

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

August 11, 2014

Those present at 7:00 p.m.:

Presiding: Deputy Mayor A. Stuart Markham, District 6
District 1, Mark Morehead
District 2, Todd Ruckle
District 3, Rob Gifford
District 4, Margrit Hadden
District 5, Luke Chapman

Absent: Mayor Polly Sierer

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
Deputy City Solicitor Paul Bilodeau
Deputy City Manager Andrew Haines
Electric Director Rick Vitelli
Finance Director Lou Vitola
Parks & Recreation Director Charles Emerson
Planning & Development Director Maureen Feeney Roser
Planner/DNP Administrator Ricky Nietubicz

1. The regular Council meeting began at 7:00 p.m. with a moment of silent meditation and the Pledge of Allegiance.
2. **PRESENTATIONS FROM THE BYRD GROUP AND DRINKER, BIDDLE, REATH REGARDING RFP 14-01, LOBBYING AND INTERGOVERNMENTAL CONSULTANT SERVICES**

02:53

THE BYRD GROUP

Rebecca Byrd, Vice President and Robert Byrd, Principal and CEO of The Byrd Group presented their response to RFP 14-01 for lobbying services. Kim Gomes, Vice President, was not in attendance. A packet with biographic information, specific examples of the type of work they do and a list of current clients was distributed to Council.

Ms. Byrd spoke regarding the diversity of work experience of their staff, questions about conflicts with their client list, and preferred methods of communication between the Byrd Group, Council and staff. Mr. Byrd spoke regarding potential client conflicts Council may want to consider as part of the decision process, the requested change of a smaller group to work with during the legislative session and The Byrd Group's experience with governmental contracts.

Council Questions:

Mr. Morehead asked the date on the RFP No. 14-01 response. Ms. Byrd said it was due sometime in June and if there was a client list in there it had been updated in the packet distributed at tonight's meeting.

Mr. Gifford asked if The Byrd Group was associated with Drinker Biddle & Reath a short time ago. Mr. Byrd reviewed his experience and worked with Drinker Biddle for four years until December 2013. The Byrd Group had been independent of Drinker Biddle & Reath since January 1, 2014.

Ms. Hadden asked about Blue Hen, LLC. Mr. Byrd said they were a contracting land development operation with two car washes in New Castle County.

Mr. Ruckle asked for clarification on the fee, whether it was a maximum of \$20,000 or \$80,000 for the year. Mr. Byrd noted the RFP said the maximum amount the City would entertain was \$20,000. If it looked like they were spending more time, they would renegotiate that next year.

Mr. Gifford asked Mr. Byrd to expand on his interest in representing governments since they mostly represented businesses and private groups. Mr. Byrd said the RFP approach was very interesting and thought it would be good for the firm if they replied to the RFP. He did not see government work becoming a major part of their business.

Mr. Byrd followed up with a recommendation that the City give thought to what it wanted a contract lobbyist to do if the RFP was put out again which he suggested be done. He further suggested the City think about hiring a full-time lobbyist.

DRINKER BIDDLE & REATH LLP

Gregory Patterson, Senior Government Relations Director, reviewed his proposal for lobbying services in response to RFP 14-01. He provided background on his experience and client list. He led the Governor Markell's efforts on the universal recycling bill in 2010 and was involved in State government for 16 years before becoming a lobbyist.

Council Questions:

Mr. Ruckle observed that Mr. Patterson quoted a flat rate compensation of \$36,000 per 12-month term and asked if he would be able to match the \$20,000 listed in the original RFP. Mr. Patterson explained that given the level of responsiveness and exclusiveness in the RFP, he believed he provided an appropriate quote.

Mr. Morehead did not believe there would be conflict now with customers but asked about possible conflicts with other Drinker Biddle & Reath customers. Mr. Patterson's commitment and response in the RFP was that the clients he represents from a government relations perspective would be the ones subject to the conflict check. Mr. Morehead confirmed that he had that freedom and flexibility from Drinker Biddle & Reath.

