

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES
January 27, 2014**

Those present at 5:00 p.m.:

Presiding: Mayor Polly Sierer
District 3, Doug Tuttle
District 4, Margrit Hadden
District 5, Luke Chapman
District 6, A. Stuart Markham (arrived 7:10 p.m.)

Absent: District 1, Mark Morehead
District 2, Jerry Clifton

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
City Solicitor Bruce Herron
Community Affairs Officer Dana Johnston
Deputy City Manager Andrew Haines
Finance Director Lou Vitola
Planning & Development Director Maureen Feeney Roser
Assistant PW & Water Resources Director Tom Coleman

- 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.
- C. Executive Session pursuant to 29 *Del. C.* §10004 (b)(9) for the purpose of discussing personnel matters in which the names, competency and abilities of individual employees are discussed (City Manager & City Secretary).

01:45

Council entered into Executive Session at 5:00 p.m. and returned to the table at 7:02 p.m.

MOTION BY MR. CHAPMAN, SECONDED BY MR. TUTTLE: TO AUTHORIZE THE CITY MANAGER TO RETAIN JOHN PARADEE, ESQ. TO ACT, IF NECESSARY, AS SPECIAL COUNSEL TO THE BOARD OF ADJUSTMENT IN THE EVENT OF A CONFLICT WHICH WOULD PRECLUDE REPRESENTATION OF THE BOARD BY THE CITY SOLICITOR.

MOTION PASSED UNANIMOUSLY. VOTE: 4 to 0.

Aye – Chapman, Hadden, Sierer, Tuttle.

Nay – 0.

Absent – Clifton, Markham, Morehead.

- 1. The regular Council meeting began at 7:02 p.m. with a moment of silent meditation and the Pledge of Allegiance.

2. 1. ITEMS NOT ON PUBLISHED AGENDA

03:17 A. Public

- 3. Brett Zingarelli, District 4, discussed the budget amendments resulting from the failure to pass the property tax.

4. Martin Nicholson, greater Newark, read a list of board positions held by UD President Patrick Harker and asked what was coming to the data center.
5. Dr. John Morgan, District 1, remarked about cutbacks of electric power supplied by PJM and said the News Journal reported this was a result of a shortfall in natural gas. Dr. Morgan questioned the impact on TDC's business plan if they experience severe shortfalls of natural gas in the area.
6. Ajit Majmudar, District 4, received a violation for walking in the road when there was snow on the sidewalk. Ms. Hadden offered to assist Mr. Majmudar with his issue.
7. Jen Wallace, District 3, spoke for the Residents Against the Power Plant. She said letters sent to the City on 11/15/13 and 1/8/14 regarding TDC received no response and asked Council to direct staff to do so. Regarding procedural changes for public comment, she cautioned about making changes. (See attachment.)
8. Martin Willis, New Castle, thanked staff for their work on the TDC rezoning and thanked the Newark Police Department for assisting him during the TDC vigil.
9. Nancy Boyer, District 1, hoped the City could achieve a win-win situation for those on both sides of the TDC issue. She asked that building permits be withheld until citizens could provide input on the environmental impact statement. (See attachment.)
10. JoAnne Deshon, District 5, elaborated on the request that building permits be withheld until citizens reviewed and commented on the environmental impact statement. (See attachment.)
11. Vince D'Anna, District 5, shared concerns about traffic problems on Cleveland Avenue due to the timing of refuse collections; about downtown traffic congestion; and about sidewalks not being properly cleared of snow by businesses. He also addressed charges that the Mayoral election was a bought election which he denied. He suggested taking further complaints to the Attorney General or the Department of Elections.
12. Matt Doyle criticized the City for granting TDC the zoning verification.
13. John Kowalko, State Representative, read a statement from Connie Merlet who expressed concern that Council did not vote on the TDC zoning decision. Regarding possible changes to the agenda, Mr. Kowalko stressed the importance of public comment at a time that would be convenient for the public. When asked whether Newark's State reps could slow or impede the process for TDC, Mr. Kowalko said the State's control was in the air permit requirements while the City enforced noise levels. He discussed the possibility of water usage of 3.5 million gallons daily with DNREC in regard to a drought situation. He called for a combined effort from all involved parties including the University, Council and local State Representatives to understand the true picture of what was presented. In relation to the terms stipulated by the City in the TDC zoning release, he said a promise of revocation was not enforceable in the event of a violation of any predetermined agreements.
14. Donna Means, District 5, was disappointed in the lack of transparency regarding TDC and about having union representatives in the foyer prior to the Council meeting. She appreciated Mr. Markham's response to a public speaker.
15. Rob Gifford, District 3, discussed tools available to Council regarding TDC – subpoena the lease agreement between UD STAR Campus and TDC; ban the sale of steam and energy generated at STAR Campus to other Newark entities by asserting they were not permitted sales under STC zoning and implement those bans through revisions to the Charter; pass legislation with clear criteria defining accessory use for future projects; improve the noise ordinance to insure protection from noise pollution; arrange staff workshop on technical aspects of the project, especially alternatives still available to power the facility. According to the RAPP's FOIA request, the City did not contact outside experts to answer TDC's request for 100% reliable electric power. RAPP recommends a meeting with experts like Dr. Kempton to discuss why the City did not investigate this option further. (See attachment.)

