CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

November 26, 2012

Those present at 7:00 pm:

Presiding:	Mayor Vance A. Funk, III
	District 1, Mark Morehead
	District 3, Doug Tuttle
	District 4, David J. Athey
	District 5, Luke Chapman
	District 6, A. Stuart Markham
Absent:	District 2, Jerry Clifton
Staff Members:	City Manager Carol Houck
	City Solicitor Bruce Herron
	Deputy City Secretary Alice Van Veen
	P&D Director Maureen Feeney Roser
	PW & Water Resources Director Roy Simonson
	Assistant to the City Manager Charles Zusag
	Interim Finance Director Wilma Garriz
	Finance Accountant Jim Smith

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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

00:53

Edward Streets, a Newark resident, referenced a book published in 1983 that featured historical buildings in the City. Mr. Streets felt it was very well done and suggested that Council request an update of the book.

3. **1-B-1. UNIVERSITY**

05:01

Mark Brainard distributed a preliminary draft report from Nancy Chase and the office of Student Wellness and Health Promotion. The University received a grant from the State to fight student alcohol abuse, and the report addressed their plans.

4. **1-B-2. STUDENT BODY REPRESENTATIVE:** None

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

06:13

Mr. Chapman

- Mr. Chapman agreed with comments made by Council at the previous meeting with regard to property reassessments. He believed Newark should look into the action being taken by other municipalities in the State to handle their own reassessments in order to possibly pair up and reduce costs. Mr. Funk suggested talking to Middletown and said he learned that the City of Dover reassessed every three years. Ms. Houck added that she and Ms. Garriz discussed reaching out to municipalities who have done reassessments to gather further information. Mr. Funk thought there was a State law that prohibited any municipality in New Castle County from doing a reassessment without the County's permission. Mr. Herron would check to see whether such a law existed.

6. Mr. Markham

- Mr. Markham said although he was waiting for more data, he saw a wide range of property assessments.
- Mr. Markham thought the DEMEC workshop was interesting, especially the trend of electricity being down and how DEMEC took care of the City's mix.
- Mr. Markham thanked Mr. Funk for making a few contacts regarding PILOT (payment in lieu of taxes.)
- In regard to the proposed solar RFP expected from DEMEC at the 12/10 Council meeting, Mr. Markham said DEMEC would also provide funding information.
- Mr. Markham thanked Bruce Harvey, President of the Landlord Association, for reaching out to assist with a problem property in his district by contacting a landlord to discuss issues.

7. Mr. Morehead

- Mr. Morehead shared several photos depicting the poor condition of the sidewalk at the bridge over the Christina Creek between Timberline Drive and Downes Elementary School. He requested Council to direct the City Manager to include repaving approximately 125 feet of sidewalk in this area in the 2013 street program. Mr. Funk agreed the problem should be corrected. Ms. Houck believed at the time the first section was rehabilitated that the other section was still in satisfactory condition. She would include the sidewalk repair in the street program as an option item with a distinct price and said a budget amendment would only be necessary if funding was not available.

8. 2. APPROVAL OF CONSENT AGENDA

19:20

A. Approval of Regular Council Meeting Minutes – November 12, 2012

B. Receipt of Alderman's Report – November 19, 2012

C. ***First Reading* – Bill 12-40** – An Ordinance Amending Chapter 1, General Provisions, Code of the City of Newark, Delaware, to Reference New Position Titles and New Department Titles ***– Second Reading – December 10, 2012***

D. ***First Reading* – Bill 12-41** – An Ordinance Amending Chapter 1, General Provisions, Code of the City of Newark, Delaware, to Include a Reference Name Change of Elkton Road between West Main Street and West Park Place to South Main Street. ***– Second Reading – December 10, 2012***

E. ***First Reading* – Bill 12-32** – An Ordinance Amending Chapter 17, Housing and Property Maintenance, Code of the City of Newark, Delaware, By Adopting the 2012 Edition of the International Property Maintenance Code with Amendments ***(Originally Introduced September 10, 2012 – Amendments Require First Reading – Second Reading December 10, 2012)***

