

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

November 12, 2007

Those present at 7:30 pm:

Presiding: Vance A. Funk III, Mayor
District 1, Paul J. Pomeroy
District 4, David J. Athey
District 5, Frank J. Osborne
District 6, A. Stuart Markham

Absent: District 2, Jerry Clifton
District 3, Doug Tuttle

Staff Members: City Manager Carl F. Luft
City Secretary Susan A. Lamblack
City Solicitor Roger A. Akin
Assistant to the City Manager Charles M. Zusag
Planning Director Roy H. Lopata
Finance Director Dennis McFarland
Chief of Police Paul Tiernan

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

2. MOTION BY MR. OSBORNE, SECONDED BY MR. MARKHAM: THAT THE AGENDA BE AMENDED BY REMOVING 6-B, BILL 97-38, FROM THE AGENDA AND PLACING IT ON THE DECEMBER 10, 2007 AGENDA; BY ADDING 9-B-2, APPOINTMENT TO BOARD OF ELECTIONS; AND BY ADDING 9-B-3, APPOINTMENT TO CONSERVATION ADVISORY COMMISSION.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.

Nay – 0.

Absent – Tuttle, Clifton.

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL:**

A. Regular Council Meeting of October 22, 2007

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

4. **3. ITEMS NOT ON PUBLISHED AGENDA:**

A. Public

Victor Bernstein, 416 Douglas D Alley Drive, requested that the City pull the permit given to erect a ham radio antenna at 443 Douglas Drive, and that the owner be required to dismantle the antenna. He recently learned that the individual who received the permit does not have an FCC license to communicate on the antenna. This request will be reviewed by the Building Department.

5. **3-B. UNIVERSITY**

1. Administration

Rick Armitage advised that a workshop would be held Wednesday at the Delaware Technology Park to inform businesses on how to take advantage of opportunities being driven by the Base Realignment and Closure (BRAC) program. (This is in reference to the relocation of Army units from Fort Monmouth, NJ to the Aberdeen Proving Grounds.)

6. 3-B-2. STUDENT BODY REPRESENTATIVE

Casey Patriarco commented on the recent allegations made against the Residence Life Educational Program and advised that the student government was supporting the administration and the students in the broad base review of that program which has ceased at this time.

Ms. Patriarco advised that Jon Stewart will be at the Bob Carpenter Center on December 1st.

Ms. Patriarco commented that she was disappointed Bill 07-38 was delayed until the December 10th meeting because many students would not be able to attend because of an intense finals week. She understood the City's concerns but did not feel the bill, as written, would effectively address the issue. That being said she offered her assistance to work with the City to find an alternative way to address the City's concerns. A meeting with Chief Tiernan, Council Members Clifton and Markham, and Ms. Patriarco will be held during the week of November 26th.

David Tulley, President of the Greek Council, gave a brief overview of the accomplishments of the Greek community and how Bill 07-38, as written, would affect them. He was confident a solution could be found that would benefit both the students and the City.

7. 3-C. COUNCIL MEMBERS

Mr. Markham thanked everyone involved with the clean up of the one side of the CSX overpass on Chapel Street. This event was coordinated by Ms. Roser and the Downtown Newark Partnership.

8. Messrs. Markham and Athey commented that the recent economic summit conference held by the University was very good and they sensed a real era of cooperation with their new president in this regard.

9. Mr. Markham advised that he attended the November Planning Commission meeting as a spectator where the Country Club project was reviewed. He was distressed by the attitude and atmosphere that was created by the petitioner's representative. He hoped that would change when the project comes to Council. He acknowledged the City was reaching out to the petitioner. Mr. Athey, who also attended the meeting, agreed that the "tone" of the meeting was not real good and he hoped that would improve.

10. Mr. Markham suggested that a discussion or another workshop be held in the near future to discuss the Curtis Paper Mill site now that the demolition has begun.

11. Mr. Athey reported that he and his neighbors attended a very good meeting with members of the Kappa Sigma Fraternity, located on Academy Street. Mr. Athey appreciated their outreach to the community and anticipated they would meet on an annual or bi-annual basis.