16. John Bland, business agent for Boilermakers Local 13, represents members in Delaware and Pennsylvania and thanked the City for the zoning permit since jobs will be created for members in the area as well as for others in the community.

17. Sheila Lynch, District 3, spoke about the negative health impact of noise pollution and said Council should change the noise ordinance.

18. Michael Griffin, District 3, was frustrated by the TDC zoning decision process. He presented the Planning Commission with his analysis comparing the 451 report and the phasing chart and received no reply. He asked Council to direct the City Manager to have staff respond to his analysis and for Council to then determine whether the zoning decision was based on misleading and possibly fraudulent information.

19. Eric Boye, greater Newark, objected to changes to the Rules of Procedure to restrict the public's right to speak. He also opposed storm water fees. He stated that union workers would not get jobs at TDC.

20. Martin Nicholson, greater Newark reported he was investigating a variety of information related to TDC and would share the results with Council.

21. Dr. John Morgan, District 1, suggested scheduling refuse collections in commercial and nearby areas on Saturday mornings between 6:00 and 8:00 a.m. to alleviate traffic issues.

22. 1-B. UNIVERSITY

01:20:44

(1) **Administration** – Caitlin Olsen, University of Delaware Assistant Director of Government Relations shared information about: Newark Night on 1/30 at the Bob Carpenter Center honoring former Mayor Funk and welcoming Mayor Sierer; the University celebration on 2/7 for the State and Federal grant funding to support the growth of clinical translational medical research on the South Campus; and a proposed Wellspring presentation on 2/24.

Mr. Chapman asked if UD would respond to the City's requests for a copy of the lease agreement between 1743 Holdings and TDC. He hoped the University would start playing a major role in providing information and interacting with the community to show good stewardship and partnership with the City and its constituents.

Nick Wasilewski, District 3 offered comment regarding the UD's lease on the STAR Campus with TDC. A reply from Lawrence White, UD Counsel to a FOIA request said the campus was owned by 1743 Holdings, LLC, an incorporated wholly-owned subsidiary of the University. The ground lease between 1743 Holdings and TDC did not involve the expenditure of State funds and was not subject to disclosure under FOIA. Since then, Mr. Wasilewski stated they learned that \$2 million of 2011 bond bill funding was given to UD which was journaled to 1743 for site work on the STAR Campus. Consequently, he believed the City had every right to obtain the lease.

Mr. Kowalko clarified Mr. Wasilewski was correct that the University could and did reject FOIA attempts. He said Council was in a precarious legal position and had the right to demand the lease detail on 1743. If the University refused to provide the lease he thought Council should then go to the Attorney General.

