

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

December 9, 2013

Those present at 5:00 p.m.:

Presiding: Mayor Polly Sierer
District 1, Mark Morehead
District 3, Doug Tuttle
District 4, Margrit Hadden
District 5, Luke Chapman
District 6, A. Stuart Markham

Absent: District 2, Jerry Clifton

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
City Solicitor Bruce Herron
Deputy City Manager Andrew Haines
Finance Director Lou Vitola
Assistant Finance Director Wilma Garriz
Finance Accountant Jim Smith
Parks & Recreation Director Charlie Emerson
Planning & Development Director Maureen Feeney Roser
Public Works & Water Resources Director Roy Simonson
Assistant PW & Water Resources Director Tom Coleman

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- A.** Executive Session pursuant to 29 *Del. C.* §10004 (b)(2) for the purpose of discussions on site acquisitions for publicly funded capital improvements.
- B.** Executive Session pursuant to 29 *Del. C.* §10004 (b)(4) and (6) for the purpose of a strategy session involving legal advice or opinion from an attorney-at-law with respect to pending or potential litigation and discussion of the content of documents, excluded from the definition of “public record” in 29 *Del. C.* §10002 where such discussion may disclose the contents of such documents.

Council entered into Executive Session at 5:00 p.m. and returned to the table at 6:55 p.m. Ms. Sierer advised that no action was necessary by Council at this time.

1. The regular Council meeting began at 7:00 p.m. with a moment of silent meditation and the Pledge of Allegiance.
2. MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: THAT ITEMS 7-C, 7-D, 7-E, 7-F AND 7-G WHICH RELATED TO THE BUDGET, BE MOVED AFTER 3-A AND 3-B.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

3. Ms. Sierer announced that District 2 Council Member Jerry Clifton was absent from tonight’s meeting due to recent surgery.

4. 1. ITEMS NOT ON PUBLISHED AGENDA

03:53 **A.** Public

5. Brett Zingarelli, District 4, was concerned about possible conflicts of interest related to the Data Centers, LLC and about the proposed rate increases and Council salary increase.
6. John Morgan, District 1, was pleased discussion was underway about strengthening Newark's noise ordinance (see attachment).
7. Catherine Ciferni, District 2, asked Council to reconsider the formation of the rental housing needs assessment steering committee. Council agreed to revisit the selection process, and a January workshop will be held for Council to review all boards and committees.
8. Katie Gifford, District 3, shared concerns about pollution related to the proposed power plant on the STAR campus.
9. Nick Wasileski, a Newark resident, read a letter from the Delaware Coalition for Open Government to A. Gilchrist Sparks, III, UD Board of Trustees Chair, regarding The Data Center's Wolf I project (see attachment).
10. Rob Gifford, District 3, asked the City not to provide the requested zoning verification to The Data Centers at this time. Mr. Herron reported TDC provided additional information at the City's request late Friday. This information was being reviewed by the City to determine whether to provide the zoning verification.
11. John Kowalko, State Representative, read a prepared statement regarding the recent mayoral election (see attachment).
12. J.P. Fuhr, Newark resident, encouraged Council to consider more freedom and liberty and less taxes and oppression.
13. Martin Willis, New Castle, asked Council to support The Data Center project.
14. Len Schwartz, District 3, questioned Ms. Sierer about the election campaign. She responded it was not appropriate to address his questions at the Council meeting.
15. Connie Merlet, District 4, spoke on City residents' opposition to the power plant.
16. Amy Roe, District 4, asked for a delay in the budget discussion until it was linked on the City's website to the agenda. She discussed FOIA concerns, asked Council to establish a FOIA policy and commented about pile driving noise at the STAR Campus.
17. Leslie Purcell, District 1, attended a presentation on climate change and urged Council to slow down the development process until the rental study was completed.
18. David Meluskey, aide to State Representative Paul Baumbach, said Mr. Baumbach was unable to attend tonight's meeting but would host his monthly coffee at 7:00 a.m. on 12/11 at Panera on Main Street.
19. Robert Borchard asked Ms. Sierer to comment about TDC. Ms. Sierer did not believe the City Council meeting was the proper public forum for her to discuss ideas on a particular topic.
20. Stephanie Herron, Pike Creek, thought the money spent in Newark's Mayoral election reflected poorly on the State of Delaware and set a negative precedent.