Mr. Morehead requested information about the fact that Mr. Patterson was banned from working for two years on any specific matter he previously worked on while employed by the government. Mr. Patterson explained under State law no State employee can represent a private enterprise on a matter involving the State for two years if they gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter. The Public Integrity Commission made clear that someone's ability to go into the private sector should not be unduly circumscribed, that it does not completely ban former State employees from working for a private enterprise and that the restrictions are based on those discrete and isolated transactions. The restriction may apply to specific issues but not to whole clients. Mr. Patterson would have to determine whether he gave an opinion, conducted an investigation or was directly responsible for it during his time in State government on each subject he may work on for the City if hired.

Mr. Gifford asked if there were any topics Mr. Patterson worked on while he was in the Governor's office or any of his other State duties that affected Newark. Mr. Patterson said beyond the interaction with universal recycling where the former City Manager was Newark's representative, there was nothing specific where he was involved.

Mr. Markham commented that typically non-compete agreements in the private sector cannot be enforced past one year.

- 3. 1. **ITEMS NOT ON PUBLISHED AGENDA:**
 - A. Public

34:59

John Morgan, District 1, thought there could be a conflict with Norfolk Southern Corp. (The Byrd Group's client) and the City. He said this should be considered in light of Mr. Byrd's statement about giving precedence to prior clients. Koch Cos. Public Sector was another client with a potential conflict with the City. Regarding Drinker Biddle & Reath, Mr. Morgan expressed concern about their relationship as legal counsel for The Data Centers. Mr. Morgan encouraged the City to rethink its needs for lobbying services.

Linda Kaiser, District 3, had problems using her scooter in her neighborhood due to overgrown shrubbery. Code Enforcement would follow up on this matter.

Anne Maring, District 1, thought the RFP for the lobbyist should be reissued. She had concerns with both respondents. Ms. Maring did not think UD would give up on having a CHP on the STAR Campus and wanted the City to revoke that possibility. She asked that the City's website provide scheduling information on the City's water flushing.

Jeff Lawrence, District 3, was disturbed by the handling of the façade change proposed by the Bainbridge Companies at the last Council meeting. He was concerned the ensuing discussion was unrelated to the agenda item. Mr. Lawrence was troubled by the City's relationship with the Downtown Newark Partnership.

Brett Zingarelli, District 4, thought the conversation with Bainbridge at the 7/28 Council meeting went far off topic. Regarding the Downtown Newark Partnership he was upset by the exclusion of City businesses from the group.

Nancy Willing, District 3, thought the RFP for lobbying services should be put back out again to expand participation. In regard to the Downtown Newark Partnership she did not think the City should pay for events and suggested adding more members.

Jen Wallace, District 3, urged Council to put out the RFP for lobbying services again and expressed concerns about both applicants. Ms. Wallace recommended that the City go above and beyond with its meeting postings to encourage citizen participation.

Martin Willis, New Castle, thanked the City for allowing him to participate in public comment on behalf of The Data Centers.

4. 1-B. ELECTED OFFICIALS

5. 1-C. UNIVERSITY

01:06:04

(1) Administration – Caitlin Olsen, Government Relations, announced the University became a tobacco-free campus on August 1. Students returned on August 23. Public Safety was focusing on high-traffic areas. The first home football game was September 6 vs. Del State. The USA women's basketball team would play at the Bob Carpenter Center on September 11.

6. 1-C-2. STUDENT BODY REPRESENTATIVE: None

7. 1-D. LOBBYIST: None

8. 1-E. CITY MANAGER

01:07:17

Ms. Houck provided an update on McKees Solar Park – all of the ballasts were poured and the ground cover and stone was now completed. Panel racking anchors were being installed and the first racks should be installed sometime next week with the panels following shortly thereafter. Project donations for two panels were provided by Mr. Markham and there was funding for several parcel panels as well as two \$50 investments.