F. Appointment of Jack Jadach, 54 Winslow Road, to the Property Maintenance Appeals Board – 5-Year Term to Expire December 2017

G. Cancellation of December 24, 2012 Regular Council Meeting

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

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

9. 3. ITEMS NOT FINISHED AT PREVIOUS MEETING:

A. Approval of 2013 General Operating Budget and Setting the Tax Rate

21:05

Ms. Houck reported she had not had any further questions or heard concerns regarding the budget with the exception of Mr. Morehead's comments discussed previously about sidewalk repairs at Downes. She therefore requested Council's approval of the 2013 Operating Budget. Mr. Markham clarified that at the financial workshop, Council and staff discussed the possibility of property tax increases between 5-10%. However, he noted the actual property tax increase proposed in the 2013 General Operating Budget was 1.5%. Also, although there was an electric rate increase, it was actually a decrease in the decrease (a .013 change.) Mr. Athey congratulated Ms. Houck for doing a great job in putting the budget together in a very short time frame.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE 2013 GENERAL OPERATING BUDGET BE ADOPTED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

10. 4. FINANCIAL STATEMENT: (Ending October 31, 2012)

22:25

Ms. Garriz presented the October financial statement which showed a consolidated operating surplus of $2.4 million above the budgeted surplus of $4.9 million, mainly as a result of electric contributions exceeding budget. Operating expenses were less than budget by about $864,000, with savings realized mostly in personnel costs. Contractual services continued to exceed budget mostly due to higher than expected legal costs. In the governmental funds, the operating deficit was $634,000 less than the budgeted deficit of $8.7 million. Revenues were $250,000 ahead of budget mostly as a result of building permits, better than anticipated real estate transfer taxes and revenues for other permits and licenses.

Mr. Funk questioned why transfer tax figures were shown at over $1 million on page 13 and $875,000 on page 10. Mr. Smith explained that the cash flow receipts from January and February were revenue for the previous year and had to be backed out to arrive at the current year revenue amount shown on page 10.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE FINANCIAL REPORT ENDING OCTOBER 31, 2012 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

11. 5. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Purchase of 16 Police Department Mobile Video Recording (MVR) Systems

26:55

Ms. Houck referred to a memo dated 11/12/12 outlining the request for in car video and audio recording systems. There were currently a total of five cameras in the City's vehicles. The Police Department obtained grant funding for an additional 16 cameras, so all marked patrol vehicles would be outfitted with this technology (a total of 21). The funding available and the cost for the

purchase recommended was $103,916.95, and the equipment would be obtained from the same vendor who provided the current cameras.

MOTION BY MR. TUTTLE, SECONDED BY MR. CHAPMAN: THAT THE RECOMMENDATION BE APPROVED TO WAIVE THE BID REQUIREMENT AND AUTHORIZE THE PURCHASE OF 16 MVR SYSTEMS AND ASSOCIATED EQUIPMENT FROM L3 COMMUNICATIONS MOBILE-VISION INC. AT A TOTAL COST OF $103,916.95.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

12. 5-B. RECOMMENDATION TO AWARD RFP NO. 12-01 – DESIGN-BUILD SERVICES FOR THE NORTHWEST BOOSTER STATION FLOOD HAZARD MITIGATION PROJECT

29:19

Mr. Simonson referred to a memo dated 11/14/12 wherein the recommendation was made to award RFP 12-01 to Eastern States Construction with Karins & Associates. Mr. Chapman asked if the ranking system was based off a perfect score of 500 – Mr. Simonson was not certain but thought it was either 450 or 500. Mr. Morehead pointed out that this was the station he previously spoke about in regard to the significant amount of man hours spent by the City to install a temporary berm along the Christina Creek. This would be a permanent fix to that situation.

Mr. Athey stated he would abstain from the vote as his employer had business relationships with Eastern States and Karins.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT RFP NO. 12-01, DESIGN-BUILD SERVICES FOR THE NORTHWEST BOOSTER STATION FLOOD HAZARD MITIGATION PROJECT BE AWARDED TO EASTERN STATES AND KARINS AND ASSOCIATES IN THE AMOUNT OF $310,000.

MOTION PASSED UNANIMOUSLY: VOTE: 5 to 0.

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

13. 5-C. RECOMMENDATION FOR EMPLOYEE BENEFITS CONSULTING SERVICES

32:15

Mr. Zusag referred to a memo dated 11/16/12 wherein the recommendation was made to accept the proposal from Mercer to continue to provide consulting services to the City for health, dental, life and long-term disability insurance plans. Mercer was the City's consultant for a number of years, and this would be the second time an extension of this contract was requested. Mr. Zusag believed Mercer provided the City with reliable consulting advice over the years and added that they recently helped negotiate a smaller increase in Blue Cross premiums than originally proposed. With the implementation of the Patient Protection and Affordable Care Act and its numerous mandates, regulations and requirements, Mr. Zusag said it would be useful to be able to rely on Mercer's advice regarding the implementation of those requirements. Also, in light of changes in management staff, he thought it would be a good idea to have continuity with Mercer.

Mr. Chapman asked how the determination was made for the 2% annual increase. Mr. Zusag replied the increase was what Mercer proposed to extend the contract. Their previous three-year contract included the same 2% annual increase. Mr. Zusag pointed out that the City's initial contract with Mercer in 2007 included a net consulting fee of $44,000. In 2012 it was $47,792 (a $3,800 increase) which he thought was reasonable. Mr. Zusag believed Mercer proved to be a knowledgeable and reliable consultant over the years.

MOTION BY MR. ATHEY, SECONDED BY MR. CHAPMAN: THAT THE MERCER PROPOSAL BE ACCEPTED AND THE CITY MANAGER BE AUTHORIZED TO EXECUTE A THREE-YEAR AGREEMENT FOR EMPLOYEE BENEFIT CONSULTING SERVICES OF $60,300 IN 2013, $61,506 IN 2014 AND $62,736 IN 2015.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

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

A. 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

36:57

Ms. Van Veen read Bill 12-38 by title only.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-38.

Mr. Feeney Roser reported when Council considered the expansion of the boundaries of the Downtown Newark Partnership, they discussed the fee structure that supported the organization. Council questioned the fairness of requiring all businesses in the City to pay a $25 fee to support the DNP, and staff reviewed the matter. At their October Board meeting, the DNP unanimously voted to recommend that businesses located outside the district were no longer required to pay the fee and that those businesses located inside the district would have an increase in their annual contribution from $25 to $35. As a result of these changes, Ms. Feeney Roser said the DNP would need to raise an additional $8,000 to support their activities.

Mr. Athey expected a structured fee to be recommended and thought there was some logic that non-Main Street businesses would reap the benefits of the Partnership. Ms. Feeney Roser said they talked about a tiered fee within the district but this would be very complicated. They also considered what benefits could be offered to those outside the district but said they did not have the staff support to put something together. Mr. Funk felt the Partnership's budget was in good shape.

Mr. Chapman commented that the Greater Newark Network filled a void for businesses outside the downtown district, and Ms. Roser was hopeful they would do their best to support those businesses.

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, Funk, Markham, Morehead, Tuttle.
Nay – 0.
Absent – Clifton

(ORDINANCE NO. 12-33)

15. 6-B. 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

43:48

Ms. Van Veen read Bill 12-39 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-39.