23. 1-B-2. STUDENT BODY REPRESENTATIVE – None

24. 1-C. COUNCIL MEMBERS

01:32:49

Mr. Tuttle

- The City was again being asked to curtail use of electric power on 1/28 due to extreme demands on the electric grid from cold weather.

Ms. Hadden

- Was aware the City asked for information about the lease agreement between 1743 Holdings and TDC and asked Mr. Herron if it would be possible to draft a letter asking the University to share it with the City. Mr. Herron will draft the letter.

Mr. Chapman

- Had no comments at this time.

Mr. Markham

- Expressed frustration regarding Council's ability to talk about the TDC project and stated that Council was bound by the law. He gave an overview of what happened when the law was not followed in the reservoir case. He expressed concerns about the environmental impact of TDC and pledged to advocate for those concerns. He encouraged residents to be active in the DNREC air permit process. He also had issues with the changing data from TDC. He stated that legal counsel has assured him that every comment and letter from the public was reviewed before issuing the zoning verification letter. He advised people who were not happy with the zoning decision to take an appeal to the Courts and let them make the decision. If the City does not follow the process, someone with more authority could take it out of the City's hands. The City wants some say. The zoning decision was an application of zoning law. He would be interested in noise ordinance changes, and accessory use limitations on size.
- Asked how much the City would be reimbursed for snow removal by DeIDOT and suggested implementing a snow removal method similar to the one used by Allentown, PA where residents can view the location of snow plows online. He also recommended salting hilly areas in the City prior to flat areas.
- Recognized Sgt. Keld for assisting drivers on Paper Mill Road.
- Filed his petition for Council.

Ms. Sierer

- Mr. Clifton was not present due to emergency eye surgery.
- Mr. Morehead was absent from the meeting as he was on vacation.
- The filing deadline for the April 8 election is February 3.

25. MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: TO REMOVE ITEM 7-A, SECOND READING OF BILL 14-01, FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

26. APPROVAL OF CONSENT AGENDA

01:44:22

- A.** Approval of Regular Council Meeting Minutes – December 9, 2013
- B.** Receipt of Alderman's Report – January 15, 2014
- C.** Appointment of Jim McKelvey to the Board of Adjustment to Complete the Vacant At-Large Term to Expire September 15, 2015
- D.** Appointment of Sharon Smith to the Newark Housing Authority For a Three Year Term to Expire January 15, 2017
- E.** **First Reading – Bill 14-03** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, to Change the Pay Grade and Title For the Position of Water Quality Engineer – **Second Reading – February 10, 2014**
- F.** **First Reading – Bill 14-04** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware By Rezoning from RS (Single Family Detached Residential) to RM (Multi-Family Dwellings – Garden Apartments) 6.77 Acres Located at McKees Lane and Cleveland Avenue – **Second Reading – February 24, 2014**
- G.** **First Reading – Bill 14-05** – An Ordinance Annexing and Zoning to RS (Single Family Detached Residential) a 0.73 Acre Parcel of Land Located at 428 Paper Mill Road – **Second Reading – February 24, 2014**

Ms. Bensley read the Consent Agenda in its entirety.

MOTION BY MR. TUTTLE, SECONDED BY MR. CHAPMAN: THAT THE CONSENT AGENDA BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

27. 3. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

28. 4. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. 2014 RSA Calculation – Finance Director

01:45:59

Mr. Vitola explained the Rate Stabilization Adjustment was a component of the City's electric rates and was recalculated on an annual basis. The RSA was calculated this year the same way it was calculated in each year since inception. First, the expected wholesale cost of power was compared to the base rate identified in the Black and Veatch rate study. Power costs were expected to fall roughly 1.5 cents below the base rate which resulted in a credit to customers in that amount. Next, the RSA was adjusted to meet the 20% operating margin requirements targeted in the financial policies resulting in a debit of about one cent. Finally, there is a look back at 2013 to ensure the RSA did its job as expected and from there adjustments were made for over or under collections. In 2013, there was an over collection of about \$709,000, so an additional credit of almost 3/10 of a penny was factored into the RSA. The total return to customers would be 7.8 mills or 7.8/10 of a penny or \$0.0078 per kilowatt hour. Mr. Vitola recommended that Council approve the RSA rate as proposed which resulted in a distribution back to electric customers of \$1.9 million.