The second annual Top of the Delaware Triathlon would be held on August 17 at 8:00 a.m. with the swimming competition at the Newark Reservoir.

Ms. Houck thanked staff who were involved in the implementation of the Smart utility metering project.

The opening for Launch Trampoline Park at Interchange Park was August 16.

The City had its first on-site blood drive recently which was a great success with donations from staff and members of the community.

Ms. Hadden asked for clarification on the one block limit on the solar investment which a constituent thought was two blocks as described at the CAC meeting. Mr. Vitola said Council's direction was to encourage as much participation as possible and have a one block limit so 200 people could participate.

9. 1-F. COUNCIL MEMBERS

01:14:04

Mr. Chapman

- No comments at this time.

Mr. Gifford

- Offered to assist Ms. Kaiser with issues in the neighborhood.
- Asked if there was any progress on the Maxwell Associates lobbying report. Ms. Houck expected his full report shortly. Regarding questions about reports that had not been filed, he advised Ms. Houck that no such expenses took place on Newark's behalf during this period.
- A crime suppression meeting with the Newark Police Department was scheduled in the Council Chamber on August 13 at 7:00 p.m. for the College Park neighborhood association.

Ms. Hadden

- Will attend the College Park crime suppression meeting and the Madison Drive annual picnic on August 16 from 12:30-6:00 p.m.
- Attended the Newark Senior Center kitchen re-opening and recognized their contributions to the community.
- Attended a tour at the Newark daycare
- At 5:00 p.m. on the first Thursday of every month beginning in September Ms. Hadden will be at Pat's pizzeria to meet and talk with constituents from her district.

Mr. Morehead

- Invited anyone who wanted to contact him to call his cell phone (number available on the City's website).

Mr. Ruckle

- Welcomed any resident to contact him on his cell phone.
- Referenced a recent survey where Newark was named a safe city in Delaware.
- Will be attending the FOP fund raiser in September and recommended support of the Newark Police Department K-9 fund raiser on August 15.
- Was working to assist a constituent with a large water bill resulting from a leak.
- Mr. Ruckle will be on vacation next week – the City Secretary's office may be contacted for assistance.

Mr. Markham

- Announced the K-9 fund raiser from 5:00-8:00 p.m. at the Courtyard Marriott.
- Recognized Captain Rick Williams who was retiring from the Newark Police Department after 30 years of service.
- Reported on research by the City Solicitor on the Route 4 truck restrictions. Mr. Markham asked staff to communicate the information to representatives of Independence Construction Materials who discussed their issues at the 7/28/14 Council meeting. Mr. Morehead noted there were numerous trucking firms using that road and he hoped enforcement was being handled uniformly.
- Discussed ordinances he suggested with the City Secretary and said Council could have the viewpoint that the source of an ordinance change should be provided and the reason why and to be cautious about how things are written maybe suggest amendments for wording but not actually remove wording – he thought that would cause less issues in the future – he was asking for her to expound on the reasons for an ordinance changing. Since there are no sponsors for ordinances it would be helpful to know the source. Mr. Gifford and Ms. Hadden liked the idea. Mr. Ruckle thought the public would like to know too. Mr. Morehead asked the option for an opposing view. Mr. Gifford thought it could be put on as a discussion item before it becomes a first reading as a practice so Council can get more of their opinions into that. Ms. Bensley explained the concept of first and second reading, they were mentioned in the Charter and Rules of Procedure. The Charter recognized the first reading as the reading of the bill into the record and served as public notification that this bill was coming and there would be a public hearing. That is why there was no discussion during first reading. According to the Rules of Procedure the

first reading cannot be removed from the consent agenda for that purpose because at that point it was not supposed to be a public hearing but served as a notification of an upcoming hearing. The second reading and public hearing was advertised on the website and in the newspaper and holding a public hearing during a first reading would violate the advertising requirements for a public hearing.

