

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

November 12, 2012

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 6, A. Stuart Markham

Absent: District 5, Luke Chapman

Staff Members: City Manager Carol Houck
City Secretary Patricia Fogg
City Solicitor Bruce Herron
Electric Director Rick Vitelli
Parks & Recreation Director Charlie Emerson
Public Works Director Rich Lapointe
PW & Water Resources Director Roy Simonson
Captain John Potts, NPD
Assistant to the City Manager Charles Zusag
Assistant Finance Director Wilma Garriz
Finance Accountant Jim Smith

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT ITEM 9-A-1, REVENUE STABILIZATION ADJUSTMENT, BE MOVED TO ITEM 4.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Chapman.

3. **PUBLIC HEARING FOR 2013 GENERAL OPERATING BUDGET**

01:15

Ms. Houck introduced the 2013 Operating Budget which incorporated the Capital Program for 2013. She detailed the City's financial goals as follows:

- Maintain credit rating – a AA-plus rating
- Sufficient cash balance – goal of \$25-\$30 million
- Utility rate predictability – important to residents, businesses and, on the revenue side, to the City
- Implement incremental tax increases – this would be possible by continuing to look at efficiencies and service levels
- Cost management and operating efficiencies – efficiencies and services provided by the City will be focused on
- Maintain infrastructure and service levels – important to the community

- Reduce risk – in all ways from pension changes to safety practices, building security and internal control risks for the City's financial obligation

Ms. Garriz presented the remainder of the budget through a PowerPoint presentation.

Budget Summary 2012 vs. 2013 – The Operating Budget increased less than 1% from 2012. The Capital Budget increased 2.3% mostly due to the Curtis Mill Park and the water infrastructure. Debt service was level from 2012, and \$68,000 of this was principal and interest payments for the Honeywell project completed this year. The remainder was related to the debt service requirements for principal and interest regarding the refunding bonds issued in 2011. Over the life of the bonds (those bonds which extend to 2022), the refunding will result in a \$1.2 million savings. Unappropriated surplus was down 61%.

Revenues 2012 vs. 2013 – The net utility revenue, the difference between utility sales and utility purchases was -0.3%. Electric purchase costs were down. RSA calculations included the 10% rate reduction component of the Governor's MOU. Water rates were projected to increase 5% effective July 1, and sewer volumes were projected to decrease to reflect actual experience. Property tax revenues were projected to increase 5.3%. This included a one cent rate increase effective July 1 and also included additional revenue realized from this year's rate increase and a small increase in the tax base. Revenues from fines were down 6.6% mostly due to the red light camera fines that were projected to decrease \$150,000. Commercial refuse revenue was projected to decrease about 90% assuming the program would be eliminated next year with some modified service to townhomes and condominiums. That service would be outsourced. Overall net salary savings were projected at about \$22,000 from this change with larger savings in future years. Parking revenues were down 4.6% to more closely reflect current year experience. Investment income was up 39.6% as the projected cash balance was higher than 2012's budget projection.

Revenues by Type 2013 Budget – Utility contributions made up 61% of the City's revenue base. The City continued to rely on utility revenues to fund some of the operating expenses for general services provided to constituents. Property taxes made up 14% of the City's revenue source.

Operating Expenses 2012 vs. 2013 – Personnel services were slightly up by 0.1%. This budget included wage increases according to contractual commitments and also included projected health rate increases and pension contribution increases. The increases were partially offset by decreases or projected savings in wages due to operational changes, staff reassignments and staff decreases. Materials and supplies decreased 4.8%, mostly due to cost cutting efforts by the departments, primarily in the Water Department and IT. Equipment depreciation was also down as a result of fewer equipment purchases and depreciation of most of the currently-owned equipment.

Expenditure by Type 2013 Budget – Personnel services were 73% of the total operating expenditure budget which was typical of a local government service organization.

2013 Capital Budget – The Capital Improvement Program was approved in October. Gross capital expenditures were about \$6.4 million, \$2.3 million of which was funded through capital reserves, equipment replacement reserves and grant sources. This brought the net capital expenditure to \$4 million.

Comparative Tax Rate – This was a comparison of the City's current and proposed tax rate to New Castle County and the municipalities within the County. The City's rate continued to be well below the County and other municipalities.