21. 1-B. UNIVERSITY

01:12:39

(1) **Administration** – Rick Deadwyler, Jr., University of Delaware Director of Government Relations, congratulated Ms. Sierer on her new role as Mayor. He reported that former Mayor Funk would be recognized by the University for his service to the City on 12/11. Mr. Deadwyler shared details about recent UD events and accomplishments.

22. 1-B-2. STUDENT BODY REPRESENTATIVE

01:18:26

Student Government Association member Jeffrey Heath recognized Mayor Sierer. He reported a plaque was presented to former Mayor Funk to thank him for his service and provided an update on student body events.

23. 1-C. COUNCIL MEMBERS

01:24:10

Mr. Morehead

- Welcomed Mayor Sierer.
- Attended the Reindeer Run and Winterfest and commended Parks and Recreation, the Police Department and everyone involved in planning the events.
- Noted there was a decibel meter free app for Smart phones and said 52 decibels was the night time noise limit in the City.

Mr. Tuttle

- Welcomed Mayor Sierer to Council.
- Recognized the passing of Wally McCurdy, a very active volunteer in City activities and a great believer in environmental sustainability.

Ms. Hadden

- Welcomed Ms. Sierer
- Recognized City employees for organizing Winterfest.

Mr. Chapman

- Congratulated Ms. Sierer.

Mr. Markham

- Welcomed Ms. Sierer.
- Acknowledged a successful Winterfest
- The City would have free parking on Christmas Eve, Christmas Day, the day after Christmas and New Year's Day.

Ms. Sierer

- Shared her gratitude and looked forward to working with Council, staff and the neighbors in the community.
- Attended Winterfest, Delaware 87'ers Night, Small Business Saturday and the annual Thanksgiving Day breakfast.

24. APPROVAL OF CONSENT AGENDA

01:31:27

- A. Approval of Regular Council Meeting Minutes – November 11, 2013
- B. Approval of Special Council Meeting Minutes – November 4, 2013
- C. Receipt of Alderman's Reports – November 12 & 26, 2013
- D. Receipt of Planning Commission Meeting Minutes – November 5, 2013
- E. Amendment to the Board of Adjustment Term of Curtis Bedford to Reflect a Four Year Term Expiring September 15, 2017
- F. **First Reading – Bill 13-44** – An Ordinance Amending the Comprehensive Development Plan By Changing the Designation of Property Located at 49 South Chapel Street – **Second Reading – January 13, 2014**
- G. **First Reading – Bill 13-45** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware By Rezoning from BC (General Business) to RA (Multi-Family Dwelling – High-Rise Apartments) 0.26 Acres Located at 49 South Chapel Street – **Second Reading – January 13, 2014**
- H. **First Reading – Bill 13-46** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware By Rezoning from RD (Single Family Semidetached Residential) to RM (Multi-Family Dwellings – Garden Apartments) 0.08 Acres Located at 52 Benny Street – **Second Reading – January 13, 2014**

- I. **First Reading – Bill 13-47** – An Ordinance Amending Chapter 13, Finance, Revenue, and Taxation, By Creating a Pass-Through Mechanism for Credit Card Processing Fees – **Second Reading – January 13, 2014**
- J. Cancellation of December 23, 2013 Regular Council Meeting

Mr. Morehead requested that items 2-A and 2-J be removed from the Consent Agenda.

Ms. Bensley read the Consent Agenda as amended.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE CONSENT AGENDA BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.
 Nay – 0.
 Absent – Clifton.

