

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**June 25, 2007**

Those present at 7:30 pm:

Presiding: Vance A. Funk III, Mayor  
District 1, Paul J. Pomeroy  
District 2, Jerry Clifton  
District 3, Doug Tuttle  
District 4, David J. Athey  
District 5, Frank J. Osborne  
District 6, A. Stuart Markham

Staff Members: City Manager Carl F. Luft  
City Secretary Susan A. Lamblack  
Assistant to the City Manager Carol S. Houck  
City Solicitor Roger A. Akin  
Planning Director Roy H. Lopata  
Public Works Director Richard Lapointe  
Water & Wastewater Director Roy Simonson  
Acting Chief of Police John Potts  
Assistant Finance Director Wilma Garriz

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

2. MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE AGENDA BE AMENDED BY ADDING ITEM 5-A, CONTRACT 07-09, OLD PAPER MILL ROAD SIDEWALK INSTALLATION.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL:**  
A. Regular Council Meeting of June 11, 2007

There being no additions or corrections to the minutes, they were approved as received.

4. **3. ITEMS NOT ON PUBLISHED AGENDA:**  
A. Public

Jim Neal, University of Delaware Board of Trustees, commented that he felt the kind of support and partnership that Dr. Roselle's administration provided to the City far exceeded anything he experienced when he was on City Council. For example, support of the website, the partnership for trash cleanup, and other Town & Gown activities. Mr. Neal believed the new president, Patrick Harker, was a capable individual, and hoped the partnerships would continue under his leadership. He also hoped the City would continue to find ways to take advantage of the resources at the University, particularly in economic development and Town & Gown activities.

5. **3-B. UNIVERSITY**  
1. Administration – There were no comments forthcoming.

6. **3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

7. **3-C. COUNCIL MEMBERS**

Mr. Athey said he appreciated the City's response to Rep. Pam Maier on the recycling bill that was being considered by the state.

8. Messrs. Athey, Pomeroy, Markham and Clifton complimented the annual Downtown Newark Partnership's annual dinner/meeting last week and everyone involved with that event. Mr. Markham noted that the DNP was interested in cleaning up the Chapel Street overpass as one of their projects.

9. Mr. Pomeroy said he was excited about Dr. Patrick Harker's arrival July 1 at the University. He enjoyed the recent article in the newspaper about the new president, particularly his plans for the future of economic development in Newark.

10. Mr. Pomeroy thanked staff for addressing the many requests he made during the past week regarding concerns from residents in his district.

11. Mr. Tuttle was pleased to see the formal initiation of the Unicity summer route that would be running seven days a week in the evening and Saturday and Sunday mornings. He would be interested to know if riders participate in the summer route. He saw this as a great example of cooperation between the City and the University.

12. Mr. Tuttle commented on the demonstration ride on the trolley that he participated in with other members of Council. DART will be operating the trolley in Newark when the transportation hub is completed (the target was December). The trolley would provide not only more frequent service through town, but improve the schedule to some other DART routes that served Newark and make the routes more timely. He was also impressed that the presentation was done by one of his former research assistants.

13. Mr. Tuttle said he attended the graduation ceremonies of the Youth Police Academy last Friday where Deputy Mayor Clifton provided words of encouragement. He was pleased to see the faculty for the academy came from the Newark Police Department as well as volunteers from the University Police and Dover Air Base Security Police.

He also noted that today's editorial in *The News Journal* put the academy in a negative light. He suggested that not everybody understood the full reason for doing the academy. The media happened to pick up on the fact that one of the days the youth got to shoot guns. He emphasized that was not what the academy was all about. The academy provided insight to youth in terms of what working for a public agency was all about and hopefully planted the seed for some future careers.

Messrs. Markham and Clifton also attended the graduation ceremonies. Mr. Markham commented that he was sure the youth who attend the academy each year would not be found on the other side of the law in the future. Mr. Clifton hoped out of the 40 cadets some of them might be the farm team for future police officers for the City.

14. Mr. Markham said he learned from Messrs. Zusag and McFarland that they met with Russell Investment Group to discuss lowering the administrative rate on the pension plan. He was pleased the City got a lower rate that would save the City about \$30,000 a year.

**15.** Mr. Clifton advised that last Monday he and Mayor Funk attended the going away ceremony for the 153<sup>rd</sup> MP Company of the Delaware National Guard of which there were a couple of Newarkers, including a Newark police officer. He thought it was a very nice but emotional send off.