Historical Cash Balances – The cash balanced peaked in 2001 because of the bond issuance for construction of the reservoir. The cash balance

decreased between 2004 to 2009 mainly due to outstanding bond proceeds for the reservoir construction and also was a result of no rate increases for water and electric. Electric purchase costs were higher during that period. The City also paid \$3.5 million toward litigation for the reservoir. The upward trend from 2009 was due to increased rates for sewer, water and electric from 2009 to 2011 and then leveled off in 2012 and 2013. The target cash balance was \$25-\$30 million.

Comparative Cost of Residential Municipal Services – This was for the current year which was included in last year's budget presentation.

Comparative Cost of Residential Municipal Services – This was for the 2013 budget and compared rates with New Castle County and municipalities within the County. Cost of services in the City were the lowest compared to nearby municipalities. The changes next year were in the City property taxes calculated on an assessed value of \$75,000. The increase was roughly \$7.7. There was also an increase in the water rates and the impact of that was \$8.90 based on 60,000 gallons. The proposed RSA was an increase of \$11.28. Overall, the cost of services would increase \$28,000 but was still lower compared to the other municipalities.

Mr. Clifton questioned the unappropriated surplus (the money that will go into the City's reserve or surplus), which would only go up less than \$200,000 this year. He questioned whether the University's subvention figure of \$211,000 was accurate. Ms. Houck explained the \$211,000 amount was strict subvention and was not tied to anything else such as meter revenue, Barnes & Noble, DNP, etc.

Regarding the electric rate, Mr. Athey did not understand how the City complied with the MOU since our rates should be 10% less based on 2011. Ms. Houck explained the City was at 9.5% from the 2011 reduction for the MOU and had five years to get to the 10%. The goal was to meet our margins and our financial policy requirements and also to wedge the MOU into the whole process. The City has been able to continue to offer the RSA and not increase rates.

Mr. Morehead said the MOU was three years (not five) to achieve the 10% number. Last year the City was at 9.5% - this year 8.2% which meant next year would have to be somewhere between 12-13%. Mr. Smith explained the reason the percentage did not make sense on the face of it was because the calculation changed. The 9.5% last year was based on the average electric rate as a starting point and then the RSA decreased the margin adjustment and the over collection that had to be passed back. Those three parameters totaled the 1.33 cent reduction which was 9.5% of the original 14.02 cents per kilowatt hour rate. This year the calculation changed because the MOU was based on a 10% reduction from the 2011 actual experience, so in 2011 the actual average rate worked out to 14.291 cents per kilowatt hour. In order to get to what the City's rate needed to be this year, the Finance Department took 90% of that amount, so the average rate for 2012 was 12.862 cents. After the RSA adjustments for the power cost and the margin adjustment and the pass back, a bit more reduction was needed in order to meet the MOU.

Mr. Markham questioned whether the debt service was strictly the reservoir. Ms. Garriz said it was for the refunded bonds related to the reservoir. Mr. Markham asked if the debt service was coming out of the water fund. Ms. Garriz said there were two bonds refunded, and both bonds were related to the reservoir. The first bond to purchase the land was paid out of the debt service fund which was in the governmental fund. The construction of the reservoir was paid out of the water fund. Regarding historical cash balances, Mr. Markham noted as of 2004 and 2005 it showed the cash balance dropping. He pointed out that the City was subsidizing the electric rate then by \$6 million, so the City was paying more for electricity than it was charging.

Messrs. Clifton and Markham questioned whether the City funded the cost of the NPD officer assigned to Newark High School. Ms. Garriz advised that the City funded half the cost through the general revenues, and the other half was funded by the school district.

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

No action was taken on the Operating Budget. This item will be placed on the next agenda for Council's approval.

4. 9-A-1. REVENUE STABILIZATION ADJUSTMENT – EFFECTIVE JANUARY 1, 2013

30:15

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE RECOMMENDATION REGARDING THE REVENUE STABILIZATION ADJUSTMENT OF $-\$0.012$ PER KILOWATT HOUR BE APPROVED EFFECTIVE JANUARY 1, 2013.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Chapman.

5. 1. ITEMS NOT ON PUBLISHED AGENDA

A. Public

30:44

Matt Talley, SNAP (Supplemental Nutrition Assistance Program) Outreach Coordinator for the Food Bank of Delaware, was present to spread awareness of resources that were available to City residents.