Mr. Morehead wanted to know how to get dissenting viewpoints from the proposed bill and whether it made sense for Council to have a discussion under item 6A1 – Items Submitted for Published Agenda to see if there was a general consensus. Ms. Bensley said this topic was in the form of a bill that had been read into the record and requested that it be deferred until such time that the public hearing was advertised and noticed for September 8.

Mr. Markham clarified that once a bill had its first reading Council has to wait until the second reading to discuss it. Mr. Bilodeau said that was correct – if Council had a discussion about it today in his opinion that would be an informal public hearing which may run afoul of the Charter and advised Council not to discuss it.

10. 2. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

11. 3. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff

1. Recommendation to Provide Funding Toward the Delaware Department of Natural Resources and Environmental Control's Upper Christina Stream Restoration Project – Public Works & Water Resources Director

01:31:31

Mr. Coleman reviewed the recommendation to enter into a financial agreement to help cover a funding gap for the remainder of the Upper Christina stream restoration and stream bank stabilization project. DNREC was approached by several residents about the issue along the Christina. After DNREC reviewed the site they determined the segment of the stream in question was a good candidate for stream restoration. This process utilizes engineering techniques to help reduce the rate of stream bank stabilization and improve vegetative stabilization and habitat in the stream for fish and macro-invertebrates. State Representative Schooley helped bring this project to the forefront, then Steve Williams carried it from there, got the rest of DNREC, the EPA, the Christina Basin Clean Water Partnership, Representative Baumbach and the New Castle Conservation District as financial partners on the project. Completion was originally scheduled in two phases – Phase 1 downstream of Church Road and Phase 2 upstream of Nottingham Road. The bulk of the project was Phase II which was anticipated to be more difficult to complete because it was almost entirely on private property. There were approximately 35 properties requiring individual signatures from the land owners to do work on their property. A public meeting was held earlier this year and it was agreed to strive for Phase 1 and try and do as much as possible at one time. Bid results came in significantly under budget and the New Castle Conservation District came up with \$170,000, almost completely covering the funding gap. \$40,562 was needed to complete the project funding. It was decided to focus on the property of individual land owners first and City property later since funding was being provided by the State and other organizations and the City property was mostly parkland with no risk of structure damage.

Council Comments:

Mr. Chapman asked when the project would begin. Steve Williams, Delaware Department of Natural Resources, said it would start on September 1 if the purchase order in the State system was approved. Permission for the project was needed from 32 property owners and to date, 25 were obtained. There were also two verbal commitments.

Mr. Morehead noted money would be spent on this again. Mr. Williams said DNREC started doing projects in 2002 and monitored them since that time and the stream restoration was proven to be very successful. Jerry Kaufman, University of Delaware and Newark resident, said a team of UD students went out this summer and established a baseline of the stream – the objective was to restore it back to optimal. If the work was

not done now, it would cost more later. The City's \$40,000 contribution would combine with the funds paying for all of the construction and oversight.

Mr. Ruckle asked how much was on private land and would the homeowners contribute to the cost. Mr. Coleman reported the Phase II section was almost entirely on private land. The land owners were not asked to contribute since enough was found in State and Federal money to cover the vast majority of the project.

Ms. Hadden spoke regarding the value of making a better water situation and noted the earlier the problem was addressed, the cheaper it was to fix and the better it was for the environment.

Mr. Gifford attended the May 15 meeting. He asked if the \$40,000 was needed or if less work could be done. Mr. Williams stated since this was a project in the City, having the City be part of the project was important. This project goes back to 2009 and it has taken that long to raise this amount of money. Mr. Williams said they would like to do everything on the main stem as planned and bid out. Since a contractor was there able to do the work, it seemed like the time to do the work.

Mr. Chapman clarified the side properties were added on to the original plan. The New Castle Conservation District was trying to move the project along quickly based on timing and saving money in the long run. Mr. Coleman added that the side properties were able to fit in under the permit for this project so they do not have to go back through the Army Corps permitting process.