25. 2-A. APPROVAL OF REGULAR COUNCIL MEETING MINUTES – NOVEMBER 11, 2013

01:33:53

Mr. Morehead made a minor correction to item #18 on page 3.

MOTION BY MS. HADDEN, SECONDED BY MR. MOREHEAD: THAT THE NOVEMBER 11, 2013 COUNCIL MINUTES BE AMENDED IN ITEM #18 TO ADD THE WORD “NOT” SO THE SENTENCE READS “SHE DOES NOT THINK A ZONING VERIFICATION...”

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.
 Nay – 0.
 Absent – Clifton.

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT THE NOVEMBER 11, 2013 COUNCIL MINUTES BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.
 Nay – 0.
 Absent – Clifton.

26. 2-J. CANCELLATION OF DECEMBER 23, 2013 REGULAR COUNCIL MEETING

01:35:04

Mr. Morehead recommended that the decision to cancel the 12/23 meeting be postponed until after Council voted on the budget. Council agreed to make this decision following the last budget item, 7-G.

27. 3. ITEMS NOT FINISHED AT PREVIOUS MEETING

- A. Approval of 2014 General Operating Budget and Setting the Property Tax Rate (Public Hearing Held 11/11/13)

01:36:18

MOTION BY MR. MOREHEAD, SECONDED BY MR. CHAPMAN: THAT ITEMS 3-A AND 3-B BE OPEN TO PUBLIC COMMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

Public Comments (All addressed the proposed stormwater utility)

State Representative John Kowalko suggested Council revisit the formulation of the stormwater utility plan.

Vince D'Anna, Newark resident, felt the fairest calculation would be the amount of impervious surface and discussed the availability of grants and loans.

Brett Zingarelli, District 4, said new development was causing flooding, and, as a homeowner, stormwater was not his responsibility.

Catherine Ciferni, Newark resident, did not understand why the City did not move forward with the impervious surface assessment proposed by the former administration.

Michael Waters, District 6, supported the stormwater improvements and asked if there were any other funding sources available.

Amy Roe, District 4, asked if the Conservation Advisory Commission reviewed the City's stormwater policies. Tom Fruehstorfer, CAC Chair, said they reviewed floodplain issues years ago but were not asked to discuss stormwater issues. Ms. Roe felt stormwater should be addressed comprehensively.

Connie Merlet, District 4, confirmed that the stormwater utility fee would not apply to non-resident water-only customers.

Tom Fruehstorfer, Newark resident, said when the initial stormwater tax came up there was outrage against it. He supports the fee and reducing the amount of water put into the streams.

John Morgan, Newark resident, suggested determining impervious surfaces through Google satellite view.

Sheila Lynch, Newark resident, believed it was time to take immediate action on areas most impacted by flooding in the City.

Leslie Purcell, Newark resident, asked if PILOT funds could be obtained to help the City with project funding.

Steve Pilnick, Main Street owner, noticed a problem with runoff since the University renovated Carpenter Sports building and suggested additional workshops.

John Kowalko, State Representative, said he and Representative Baumbach have worked on the PILOT program. He does not have much confidence that the Joint Finance Committee will release funds to the City. He was concerned that some of his constituents would not be able to afford a \$7.50/month fee.

Jen Wallace, Newark resident, thought a blanket stormwater fee was not a fair solution and suggested finding other options to the problem.

Jenny McDermott, District 4, felt stormwater maintenance was long overdue and asked what incentives the City would offer to reduce impervious surfaces in the future.

Jerry Kaufmann, Newark resident, noted the stormwater issue came before Council four years ago. Since then there were two huge storms, and the flooding would continue. He urged the City to act now.

Stephanie Herron, Pike Creek, suggested consulting with other towns and organizations having expertise with stormwater management.

A discussion regarding stormwater ensued between staff and Council members. Points raised during the discussion included that the City should move forward with the fee to fix the problems now, make an exclusion for financial hardship; set a date for the fee to expire; fund the project from the Capital budget vs. a new fee; use pay-as-you-go financing to solve the most critical problems in one, three or five years; educate the community not to contribute to the problem; address the problem immediately and fine tune changes to the program in the future; plan community outreach prior to implementing.