**16.** Mr. Clifton noted that Adria Café lost their liquor license last year after three charges were brought against the owner for selling to minors. In fact, the owner surrendered his license voluntarily. Recently, the owner was charged with selling alcohol without a license. Mr. Clifton questioned what could be done when an establishment became a nuisance property. Acting Chief Potts said the owner was charged with selling and maintaining a supply of stock of alcohol for sale. Mr. Clifton asked if the City could pull the business license to operate the café since the owner was not operating it responsibly. Acting Chief Potts said he was told the business license was for financial purposes only, not for regulating that type of activity.

Mr. Akin said that he was currently reviewing a disorderly business ordinance with Acting Chief Potts that might provide extremely harsh penalties for a business that operated in an irresponsible fashion. He could not think of anything more serious than an actual arrest to encourage a business owner to comply with state and local laws. He supposed if a business owner operated blatantly illegally and an arrest had no impact, the City could go to the Court of Chancery and seek a permanent injunction against the operation of the business.

**17.** Mr. Clifton said he read about an incident on the deck of Shaggy's at 1:30 am in the morning. He believed when Council extended their grandfathering, the hours of operation on the deck were limited. Acting Chief Potts was not familiar with that situation and said he would look into that and report back.

**18.** Mr. Clifton advised that he supported the letter the City Manager was sending to Marene Jordan of the Newark Housing Authority supporting their proposed plan for Cleveland Heights. He asked if a motion or resolution was required from Council directing the City Manager to send the letter. Mr. Akin advised that a formal resolution was not necessary because all members of Council reviewed the draft and the final draft reflected their comments.

**19.** Mr. Funk advised that Leo Laskaris, a local artist who painted the murals in the Council Chamber, recently passed away.

**20.** Mr. Funk asked if Council had any reaction to his memo regarding the 250<sup>th</sup> Anniversary book committee's request for an interest-free loan from the City to publish their book. Mr. Athey asked if the City would have any collateral or guarantee of being repaid especially if the book sales did not meet their expectations. Mr. Funk said he would personally guarantee it, but Mr. Athey did not think that would be appropriate. Mr. Funk said if the loan was not granted, he would personally loan the money interest free. He also said he was shocked that the book committee did not think about this at the beginning.

Mr. Athey said he was not leaning toward approving the request because he was concerned about setting a precedent. If Council were to go on record for making a no interest loan, at the next meeting somebody could say they had a need greater than the 250<sup>th</sup> Anniversary and request a no interest loan. Mr. Funk said that also bothered him. He also noted that the \$50,000 request was reduced to \$46,000.

Mr. Pomeroy questioned who the publisher was and was told it was Mercantile Press. Mr. Pomeroy said he was also concerned about setting a precedent and opening up a can of worms. He asked if there was a commitment to Mercantile and was Mercantile willing to work with the committee. Mr. Funk said all he was told was the book was ready for publication, and the best bid they had for a printer was from Newark resident Corky Bond. Mr. Pomeroy said he would be happy to work with Mr. Funk to come up with a solution. He was

somewhat surprised Mercantile was requiring such a large sum up front from a nonprofit agency.

Mr. Clifton said he would be bothered if a no interest loan was given and a profit was to be made. Questions he had included what would happen to the profit? Who would control the books? How would they be marketed and where would they be kept? He was also concerned that any competitive bidding process through the City would be circumvented and then someone could come in and say they would have done the book for half the price.

Mr. Markham asked what was being done by the City to support the 250<sup>th</sup> Anniversary in terms of funds. Mr. Luft said there was nothing in the budget at this time, but Mayor Funk asked for \$50,000 for next year's budget. Mr. Markham said he would like to support the anniversary, but any such loan would have to be crafted so there would be no problem with repayments.

Mr. Funk said there have been meetings with the committee and staff, and he thought everything was in place with details to be finalized. He was very surprised the committee needed such a large sum of money. At the beginning of the project, the committee needed \$5,000 and he donated that to the Delaware Heritage Alliance for distribution.

Mr. Luft added that the City was giving was what it normally gave—the Parks and Police Departments would provide support with resources available and that was the extent of the support to date.

Mr. Athey said he remembered seeing Mr. Funk's memorandum asking for \$50,000 in next year's budget for the anniversary and thought at the time it would be a conversation for the table. He wanted to support the 250<sup>th</sup> Anniversary, but did not know whether he wanted to support it with \$50,000. He would like to get more detail from the City Manager as to the support the staff would be providing and suggested placing this discussion on a future agenda.