Mr. Zusag reported the assignments in the salary plan resulted from the recent combining of the Public Works and Water Departments. The amendment reflected a title change for the Director and increased the pay grade for the Assistant Director of Public Works and Water Resources. Mr. Zusag explained the employee in that position was a civil engineer and the change brought the position in line with the Assistant Director of Electric who was also a professional engineer. The Field Operations Superintendent position which replaced the former Public Works Superintendent required a civil engineering degree and/or an engineer in training in order to provide an eventual career path from the Field Operations Superintendent to Assistant Director to Director.

Mr. Zusag explained the second amendment related to the Parking Supervisor whose pay grade 5 was a legacy from the former Newark Parking Authority. Currently, the Parking Supervisor at pay grade 5 supervised higher paid employees at pay grades 8 and 10.

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, Funk, Markham, Morehead, Tuttle.
Nay – 0.
Absent – Clifton.

(ORDINANCE NO. 12-34)

16. 6-C. BILL 12-35 – AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING .510 ACRES AT 129, 147 AND 153 ELKTON ROAD FROM BC (GENERAL BUSINESS) TO BB (CENTRAL BUSINESS DISTRICT) AND BY REZONING 1.312 ACRES AT 163 ELKTON ROAD FROM RM (MULTI-FAMILY DWELLINGS-GARDEN APARTMENT) TO BB (CENTRAL BUSINESS DISTRICT) *(SEE ITEMS 7-A AND 7-B)*

46:25

(NOTE: The following is the public hearing for the rezoning, the major subdivision and the special use permit.)

Ms. Van Veen read Bill 12-35 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. CHAPMAN: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 12-35.

Lisa Goodman, Esq., represented Hal Prettyman and his family and was accompanied by Matt Longo and several others from Hillcrest Associates, the project engineers.

The project was currently known as College Town Apartments. The proposal was to redevelop the property and provide two buildings fronting Elkton Road which would be first floor retail with three stories of apartments above and a parking design they felt was exciting and a great development for Newark. In the rear of the parcel, 32 townhouse units were proposed.

The current site was 4.45 acres with two parcels currently zoned BC along the road. The rear parcel was zoned (and would remain) RM. The site contained four buildings for a total of 40 apartment units. In an attempt to design the best plan, Ms. Goodman explained the project had been through six changes counting the final plan. The by-right plan with townhouses that redeveloped the whole site under RM and left the two small BC parcels alone was discussed on March 7th at a community meeting hosted by Mr. Athey. The community's comments included: townhouses were too close to the houses on Beverly Road, they wanted more landscaping in the rear, the density clustered up by Elkton Road and no pedestrian access to Winslow Road. Mr. Prettyman had the plan redesigned based on the community's input. The overall site plan reflected what the community requested – development was clustered along Elkton Road and retail was added to better match the feel and design of Elkton Road. The units in the rear closest to Beverly Road were moved and a thick vegetative buffer was proposed. The townhouse unit count was cut to allow for that buffer.

Mr. Prettyman reviewed the new plan with Ms. Robbins who had become the neighborhood liaison. She took the plan around to her neighbors and discussed it with them – the feedback was very positive. This plan required and received three minor variances from the Board of Adjustment.

Ms. Goodman referred to renderings that were distributed to Council. The two buildings to be known as South Main Street Plaza were retail on the first floor with three stories of apartments above. The property sloped downhill from Elkton Road, so the parking was designed to the rear and would not be visible from Elkton Road. There would be a level of parking under the building in the back with a parking deck starting at ground level and going up. This design provided underground parking for the apartments and parking for the retail on the deck. The project was fully Code compliant for parking.

Two drawings depicted the front and back of the proposed townhouse apartments. There were 32 townhouses, each with two parking spaces inside and outside plus there were four additional spaces. A total of 96 spaces were required; 132 were provided, and all parking was internal to the site. Open area of 1.53 acres was created and exceeded Code requirements.

Stormwater for the project was handled at the large open area to the bottom along Winslow Road and was proposed to be an infiltration area.

The community voiced strong concerns that the developer not create a deliberate pedestrian access to Winslow Road as they did not want students channeled in that direction.

Ms. Goodman said the project more than met the standards for the rezoning and the special use permit. There was no adverse affect on the neighborhood or health and safety, and the front was consistent with Elkton Road and was not detrimental to the public welfare or injurious to property. The community supported the project which was a big upgrade and consistent with the Comprehensive Plan and was well designed for future conversion to home ownership.

Mr. Funk questioned whether there was any discussion about putting a fence across the “dog leg” portion of the property going over to Winslow Road. Ms. Goodman said there was some discussion, but she believed the City wanted access to maintain the culvert. Mr. Funk suggested adding a gate for that purpose. Mr. Prettyman noted that the community still wanted to use the property, and his thought was to add heavy plantings along that front. Mr. Prettyman assured Mr. Funk that real brick would be used for the project.

Regarding pedestrian access, Mr. Athey asked what happened to the idea of trying to negotiate with the private land owner to get access to the sidewalk going through College Town Apartments to the northeast. Mr. Prettyman had a conversation with the owner and did not believe he was interested in providing access across his property. Mr. Funk offered to explore this option further.

Mr. Chapman questioned the feasibility of a second access into the site because he was concerned about a possible traffic nuisance. Mr. Prettyman reported the original plan did have a second access, but the community made it clear they wanted access from Elkton Road only. DelDOT’s traffic study concluded that the traffic generated by the project would not have a negative impact on Elkton Road. The current plan reflected the configuration approved by DelDOT. Ms. Goodman felt the plan was a huge improvement over the numerous curb cuts for each of the parcels on Elkton Road, and this would consolidate them into one.

Mr. Chapman questioned the third variance that was requested where the corner of the townhouse was only 11 feet from the residence on Beverly Road. Mr. Prettyman explained how they would phase the project, thereby requiring only a temporary variance.

Ms. Houck confirmed to Mr. Chapman that the radio read meters referred to in item 10 of the Planning Commission report would be compatible with Smart Meters.

Mr. Morehead requested details regarding occupancy. Ms. Goodman explained what they discussed with the community which was that the RM property would be deed restricted to one person per bedroom. She emphasized how important this was to the neighbors.

Mr. Athey observed that some residents had concerns about the effectiveness of the drainage system, and the Public Works Department had questions about the stormwater management plan. He asked the status of the infiltration testing done so far. Matt Longo, Project Engineer from Hillcrest Associates, reported that soil testing was done in several locations. The soils were saturated at the top levels as a consequence of years without stormwater management. Deeper testing revealed very good passing results, so it appeared that infiltration should be successful in this area. Mr. Longo stated that someone from his office and possibly the subcontractor who ran the testing would be on site during excavation to make sure the calculations checked out.

Mr. Markham questioned whether the balconies on the drawing were functional. Ms. Goodman advised they were decorative balconies.

The Chair opened the discussion to the public.

Kathryn Robbins, a Newark resident, lived between Elkton Road and Winslow, and her house backed up to the new project. She was pleased with the changes made by Mr. Prettyman. She explained when the development was first proposed, Mr. Athey hosted a meeting for the community. At that time she went door to door to 120 neighbors, and 60 came to discuss the development. Changes made by the developer as a result of the community’s input included: moving the density from the by-right plan up towards Elkton Road, eliminating one of the townhouses and shifting the sidewalks which was a big concern. The

landscape plantings were also increased to provide a sound barrier and a site line barrier. After many conversations and meetings, the community encouraged Council to approve the variances for the new plan because it was much better for them as a neighborhood than the by-right plan.

Mr. Funk remarked that several of his neighbors indicated they would like a fence to be installed. Ms. Robbins agreed with the idea.

Jim Dunson, a Winslow Road resident and professional engineer, supported the project and commended Mr. Athey for assisting the community in making it possible for them to voice their concerns. Mr. Dunston had discussions with Mr. Longo regarding stormwater management. He did not believe the issue was solved about where groundwater levels would be at various times of the year and said different neighbors had a history of water problems in their basements. The problem was more acute across the street from him because there was a swale that came down Sunset Road which tended to flood his neighbor's basement. He was not sure the developer had come to grips with the best way to design an infiltration basin. Mr. Dunston pointed out that he lived in his current home for over 40 years and at least every couple of years it flooded to the point where water ran across level with Winslow Road. He provided his notes to Mr. Athey to be forwarded to Mr. Simonson. Mr. Dunson believed the box culvert had enough capacity to deal with the maximum rainfall intensity ever recorded for this area. He expressed concern about the footings on the Winslow Road bridge, especially on the south side which washed out over the years due to the over wash coming from the field. Mr. Dunson suggested in the long term the City should assure that all the engineers involved were comfortable with the fact that the water would go down and not sideways into their neighborhood. Mr. Funk felt it was important to get the drainage ditch cleared behind their houses as this was successful during Hurricane Sandy.

Further discussion ensued regarding fencing. Ms. Goodman pointed out that the area where fencing was proposed was recreational as required by the Code. Mr. Chapman did not understand how the area could be used for both water filtration and recreation. Mr. Athey reported on north campus the University installed an enormous infiltration chamber and put a field over it.

Mr. Prettyman explained details of the infiltration system which allowed this area to be used for recreation. Further, he said they tried to create an open, natural space in the buffer zones between the community and the project and felt an 8' high fence would make the area look like a prison. Mr. Markham agreed that having a fence so close to the new units would make them less attractive.

Mr. Dunson said he was deed restricted from having a fence any closer than 30' to the center line of the street. Mr. Funk asked Mr. Dunson his opinion regarding a fence. Mr. Dunson advised there was a 5' wide utility easement along the back, and the challenge was getting heavy vehicles in that area (as was pointed out by Mr. Prettyman.) He was comfortable with the idea of a hedge or a thick planting of tall slender trees. Mr. Prettyman said the plantings would be fairly thick but would have a break in between. The concept was that the neighborhood would know there was an opening but a person walking by would not see in. Mr. Funk said the design was acceptable to him as well. Ms. Goodman confirmed that they would work with the City to come up with an attractive landscaping plan.

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

Mr. Markham asked Ms. Feeney Roser about future plans for the property between Louviers Credit Union and this site. Ms. Feeney Roser reported that the property owner had discussed possibilities with the Planning Department.

Mr. Morehead asked about the traffic pattern turning into the property from southbound Elkton Road and was informed there was a center turn lane with no median.

Mr. Morehead found the parking deck to be very creative. He expressed concern about the left turn into the property coming south on Elkton Road. He was also concerned about the wastewater treatment and hoped the plan would be effective in addressing the situation. Mr. Morehead said he did not expect any plan with six bedrooms ever to be converted into family use. He planned to support the project.

Mr. Markham would support the project which was an improvement, and the BB zoning fit the area since Elkton Road was now business. Also, there was plenty of parking, and he liked the parking deck which he considered a major positive.

Mr. Athey supported the rezoning for several reasons. He did not recall a situation where Council was asked to rezone land because the adjacent neighbors did not favor the by-right plan so the developer sought the rezoning to appease them. Also, it fit in perfectly with South Main Street and tremendously enhanced the City's housing stock. He believed that Mr. Prettyman set a new standard with this project – he did everything he said he was going to do, put himself through the uncertainty of a rezoning, had to go through variances, constructing a parking deck and reducing the number of units. Further, the neighbors who were originally very distraught came around to support it. He thanked Mr. Prettyman for being so workable on the entire project.

Mr. Tuttle found the rezoning to BB to be consistent with the Comprehensive Plan and consistent with what existed directly across the street. He saw no reason not to support the project. In terms of the process, he found the communication with the neighborhood exceptional and thought this was a great model. He supported the rezoning.

Mr. Chapman highlighted the fact that there was so much support from the neighbors for the project and commented that the work done to appease the community was commendable. It was an economic positive and provided enhanced housing and more retail opportunity on the new South Main Street/Elkton Road area. Thus, he planned to support the rezoning.

Mr. Funk said this was the way government should work, but it was rare that it did. The rezoning on Elkton Road was exactly in line with what needed to be there. Mr. Funk was pleased Mr. Prettyman recognized that fact and was willing to do it. He planned to support the project.

Mr. Athey recognized and thanked Ms. Robbins for the great job she did in working with all the neighbors.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

(ORDINANCE NO. 12-35)

17. <u>7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS</u>:

A. Request of Harold Prettyman for the Redevelopment and Major Subdivision of 129, 147, 153 and 163 Elkton Road, In Order to Construct Two Mixed Use Buildings with Retail Space and 36 Upper Floor Apartments and 32 Townhouse Apartment Units to be Known as South Main Street

Plaza and Chimney Ridge. ***(Resolution and Agreement Presented) (See Items 6-C and 7-B).***

2:04

(NOTE: The public hearing for the major subdivision was held under Item #16.)

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

(RESOLUTION NO. 12-V)

18. 7-B. REQUEST OF HAROLD PRETTYMAN FOR A SPECIAL USE PERMIT TO ALLOW 36 APARTMENTS IN THE MIXED USE BUILDINGS THAT WILL ALSO CONTAIN RETAIL SPACE IN ADDITION TO 32 TOWNHOUSE APARTMENTS UNITS IN THE PROPOSED REDEVELOPMENT OF 129, 147, 153 AND 163 ELKTON ROAD TO BE KNOWN AS SOUTH MAIN STREET PLAZA AND CHIMNEY RIDGE *(SEE ITEMS 6-C AND 7-A)*

2:05

(NOTE: The public hearing for the special use permit was held under Item #16.)

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

19. 7-C. REQUEST OF PRODUCE MARKETING ASSOCIATION INC., (PMA) FOR A SPECIAL USE PERMIT TO CONSTRUCT 21 NEW PARKING SPACES AT 800 ELKTON ROAD, WHICH IS DIRECTLY ADJACENT TO THE PMA MAIN OFFICE AT 1500 CASHO MILL ROAD, NEWARK, DELAWARE

2:05

Duane Eaton, Senior Vice President of Produce Marketing Association, said PMA was a global trade association representing the supply chain for fresh fruits and vegetables. They were located in Newark since 1958 and at their current property on 1500 Casho Mill Road since 1986. They purchased the property behind their site at 800 Elkton Road when it became available in 2009. The facility expanded from 26 employees in 1986 to 87 current employees which necessitated a parking lot expansion. They sought approval for parking on the 800 Elkton Road property which required a special use permit.

Mr. Markham questioned the percentage of the lot area proposed for parking which was approximately 9%. Mr. Eaton confirmed that they would not be using their access off of Elkton Road.

The Chair opened the discussion to the public.

Frank Porter, a Newark resident who lived directly behind the 800 Elkton Road property wanted to make sure PMA would not be accessing the driveway from Elkton Road, and asked if the parking lot would have physical barriers to keep people from driving that way. Curbing would be installed and Mr. Eaton

agreed to add plantings such as evergreens on the edge of the parking lot facing Elkton Road.

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

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

20. 8. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members:

1. Resolution 12-__: Retirement of Patrick Michini, Street Supervisor

2:12

Mr. Athey read the Resolution which was unanimously endorsed by Council recognizing the retirement of Pat Michini who served the citizens of the City of Newark for 25 years in the Public Works Department.

(RESOLUTION NO. 12-W)

21. 8-B OTHERS: None

22. 9. SPECIAL DEPARTMENTAL REPORTS:

A. Special Reports from Manager & Staff: None

23. Meeting adjourned at 9:11 p.m.

Alice Van Veen
Deputy City Secretary