Property Tax Increase

Council member/staff comments: a tax increase was unfair based on the 30-year old assessment; provide funding assistance for non profits through the Electric fund instead of the General fund; the increase could easily be negated by red lining several items in the Capital Improvement Program or practicing austerity; general fund expenses are so great they necessitate the need for a transfer of \$12 million a year from utilities – the proposed increase would only take a small bite out of the deficit; some management increases would be paid by the utility funds; it was preferable to have smaller increases over a longer period of time to pay for services vs. no increase for several years and then a big increase; the increase was unfair to taxpayers who would pay more while the University of Delaware would not be impacted.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE 2014 GENERAL OPERATING BUDGET BE APPROVED AS PRESENTED.

MOTION PASSED. VOTE: 5 TO 1.

Aye – Chapman, Hadden, Markham, Sierer, Tuttle.
Nay – Morehead.
Absent – Clifton.

MOTION BY MS. HADDEN, SECONDED BY MR. TUTTLE: THAT THE CITY ADOPT A PROPERTY TAX RATE FOR 2014 OF \$0.7065 PER \$100 OF ASSESSED VALUE.

MOTION DEFEATED. VOTE: 3 TO 3.

Aye – Hadden, Sierer, Tuttle.
Nay – Chapman, Markham, Morehead.
Absent – Clifton.

MOTION BY MS. HADDEN, SECONDED BY MR. TUTTLE: THAT THE CITY MAINTAIN THE 2013 PROPERTY TAX RATE OF \$0.6961 PER \$100 OF ASSESSED VALUE FOR 2014.

MOTION PASSED UNANIMOUSLY. VOTE: 6-0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.
Nay – 0.
Absent – Clifton.

28. 3-B. APPROVAL OF THE 2014-2018 CAPITAL IMPROVEMENT PROGRAM
(Public Hearing Held 11/11/13)

03:30:17

Mr. Chapman reported this was a guideline for where the funds would be spent over the next four to five years and many items would require Council approval before moving forward.

MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: THAT THE 2014-2018 CAPITAL IMPROVEMENT PROGRAM BE APPROVED AS PRESENTED.

MOTION PASSED. VOTE: 5 TO 1.

Aye – Chapman, Hadden, Markham, Sierer, Tuttle.
Nay – Morehead.
Absent – Clifton.

29. 7-C. BILL 13-39 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY AMENDING THE MANAGEMENT SALARY PLAN AND POSITION TITLES IN THE MANAGEMENT ASSIGNMENTS TO YEARLY SALARY PLAN

03:33:02

Ms. Bensley read Bill 13-39 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-39.

Mr. Vitola reported that other than a 2012 increase of 2%, management had not received a pay increase for five years. A 5% increase would narrow the gap between management salaries and the labor groups and would be 1.2% behind the CPI index. Only employees with a satisfactory or better evaluation would receive the increase.

A discussion ensued between staff and Council members. The years when management did not receive increases (2009, 2010, 2011) were tumultuous financial times; the amount requested for management and Council increases was hard to support since it appeared directly related to the proposed property tax increase; management was leading by example in changing the deferred compensation for retirement benefits structure and the percentage paid towards health care contributions; management should lead by example in making compromises and sacrifices at a difficult time when the City was asking residents to pay more; management are the people at the highest level of the City with the highest level of responsibility; increases was needed to avoid an inverted pay scale where field staff will exceed salary of field supervisors and management; unlike private sector management, City management earn comp time or comp pay (paid at a rate of one time salary); lower government salary differential to the private sector is traded for job security and benefits; management did very well with increases in previous years; City has excellent management who need to be recognized, rewarded and retained; there would be no out of pocket increase with the benefit plan changes.

Public Comments

Brett Zingarelli, Newark resident, opposed raising salaries when rates were being increased for residents.