Mr. Funk said the biggest expense was going to be the rental of a storefront on Main Street used for their headquarters and a museum of materials provided by the Historical Society. A lease has been obtained at a very reasonable rent. He claimed the Historical Society was in the process of raising money to cover the lease. He also claimed the \$50,000 he asked for next year included the cost of the Police, Public Works, and Parks Departments for the various events planned for the celebration.

Mr. Athey stressed that he did not have a good understanding of the events and what the \$50,000 would cover. Mr. Luft thought that might be difficult to do immediately and explained that during the budget process he planned to get a budget estimate from each department involved with the events and then submit a proposal with the budget.

Mr. Funk interjected that when he requested the \$50,000 for next year's budget, that money was to be used for leasing the storefront, and now that was already taken care of.

Mr. Athey said he did not have a problem if the City Manager wanted to incorporate the \$50,000 into the budget and Council would discuss it at that time.

There were no further comments.

21. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

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

A. Contract 07-09, Old Paper Mill Road Sidewalk Installation

Ms. Houck summarized her memorandum to the City Manager, dated June 20, 2007, wherein she explained that Contract 09-09 provided for the construction of a sidewalk along Old Paper Mill Road at the base of the reservoir property. The low bidder, Grass Busters Landscaping, Inc., has performed satisfactorily on similar jobs and most recently completed sidewalk work at Kells Park.

Funds were available from a matching Delaware Land and Water grant for up to \$75,000 as well as from a matching funding source from a balance of the Police Department CAD records management system in the amount of \$75,000.

Ms. Houck recommended that Contract 07-09, Old paper Mill Road Sidewalk Installation, be awarded to Grassbusters Landscaping, Inc. for a total bid of \$134,286.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT CONTRACT 07-09, OLD PAPER MILL ROAD SIDEWALK INSTALLATION, BE AWARDED TO GRASSBUSTERS LANDSCAPING, INC. FOR A TOTAL BID OF \$134,286.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Clifton, Markham, Tuttle, Funk, Pomeroy, Osborne, Athey.

Nay – 0.

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

- A. Bill 07-19 - An Ordinance Amending the Zoning Map of the City of Newark By Rezoning from BL (Business Limited) to RR (Row House, Townhouses) 1.16 Acres

Mr. Funk advised that the public hearing for Bill 07-19 would also be for Item 7-A.

Ms. Lamblack read Bill 07-19 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. OSBORNE: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 07-19.

Matt Longo, Hillcrest Associates, 1760 Flint Hill Road, Landenberg, PA, introduced owner Ed Sobolewski, builder Dan Kandra, and the architect Richard Longo. He explained that the property consisted of 1.16 acres, located along Barksdale Road. They were requesting a rezoning from BL to RR for the construction of 12 townhouse units with a condominium style ownership in three separate building groups.

Mr. Matt Longo provided a power point presentation of the project that identified various buildings in the immediate area. At the present time there was a 2100 square foot office building on the site with two access points from Barksdale Road, with parking provided in the rear of the building. That building has been vacant for the past two years.

One central access (boulevard) was proposed with two groups of three building units on each side of the access. The building group of six townhouses, located in the back, would be at least 100' from the railroad tracks. Each unit would have two- or three-car garages with two exterior parking spaces. The units would be arranged around a wide boulevard entrance with planted islands, along with a brick paved median. The east, west, and southern borders of the project would be planted with a mix of deciduous and evergreen plantings as well as some ornamental trees in between the three- and six-unit buildings to provide some interior buffering. A small area of open land for limited recreation would be provided along the perimeter of the site. Stormwater management was designed

at the back of the project with a bio-retention facility that would be planted with a mix of wetland and water tolerant planting species. Currently, along the rear of the property, a chain link fence was proposed (encompassing the stormwater area) to prohibit entry into the CSX right-of-way. A stockade fence was previously proposed, but the Planning Commission recommended a masonry wall, which Mr. Matt Longo said the applicant would like to further discuss because the agreement required a masonry wall. They have issues with a masonry wall because of graffiti, it would not allow stormwater to pass through, and because the considerable steep slope along the railroad right-of-way made it difficult to put footers in.

Mr. Matt Longo reviewed the architecture that would be a classic Tudor style with steep roof pitches, stone, brick, and stucco exterior finishes with muted grays and browns as the dominant colors. There would be overhangs with metal roofs. Each unit would have steps up to the front door with end units having entrances from the side. Each unit would have a landscaped balcony designed to overlook the boulevard entrance. The units would be approximately 2000 sq. ft. with timber construction and an elevator for each unit would be available.

