

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

September 24, 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 6, A. Stuart Markham

Absent: District 5, Frank J. Osborne

Staff Members: City Manager Carl F. Luft
City Secretary Susan A. Lamblack
City Solicitor Roger A. Akin
Assistant to the City Manager Carol S. Houck
Planning Director Roy H. Lopata
Water & Waste Water Roy Simonson
Finance Director Dennis McFarland
Building Director Thomas J. Sciulli
Chief of Police Paul Tiernan
Cpt. John Potts

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT ITEM 9-A-1 BE MOVED TO THE FIRST ITEM ON THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

3. **9-A-1. RESOLUTION NO. 07-__ IN APPRECIATION OF CPT. JOHN POTTS, NEWARK POLICE DEPARTMENT**

Ms. Lamblack read the resolution in its entirety, which was unanimously approved as read.

Mr. Funk presented the resolution to Cpt. Potts that recognized his outstanding leadership as Acting Chief of Police during the illness and unfortunate death of Chief William Nefosky. Mr. Funk complimented Cpt. Potts about his care and concern for the City and his creative ideas. He also noted that Cpt. Potts has been a very good friend over the years.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

Cpt. Potts commented that he was very optimistic about the future of the Newark Police Department, and believed the men and women who served in

their department would do whatever was necessary to make it better for the citizens of Newark.

(RESOLUTION 07-U)

4. 2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL:

A. Regular Council Meeting of September 10, 2007

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

5. 3. ITEMS NOT ON PUBLISHED AGENDA:

A. Public

Edward Streets, 260 Elkton Road, Newark, commented on the trolley he thought would begin in November. He heard it would replace the #6 DART bus and would cost \$1.15 to ride, but would only run from 8 am to 4 pm. He was concerned about the riders who needed the #6 bus transportation during the evening hours. He did not think the trolley would attract additional riders, nor make any improvement to the current bus schedules. He also noted that the trolley would be competing with the City's free bus service and therefore thought nobody would be willing to pay to ride the trolley when they could ride free.

Mr. Funk advised that the \$1.15 published cost was a misprint, it would only cost 25¢ to ride the trolley, and it was expected to begin December 3rd. The route (City Hall to W. Park Place, to Academy Street, to Delaware Avenue to College Square, back down Main Street and down Elkton Road) was selected because the two large collector points for busses coming from different areas was in front of City Hall and near Pathmark in the College Square Shopping Center. Mr. Funk thought the trolley would be a very valuable asset to the City.

6. Scott Crawford, 301 Meriden Drive, Newark, asked for the enforcement of motor vehicle noise, and in particular, motorcycle noise. Mr. Crawford provided Council with copies of the State and City Codes pertaining to motorcycle noise, as well as communication from DelDOT regarding inspection criteria, and articles from several communities that showed what they were doing about noise generated from motorcycles. This will be reviewed by the Chief of Police and the City Manager.

7. Chief Paul Tiernan was introduced by the City Manager.

8. 3-B. UNIVERSITY

1. Administration

There were no comments forthcoming.

9. 3-B-2. STUDENT BODY REPRESENTATIVE

Casey Patriarco, President of the Student Government Association (SGA), advised that SGA has two city relations chair people who will be attending Council meetings in the future, and Ms. Patriarco will attend Town & Gown meetings. She announced that last spring the executive board of the Delaware Undergraduate Student Congress (DUSC) changed their name to the Student Government Association (SGA) to increase recognition for the organization..

Ms. Patriarco noted that the SGA has been working closely with the new Vice President of Student Life, Dr. Michael Gilbert, in creating a cabinet for student leaders. Ms. Patriarco looked forward to working with the new administration. She also advised that the SGA created their executive board (26 students) after interviewing 55 very well qualified applicants.

10. 3-C. COUNCIL MEMBERS

Mr. Clifton congratulated the Student Government Association for being represented at the Council meeting. He noted that in the past several Council Members have attended and spoke at DUSC meetings, and he would be happy to do that again.