Council/Staff Comments:

UD no longer participates in the RSA, thus the lower \$1.9 million distribution to customers; the current electric cost is down from 8.5 cents to roughly 8 cents per kilowatt hour and the wholesale rate was expected to further decrease for the last seven months of the year – a slightly smaller return of about 4/10 of a penny less per kilowatt hour this year; Black and Veatch recommended redoing the rate study in three to five years; the RSA returns money based on current usage rather than on what is actually paid in, so customers who paid in a lot last year and then majorly reduced usage this year would see a return based on the current year – is there a way to balance that; the alternative to the RSA was a timing difference and that was to make a calculation on a monthly basis – this would be considerably worse because of swings in usage vs. looking at it after a whole year.

MOTION BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: THAT THE 2014 RSA CREDIT BE ADOPTED IN THE AMOUNT OF \$0.0078 PER KWH FOR 2014 EFFECTIVE FEBRUARY 1, 2014.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

29. **4-A-2. 2014 BUDGET AMENDMENTS – FINANCE DIRECTOR**

01:52:33

Mr. Vitola presented a comprehensive amendment to the budget for all the changes required. The revenue was adjusted downward by \$41,450 to reflect the tax increase measure that did not pass. That reduction was offset with budget cuts in six funds across nine different departments (51 line items). The cuts were small but together aggregated to offset the reduced revenue. At the last Council meeting there was a reduction in the scope of the security improvements and Council approved the reduced Court security fee, so the budgeted revenue and the associated costs were also reduced. The reduction in the management salary increases resulted in savings of almost \$63,000 while the deferral of the credit card fee resulted in \$100,000 in revenue reductions. A lease vs. purchase decision was made in the IT budget resulting in \$17,000 in savings while a P.O. fulfillment issue added \$660 to a police line item. The IT terminal server solution project represented an operating lease, thereby eliminating the project from the CIP and replacing it with operating funds (a net zero change).

Council Comments:

The credit card fee suspension was called a deferral because Finance would not be able to implement it any time soon - if it was brought back and implemented late in the year there would not be any associated 2014 revenue; the budget in general was a

best estimate, so even though cuts were made in certain areas, staff would not be denied something they really needed and some contingency funds were added to each department for the first time this year.

MOTION BY MR. TUTTLE, SECONDED BY MR. CHAPMAN: THAT THE 2014 BUDGET AMENDMENTS BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

30. 4-A-3. RENTAL HOUSING NEEDS ASSESSMENT STEERING COMMITTEE

01:56:54

Ms. Feeney Roser reviewed the background information about the study, the purpose of the steering committee and its focus groups and proposed steering committee membership as well as some suggestions for how to move forward. The study was divided into two phases – Phase I was to address how much was too much rental housing and to provide guidance that if additional units were needed as to where they should be located and what type of units would be best. This phase was important for future planning and housing needs and would assist in the evaluation of rental housing developments already in the mill and those to be submitted in the future. In 2013, the City approved 476 new rental apartment units – this was nearly equivalent to the total number of units approved from 2000 through last year and more than any one year on record. In 2012, 132 new apartment units were approved, about half of which have been built. To date in 2014, six were approved and applications were pending for another 120 units. Development applications continue to come in, so concerns about market saturation were real. Phase II of the study was slated to address concerns about the single family residential rental housing restrictions including permitting and property maintenance as well as the student home ordinance, difficulties in enforcement and the right to quiet enjoyment of one's home. This phase would assess current programs and regulations as tools to balance the impacts associated with the growth in rental housing and to provide examples of successful programs from other cities. Council awarded the contract on October 14, and the next step was to set up the study's steering committee. The committee membership previously proposed four members of staff and seven additional members from the community who were knowledgeable about rental housing issues and who represent different constituencies and varying points of view on the subject matter. Ms. Roser reviewed the proposed members and said it became clear the geographic distribution of members could be improved since only Districts 4 and 6 had representatives on the committee. Council may wish to add a representative from Districts 1, 2, 3 and 5 bringing the total membership of the steering committee to 15. Another consideration would be dividing the steering committee into two different committees, one for each phase.