The project would be marketed to adult buyers and professionals who would like to live close to town, but not have the maintenance responsibility since it would be a condominium style ownership. To prevent student rentals, the owner agreed to a rental restriction that would allow no more than two unrelated tenants per unit.

Mr. Clifton asked what would prevent the builder from putting up a masonry wall. Mr. Matt Longo claimed the biggest roadblock with the masonry wall was the stormwater design. There was a spillway on the side of the retention basin designed to fill up, filter the water, and release it in the back corner. It was designed to come out slow as required by Code. However, if they put in a concrete wall, because of the slope, there would be ponding unless they were able to put arches in the wall or something of that nature. He could not think of anything that would allow the stormwater to flow out of this design in regard to a masonry wall. He was also concerned with the fact that a wall along a railroad track attracted graffiti. He reiterated his concern about stabilizing footers along the railroad right-of-way. Mr. Clifton liked the idea of a masonry wall even though it was pointed out there were no other walls in that area. Mr. Pomeroy said his concern with a masonry wall was graffiti and asked what other options could satisfy the Planning Commission's concerns.

Mr. Matt Longo said that in addition to the fence, it would be heavily planted. They would like to erect a chain link fence that would have green slats. He believed once the plantings matured, the fence would blend in nicely and would limit the access along the back of the property. Mr. Clifton preferred a stockade fence to a chain link fence because it would block the view of the railroad. Mr. Matt Longo said they were very agreeable to a stockade fence and noted that it was previously proposed.

Mr. Tuttle pointed out that with the land sloping toward the back and the plan to erect an 8' fence, with the units being three or four stories high, the fence would not provide any kind of visual barrier. He had no problem with an 8' chain link fence. Mr. Markham interjected that a chain link fence had the tendency to collect debris. Mr. Matt Longo reminded them that the condominium association would maintain the fence and any debris would be removed immediately.

Mr. Athey said he would not favor putting a bio-retention area where there could be leaves debris, etc. flowing through a fence because that would be a maintenance hassle. He suggested that heavy landscaping would obscure a masonry wall and therefore any graffiti artist would find it somewhat pointless to put graffiti on the wall. Mr. Longo agreed but said that wouldn't be the situation on the railroad side.

Mr. Athey questioned where the drainage would go once it left the property and was told it would go into the CSX right-of-way and flow in a westerly direction.

Mr. Pomeroy thought the design was attractive but questioned why all the garages were square with only one curved. The architect, Richard Longo, said it was because he liked variety in his design.

Mr. Pomeroy asked what the side of the buildings (facing Barksdale Road) would look like. Mr. Richard Longo distributed renderings of that view and explained they would be similar to the front of the buildings. The Code required the same materials on the sides and back of the buildings. Mr. Pomeroy asked if there would be decks and was told all the balconies would have an iron look (powdered coated aluminum with detail). The deck would be made of wood but appear to be iron and would be maintenance-free. The decks were mostly for the purpose of plantings and Hillcrest was looking at a special watering system for watering the plantings.

Mr. Pomeroy asked for a description of the units and the price. The units would be two or three bedrooms with a powder room on the main level (with the possibility of a full bath), two full baths on the second level, and there would be the option for an elevator.

Ed Sobolewski, Naples, Florida, said the price range was \$350,000 to \$400,00.

It was noted that the office building was vacant for the past two years.

Mr. Clifton pointed out there was no overflow parking on the site. He was told there were at least four spaces per unit – a minimum two-car garage with two spaces on the pad. Mr. Athey asked how some units could have a three-car garage and was told the lower level tandem to one of the two spaces in the garage provided room for one more car.

Mr. Athey asked what the surrounding buildings looked like to which Mr. Matt Longo said the surrounding offices were primarily single story buildings and the residential buildings were two or three stories. The International Reading building was three stories with plans to expand.

Mr. Osborne referred to the drainage in the lower right hand corner where the overflow would run over the property line and down the CSX right-of-way. Mr. Matt Longo elaborated by saying there was a berm next to the tracks and then a drainage ditch along the side, which was where the runoff would go. He also noted there was infiltration proposed with the system and said the bio-retention facility, per DNREC regulations, that post developed rates and volumes matched or were below pre-development volume. It was also noted that Public Works had to review and approve their plan. He added that the water to the drainage ditch would be there sooner after development, but according to all the numbers, it would not be more. Because there was no change to the drainage pattern, there was no concern with the drainage creating a problem with CSX. Mr. Athey stated for the record that the post drainage matched the pre-drainage, both rates and volume according to statements made by Mr. Matt Longo.