Vince D’Anna, Newark resident, felt the City should let management employees know they were valued, he felt efficiencies would be gained from increasing salaries.

Catherine Ciferni, Newark resident, questioned the management turnover rate based on salary dissatisfaction.

Amy Roe, District 4, did not oppose a rate increase but suggested a residency requirement for senior management staff.

AMENDMENT BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: THAT THE RATE OF INCREASE BE REDUCED FROM 5% TO 3%

AMENDMENT PASSED. VOTE: 5 to 1.

Aye – Chapman, Hadden, Markham, Morehead, Sierer.
Nay – Tuttle.
Absent – Clifton.

Question on the Motion as amended was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

(ORDINANCE NO. 13-35)

30. 7-C-1. 2014 SALARY RATE FOR ALDERMAN

PART 2 - 07:46

MOTION BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: THAT THE 2014 SALARY RATE FOR THE ALDERMAN BE SET AT \$36,342.

Ms. Bensley reported this was to set the rate for the 2014 budget which remained at the 2013 level.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

There was no public comment.

31. 7-D. BILL 13-40 – AN ORDINANCE AMENDING CHAPTER 30, WATER, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING THE WATER RATES EFFECTIVE JANUARY 1, 2014 BY 7.2%

09:27

Ms. Bensley read Bill 13-40 by title only.

MOTION BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-40.

Mr. Vitola reported the 2011 Black & Veatch water rate study was discussed at recent Council meetings and at financial workshops. The study called for an increase of 7.2% in January 2014 and was required to provide revenue necessary to meet operating expenses, debt service, capital expenditures and General Fund transfers.

A discussion ensued between staff and Council members. The last increase was delayed in hopes of obtaining PILOT funds from the State; there were two nine year periods where rates were not raised; before the reservoir was built the City paid \$600,000 annually to United Water regardless of whether the water was needed; the question regarding the impact of the water rate increase on the University was important because the City relied on transfers from utilities to the General Fund, and those expenses were spread City wide.

Public Comments

Amy Roe, District 4, questioned the justification for the increase, what percentage would provide water, what percentage would be transferred to the General Fund and what percentage of the operating margin went to the General Fund.

Brett Zingarelli, District 4, said his water rate increased 23% from Smart Meters and combined with a 7.2% increase amounted to a large change in his water costs.

Catherine Ciferni, Newark resident, wanted more consistency in staff clarifications – for example, the comment about United Water costs should have referenced the reservoir law suit expenses.

John Morgan, Newark resident, asked how much water the City sold to the University annually (roughly 40 million gallons a year or an increase of \$700,000).

Chris Locke, District 5, felt in light of water rate increases over the last five years the City should postpone the increase for six months to consider other options.

Vince D'Anna, Newark resident, discussed the interconnection between the City and United Water.

Question on the Motion was called.

MOTION PASSED. VOTE: 4 to 2.

Aye – Chapman, Markham, Sierer, Tuttle.

Nay – Hadden, Morehead.

Absent – Clifton.

(ORDINANCE NO. 13-36)

32. 7-E. BILL 13-41 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY ESTABLISHING A COURT SECURITY FEE

40:45

Ms. Bensley read Bill 13-41 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-41.

Mr. Vitola reported that a security assessment was conducted of the Municipal Building including the Police Department and Alderman's Court, and improvements were recommended. Improvements would require additional funding beyond what the budget was able to support. Alderman's Courts and JP Courts throughout the State adopted security fees to bolster security measures. A \$10 fee would be levied except for not guilty judgments and parking tickets, and funds would be restricted for operating and capital expenses related to Court security improvements only. A Court bailiff and detection equipment was being considered.

A discussion ensued between staff and Council members. Funds collected referenced Court security but the actual bill did not reference Court; if security was increased a decision was needed about where it would be located; the intention was the way the ordinance read which was to pay for security improvements with the Court fee; Staff's intention was to fully secure the building with screening done in the atrium; the Court security fee was intended to pay for the cost of recurring contracts for the guards and any additional equipment leased on an ongoing basis.