Council Comments:

Concern about the balance of the Committee – use an application for boards and commissions to allow people to apply and give the City some choice, get representation from other districts and have a Newark Housing Authority representative; Council to have names of recommended committee members to staff by the end of the week.

31. 5. FINANCIAL STATEMENT

02:16:41

Mr. Vitola presented the unaudited financial statements for 2013 through November. The consolidated operating surplus was over \$2 million stronger than the budgeted surplus of \$5.7 million. The governmental funds were driving the increase with revenues \$1.8 million higher than expected. About half of that was driven by stronger permit revenues. The other half of the positive revenue variance was derived from transfer taxes, Court fines, grant revenue and other items. Governmental fund expenses were marginally over budget by about 1.4%. Enterprise funds were also generating a combined operating surplus of almost \$400,000 better than budget. The electric fund was driving the positive number on the purchase power side – fewer kilowatts hours were being purchased than expected at a lower cost than expected. Water and sewer revenue trailed the budget, and overages in New Castle County sewer charges pushed

the sewer fund expenses over budget as well. Parking and other funds performed better than expected. The cash balance dipped at the end of November due to delayed billings for large electric customers. The lower cash balance was offset with a higher accounts receivable balance. Those levels returned to normal early in December but as of 11/30/13 the cash balance was \$25.9 million, \$20.8 million of which was in the reserve account. There was \$1.4 million in the Smart Meter project accounts. Requested formatting changes to the financial statements will be on the January statements.

Council Comments:

Beginning in January, include graphs to make it easier to visualize – governmental, enterprise, break out electric, water sewer, parking, other, cash balance; on next statement show electric trend; break out the solar project to see costs and money coming back in to pay it off; show legal broken out and also snow removal number.

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT THE FINANCIAL STATEMENT ENDING NOVEMBER 30, 2013 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

32. 6. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation on Contract No. 13-18 – Purchase of One Mini Bus

02:25:39

Mr. Coleman reviewed the memo dated 1/13/14 recommending the purchase of a mini-bus for the Unicity bus system to replace a 2008 vehicle. The State would provide \$100,400 in funding. Only one bid was received from Wolfington Body Co., Inc. After making deductions, the total cost was \$106,824, or a cost to the City of \$6,424. The bid was in line with expectations and it was recommended to enter into a contract for the purchase of a new mini bus. The old bus would go back to the State for auction.

MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: THAT CONTRACT NO. 13-18, PURCHASE OF ONE MINI BUS, BE AWARDED TO WOLFINGTON BODY CO., INC. IN THE TOTAL AMOUNT OF \$106,824.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

33. 6-B. RECOMMENDATION TO PURCHASE COMPUTER EQUIPMENT FROM DELL MARKETING, L.P. IN ACCORDANCE WITH STATE OF DELAWARE CONTRACT NO. GSS09133 COMPUTER EQUIPMENT PERIPHERALS AND RELATED SERVICES

02:29:43

Mr. Brechbuehl detailed the memo of 1/17/14 recommending the purchase of upgrades to some existing Dell servers. Staying with Dell would help unify the City's support agreement with them. The City was also looking to purchase one Dell EqualLogic storage area network, a large device that would allow the City's data to reside in one location, as well as multiple network upgrades since current equipment was aging and falling short of needs. Approximately \$102,000 was budgeted and the actual cost was slightly lower.