11. Council members complimented Community Day and noted it was very well attended.

12. Council members welcomed Chief Tiernan to the City and were looking forward to working with him in the future. Mr. Tuttle felt he came to the City at challenging times given Delaware State University had a serious shooting a few days ago. He encouraged Chief Tiernan to reach out and learn what he could from the officers who dealt with that situation. If such a situation occurred at the UofD, Mr. Tuttle believed there would be a lot more interplay between the two agencies than in Dover since Delaware State University was able to close their campus.

13. Mr. Clifton thanked Officers Chris Jones and Curt Davis for representing the Police Department at a recent George Read Village meeting. They listened to concerns and as a result some parking changes may be recommended at a later date. Because some streets in that neighborhood were only 19' to 20' wide, when cars were parked on both sides of the street, it created a safety issue especially for fire department vehicles.

Mr. Clifton also noted that he did a ride-a-long with Officer Jones and Poco that gave him the opportunity to learn more about police dogs. He hoped the City would consider looking at a second dog at some point in time because of the record Poco established in his first six months.

Mr. Clifton thanked Officers Dave Kerr and Curt Davis for representing Newark at the ceremony held in Delaware City that welcomed the 198 Signal Battalion that came home from Iraq.

14. Mr. Clifton reminded Council that several months ago they approved a crosswalk in Yorkshire Woods at Edjil Drive. He was glad to report that it appeared the crosswalk had its intended result—it slowed down traffic and people respected the crosswalk because it was visual. He believed this move was a good example of “thinking outside of the box” and felt there may be other areas in the City where they needed to do the same thing in the interest of traffic calming and traffic control.

15. Mr. Clifton thanked Officers Morris LaRue and Jeff Schwagel for their attendance at Stafford’s block party last Saturday. They provided coloring books, crayons, and good interaction with the children who attended.

16. Mr. Markham recognized the University students and the Student Government Association representatives in attendance, and thanked the students who volunteered at Community Day and manned the children’s games.

17. Mr. Markham commented on the fact that the construction of the sidewalk at the reservoir had stopped because Delmarva did not mark the gas lines. He was advised that construction was restarted today.

18. Mr. Markham asked when Council could expect to have the contract for the demolition of Curtis Paper Mill on their agenda, and was told it would probably be their first meeting in October.

19. Mr. Markham advised that the N. Chapel Street/Cleveland Avenue intersection was still an issue in his district. His appointment to the Planning Commission and the Planning Director came up with the idea of having the

engineering firm for the Pomeroy Trail (which would cross that intersection) look at the entire intersection to determine whether the right turn lane from N. Chapel onto Cleveland Avenue could be expanded. Council members agreed it was a good idea to ask the engineering firm to look at that right turn lane.

20. Mr. Markham raised two concerns regarding the Newark Housing Authority (NHA) now that they received approval to sell Cleveland Heights. One was the one-for-one replacement.

Mr. Akin referred to the material he sent to Council last week and said he thought the reference to the fact that a one-for-one replacement did not have to be accomplished was put in standard HUD letters that go to all housing authorities liquidating properties. He agreed the City was told on several occasions by the NHA that they intended to accommodate all residents living in Cleveland Heights when the residents were required to depart from the premises. Correspondence from the NHA indicated that continued to be their goal.

Mr. Markham's other concern was the actual movement of the residents because he read about Section 8 vouchers for the residents, yet the City made it clear the residents needed to be moved as part of the deal.

Mr. Akin agreed that the City made that specific request, but from a fiscal standpoint, he thought the reason for the NHA not requiring a one for one replacement was because it would be expensive liquidation for some housing authorities which were not fully occupied, i.e., replacing 100 units when only 50 units were occupied.

Mr. Markham said his main concern was that the residents were given comparable housing. Mr. Akin reiterated that the NHA told Council on a number of occasions that it was their intention to accommodate all of their current residents. He assumed they would also be planning for future increased housing needs.

Mr. Clifton reminded Council that Cleveland Heights has not been maintained and if that cycle were to continue, they could reach the point where nobody was living in Cleveland Heights. If that would happen, he questioned whether the NHA could sell the property and walk away without replacing any units.