Public Comments

Catherine Ciferni, Newark resident, questioned the type of equipment and screening proposed.

John Morgan, Newark resident, suggested distinguishing between securing the Alderman's Court and normal business visitors.

Brett Zingarelli, Barksdale Road, asked how open carrying of weapons would be handled in the municipal building.

MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: THAT BILL 13-41 BE POSTPONED TO THE 1/13/14 COUNCIL MEETING.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

33. 7-F. BILL 13-42 – AN ORDINANCE AMENDING CHAPTER 30, WATER, CODE OF THE CITY OF NEWARK, DELAWARE, BY CREATING A

STORMWATER UTILITY AND ESTABLISHING RELATED STORMWATER USER CHARGES

01:07:02

Ms. Bensley read Bill 13-42 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. CHAPMAN: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-42.

As discussed earlier in the meeting, Mr. Vitola noted stormwater problems were widely publicized this summer with a lot of water volume the system was unable to handle contributing to flooding events. The City also faced more robust regulations related to stormwater. Almost \$7 million was identified in the most critical stormwater upgrades. Staff thought a flat monthly fee by class was the simplest and most efficient way to create a stormwater utility. Proceeds of the stormwater fees would be segregated in a restricted fund with the sole purpose to improve the stormwater system.

Public Comments

Amy Roe, District 4, wanted the Curtis culvert to be repaired in 2014 and suggested a holistic approach and CAC involvement.

Brett Zingarelli, District 4, pointed out that the City created more stormwater runoff with the new skate spots.

Catherine Ciferri, District 2, recommended a proactive approach to explain to constituents what needed to be done.

Leslie Purcell, Newark resident, said the City should consider a watershed-wide approach and projects to enhance the habitat value.

Vince D'Anna, Newark resident, believed the ordinance was poorly conceived and crafted and was inequitable.

Michael Waters, Newark resident, thought residents should be educated about the utility before moving forward and that work on the Curtis Paper Mill culvert was a priority.

Council Comments

Delay implementation and schedule workshops throughout the City to explain the fee based on the reaction of constituents; consider a provision to sunset the utility.

MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: TO POSTPONE BILL 13-42 TO THE FEBRUARY 24, 2014 COUNCIL MEETING.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

34. 7-G. BILL 13-43 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING THE YEARLY PAY RATES OF THE MAYOR AND COUNCIL MEMBERS

01:41:37

Ms. Bensley read Bill 13-43 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-42.

There were no public comments.

Question on the Motion was called.

MOTION DEFEATED. VOTE: 0 to 6.

Aye – 0.

Nay – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Absent – Clifton.

35. 2-J. CANCELLATION OF DECEMBER 23, 2013 REGULAR COUNCIL MEETING

01:44:05

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: THAT THE 12/23/13 REGULAR COUNCIL MEETING BE CANCELLED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

There were no public comments.

36. 3-C. BILL 13-36 – AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, CODE OF THE CITY OF NEWARK, DELAWARE, BY UPDATING SPEED LIMITS TO MATCH THE RECOMMENDATIONS OF THE DELAWARE DEPARTMENT OF TRANSPORTATION

01:45:39

Ms. Bensley read Bill 13-36 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-36.

Mr. Simonson explained the amendments would align the City Code with State recommended speed limits.

A discussion ensued between Council and staff regarding the speed limit on New London Road between Corbit and Cleveland. It was determined the area was best suited for a 35 mph speed limit.

There were no public comments.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

36. 4. SPECIAL DEPARTMENTAL REPORTS:

A. Special Reports from Manager & Staff: None

37. 5. FINANCIAL STATEMENT: (Ending October 31, 2013)

01:54:50

Mr. Vitola presented the statement for the first ten months of the year.

MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: THAT THE FINANCIAL STATEMENT ENDING OCTOBER 31, 2013 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

38. 6. RECOMMENDATIONS ON CONTRACTS & BIDS:

- A.** Recommendation to Award Contract No. 13-13 – Curtis Paper Mill Remediation and Park Construction

02:01:57

Mr. Emerson reported the purpose of the contract was to remediate and construct a passive park at the Curtis Mill site. Reybold Construction was the lowest responsible builder at \$998,798. References were contacted and provided satisfactory comments about Reybold's work. Funding for the project was available in the Capital Budget and Project K1204 and from the Delaware Land and Water Conservation Trust Fund grant program for the brown field site. Funding was also provided by the State bond bill. DNREC worked with the City for several years on the project and the approvals were in place. It was recommended to award contract 13-13 to Reybold Construction in the amount of \$998,798.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT CONTRACT 13-13, CURTIS PAPER MILL REMEDIATION AND PARK CONSTRUCTION, BE AWARDED TO REYBOLD CONSTRUCTION IN THE AMOUNT OF \$998,798.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

39. 7. ORDINANCES FOR SECOND READING AND PUBLIC HEARING:

- A.** **Bill 13-37** – An Ordinance Amending Chapter 20A, Noise, Code of the City of Newark, Delaware, By Clarifying the Conditions for Special Waivers

02:06:10

Ms. Bensley read Bill 13-37 by title only.

MOTION BY MR. MOREHEAD, SECONDED BY MR. CHAPMAN: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-37.

Ms. Bensley explained the bill was drafted after several Council members requested clarification of the conditions for special waivers. Two items were added: (1) any mention of special waivers was clarified to say *temporary* special waivers; (2) a time limit was placed on the special waivers not to exceed 90 days and giving the City Manager the ability to extend a temporary waiver for up to two additional 90 day extensions in order to allow the waiver to cover the length of the construction season.

AMENDMENT BY MR. MOREHEAD, SECONDED BY MR. CHAPMAN: TO ADD THE WORD "TEMPORARY" BEFORE THE WORDS "SPECIAL WAIVER" IN SECTION 20A-5, d(2) and (3).

AMENDMENT PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

AMENDMENT BY MR. MOREHEAD, SECONDED BY MR. TUTTLE: IN SECTION 20A-5d(1) AFTER "NOT TO EXCEED NINETY (90) DAYS" ADD "VALID BETWEEN THE HOURS OF 7:00 A.M. TO 9:00 P.M."

Council Comments

There was concern about the practicality of this restriction in areas where the work had to be done at night, to avoid other issues. The proposed amendment would eliminate any construction work at night.

AMENDMENT FAILED. VOTE: 0 to 6.

Aye – 0.

Nay – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Absent – Clifton.

Public Comments

John Morgan, Newark resident, asked Council to think about the distinction between residential neighborhoods and business districts in considering time limits. In special circumstances Council should consider being involved in granting waivers.

Question on the Motion as amended was called.

MOTION AS AMENDED PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

(ORDINANCE NO. 13-38)

40. 7-B. BILL 13-38 – AN ORDINANCE AMENDING CHAPTER 27, SUBDIVISIONS, CODE OF THE CITY OF NEWARK, DELAWARE, BY CREATING PROCEDURES FOR ADDRESS ASSIGNMENT FOR SUBDIVISIONS AND STREET NAMES AND RENAMING SUBDIVISION AND LAND DEVELOPMENT PLANS OR STREETS

02:18:00

Ms. Bensley read Bill 13-38 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 13-38.

Ms. Roser reported discussions with Aetna Hose Hook & Ladder Co. and the Police Department about approved developments changing the names of streets and/or the developments without going through any process by which the name changes could be reviewed for 911 services. There were several complaints from residents of new construction about delays in the installation of street signage which could impact emergency services and mail delivery. The amendments would add a new Section 27-23 to the subdivision regulations to formalize the process for assigning addresses and installing street name signs for new developments before the issuance of the first CO and a new Section 27-24 which would establish a process for changing subdivision and/or street names and would require a resolution by Council.