MOTION BY MS. HADDEN, SECONDED BY MR. TUTTLE: THAT THE BID REQUIREMENT BE WAIVED TO PURCHASE COMPUTER EQUIPMENT FROM DELL MARKETING IN THE AMOUNT OF \$99,065.45 IN ACCORDANCE WITH STATE OF DELAWARE CONTRACT NO. GSS09133.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

34. **7. ORDINANCES FOR SECOND READING AND PUBLIC HEARING:** None

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

A. Request of Linda Poorman For a Special Use Permit For a Customary Home Occupation at the Residence Located at 205 Nottingham Road

02:37:42

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

Ms. Feeney Roser reviewed the application from Ms. Poorman for a Special Use Permit for a customary home occupation. The property was zoned RS which allowed a home occupation as a conditional use with a permit granted from Council. Ms. Poorman wanted to operate her quilting and sewing business from her home. Most of her orders came over her website, and the finished product was mailed to the customer. Staff recommended approval of the permit with several conditions including: the parking for the use be in the driveway of the home, no large freight trucks would make deliveries to the business, there would be no storage of materials or display of products visible from outside the home, no signage was permitted, a City of Newark business license was required, and that Ms. Poorman was the only employee of the business. Ms. Poorman did not believe her business would adversely impact the neighborhood.

There was no public comment.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

36. **8-B. REQUEST OF 58 EAST MAIN STREET, LLC FOR THE MAJOR SUBDIVISION OF 0.535 ACRES LOCATED AT 58 EAST MAIN STREET IN ORDER TO DEMOLISH THE EXISTING BUILDINGS ON THE SITE AND CONSTRUCT A NEW MIXED-USE, FOUR STORY BUILDING CONSISTING OF 24 UPPER FLOOR APARTMENTS AND 6,800 SQUARE FEET OF FIRST FLOOR COMMERCIAL SPACE TO BE KNOWN AS 58 EAST MAIN STREET (RESOLUTION AND AGREEMENT INCLUDED) (SEE 8-C)**

02:42:58

Representing the proposed project were Lisa Goodman, Esq., Joe Charma, Project Engineer, Angela Tsionas-Matulas, property owner, and John Winkler, Project Architect. The property was properly zoned BB. A special use permit was sought for the apartments above the retail at 58 E. Main Street. The existing building would be demolished and rebuilt for the same retail and apartment uses. The proposed building would result in the creation of 15 additional parking spaces. The building footprint was considerably smaller with first floor retail in the front, parking in the rear and three stories of residential above. The plan allowed the creation of a properly sized and shared fire lane and would also allow closing down the alley to the left to make it pedestrian-only access. The plan for the parking was to dedicate the 23 spaces to the City via a 99 year lease for \$1. The City would gain permit parking spaces with all the revenue and additional parking would be created. The Planning Commission saw the parking proposal as a positive and granted a parking waiver. The building was designed to have a Main Street urban-type feel. There would be five three-bedroom apartments, 17 two bedrooms and two one bedrooms. The property was currently deed restricted to no more than four unrelated individuals per apartment.

Council Comments:

Was the light tan siding (small portion in the center of the front first floor and then on the sides) a design choice or a cost savings in building material? This was a pre-cast material and the side was a mixture of precast and stucco and was used to make the building identify with everything around it; kudos to the builder for being the first to listen about the setback and provide a bigger sidewalk; the building would have a 100% green roof with plants to assist in water management and stormwater control; the project came under 2013 stormwater rules; parking spaces leased to the City would be permit only.