Public Comments:

John Morgan, District 1, asked how soon it would be necessary to come back and do more work along the stream. Mr. Williams replied the work done at Pike Creek in 2008 was one mile and they did another 3,800 linear feet at the Independence School and then several hundred linear feet at Meadowdale. They had to go back to do some small structure repairs – with 3,800 linear feet it might have 25 in-stream structures and two or three of those structures had to be repaired. Since that time there were some significant storms. At Independence School they fixed two or three structures. At Three Little Bakers they did one mile and that was completed in 2005 and they repaired one or two structures. Based on storm events they do stand the test of time. The amount of water flowing into the system cannot be eliminated – when the waters recede it was hoped the goal was to have their banks still in place. Sediment will still move and be transported down through the system as these are living, dynamic systems.

Mr. Ruckle asked if the repairs would be at no cost the City. Mr. Williams reported he did not have a line item budget but was able to find funding for repairs. In addition, some contractors have gone back to fix issues at no cost because it bothered them when something did not work the way it was constructed.

Ms. Hadden referred to a property in Mill Creek where the creek was running behind the house and it was interesting how the vegetation has complemented the work done and the animals in the yard now as a result.

Anne Maring asked about the pollution being stuck as a result of the restoration work. Mr. Kaufman explained most of the bacteria was coming from Maryland and Pennsylvania but a few days after storms the bacteria levels go below the standard. This project will restore the stream so its biological habitat becomes more intact. He referred to Upper Pike Creek Road at the former site of Three Little Bakers as a restored Piedmont stream and noted the upper Christina would look the same if the plan was followed.

In response to Mr. Morehead's questions about the safety of eating fish from the stream and the floodplain, Mr. Kaufmann said this was a legacy issue to be worked on and that was why it was "put and take" trout. This work will restrain the stream but will not lower the floodplain elevations on Rahway Drive.

Matthew Matthias, District 1, spoke about the damage that had occurred and felt neglecting the stream was not the answer. He said this was the time to do the project and was thankful for the City's involvement in it.

Helga Huntley, District 1, had a backyard that was partially in the floodplain and abutted to the City park targeted for the work. She asked the following questions: 1) What are the actual problems? 2) What are the promised outcomes, how will success be measured and how likely is the success? 3) What are the anticipated negative consequences? 4) What else could be done with the City's funds to better address the storm water management problems? Her concern was which of these issues were actual problems for the City's park. She noted that scientific studies found a full quarter of these types of projects do not meet the regulatory requirements at construction. Recent analysis showed a success rate as defined by ecological conditions or biological standards were an unconvincing 3-4% and for just fish populations the percentage was much higher, just under 50%. She said while it was not clear that the goals would be met by the proposed work, there would be several months of construction equipment moving through the City park and that the narrow dirt hiking path part of the Mason Dixon trail would be converted into a 10' wide road with tree loss and temporary habitat disruption and degradation of the parkland. Meanwhile the main concern of the residents along the park (the increased frequent and heavy flooding) will not be addressed. Nor would the underlying major causes of the problems of bank erosion and sediment loads be addressed, namely lack of storm water management and lack of proper riparian maintenance. Key to river bank stabilization was the vegetation along the river bank yet the City ignored the illegal mowing of parkland by adjoining residents all the way to the river's edge. If that continued the proposed work was expected to fail as well and the City's funding would be wasted.

Brett Zingarelli, District 4, believed the City owed these residents this fix.

Jen Wallace, District 3, thought the residents should be helped since the problem was caused by development above the City. She asked what the negatives of the problem would be for residents downstream. Mr. Williams said there could be harm to biological life for which they did pre and post biological monitoring. However, research showed that the macro-invertebrates restored themselves. In terms of affecting other properties, they try to do large areas so everything starts to work together in concert. They also intended to look downstream and upstream to continue the work. This was also a priority watershed for DeIDOT who had MS4 program responsibilities with funds dedicated to this watershed.