The chair opened the discussion to the public.

Frances Hart, 251 W. Main Street, questioned the slant of the steps. She claimed new townhouses being built on Wilbur Street were too steep and was concerned about the steps for this project being too steep. She was advised that the rise and size of the tread would meet the Code. It was also noted that the developer was targeting the 55+ buyer, and that was why they were offering an elevator as an option.

Jean White, 103 Radcliffe Drive, believed the property was better zoned business limited because of the abutting zoning. She recognized there was support for the rezoning, but wanted to voice her opinion for the record. Ms. White referred to the agreement/resolution in reference to the size of the trees on the site and asked that the language in #11 of the agreement and g) in the resolution be amended by adding the words "underneath existing power lines" so it would read: "In addition, the Developer agrees that no trees higher than 18 feet at maturity shall be installed on the Site underneath existing power lines." This change was brought to staff's attention by Ms. White earlier in the day and placed at the table for Council's consideration. She did not support a stockade fence because they have a limited life, and questioned whether drainage was allowed to be diverted onto the CSX property.

Victoria Owen, 719 Lehigh Road, questioned whether there would be sidewalks going into the development, whether the City's trashcans would fit into the garages, and the steepness of the steps.

Patrick Hart, 257 W. Main Street, complained there was a disconnect between the diagram and the artist's rendition of the frontal view of the townhouses. One view had trees and setbacks, which appeared to be the whole width of a townhouse dimension. Therefore, he questioned the reality of the diagram shown.

Ezra Temko, 42 Lynn Drive, commented that he did not think it was a good thing to rely on people who were older to add the elevator. He also questioned if any consideration was given to putting the garages behind the property.

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

Mr. Osborne asked if the elevators would work similar to an office building. He did not want them to look like industrial elevators, similar to White Chapel. Mr. Richard Longo said the elevator would be an option and even if one was not put in when the townhouse was built, there would be a knock out floor system to add the elevator at a later date. The elevators would have a swing door like a closet with an attractive moving door. There were options of residential grades for the interior of the elevator for the homeowner to select from that would make it look like a beautiful closet.

Mr. Clifton noted that the rendition of the three units did not show sidewalks nor along Barksdale Road, and asked if that would be accomplished. Mr. Matt Longo said there would be a sidewalk along Barksdale Road into the development, across the driveways and terminated at the end of the boulevard. He did not plan on connecting the sidewalks in front of the three-unit sections to the six units in the back.

Mr. Markham asked if the garages were big enough for both cars and trash carts to which he was told there would be no carts because they would be supplying a dumpster for the residents. Mr. Markham was concerned with the number of steps in light of the developer targeting the 55+ buyer and suggested providing an easier entrance.

Dan Kandra, 115 Wood Lane, Landenberg, PA, builder, said he hoped to target the 55+ buyer, but the development was not restricted to that. He noted with the two-bay garage, he was limited with the space for the steps. Mr. Lopata interjected that the only restriction was with rentals so it would not be marketed to mature adults. The steps would be standard per the Code. Mr. Tuttle said the materials received in the packet did not indicate any sidewalks coming onto the site. Mr. Matt Longo apologized for that but assured everyone the sidewalks would be in put in.

Messrs. Pomeroy and Athey had no problem with a chain link or stockade fence instead of a masonry wall. Mr. Tuttle preferred the chain link because of maintenance issues.

Mr. Athey asked if any residents along Barksdale Road were present and asked for their opinion.

Linda Bankoski, 793 Barksdale Road, said her biggest concern was the units in the back would experience a lot of noise from the trains. Since a chain link fence would not help the noise, she suggested a noise barrier similar to what was seen along turnpikes and major highways. Mr. Athey asked if she was concerned that the townhouses were infringing on her property, and did she feel threatened. Ms. Bankoski said she was not crazy about the proposal and liked the existing building and open space. She thought the townhouses would add more people to that area and turn into rental units, at least the six in the back, because of the noise from the trains. She understood the developer tried to buy the house between hers and this development, but was refused. She thought three story buildings would overshadow her property.

Mr. Funk pointed out that restrictions would be in place to control rentals. Mr. Athey said he liked the rental restrictions on the Washington House where only 20% of the number of units could be rentals. He was not convinced there would not be a rental market in this community even though it was not the intent of the developer. Mr. Lopata said the restriction that no more than two unrelated persons may rent was used in several locations and was the most effective restriction. Casho Mill Station, Country Place, and Abbotsford on Barksdale Road have the same restriction. He claimed the Planning Department was not interested in increasing the rental market in this area, and with the condo situation, that restriction would be self-enforced.