There were no public comments.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION AND AGREEMENT BE ACCEPTED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

(RESOLUTION NO. 14-D)

37. 8-C. REQUEST OF 58 EAST MAIN STREET, LLC FOR A SPECIAL USE PERMIT FOR 24 APARTMENTS AS PART OF THE PROPOSED MAJOR SUBDIVISION PLAN AT THE PROPERTY LOCATED AT 58 EAST MAIN STREET. (SEE 8-B)

03:05:36

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

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

38. 8-D. RESOLUTION 14-__: FIXING A TIME AND PLACE FOR A HEARING ON THE VACATION OF TERRACE DRIVE

03:06:03

Ms. Feeney Roser reported the Newark Housing Authority submitted a proposal to redevelop the Cleveland Heights site. The new site would be known as Alder Creek. Terrace Drive in the middle of the subdivision was a City owned and maintained street. As part of the development request the Housing Authority would like the City to vacate Terrace Drive to create a private street that would be privately maintained. A resolution was required before or at the same time the development was being reviewed for approval and thus Council was to set the time and date for the hearing. Ms. Feeney Roser suggested 2/24 when the project was set for second reading and public hearing.

Council Comments:

The City will have less responsibility for plowing and maintenance when the road was vacated and the Housing Authority through a relationship with the management company would be responsible for maintaining the street.

MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: THAT THE RESOLUTION AND AGREEMENT BE APPROVED AS REQUESTED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

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

Nay – 0.

Absent – Clifton, Morehead.

(RESOLUTION NO. 14-E)

39. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members:

1. Discussion and Direction to Staff Regarding Amending the Rules of Procedure for Newark City Council

03:09:57

Mr. Tuttle requested that item 9-A-1 be open for public comment.

Ms. Bensley advised at the previous Council meeting staff was requested to prepare a synopsis of the discussion. Several mock agendas were created to show examples of potential changes for Council's consideration. Staff was seeking direction

from Council as to which suggestions they would like to incorporate into an amended Rules of Procedure.

Council Comments:

Some of the changes expand the public comment and provide the opportunity for more involvement in City business as well as making meetings more efficient; the explanation of public comment and statement of expectations on the agenda was a positive as was moving the Consent Agenda toward the back of the agenda; do not make drastic changes but work on procedure and efficiency of the meeting rather than restrictions; public comment section of the meeting is not the only opportunity for people to speak – encourage the public to reach out to Council and staff as concerns arise; require speakers to identify where they are from; have a separate meeting for the budget; make sure people who cede their time are still present.

Direction for Staff:

Council agreeable to allowing Council meetings to be moved from Monday to Tuesday if meeting falls after an election but prior to the swearing in of a new Council member; establish mock agenda #3 but move the Consent Agenda towards the end of the agenda and insert the description of public comment from mock agenda #4, (including individuals must be present to cede time); have a handout regarding the rules and procedures of the meeting and include the statement regarding Public Comment at the beginning of the new agenda and the request for speakers to identify themselves; have a separate budget meeting; limit public speaking to three minutes; include separate item for elected officials following public comment.

Public Comments:

Brett Zingarelli, District 4, appreciated the dramatic change he has observed over the last four months in the public being heard by Council and staff.

John Morgan, District 1, agreed with Mr. Morehead that individuals should be able to express their thoughts within three minutes and encouraged speakers to use a one page statement to be incorporated in the minutes. He felt it was good for Council to have discretion to extend the time.

Rob Gifford, District 3, clarified mock agenda 3 as it related to advertising. He felt public comment should be at the beginning of the agenda.

Chris Locke, District 5, was pleased with the TDC zoning letter presented by staff and believed it addressed concerns of Council and the citizens. He did not feel those who opposed TDC had the right to hold the business of the City hostage which he said was going on for the last six months. People with business in front of Council had to wait hours until public comment was over. He said this was an extremely ugly time in the City of politics by intimidation, proposed putting public comment at the end of the meeting and that all business should cease by midnight.

40. 9-B. OTHERS: None

41. Meeting adjourned at 10:55 p.m.

Renee K. Bensley
City Secretary