Paul Baumbach, State Representative and District 1 resident, felt the project would do a lot of good and noted the City was being asked contribute less than 6% of the project which was a small part of the \$700,000 - \$800,000 project. He believed this was good science and best practice and encouraged Council to strongly consider the funding.

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

Mr. Morehead stated the City needed to put an end to building neighborhoods without storm sewers. Within the last month or so curbing was replaced on Timberline without any sort of sediment control and the neighborhood was suffering from the way that project was running right now – there was dirt and dust everywhere. The problem is flash floods. While he agreed with Mr. Baumbach that \$40,000 against \$700,000-\$800,000 was not a lot of money, he did not think it was addressing the problem. Newark created this problem by allowing builders to put in properties where there should not be properties, allowed them to put in culverts where there should not be culverts, allowed them to put things too close and allowed the residents to mow to the edge of the stream. Mr. Morehead was uncomfortable spending public money on private property but believed this was the City's problem. He questioned whether a precedent was being set. He would support the recommendation but asked Council to consider how to prevent this problem in the future and require storm sewers in every new development.

In order to tackle the flash flooding issue Mr. Coleman said it would be necessary to work upstream in the watershed. One of the challenges doing work in the floodplain was the permitting regulations were extreme and in the Christina during one of the more

recent hurricanes the peak rate was 8,000 cubic feet per second which would take a really large pond to make much of an impact and to do that along the floodplain, a number of trees and habitat would be taken out.

MOTION BY MR. CHAPMAN, SECONDED BY MS. HADDEN: THAT THE RECOMMENDATION BE APPROVED TO PROVIDE \$40,562 TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL TO COVER THE CURRENT FUNDING GAP FOR THE UPPER CHRISTINA STREAM RESTORATION PROJECT.

MOTION PASSED. VOTE: 5 to 1.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle.
Nay – Gifford.
Absent – Sierer.

12. **4. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**
A. Bill 14-21 – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Designating Portions of Ritter Lane as “No Parking Anytime”

02:29:29

Ms. Bensley read the title of Bill 14-21 in its entirety.

MOTION BY MS. HADDEN, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 14-21.

There were no Council or public comments.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle.
Nay – 0.
Absent – Gifford, Sierer.

13. **5. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:**
A. Request From The Bainbridge Companies For Approval of the Construction Improvements Plan Which Contains Revision to the Architectural Design of the Residential Building Component of the Newark Shopping Center Subdivision Plan

02:30:56

Mr. Morehead recused himself from the discussion and left the Council Chamber.

Ms. Feeney Roser provided background from the July 28, 2014 Council meeting when The Bainbridge Companies sought approval of a revised architectural plan for the Newark Shopping Center residential building. At that time Council voted against the changes and suggested the developer contact the Downtown Newark Partnership Design Committee to review their design. Bainbridge made some changes before meeting with the Design Committee and received a positive recommendation from the Committee.

Joseph Torg, Josh Wooldridge and Bill Manning, Esq. were present on behalf of The Bainbridge Companies. At the previous meeting Council and members of the public expressed reservations about the elevations. The revised elevations were shown to Council. The materials were brick, cement fiber panels, architectural concrete masonry at the base and architectural fiberglass reinforced polymer for the cornices. There was also an architectural elevation with a legend showing perspectives and materials being used on the building. This would become part of the Construction Improvement Plan.

Sample boards of the materials were shown to Council. The facades were standard brick, not thin brick.

There were no questions from Council.

Public Comments:

Marilyn Minster, Minster's Jewelers, stated her support of The Bainbridge Companies. She had the opportunity to review the plans and look at the materials. Although she questioned the quality of the materials proposed for the project at the July 28 meeting, she now felt the materials were quality. Bainbridge was doing everything they could the correct way to build a high quality structure which would be an asset to Newark. They were also providing security in the garage, the front doors and to the apartments.