Question on the Motion was called.

MOTION PASSED. VOTE: 7 to 0

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

**(ORDINANCE 07-20)**

24. **7. RECOMMENDATIONS FROM THE PLANNING COMMISSION/DEPT.**  
A. Request of Eddan, LLC, for the Major Subdivision of 711 Barksdale Road in Order to Construct 12 Townhouse Condominiums at that Location to be Known as Sutton Place **(RESOLUTION & AGREEMENT PRESENTED)**

**(NOTE: The pubic hearing was held under Item #23.)**

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

AMENDMENT BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT #11 IN THE AGREEMENT AND g) IN THE RESOLUTION BE AMENDED BY ADDING TO THE LAST SENTENCE THE WORDS "UNDERNEATH EXISTING POWER LINES."

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

AMENDMENT BY MR. OSBORNE, SECONDED BY MR. TUTTLE:  
THAT #8 IN THE AGREEMENT AND c) IN THE RESOLUTION BE  
AMENDED BY DELETING "MASONRY WALL" AND INSERTING "CHAIN  
LINK FENCE.

Question on the Amendment was called.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Question on the Motion as Amended was called.

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

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

**(RESOLUTION 07-0)**

**25. 6-B. BILL 07-22 - AN ORDINANCE AMENDING THE ZONING MAP  
OF THE CITY OF NEWARK BY REZONING FROM BC (GENERAL  
COMMERCIAL TO BB (CENTRAL BUSINESS DISTRICT) PROPERTY  
LOCATED AT 209 EAST MAIN STREET**

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Mr. Funk advised that this was also the public hearing for items 7-B and 7-  
C.

Ms. Lamblack read Bill 07-22 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT  
THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 07-  
22.

Mark Sisk, Esquire, Wilmington, Delaware, representing Gahunia, LLC,  
explained that the owners originally wanted to replace the gas station with a  
convenience store and continue to sell gas, but that required a variance from the  
Board of Adjustment. The Board did not grant the variance, and it was clear that  
they did not want that type of business at this location. The owner would now  
like to put retail on the first floor with apartments on the upper floors. They  
request a rezoning from BC to BB which was consistent with the City's  
Comprehensive Plan. The project was unanimously recommended by the  
Planning Commission and received approval from the DNP Design Committee.

Mr. Sisk noted that the owners, Dr. and Mrs. Singh, Newark residents for  
many years, were not able to attend the meeting due to illness. However, their  
son was present to answer questions.

Mr. Clifton asked what the intent was of the amendment that failed at the  
Planning Commission that would have required the developer to obtain an  
access agreement with the adjoining property owners of Main Street Court and  
Burger King. Mr. Funk thought the intent was to keep traffic off of Main Street.

Mr. Athey said the only thing that disturbed him about the project was the  
elevation compared to the adjoining properties. He would have preferred the  
building moved closer to the Dudek property, but understood with the site  
circulation and the proximity to the intersection from an ingress and egress  
standpoint, that moving the building did not make sense.

Joe Charma, Landmark Engineering, agreed that keeping the entrance as  
far as away from the intersection of Chapel and Main Streets was a good thing.

He explained that the secondary access through the adjoining properties sounded good, but arriving at those arrangements with the current property owners would be very difficult to do, and it would be difficult to get cross easements in a reasonable amount of time. With regard to the building placement, he reminded Council that that part of Main Street was not like the Main Street on the other side of Chapel Street where the buildings were close together. On this side of Chapel Street the buildings were all separated. He noted that the DNP Design Committee acknowledged that this proposal followed the pattern on that side of Main Street.

Mr. Athey questioned if Mr. Dudek was contacted about a cross easement, to which Mr. Sisk advised that Mr. Dudek no longer owned that property and the new owner was not contacted.

Mr. Clifton asked how many bedrooms would be in each unit and would there be dedicated parking for each unit. Mr. Sisk said there was plenty of parking with parking dedicated to the units. Mr. Charma said the parking met the Code for both the residential use and the business use. In addition, Dr. Singh owned the property at 295 E. Main Street and offered additional parking at that site for employees of the businesses. Mr. Clifton asked if the parking spaces would be marked restricted for the units, to which Mr. Charma said no. However, assigned parking spaces could be made for each unit.

Mr. Athey asked if the setback was the same as the Newark Lumber site, and Mr. Charma said he thought it was a little bit further back. The setback would be governed by the location of the utility pole and electric lines.

Mr. Markham asked why there were not more windows on the sides of the building.

Dan Hoffman, Design Collaborative, Wilmington, DE, said he was still working on the interior design of the units and because they would only be 20' x 40' he was somewhat limited on the design. He planned to maximize the number of windows to add natural lighting into the units.

The chair opened the discussion to the public.

Jean White, 103 Radcliffe Drive, provided a photograph of the house that was at this location in the late 1800s. That house was moved back when the gas station went in the 1930s and then it was moved to Wrightstown Commons on Chapel Street. Ms. White was pleased there would be dedicated parking spaces for each unit. She thought the building looked very nice but would have preferred a two-story building. Because the back of the building would be so high and the parking lot would be open, it would be very visible to everybody driving north on N. Chapel Street. Therefore, she hoped, particularly the western side of the building would be decorated in some manner with brickwork or something else. She also claimed members of the Design Committee questioned whether the style of roof could be carried around on the sides. Ms. White said there had been some discussions about raising the wall that would shield the parking and she personally liked the way it looked now.

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

Mr. Athey asked whether the developer provided written documentation certifying that the site was in full compliance with all relevant regulations regarding cleanup of abandoned gasoline service stations and their appurtenances. Mr. Lopata advised that he received that documentation.

Mr. Markham asked if any thought was given to extending the roof as suggested by Ms. White. Mr. Hoffman said they looked at that but the true mansard roof had to project into the building instead of hanging it off the side. If

they were to wrap it around both edges of the building, they would be losing footage for the apartments. He assured that they would accent the sides.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(ORDINANCE NO. 07-21)**

26. **7-B. REQUEST OF GAHUNIA, LLC, FOR THE MINOR SUBDIVISION OF 209 E. MAIN STREET, IN ORDER TO CONSTRUCT A 2.434 SQUARE FOOT COMMERCIAL & THREE APARTMENT UNIT MIXED USE BUILDING TO BE KNOWN AS BELA PLACE (RESOLUTION & AGREEMENT PRESENTED)**
- 

**(NOTE: The public hearing was held under Item #25.)**

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION BE APPROVED AS PRESENTED.

AMENDMENT BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION AND AGREEMENT BE AMENDED TO REFLECT THAT THE DEVELOPER AGREES TO PROVIDE SIX DEDICATED PARKING SPACES, APPROPRIATELY SIGNED, FOR THE PARKING OF MOTOR VEHICLES OWNED OR OPERATED BY THE TENANTS OF THE THREE APARTMENTS ON THE SITE.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Question on the Motion as Amended was called.

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

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

**(RESOLUTION NO. 07-P)**

27. **7-C. REQUEST OF GAHUNIA, LLC, FOR A SPECIAL USE PERMIT AT 209 E. MAIN STREET IN ORDER TO CONSTRUCT APARTMENTS IN A BB ZONING DISTRICT**
- 

**(NOTE: The public hearing was held under Item #25.)**

MOTION BY MR. TUTTLE, SECONDED BY MR. POMEROY: THAT THE SPECIAL USE PERMIT BE GRANTED AT 209 E. MAIN STREET IN ORDER TO CONSTRUCT APARTMENTS IN A BB ZONING DISTRICT BE APPROVED.

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

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

28. **8. ORDINANCE FOR FIRST READING:** None

**29. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

A. Council Members: None

**30. 9-B. COMMITTEES, BOARDS & COMMISSIONS:**

1. Newark Traffic Calming Adhoc Committee Report

Mr. Athey thanked Heather Dunigan for taking over the chair of the Newark Traffic Calming Ad Hoc Committee that was put together over a year ago.

Heather Dunigan, Chair, thanked Council for forming the committee. The committee was charged with:

- Updating and expansion of the traffic calming measures “tool kit”
- Simplification of the project initiation process
- Updating of the project eligibility selection process
- Expansion of the project location area
- Possible “pilot” and/or temporary projects
- Related traffic calming issues and concerns

The committee recommended the traditional traffic calming measures identified in the *Old Newark Traffic Calming Plan* be retained as part of the “tool kit” of possible measures. The committee recommended that the City consider:

- Red light cameras
- Radar speed cameras
- enhancements to mid-block crosswalks
- Orange flags
- Countdown pedestrian signals
- Enhancements to on-road bicycle facilities
- Reduced curb radii
- Mini traffic circle
- Striping & signing

Proposed revisions to project initiation and selection process were reviewed as outlined below:

1. Initiation by community
2. Traffic Committee review request
3. Letter and survey sent to stakeholders in study area.
4. Conceptual design development process
5. Conceptual design approval process

The Committee recommended that eligibility for traffic calming, under the revised process, be expanded citywide.