Mr. Akin responded by saying the NHA did not know what the sale of the property would bring, nor did they have a plan to build new housing or purchase or lease existing housing in the City. Mr. Funk interjected that the NHA would not have the money to buy another project until all the residents were out of Cleveland Heights, which created a real dilemma. Mr. Clifton thought it looked like the City socially engineered an entire class of people out of the City. Mr. Funk did not agree and said there were a number of Section 8 vouchers available for the residents. It was pointed out that at one time the NHA provided housing for 42 families and now it had only 8 or 9. Mr. Funk thought the best thing to happen was for NHA to complete their negotiations for the sale of their property and then create a new facility.

Mr. Akin advised that he would send a letter to the NHA's legal counsel asking them to clarify the number of units they planned to replace, regardless of whether that many units were occupied at the time of the final liquidation of the property.

21. Mr. Tuttle said he attended a presentation on the Landlord/Tenant Code by Judge Tull and his colleagues that was hosted by City staff. Unfortunately, the meeting did not draw many students. He suggested a similar, more student-focused presentation by Judge Tull be held on campus.

22. Mr. Pomeroy commented that he did not think anyone could fully appreciate the gravity of the situation Cpt. Potts walked into as Acting Chief. He did not think anyone else could have done the job Cpt. Potts did in maintaining the morale of the department at an incredibly challenging time.

23. Mr. Pomeroy related a comment he heard about Community Day, that being he/she really enjoyed it, thought the overall atmosphere was wonderful, and it wasn't overly crowded and easy to walk around. They also walked on Main Street and were amazed by the level of activity on Main Street and how the stores and restaurants were booming with activity.

24. Mr. Pomeroy suggested to the City Manager that he keep tabs on the reconstruction of Elkton Road. He understood DelDOT was picking up the final plans no later than the beginning of next year. Concerns have been raised about the intersection at Casho Mill and it was suggested that a left-turn onto Elkton Road from Casho Mill Road be installed. That intersection should be resolved before final plans were made. Mr. Luft advised that he spoke with Darryl Cole who said the City would soon be getting an answer to the City's questions regarding Elkton Road.

25. Mr. Pomeroy thanked the City Manager and staff members who took the time to meet with him and business owners at the Delaware Technology Park regarding the reliability of electric delivery. He thought the City did a great job in addressing their concerns proactively and recognizing the importance of their concerns. He had not realized how different electric reliability was to those folks as opposed to other kinds of business. When businesses in the Park lose their power, and were in the middle of a procedure they were working on for several hours, they lose an entire day's worth of work and some of the revenue that goes with it. He felt the dialogue between the City and the companies in the Park have been very productive and hoped they would continue that dialogue.

26. Mr. Athey acknowledged the successful drag racing enforcement efforts made this summer. He also noted that the sign used by the Police Department that registered the speed of vehicles was recently used on New London Road, and he would like to see that used throughout the City as often as possible.

27. Mr. Athey noted that he attended the Newark Landlord meeting last Wednesday and agreed with Mr. Tuttle that it would be a great idea to repeat the meeting on campus.

28. Mr. Athey advised that he talked to Mike Summers from DelDOT and was told that Mr. Summers drafted a response to the City's letter regarding a traffic calming study on S. College Avenue. Mr. Athey claimed that DelDOT was planning to look into the City's request and hopefully their recommendation would be forthcoming.

29. Mr. Athey referred to the recent Council meeting he missed when one of his constituents raised the issue of businesses on Main Street who resorted to using chalk on the sidewalk as advertising. He asked Council if they wanted to explore this further; however, he was neutral on the issue. Mr. Funk added that only one business was doing that.

30. Mr. Athey referred to the City Solicitor's memorandum regarding door-to-door solicitation. Council agreed that Mr. Akin provided good options and should move forward with a proposed ordinance for Council's consideration.

31. Mr. Funk updated Council on the progress of the 250th Anniversary committee. He thanked the students who attended that meeting and agreed to provide volunteers for the marathon and build a float for the 250th Anniversary parade. Provost Rich committed the University to supply a tractor and flatbed for the students' float.