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

MOTION BY MR. RUCKLE, SECONDED BY MS. HADDEN: THAT THE PLAN BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Chapman, Gifford, Hadden, Markham, Ruckle.

Nay – 0.

Absent – Sierer.

Recuse – Morehead.

14. 6. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members

1. Discussion Regarding Bill 14-20 – Councilman Gifford (*The second reading for Bill 14-20, which was originally scheduled for August 11, 2014 has been postponed until September 8, 2014 by request of Council.*)

02:45:05

Mr. Markham asked for clarification that Council could not discuss a particular bill before its second reading. Mr. Bilodeau responded there had to be a public hearing and any discussion about the ordinance before the public hearing was creating a second hearing. Mr. Markham asked if they could discuss a particular topic (such as notification or what is done with the website) without discussing the bill and Mr. Bilodeau said that would be acceptable. It was agreed it was a procedural error to take it off the Consent Agenda at the last meeting. The discussion will be part of the hearing scheduled for September 8.

15. 7. RECOMMENDATIONS ON CONTRACTS & BIDS: None

16. 8. FINANCIAL STATEMENT: (*Ending June 30, 2014*)

02:48:16

Mr. Vitola presented the unaudited financial statements for the first half of the year. On a Citywide consolidated basis there was an operating surplus of \$1.8 million, or \$810,000 lower than the budgeted surplus. In the governmental funds the government revenues would not overcome the shortfall's experience early in the year. Traffic and criminal fines, parking lot and meter revenue and transfer taxes suffered in the extreme weather. Meter revenue was also falling short due to the timing assumed in the budget vs. the actual implementation time of the credit enabled meter project. Transfer taxes would rebound on July's financial report and meter revenue will get a boost when the student population returns but the other revenue lines will not. On the expense side the variance improved by \$40,000 since May and was still running about 5% over budget. Reasons for year-to-date overage were timing differences with economic development funding and the TIGER grant and higher than budgeted snow removal expenses. In May there were five Fridays and three bi-weekly payroll periods so some of the overage was due to the extra payroll period there. Most insurance premiums were already paid, resulting in a timing difference and the legal and consulting services were over the year-to-date budget as a result of the complex issues faced through the first half of this year. In the enterprise funds the electric fund was driving the positive revenue variance while water revenue was about 4% stronger than the budget and the sewer revenue was within about .05% of the budget. The positive variance was partially offset by expenses that were about \$150,000 or 3% over the budget, an improvement over last period.

Although July's financials were not complete, governmental revenues were doing much better and governmental expenses improved slightly. Enterprise revenues were about the same through July and the enterprise expenses were considerably improved vs. the budget through July.

The cash position at the end of June was \$27 million, consisting of \$100,000 in the Smart Meter accounts, \$5.9 million in operating cash and \$21 million in the cash reserve.

Council Comments:

Mr. Morehead -

- Cover sheet, page 2, Enterprise Funds – water and sewer seemed to be disconnected, why don't those track? Mr. Vitola – not all of the sewer is billed based on revenue meters, there were some sewer meters throughout the system for large customers.
- \$72,000 variance from parking lots – does that mean they are not being used? Mr. Vitola – in the winter they were not being filled with the snow piled up. Mr. Morehead requested a breakout specifically of parking lots (usage and so forth and split for time of day).
- Consolidated Balance Sheet, page 2, YTD Cash & Investments on hand \$27 million vs. \$30 million, down 10%; Receivables up 20% - is there a collection problem? Mr. Vitola could not speak to the receivables specifically but would have a look to see what was driving that increase but the cash – there was Smart Meter cash on hand at this time last year; Liability – Payroll Withholdings was almost \$4 million one way this year and was almost \$13 million the other way last year – did something change? Mr. Vitola – this was expressed in actual dollars, not in thousands of dollars.
- Charts – sewer revenue 7/8 – why does that chart trend down in May? Mr. Vitola thought there were revenue billings out there that were not caught up which caused a flattening. Some of the large sewer meter accounts were unbilled for quarter two so this will catch up and re-spike in July; in April – the light blue (actual) for 13, why is that next to nothing? Mr. Vitola would have to research. Is revenue or revenue minus expenses being charted? Mr. Vitola – charting revenue. The dark blue is the budget – why can't that be carried out and show it for all of the months? Mr. Vitola stated he should be able to do that.