Possible “pilot” projects included:

- Elkton Road near Amstel Avenue
- West and East Park Place
- Main Street
- South College Avenue
- Cleveland Avenue

The Committee felt that Newark should work to implement traffic calming to improve the quality of life along residential streets and address locations with high crash rates. Crash maps were included with the report. Between 2000 and 2005 there were more than 9000 crashes total in the City, which included 149 pedestrian crashes and 89 bicycle crashes.

A copy of the draft report is available in the City Secretary’s Office.

Mr. Markham questioned how to deal with four-way stop sign intersections in neighborhoods where people cruise through the stop signs. Because there are no accidents or speeding, those incidents weren't included in the stats provided. He thought the issue of slowing people down needed to be addressed in certain neighborhoods. Ms. Dunigan said one recommendation was a mini-traffic circle that replaces the four-way stop sign with a small circle. Mr. Markham's concern was the fact that it was difficult to qualify for traffic calming unless there was speeding and accident issues. Ms. Dunigan said given the fact that there was limited money, the City would want to look at the areas with the highest crashes, speed, and volume. Mr. Markham thought painting "STOP" at the intersections might help with his concern.

Mr. Markham asked what suggestions were made regarding Cleveland Avenue for traffic calming considering most complaints were about traffic backed up and not that traffic needed to be calm. Ms. Dunigan said that WILMAPCO did a survey at Community Day last year and Cleveland Avenue was suggested by the community.

Mr. Markham encouraged that a lower level of traffic calming be added to address issues that don't fall into the category of speeding, crashes, etc.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT COUNCIL RECEIVE THE DRAFT NEWARK TRAFFIC CALMING AD HOC COMMITTEE REPORT, DATED JUNE 14, 2007.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**31. 9-B-2. RESOLUTION 07-\_\_ REQUESTING STATE ACTION ON TRAFFIC CALMING ASSESSMENT FOR SOUTH COLLEGE AVENUE**

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT THE RESOLUTION BE APPROVED AS SUBMITTED.

Mr. Athey said S. College Avenue was one of the roads the Newark Traffic Calming Ad Hoc Committee identified for a traffic calming pilot project. He learned from Mike Summers, DelDOT's traffic calming expert, that there would be money available the next fiscal year to do an assessment of S. College Avenue. The average speeds on S. College Avenue were 36 mph the last time it was measured several years ago.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(RESOLUTION 07-Q)**

**32. 9-B-3. APPROVAL OF REVENUE SHARING FUNDING REQUEST BUDGET FOR 2008**

Mr. Luft advised that the recommended local revenue sharing funding target level for the 2008 budget was \$57,740. That amount represented a 2.5% increase over the 2007 Revenue Sharing Program.

MOTION BY MR. OSBORNE, SECONDED BY MR. CLIFTON: THAT COUNCIL APPROVE THE \$57,740 TARGET LEVEL FOR REVENUE SHARING FUNDING FOR 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**33. 9-4-B. PLANNING COMMISSION MINUTES OF JUNE 5, 2007**

MOTION BY MR. TUTTLE, SECONDED BY MR. OSBORNE: THAT THE PLANNING COMMISSION MINUTES OF JUNE 5, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**34. 9-C. OTHERS: None**

**35. 10. SPECIAL DEPARTMENTAL REPORTS:**

- A. Special Reports from Manager & Staff:
  - 1. Real Estate Tax Assessment Estimated Annual Roll  
Annual Billings for the Period of July 1, 2007 – June 30, 2008

MOTION BY MR. OSBORNE, SECONDED BY MR. TUTTLE: THAT THE REAL ESTATE TAX ASSESSMENT ESTIMATED ANNUAL ROLL FOR THE PERIOD FO JULY 1, 2007 TO JUNE 30, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**36. 10-B. ALDERMAN'S REPORT**

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT THE ALDERMAN'S REPORT DATED JUNE 16, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**37. 9-C. FINANCIAL STATEMENT**

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT THE FINANCIAL STATEMENT ENDING MAY 31, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**38. 10-D. REQUEST FOR EXECUTIVE SESSION RE PENDING LITIGATION (DURKIN V. NEWARK)**

An Executive Session was not required at this time.

**39. Meeting adjourned at 9:38 pm.**

Susan A. Lamblack, MMC  
City Secretary

/pmf