32. Mr. Funk advised that clean up packages were sent to student groups to sign up for the Adopt-a-Street program. Last year 29 student groups participated. He noted that many people say that Newark was one of the cleanest towns they ever visited, and he thought this program contributed to that.

33. Mr. Funk reminded everyone that tickets were still available for the Taste of Newark scheduled for October 7th. He claimed this event would not be the Taste of Newark without the 60 students from the University who volunteered their services. He also noted it was one of the major fundraisers of the Downtown Newark Partnership. Mr. Funk commented on how busy Main Street was with a good blend of young adults, families and students especially on the weekends.

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

35. **5. RECOMMENDATIONS ON CONTRACTS & BIDS:** None

36. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**
None

37. **7. RECOMMENDATIONS FROM THE PLANNING COMMISSION/DEPT.**
None

38. **8. ORDINANCE FOR FIRST READING:**

A. Bill 07-24 - An Ordinance Amending Ch. 7, Building, By Adopting the 2006 International Building Code with Supplements, the 2006 International Plumbing Code with Amendments Thereto, the 2006 International Mechanical Code with Amendments Thereto, & the 2006 International Residential Code for One and Two Family Dwellings

Ms. Lamblack read Bill 07-24 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THIS BE THE FIRST READING OF BILL 07-24.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/08/07)

39. **8-B. BILL 07-29 - AN ORDINANCE AMENDING CH. 14, FIRE PREVENTION, BY ADOPTING THE 2006 INTERNATIONAL FIRE CODE & SUPPLEMENTS, WITH AMENDMENTS THERETO**

Ms. Lamblack read Bill 07-29 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 07-29.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/08/07)

40. 8-C. BILL 07-30 - AN ORDINANCE AMENDING CH. 17, PROPERTY MAINTENANCE CODE, BY ADOPTING THE 2006 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE WITH SUPPLEMENTS

Ms. Lamblack read Bill 07-30 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 07-30.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/08/07)

41. 8-D. BILL 07-31 - AN ORDINANCE AMENDING THE CODE OF THE CITY OF NEWARK, BY ADOPTING THE 2006 INTERNATIONAL FUEL GAS CODE WITH SUPPLEMENTS, WITH AMENDMENTS THERETO

Ms. Lamblack read Bill 07-31 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 07-31.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/08/07)

42. 8-E. BILL 07-33 - AN ORDINANCE AMENDING THE CODE OF THE CITY OF NEWARK, BY ESTABLISHING A NEW CH. 6, ENTITLED ENERGY CONSERVATION CODE, BY ADOPTING THE 2006 INTERNATIONAL ENERGY CODE, WITH SUPPLEMENTS & WITH AMENDMENTS THERETO

Ms. Lamblack read Bill 07-33 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THIS BE THE FIRST READING OF BILL 07-33.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/08/07)

43. 8-F. BILL 07-34 - AN ORDINANCE AMENDING CH. 11, ELECTRICITY, BY ESTABLISHING A NEW ELECTRIC RATE TARIFF REFERRED TO AS SERVICE CLASSIFICATION “ED” – ECONOMIC DEVELOPMENT

Ms. Lamblack read Bill 07-34 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 07-34.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/08/07)

- 44. **8-G. BILL 07-32 - AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, BY REZONING FROM RS (SINGLE-FAMILY, DETACHED) TO AC (ADULT COMMUNITY & BL (BUSINESS LIMITED) A 2.23 ACRE SITE LOCATED AT 29 WEST PARK PLACE & A .15-ACRE SITE LOCATED ALONG THE EASTERN EDGE OF 29 WEST PARK PLACE TO BE USED FOR ADDITIONAL PARKING FOR 318 SOUTH COLLEGE AVENUE**
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Ms. Lamblack read Bill 07-32 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 07-32.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

(2ND READING 10/22/07)

45. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members:

- 1. Resolution 07-__: In Appreciation of Cpt. John J. Potts, Newark Police Department

See Item #3.

46. 9-B. COMMITTEES, BOARDS & COMMISSIONS:

- 1. Appointment to Planning Commission (Mayor & Dist 3 Appts.)

MOTION BY MR. FUNK, SECONDED BY MR. MARKHAM: THAT RALPH BEGLEITER, 11 CREEK BEND COURT, BE REAPPOINTED TO THE PLANNING COMMISSION FOR A THREE-YEAR TERM; SAID TERM TO EXPIRE SEPTEMBER 15, 2010.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT MARY LOU MCDOWELL, 25 CORNWALL DRIVE, BE REAPPOINTED TO THE PLANNING COMMISSION FOR A THREE-YEAR TERM; SAID TERM TO EXPIRE SEPTEMBER 15, 2010.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

47. 9-B-2. APPOINTMENT TO BOARD OF ADJUSTMENT (MAYOR APPT.)

MOTION BY MR. FUNK, SECONDED BY MR. ATHEY: THAT JEFFREY BERGSTROM, 5 DARIEN ROAD, BE REAPPOINTED TO THE BOARD OF ADJUSTMENT FOR A FOUR-YEAR TERM; SAID TERM TO EXPIRE SEPTEMBER 15, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

48. 9-B-3. RESIGNATION FROM CONSERVATION ADVISORY COMMISSION (DISTRICT 6)

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT COUNCIL ACCEPT THE RESIGNATION OF JENNIFER BYRNE FROM THE CONSERVATION ADVISORY COMMISSION.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

49. 9-B-4. PLANNING COMMISSION MINUTES OF SEPTEMBER 4, 2007

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THE PLANNING COMMISSION MINUTES OF SEPTEMBER 4, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

50. 9-B-5. APPOINTMENT TO COMMUNITY DEVELOPMENT/REVENUE SHARING (MAYOR APPT.)

MOTION BY MR. FUNK, SECONDED BY MR. ATHEY: THAT ROBERT DETWILER, 77 MADISON DRIVE, BE APPOINTED TO THE COMMUNITY DEVELOPMENT COMMITTEE, REPRESENTING THE NEWARK HOUSING AUTHORITY; SAID TERM TO EXPIRE MARCH 31, 2010.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

51. 9-C. OTHERS: None

52. 10. SPECIAL DEPARTMENTAL REPORTS:

- A. Special Reports from Manager & Staff:
1. Approval of Audit Report

Pam Baker, Barbacane, Thornton & Company, reviewed the highlights of the audit for the year ending December 31, 2006. The report contained the management's discussion and analysis, and Ms. Baker complimented the Finance Director for providing that especially in light of the fact that Mr. McFarland had not been with the City in 2006. Pages 3-11 provided a narrative discussion of what was included in the audit.

Ms. Baker pointed out the general fund ending 2005 had a deficit of \$50,000. For 2006, the general fund netted \$121,000 primarily to bring that back into a positive. The large budgeted funds for the City were the electric, water, sewer, and parking funds (pages 19 and 20). The electric fund lost \$182,000 affecting net assets from \$10.1 million to \$9.9 million. Ms. Baker noted that it would probably take another full-year cycle before the City saw that whole effect of the rate changes between 2005 and 2006. The water fund added \$132,000 to their bottom line, the sewer fund added \$182,000, and the parking fund added \$224,000. All of the remaining funds of the City had positive net income figures to put into their unrestricted net assets. She also pointed out that of all of the funds of the City, the sewer fund had the strongest net asset position with \$5.1 million in unrestricted net assets. With the major reservoir project and the electric rate, the electric and the water funds have taken the hit for the fairly large activities over the past few years. Ever since the parking was taken over by the City, the parking fund has held its own.

Mr. Funk said he did not remember the negative \$50,000 in last year's report. Ms. Baker said it was because of late bills that came in December. Mr. Funk asked if the money in the parking fund came from money paid by developers in lieu of parking downtown. The money in the parking fund came from the parking lots. The "in lieu of parking" waiver fund was separate and had about \$35,000 to \$45,000.

Ms. Baker noted that prior to her presentation, she met with Mr. McFarland and his staff to review the draft of the audit, and then met with Mr. Luft to review the report and discuss some of their recommendations. She was confident that management was in agreement to their recommendations.

Mr. Markham asked if the City overpaid the pension plan. Ms. Baker said the pension contributions were balanced out as the City gets an actuary every year for what their funding needed to be. Therefore, if it was overpaid in one year, it would balance out. Mr. Markham asked if the pension plan did better, would the City's contributions decrease. Ms. Baker said that was a good thought process; however, you also have the experience of the plan—the demographics of the different groups, the different pension plans that could change, the mortality tables could change, etc.—all of those things could have an affect on the contribution into the plan.

Mr. Markham was glad the audit report was made available much earlier and much more timely. He hoped the City would move forward with the disaster recovery back-up system. Ms. Baker said that would take a real committed effort to address.

Mr. Clifton asked if the auditor would be addressing in the synopsis next year what has or has not been done because he thought that information would be valuable especially as they got ready to view the 2008 general operating budget. He also questioned whether Ms. Baker thought there was any benefit in the City having a large line of credit to offset a natural disaster and provide the City with immediate access to funds. Ms. Baker said exploring that would be a part of the disaster recovery planning. A lot of different things would have to be taken into consideration.

Ms. Baker noted that every year her firm addressed their recommendations from the previous year. Page 2 and 3 of their May 31, 2007 letter to Council provided a status of last year's recommendations. As the independent auditor, their role was not to make recommendations that did not make sense in the City's environment. Any recommendations made to Council have already been discussed with management and they were written in such a way that management would be able to do something with them. If it was found the next year that nothing was done regarding their recommendations, the auditor would look into that further.

Mr. Pomeroy asked what the status was of the recommendation regarding obtaining worker's compensation coverage. Mr. Luft said it was a cost issue and the City was staying with the self-insurance fund at this time. That did not mean they would not consider an outside insurance policy in the future. He pointed out that the different employee groups were rated in different ways and some were high exposure type groups such as the police. This will be looked at more closely every year.

Mr. Pomeroy asked if the self-insurance fund provided an undue level of exposure that they should be concerned about in light of the fact the auditor recommended for the second year that the City obtain an actuarial evaluation of the fund to determine it was adequately funded. Ms. Baker thought the City had to explore and determine what was the best option for the City. Mr. Pomeroy asked if other municipalities still handled the worker's comp like the City handled it. Ms. Baker said there were other cities. Mr. McFarland was confident that the City's reserve was sufficient to cover multiple years of funding.

Mr. Pomeroy thanked Ms. Baker for the report and giving it to Council in a very timely fashion. He also thanked staff and was pleased to have this interaction prior to the budget process. He asked Ms. Baker if she could opine on issues relating to the general financial position as it related to future considerations.

Ms. Baker suggested if Council compared last year to this year, they would see some "big swings and big issues." She thought there were conscientious decisions on the part of Council and that Council was continuing to think forward. She thought the biggest thing they could do was always be firm with their philosophy on funding, where the funding was coming from, what was being paid for with taxes in the general fund and the general services and what was coming out of the proprietary fund—electric and budgeting those transfers and making it more of a policy.

Mr. McFarland reminded Council that the auditor's job was to attest to the accounting and financial statements and less so to give financial advice

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT THE AUDIT REPORT, DECEMBER 31, 2006 BE APPROVED AS RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Osborne.

53. 10-B. ALDERMAN'S REPORT

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORT DATED SEPTEMBER 18, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6. to 0.

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

Nay – 0.

Absent – Osborne.

54. 10-C. FINANCIAL STATEMENT

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE FINANCIAL STATEMENT ENDING AUGUST 31, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6. to 0.

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

Nay – 0.

Absent – Osborne.

55. 10-D. REQUEST FOR EXECUTIVE SESSION RE PENDING LITIGATION (DURKIN V. NEWARK) & PERSONNEL

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT COUNCIL ENTER INTO EXECUTIVE SESSION TO DISCUSS LITIGATION AND PERSONNEL.

MOTION PASSED UNANIMOUSLY. VOTE: 6. to 0.

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

Nay – 0.

Absent – Osborne.

Council entered into Executive Session at 8:50 pm and returned to the table at 9:46 pm. Mr. Funk announced that there was no action required by Council.

56. Meeting adjourned at 9:47 pm.

Susan A. Lamblack, MMC
City Secretary

/pmf