Mr. Gifford –

- Asked Mr. Markham if he talked about the charts having January to January at previous meetings? Mr. Markham responded yes. Mr. Vitola stated the software was unable to do a 13 month chart and the resolution was to show all of 2013.

Mr. Markham –

- Electric – will the MOU limit still be reached and when does the MOU expire? Mr. Vitola believed 2014 was the third of three years and all the other communities and Newark were working on a joint release to the Governor's office to prove all the requirements were met for the MOU over all three years. There was a requirement that extended for another two years related to the transfers. The retail rates had to be reduced by 10% over three years, put in an economic development clause in the tariffs or code immediately and then for five years the transfer could not exceed 2012 transfer.
- Where does trending stand with the RSA in terms of give back? Mr. Vitola will have to come back with this information.
- Suggested changing payroll to bi-monthly rather than bi-weekly to save money. Mr. Vitola said he review that and believed the payroll system could handle it.

Public Comments:

Brett Zingarelli, District 4, said the parking lots were frequently empty and he had no problems finding parking in Newark. He did not see a need for a parking garage and questioned how profit would be made from the new meters.

John Morgan, District 1, thought parking problems were perception problems. He said the parking lots were now smart enough to tell people in advance whether they were full. He suggested that the City put together a computer program tracking in real time how many spaces were available in each lot and put that information out on the Internet.

Jen Wallace, District 3, suggested an app as well as a small postcard size parking map that the businesses could give out to people to help them find the lots.

Jeff Lawrence, District 3, said the City should consider selling off the lots and get a private company in who would get people to come into their lots.

MOTION BY MS. HADDEN, SECONDED BY MR. GIFFORD: THAT THE JUNE 30, 2014 FINANCIAL STATEMENTS BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Chapman, Gifford, Hadden, Markham, Morehead, Ruckle.

Nay – 0.

Absent – Sierer.

17. 9. APPROVAL OF CONSENT AGENDA

03:09:25

A. Approval of Council Meeting Minutes – July 28, 2014

B. Receipt of Alderman’s Report – July 29, 2014

D. Receipt of Annual Real Estate Tax Assessment Billing Roll for July 1, 2014- June 30, 2015

Mr. Morehead asked that item 9C be pulled from the agenda.

Ms. Bensley read the Consent Agenda as amended.

MOTION BY MS. HADDEN, SECONDED BY MR. MOREHEAD: THAT THE CONSENT AGENDA BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 TO 0.

Aye – Chapman, Hadden, Gifford, Markham, Morehead, Ruckle.

Nay – 0.

Absent – Sierer.

18. 9-C. RECEIPT OF PLANNING COMMISSION MINUTES – JULY 1, 2014

03:10:34

Mr. Morehead pointed out that the District 1 Commissioner Patricia Brill was absent from the meeting but was reported in some places as voting and in some places as absent. He asked why this item was on the Consent Agenda if Council could not make corrections. Ms. Bensley noted it was the receipt of the minutes and not approval of the minutes on the agenda. Mr. Morehead asked if Council had receipt of any other Board or Commission. Ms. Bensley will research the Code. The minutes will be withdrawn from this agenda and placed on a future agenda upon receipt of the updated minutes.

MOTION BY MR. MOREHEAD, SECONDED BY MR. GIFFORD: TO WITHDRAW THE JULY 1, 2014 PLANNING COMMISSION MINUTES FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 6 TO 0.

Aye – Chapman, Hadden, Gifford, Markham, Morehead, Ruckle.

Nay – 0.

Absent – Sierer.

19. Meeting adjourned at 10:06 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary