Delmarva.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT CONTRACT NO. 11-05, PURCHASE OF A REAR MOUNTED DIGGER DERRICK, LINE CONSTRUCTION BODY AND CHASSIS, BE AWARDED TO DUECO, INC. FOR THE FINAL COST OF \$215,203 AFTER TRADE-IN AND BID REDUCTIONS.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

17. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

A. Bill 11-18 - An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Revising the Alcoholic Beverage Regulations for Bars

32:03

Ms. Fogg read Bill 11-18 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-18.

Mr. Lopata advised that Bill 11-18 contained two amendments. First, it would permit a facility such as the Santa Fe Grille to have a bar in a restaurant selling alcoholic beverages for consumption on the premises if the restaurant was within 300 feet of residentially zoned properties. The second amendment would allow new restaurants in the downtown area directly adjacent to residential locations to be able to sell alcoholic beverages. In the case of Santa Fe Grille since they were now applying for a Special Use Permit, they were, in effect, a new facility in terms of these changes. Therefore, the two amendments had to be passed for Santa Fe Grille to apply for a Special Use Permit in order to have a bar in their restaurant. According to Mr. Lopata the change would help to standardize alcohol regulations in the downtown area.

Mark Sisk, Esquire, represented the Santa Fe Grille and its owner, Javier Acuna. Mr. Sisk asked Council to approve the amendments which were reviewed and unanimously approved by the Planning Commission at their August meeting.

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. 11-19)

18. 6-B. BILL 11-21 - AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES AND TRAFFIC, CODE OF THE CITY OF NEWARK, DELAWARE, BY REQUIRING TOW OPERATORS TO PHOTOGRAPH A VEHICLE PRIOR TO BEING TOWED AND TO INFORM PERSON CLAIMING A TOWED VEHICLE OF HIS/HER RIGHT TO INSPECT VEHICLE

36:19

Ms. Fogg read Bill 11-21 by title only.

MOTION BY MR. MARKHAM SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-21.

Mr. Markham explained that this proposal was the result of an experience of a family member who had their vehicle towed from an apartment complex and the vehicle was damaged at the tow operator's lot. When inquiring about the rights of the vehicle owner, the response was "take us to court." He thought this proposal would protect the car owner and tow operator by providing proof that the car was in good condition before it was towed. Mr. Clifton suggested adding a line to photographically document any existing damage as a separate issue to the four sides. Mr. Athey asked what would be considered damage since he thought this might be ambiguous. He asked Mr. Herron how long photographs would be retained, and Mr. Herron stated a sixty day time period should suffice. Ms. Fogg advised that licensed tow operators were notified of this proposal. Mr. Temko wondered if other communities required photographs showing the vehicle was parked illegally as this might be helpful in providing clarity. Mr. Morehead was concerned that in the verbiage it talked about documenting the condition of the vehicle in the event of dispute while the ordinance required a photo which might not document sufficiently to protect for a dispute. He added it would be most convenient to do this at a tow yard but wanted this done before the car was towed. Mr. Markham thought the photos should be time stamped as well. Mr. Herron advised it would be an offense if the tow operators failed to do this, and they could be brought to Court and fined (\$25).

Mr. Funk asked if any other towns in Delaware had this regulation. He thought this would create a situation where nobody would ever tow a vehicle in Newark and said there were a lot of times when that was necessary. Mr. Markham noted this ordinance specifically addressed only private lots.

The Chair opened the discussion to the public.

Kevin Cox, Ewing Towing, said the pictures could be taken on four sides prior to the tow with the best view being when the car was on the truck. If cars were parked close together it would be difficult to get good quality photos on the sides. He said it was a lot of work and did not understand what it would prove because night photos would not capture all the damage on vehicles such as scratches and dents, particularly on a dark vehicle. Mr. Markham asked how somebody who had their car towed would prove it was not damaged before it was towed. Mr. Cox said they documented damage through their tow slip which had a picture of the vehicle and they circled the description of damage prior to towing. In addition, NPD and UD officers recorded damage. Mr. Cox asked if there was only one complaint to which Mr. Markham replied yes.

Mr. Funk did not like doing things which had not been done by other municipalities and felt this was a civil liability case.

Mr. Temko suggested tabling the bill to a future meeting so Mr. Herron could determine whether other areas had such a requirement. Mr. Herron's research indicated no other municipality in Delaware had this law.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. ATHEY: THAT BILL NO. 11-21 BE TABLED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

19. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:

- A.** Request of Courtyard by Marriott at Newark – University of Delaware for Revision to the Approved Subdivision Agreement for the Development of the Hotel Known as Courtyard by Marriott, 400 Pencader Way, to Permit a 12-Seat Bar to be Located in the Renovated Lobby Area of the Hotel (***Addendum to Subdivision Agreement Presented***)

57:21

MOTION BY MR. CLIFTON, SECONDED BY MR. MOREHEAD: THAT THE ADDENDUM TO THE SUBDIVISION AGREEMENT BE APPROVED AS PRESENTED.

Bill Sullivan, Managing Director of the Marriott, said the hotel had been in operation since 2004. The initial agreement called for alcoholic beverage service for dinner in a sit-down area without a bar because there were concerns about becoming a student hang out. Since that time guests have asked for better beverage service including a bar. Marriott Courtyard brand developed a standard for a sit-down bar which would be managed as part of their beverage program. The hotel will be renovated sometime in December or January, and Mr. Sullivan referred to visuals showing the location and the rendering of the bar. Mr. Clifton thought this would be a great enhancement to the facility. Mr. Sullivan said their goal was to provide a better experience in Newark and also to keep people from driving in the evening after they had consumed an alcoholic beverage.

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.

20. 7-B. REQUEST OF U.H.C.S.,INC., T/A SANTA FE GRILLE, FOR A SPECIAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION AT A BAR AT THE SANTA FE GRILLE LOCATED AT 190 EAST MAIN STREET, NEWARK, DELAWARE

1:01

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

Mark Sisk, Esq. represented Javier Acuna who presented this same request at a previous Council meeting. Mr. Sisk said Council's action amending the Zoning Code permitted this request for an amendment to Mr. Acuna's existing Special Use Permit which was granted in the early part of the last decade and then amended last December to expand the operating hours of the business. The existing service bar would become a sit-down bar in the back of the facility and would seat six patrons.

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.

21. 8. ITEMS SUBMITTED FOR PUBLISHED AGENDA

A. Council Members:

1. Resolution No. 11-__: Authorizing the Issuance of the City's General Obligation Refunding Bonds, Series of 2011, for the Purpose of (1) Refunding All of the City's Outstanding General Obligation Bonds, Series of 2000 and Series of 2002 and (2) Paying the Costs and Expenses of Issuing the Bonds; Covenanting to Budget, Appropriate and Pay Debt Service on the Bonds and Pledging the Full Faith and Credit of the City for Due Payment of the Principal of and Interest on the Bonds; Setting Forth the Substantial Form of the Bonds; Setting Forth the Dates and Place of Payment and Other Details of the Bonds; Providing for the Sale of the Bonds; Authorizing the City Manager or Finance Director to Accept a Bid for the Purchase of the Bonds; Authorizing the Execution and Delivery of an Escrow Deposit agreement; and Authorizing Other Necessary Action

1:04

Mr. McFarland said the resolution was a companion piece to the ordinance passed at the last meeting which would permit refinancing of all the existing outstanding bonds for the City. The resolution facilitated the actual logistics of the bond issuance and refinancing – sending out the particular form for the bonds, who was able to accept the bids, who the escrow agent was for paying the bonds, etc. There was a delegation of authority to the City Manager and the Finance Director to oversee the issuance of the bonds and a requirement that the interest rate had to result in a net present value savings to the City.

Mr. Funk asked Mr. McFarland's estimate on how much interest the City would save in one year. Mr. McFarland anticipated this would amount to \$100,000-\$105,000 annually.

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.

(RESOLUTION NO. 11- L)

22. 8-B. OTHERS:

1. Presentation by WILMAPCO on Newark Transportation Plan

1:06

Heather Dunigan, Principal Planner, presented the final draft report of the Newark Transportation Plan prepared by WILMAPCO at the request of the City. She reviewed the Executive Summary of the document which provided recommendations for congestion, safety and mobility improvements, bicycle and pedestrian improvements and parking and transit improvements. She stated the top two issues from surveys conducted were to reduce traffic congestion and improve signal timing and coordination. Ms. Dunigan noted that some of the recommendations were already addressed. (Secretary's note: The Newark Transportation Plan is available in the City Secretary's office.)

Mr. Athey asked what the City could do to see that as much of this plan gets implemented as possible. Ms. Dunigan noted most of the roads addressed in the report were DeIDOT maintained roads, and funding contributions from the City might help this along. For instance, the City's draft budget included funding for an on-road bicycle component which would strengthen the City's case when approaching DeIDOT to ask for help. Beyond that, DeIDOT was part of the advisory committee for developing the plan which tackled a lot of the known trouble

spots. She added the best thing the City could do was stay on top of DeIDOT's resurfacing schedule to make sure they were addressing the improvements.

Mr. Athey was not sure if Mr. Lapointe was aware when DeIDOT resurfacing was occurring. Ms. Dunigan said DeIDOT published a list at the beginning of the fiscal year which would help the City to stay on top of the schedule and keep informed.

Mr. Clifton was concerned with the Hawk signalization on South College Avenue which he felt was a poor placement that could be better utilized elsewhere in the downtown area.

Mr. Markham asked if there were any recommendations that would better address where to put bike racks where they would be successful. Ms. Dunigan thought the issue was that they were installed so low where someone backing out of a space could not see them. She said the Newark Bicycle Committee identified locations where the sidewalk was a little wider for better placement. Mr. Funk thought the abandoned driveway at the Post Office would have been a good location.

Catherine Ciferni, a Newark resident, was glad the signal timing at Library Avenue/Rt. 273 would be changed which she thought would benefit seniors. She asked if there was anyway for transportation outreach (specifically the Trolley and Unicity bus) to thesenior population. She also thought the City might want to consider requiring a percentage of bike racks for buildings with a high occupancy population.

Mr. Lopata said the City was in the process of rethinking the bike racks downtown which he thought would help go a long way to meeting the needs in that area.

Maria Rocco, former UD student, commented about crosswalks which she felt was a major problem. She thought the University's use of a crossing guard on Delaware Avenue was the best solution tried so far and suggested expanding it to Main Street. In regard to the need to keep on top of the paving/maintenance schedule for the roads, Ms. Rocco offered to assist the City in this effort.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: TO ACCEPT THE NEWARK TRANSPORTATION PLAN AS PRESENTED BY WILMAPCO.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Mr. Athey suggested that a thank you note be sent to recognize the volunteers who spent many hours working on this project.

23. 8-B-2. RECOMMENDATION FROM CONSERVATION ADVISORY COMMISSION RE RENEWABLE ENERGY CREDITS

1:36

Mr. Sonnenberg reported there was a recommendation from the Conservation Advisory Commission which was discussed at the last Council meeting. Mr. Clifton asked how much green energy the City was currently purchasing. Although he did not have the exact figure, Mr. McFarland estimated it was 3-5% of the overall supply portfolio. Mr. Temko asked what funds would be required if Council agreed with the CAC's recommendation. As Mr. McFarland read it, the 2005 resolution did not specify a dollar amount but directed the CAC to work with the Finance Director to move towards increasing the level. He added there was nothing representing what the City should be doing now since every subsequent year there was supposed to be a

recommendation made and there was no guidance in the resolution as to that dollar amount. Mr. Temko asked when was the last year the City purchased recs. Mr. McFarland believed the City last purchased recs in 2007. Mr. Temko asked if the funds for the solar energy facilities were reserved to spend on the recs. Mr. McFarland explained there were no funds set aside to buy recs. Rather, the cost of the recs would simply be part of the overall cost of service in the electric utility. Mr. Temko asked if the City was to spend \$300,000 on recs what that would translate to in an electric rate increase. Mr. McFarland said it would affect the amount of the rate adjustment on January 1st by a rate increase of about .5% to all customers.

Mr. Athey asked if the increase of \$.50 on a \$100 bill included the retroactive amount of \$300,000. Mr. McFarland said it did. Mr. Markham suggested the amount could be staggered. Mr. Athey struggled with the allocation being retroactive since rates were a sensitive issue right now, although he understood the CAC's reasoning. Mr. Funk agreed he could not see doing it retroactively.

The Chair opened the discussion to the public.

Catherine Ciferni, a Newark resident, felt it was unfortunate that members of the Conservation Advisory Commission were not present for this discussion. She believed there was miscommunication on the issue and suggested that Council members check with their CAC representatives to clarify the Committee's position on the renewable energy credits.

Mr. Temko said Council might want to consider increasing the 2012 purchase to \$150,000 instead of \$100,000. Mr. Athey asked where the \$100,000 figure came from. McFarland explained the dollar amount was arrived at through working with the CAC to determine what levels of purchases and different types of recs would generate in terms of the percent of the overall portfolio that was renewable. They started developing those recommendations in 2009 and agreed \$100,000 was a reasonable number.

Mr. Markham asked McFarland whether he stated to the CAC that this money was not set aside. Mr. McFarland replied that he never said anything one way or another about money being set aside. He thought there were probably discussions at Council about the money being used for the development of a solar park. However, the money discussed was money that Council would have had to vote on to spend, and there was never an account with \$100,000 in it. Mr. Markham said that was not how he remembered the conversation because Councilman Pomeroy was the big proponent on this and he clearly remembered Mr. Pomeroy saying let's not spend the \$200,000 we have, let's see what the solar park will do. Mr. McFarland responded it was never money the City had, it was the money that would have been voted on to be spent that way. Mr. Temko thought it was never voted on because when Mr. Pomeroy discussed the solar park project with Council, it was agreed that purchasing the recs was something the City should pursue.

Mr. Funk asked what the City's recommendation was, and Mr. Sonnenberg said staff did not have one and residents will pay more for electric next year if any of this was implemented. Mr. McFarland clarified that this was not a budget issue but was more of a rate payer issue.

Mr. Morehead saw this as an effort to be green when DEMEC was already green to some degree. Mr. McFarland said DEMEC had some percentage that was green and this was over and above that. Although the City was not yet subject to any state requirements on renewable purchases, it ultimately would be.

Mr. Funk said the bottom line was that in 2009 and 2010 the resolution was not followed. The question now was whether Council wanted to retroactively

recapture the \$100,000 that was missed during those two years or whether to correct the situation now and go forward with the \$100,000 purchase for 2012.

Mr. Clifton did not think it was prudent to do this retroactively.

Mr. Markham referenced the option proposed by Mr. Temko to spend \$150,000 and make up the amount over four years.

Mr. McFarland explained that the 2005 resolution put in place the procedure where a recommendation would come to Council from the CAC every year in consultation with the Finance Director. Mr. Temko reiterated his suggestion that Council purchase \$150,000 of recs this year and that the following year staff should consult with the CAC to make their recommendation.

MOTION BY MR. TEMKO, SECONDED BY MR. MARKHAM: THAT THE CITY ALLOCATE \$150,000 FOR RENEWABLE ENERGY CREDITS IN 2012 IN ACCORDANCE WITH RESOLUTION 05-H.

Question on the Motion was called.

MOTION PASSED. VOTE: 4 to 3.

Aye – Clifton, Markham, Temko and Tuttle.

Nay – Athey, Funk, Morehead.

Mr. Clifton stressed that it was staff's responsibility to insure the resolution was being following in the future in coordination with the CAC.

24. **9. SPECIAL DEPARTMENTAL REPORTS:**
 - A. Special Reports from Manager & Staff: None
25. **Meeting adjourned at 9:00 pm.**

Patricia M. Fogg, CMC
City Secretary

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