Mr. Talley reported that SNAP (formerly known as the Federal Food Stamp Program) was a first line of defense against hunger and worked to supplement the ability of households to purchase food. Anyone below a certain level of income was eligible for the program, and assistance was available to help individuals gain access to the benefits. He invited the City to publicize this service to the community and to come up with creative solutions to help alleviate some of the hunger faced by the community. Ms. Houck said Customer Service personnel would have a packet of information available to share with individuals who were experiencing difficulties and that the City would assist in making information available to the community in as many ways as possible

6. Nancy Willing, a Newark resident, commented about the Comprehensive Plan update and noted the importance of keeping the public informed. She requested that the City's website offer as much information as possible about this process well in advance of any scheduled activities.

7. 1-B. UNIVERSITY

41:07

Mark Brainard reported Alumni weekend next year would start on Friday, May 31, and he would share further details of events as they became available. His plan was to be as proactive as possible since the City received a number of noise complaints last year during the event.

8. 1-B-2. STUDENT BODY REPRESENTATIVE:

42:54

Jessica Graham, UD Graduate Student Senate representative, discussed the scheduled public meetings for the Comprehensive Plan. She offered to make her fellow classmates in the Urban Affairs and Public Policy program aware of the meetings since she felt their participation could greatly benefit the City.

9. 1-C. COUNCIL MEMBERS

44:53

Mr. Clifton

- Mr. Clifton welcomed 23rd District State Representative-Elect Paul Baumbach.
- Mr. Clifton represented the City at the Veteran's Day ceremony at the bridge. He thanked veterans for their efforts defending freedom throughout the world. He also thanked Mr. Funk for his military service. He noted that the Delaware National Guard deployed 150 people for the Hurricane Sandy relief operation in New York and six soldiers (one of them a Newarker) re-enlisted at Ground Zero yesterday.
- Mr. Clifton congratulated Cpl. Greg Micolucci, Cpl. Truman Boulden and Cpl. Robert Vernon for being honored by the Knights of Columbus St. Michael Council as Officers of the Quarter.

10. Mr. Morehead

- Mr. Morehead expressed his thanks to the City Manager for an excellent job in proactively planning for Hurricane Sandy and to staff who worked so hard to keep the City safe and services running. He received numerous positive comments from constituents as well. Mr. Morehead encouraged permanent flood prevention measures to the infrastructure and would like that planned for in future CIP's.

11. Mr. Markham

- Mr. Markham thanked Mr. Clifton for his military service.
- Mr. Markham acknowledged Delaware State Representative-Elect Paul Baumbach.
- Mr. Markham recognized City staff for reaching out to assist the city of New Castle and for supporting first responders who were traveling to New Jersey to offer relief efforts related to Hurricane Sandy.
- Regarding the solar project, Mr. Markham expected to see a draft from DEMEC this week. They were requested to have the RFP out and back before the December Council meeting to get direction on how to proceed with the solar RFP. One suggestion from DEMEC was to use surplus from the Green Energy fund to help support the solar park.
- Mr. Markham noted that the News Journal incorrectly reported that the City was closed for Veteran's Day.
- Mr. Markham said he would like Council to pursue the property tax inequities in the City which resulted from almost 30 years without a reassessment by the County. Mr. Funk felt the best solution would be for the State Legislature to pass legislation requiring reassessment which had not been done since 1983. He thought reassessment would happen one of three ways – the Courts would order it, the County would decide to do the right thing, or the State Legislature would pass legislation mandating it. Mr. Athey agreed it was extremely inequitable to go almost 30 years without a reassessment but noted that funding would be an issue. Mr. Funk pointed out that Bethany Beach and Dover did their own reassessments. Mr. Tuttle believed in order to alleviate the equity problem there was a need to establish some relative frequency for reassessments. He said Maryland reassessed every three years so they do one third of the properties each year while some jurisdictions in Florida reassess

every year. Mr. Markham suggested discussing this again at a future Council meeting.

12. Mr. Athey

- Mr. Athey announced that he will not seek re-election when his term ends in April 2013.
- Mr. Athey welcomed State Representative-Elect Paul Baumbach.
- Mr. Athey offered accolades to City Staff who showed their extreme value during Hurricane Sandy and said the advanced preparedness paid off.
- Mr. Athey felt the website updates were good improvements.
- Mr. Athey was aware of Ms. Willing's concern regarding limited public notice of the Comp Plan open house but said it was a fairly well attended meeting.
- Mr. Athey referenced the Good Standing Ordinance and would like to see it presented for Council's consideration.

13. Mr. Tuttle

- Mr. Tuttle recognized the efforts of City's crews during Hurricane Sandy and said he received a lot of positive comments from people who saw advance preparation being taken. He requested staff to document extra hours worked and hours of planning done for the storm since he felt this information was very useful during budgeting discussions when considering the value of services provided by the City. Ms. Houck reported she held a follow up meeting to discuss what worked well and what could be done better in the future. Based on reimbursement that may be available through FEMA and DEMA, a good amount of statistical data was already collected.

14. Mr. Funk

- Mr. Funk commented on the amazing amount of community cooperation he witnessed from the caravans of bucket trucks he saw coming back from New York following Hurricane Sandy.

15. 2. APPROVAL OF CONSENT AGENDA

1:04

- A. Approval of Regular Council Meeting Minutes – October 22, 2012
- B. Receipt of Alderman's Report – November 8, 2012
- C. Planning Commission Minutes – October 2, 2012
- D. **First Reading - Bill 12-38** – An Ordinance Amending Chapter 13, Finance, Revenue, Taxation, Code of the City of Newark, Delaware, By Increasing the Annual Downtown Newark Partnership Fee and By Limiting the Fee to Businesses Located Within the Boundaries of Downtown Newark – **Second Reading November 26, 2012**
- E. **First Reading - Bill 12-39** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Amending the Management Assignments to Yearly Salary Plan - **Second Reading November 26, 2012**
- F. Resignation of Carol Boncelet from the Downtown Newark Partnership
- G. Appointment of Dawn Calzada to the Downtown Newark Partnership – Term to Expire July 2014

Ms. Fogg read the Consent Agenda in its entirety.

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Chapman.

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

17. 4. FINANCIAL STATEMENT: (Ending September 30, 2012)

1:05

Ms. Garriz presented the September financial statement which showed an operating surplus for the month ended September 30 was \$2.3 million above the budgeted surplus of \$3.6 million. The operating revenues reflected on page 3 of the report showed a \$1.8 million favorable variance for operating revenues over budget, mostly due to the electric contribution tracking \$1.4 million ahead of budget. That was a result of lower purchase costs than budgeted. Also on page 3, operating expenses were \$475,000 below budget mostly due to savings in personnel costs – some staff, particularly for the Electric fund worked more hours on capital improvements vs. regular operations, hence the savings in the operating expense. This savings was offset by over-expenditure in contractual services due to higher than budgeted legal costs associated with the landlord litigation. In the governmental funds the operating surplus was \$325,000 more than budgeted. As of the end of September building permit revenues exceeded this year's budget mostly due to new construction, mostly the University. Surplus for the enterprise funds was \$1.9 million more than budget mostly due to the favorable electric revenue contribution due to lower purchase power costs. The cash balance at the end of September was \$25.85 million – that was slightly higher than this time last year.

Mr. Funk asked how quickly transfer taxes revenues were received from the County as he noticed the Town of Elsmere switched from the County collecting their transfer taxes since they were not getting their funds fast enough. Ms. Garriz said there was usually a lag of one month.

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT THE FINANCIAL REPORT ENDING SEPTEMBER 30, 2012 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Chapman.

18. 5. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation to Waive Bidding and Purchase Police Department Radios from a State of Delaware Awarded Contract

1:09

Captain Potts referred to a memo dated 10/25/12 that outlined the request to waive the bidding process to purchase handheld portable radios for the Police Department from Motorola through their local distributor by virtue of a State contract. This was the second planned purchase of the portables that were originally purchased in 1998 and they have been failing over the last several years, parts were no longer available and Motorola no longer supported the radios. It was a two-step process, the first purchase was supposed to be made in 2010 which was suspended due to financial concerns. Radios were purchased last year, and this contract would complete the process with 31 handheld portables at a cost of \$102,000. It was expected the portables would last for at least 12 years.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE RECOMMENDATION BE APPROVED TO WAIVE THE BID REQUIREMENT AND AUTHORIZE THE PURCHASE OF 31 APX

PORTABLE RADIOS IN ACCORDANCE WITH STATE OF DELAWARE CONTRACT GSS12676-COMMEQUIP FROM MOTOROLA/DELMARVA COMMUNICATIONS FOR THE TOTAL BID AMOUNT OF \$102,000.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

19. 5-B. RECOMMENDATION ON RFP NO. 12-03 – DESIGN BUILD SERVICES FOR WATER QUALITY IMPROVEMENT PROJECTS AT THREE STORMWATER DETENTION BASINS IN THE HUNT AT LOUVIERS

1:10

Mr. Simonson referred to a memo dated 10/25/12 wherein the recommendation was for the award of design build services for water quality improvement projects for three stormwater detention basins. There was one response from Duffield Associates, Inc. Since Mr. Athey was employed by Duffield, he advised he would abstain from the vote. Mr. Markham noted that a relative worked for the firm but that would not exclude him from voting.

MOTION BY MR. TUTTLE, SECONDED BY MR. MOREHEAD: THAT RFP NO. 12-03, DESIGN BUILD SERVICES FOR WATER QUALITY IMPROVEMENT PROJECTS AT THREE STORMWATER DETENTION BASINS IN THE HUNT AT LOUVIERS, BE AWARDED TO DUFFIELD ASSOCIATES, INC. FOR ITS BID TOTALING \$74,700.

MOTION PASSED UNANIMOUSLY: VOTE: 5 to 0.

Aye – Clifton, Funk, Markham, Morehead, Tuttle.
Nay – 0.
Absent – Chapman.
Abstain – Athey.

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

A. Bill 12-36 - An Ordinance Amending Chapter 2, Administration, Article IX, Personnel Rules, Code of the City of Newark, Delaware, To Clarify the Classification of the City Manager Position

1:12

Ms. Fogg read Bill 12-36 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-36.

Mr. Funk explained as part of the negotiations during the hiring of the City Manager, Council specifically requested that there be no compensation time included in the employment agreement, and Ms. Houck accepted that request. Mr. Clifton noted that Ms. Houck was working a tremendous number of hours for the City.

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: 6 to 0.

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

(ORDINANCE NO. 12-31)

21. 6-B. BILL 12-37 - AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, ARTICLE IX, PERSONNEL RULES, CODE OF THE CITY OF NEWARK, DELAWARE, BY WAIVING HEALTH INSURANCE YEARS OF SERVICE REQUIREMENT FOR RETIRED MANAGEMENT EMPLOYEES WHOSE POSITION HAS BEEN ELIMINATED DUE TO MERGER OR ABOLITION OF A CITY DEPARTMENT

1:14

Ms. Fogg read Bill 12-37 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-37.

Mr. Funk explained this was part of the process of merging the Water and Wastewater Department into the Public Works Department.

The Chair opened the discussion to the public.

Nancy Willing, a Newark resident, requested an explanation of the years of service. Ms. Houck explained the City had a requirement of 85 years of combined service and age being reached at the end of employment in order to qualify for retiree health care. The bill would allow Council to waive that requirement. Mr. Tuttle explained in this case the gap was only two years before the management employee would meet the required number of 85.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Chapman.

(ORDINANCE NO. 12-32)

22. 6-B-1. RECOMMENDATION TO WAIVE YEARS OF SERVICE REQUIREMENT IN ASSOCIATION WITH DEPARTMENT MERGER

1:17

Ms. Houck said in accordance with Bill 12-37 that was just approved, she recommended that Council waive the minimum years of service requirement for the retiree health insurance benefit for Richard Lapointe whose position was eliminated as a result of the merger.

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: TO APPROVE THE CITY MANAGER'S RECOMMENDATION TO WAIVE THE YEARS OF SERVICE REQUIREMENT IN ASSOCIATION WITH THE DEPARTMENT MERGER OF THE PUBLIC WORKS AND WATER DEPARTMENTS.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

23. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:**
None

24. **8. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**
A. **Council Members:** None

25. **8-B OTHERS:** None

26. **9. SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. Revenue Stabilization Adjustment – Effective January 1, 2013

(SEE ITEM #4)

27. **Meeting adjourned at 9:15 p.m.**

Patricia M. Fogg, CMC
City Secretary

/av