There were no public comments.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

(ORDINANCE NO. 13-39)

41. 8. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:

A. Request of Lang Development Group for the Major Resubdivision and Site Plan Approval of 4.53 Acres Located Off of Paper Mill Road Bordering Dean Drive, and Margaret and Annabelle Streets in Order to Convert the Existing Pump House Building Into Four Two-Bedroom Apartments and to Construct Ten Four-Bedroom Townhouse Style Apartments to be Known as the Mill at White Clay. ***(Resolution & Agreement Included)***

02:26:53

Jeff Lang, Lang Development Group, said this was part of the original NVF project they started to redevelop in 1997. The masonry structure would be similar in design to the mill building near Timothy's, and there would be parking underneath.

Mr. Lang explained when the project started they believed the existing deed restriction applied to the entire parcel. In order to conform to the restriction, a four person per unit maximum was planned, or an aggregate of 56 tenants. Since that time it was learned the deed restriction did not apply to the 14 units on newly subdivided Parcel Number 18.014.00-289. Mr. Lang therefore requested a revision in the agreement and resolution to 67 tenants.

Council Comments

Could the on-site stormwater facility be upgraded for 2014 compliance – this would require an evaluation through an additional watershed study; density concerns were discussed; project was recommended for site plan approval based on the historic context and in keeping with the Mill at White Clay's architecture; the building would be constructed using full size brick.

Public Comments

John Morgan, Newark resident, suggested the installation of a roof garden to reduce the heating load and absorb rainwater. Mr. Lang said this was difficult to maintain given Building Code requirements associated with water spigots.

AMENDMENT BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT ITEM d IN THE RESOLUTION AND ITEM 6 IN THE SUBDIVISION AGREEMENT BE CHANGED TO A TOTAL OF 67 INDIVIDUALS.

Question on the Amendment was called.

AMENDMENT PASSED. VOTE: 5 to 1.

Aye – Chapman, Hadden, Markham, Sierer, Tuttle.

Nay – Morehead.

Absent – Clifton.

AMENDMENT BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: THAT THE SECOND PARAGRAPH OF THE SUBDIVISION AGREEMENT BE MODIFIED BY STRIKING "TEN NEW FOUR-BEDROOM" TOWNHOUSE STYLE APARTMENTS AND INSERTING "FIVE NEW FIVE-BEDROOM AND FIVE NEW SIX-BEDROOM TOWNHOUSE STYLE APARTMENTS WITH A MAXIMUM NUMBER OF 67 OCCUPANTS".

Question on the Amendment was called.

AMENDMENT PASSED. VOTE: 5 to 1.

Aye – Chapman, Hadden, Markham, Sierer, Tuttle.

Nay – Morehead.

Absent – Clifton.

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

MOTION PASSED. VOTE: 5 to 1.

Aye – Chapman, Hadden, Markham, Sierer, Tuttle.

Nay – Morehead.

Absent – Clifton.

(RESOLUTION NO. 13–II)

42. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members:

1. **Resolution 13-__**: Recommendation to Governor Markell of Donald E. Gregory for Appointment as Deputy Alderman for the City of Newark

03:08:37

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT THE RESOLUTION BE APPROVED AS PRESENTED AND FORWARDED TO THE GOVERNOR'S OFFICE FOR APPROVAL BY THE SENATE AND FINAL APPOINTMENT BY THE GOVERNOR.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

(RESOLUTION NO. 13–JJ)

43. **2. RESOLUTION 13-__ : CONGRATULATING AETNA HOSE HOOK AND LADDER FIRE COMPANY ON ITS 125TH ANNIVERSARY**

03:09:12

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

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Sierer, Tuttle.

Nay – 0.

Absent – Clifton.

(RESOLUTION NO. 13–KK)

44. **9-B. OTHERS**: None

45. **Meeting adjourned at 2:10 a.m.**

Renee K. Bensley
City Secretary