12. Mr. Pomeroy complimented the Halloween Parade.

13. Mr. Pomeroy welcomed Senator Sorenson to the meeting.

14. Mr. Pomeroy advised that the Greater Newark Network meeting went well with about 90 participants and several staff members who participated as moderators. He thought this was a good step forward in talking about economic issues in Newark. A few days later the University held their conference, which was a nice follow up to that meeting. He complimented the University for the way they stepped up on this issue and the proactive role they have taken on economic issues in Newark.

15. Mr. Osborne advised that the ceremony was held Sunday recognizing the veterans of WWI at the "rock" monument on the Old College campus near the old ROTC building. This ceremony will be an annual event.

16. Mr. Funk recognized the positive attitude of the students who spoke earlier in the meeting and felt as long as everyone worked together, there would be a reasonable alternative to Bill 07-38.

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

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

19. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

A. Bill 07-37 - An Ordinance Amending Ch. 2, Administration, Article IX, Personnel Rules, By Providing for New Management Employee Health & Dental Insurance Coverage, Term Life Insurance Coverage & Long-Term Disability Insurance Coverage Effective January 1, 2008

Ms. Lamblack read Bill 07-37 by title only.

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 07-37.

The chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned to the table.

Mr. Zusag advised that this ordinance would bring the management level personnel in line with the FOP and the AFCSME unions with regard to fringe benefits. He planned to propose the same benefits to the CWA union during their next negotiations.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.

Nay – 0.

Absent – Tuttle, Clifton.

(ORDINANCE NO. 07-35)

20. **6-B. BILL 07-38 - AN ORDINANCE AMENDING CH. 23, PARADES & PUBLIC ASSEMBLIES BY REDEFINING A PRIVATE SOCIAL GATHERING & BY PROVIDING FOR REQUIRED FINES & EVICTION AFTER A SECOND OFFENSE**

This bill was removed from the agenda and will have its second reading and final passage on December 10, 2007.

21. **7. RECOMMENDATIONS FROM THE PLANNING COMMISSION/DEPT.**
None
22. **8. ORDINANCE FOR FIRST READING:**
A. Bill 07-39 - An Ordinance Amending Ch. 31, Weapons, By Revising the Code Dealing with Carrying Weapons
- Ms. Lamblack read Bill 07-39 by title only.
- MOTION BY MR. OSBORNE, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 07-39.
- MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.
- Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.
- (2ND READING 11/26/07)**
23. **9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**
A. Council Members: None
24. **9-B. COMMITTEES, BOARDS & COMMISSIONS:**
1. Planning Commission Minutes of October 2, 2007
- MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE PLANNING COMMISSION MINUTES OF OCTOBER 2, 2007 BE RECEIVED.
- MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.
- Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.
25. **9-B-2. APPOINTMENT TO BOARD OF ELECTIONS (DISTRICT 1)**
- MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT JANET YODER, 102 CHELTENHAM ROAD, BE APPOINTED TO THE BOARD OF ELECTIONS TO FILL THE UNEXPIRED TERM OF MARILYN KUHLMAN; SAID TERM TO EXPIRE JANUARY 14, 2009.
- MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.
- Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.
26. **9-B-3. APPOINTMENT TO CONSERVATION ADVISORY COMMISSION**
- MOTION BY MR. MARKHAM, SECONDED BY MR. OSBORNE: THAT WAYNE CASANOVA, 100 CULLEN WAY, BE APPOINTED TO THE CONSERVATION ADVISORY COMMISSION TO FILL THE UNEXPIRED TERM OF JENNIFER BYRNE; SAID TERM TO EXPIRE MARCH 13, 2010.
- MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.
- Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.

27. **9-C. OTHERS:** None

28. **10. SPECIAL DEPARTMENTAL REPORTS:**

- A. Special Reports from Manager & Staff:
1. RFP – City Management Recruitment

Mr. Luft advised that as requested by Council, an RFP for the Executive Search Consultant for the City Manager’s position was put together for Council’s review. There was a short discussion regarding whether Council should wait until the next meeting to make a decision when a full Council was present. It was decided that the RFP was quite comprehensive and Council should move forward with it at this time.

MOTION BY MR. OSBORNE, SECONDED BY MR. POMEROY: THAT THE RFP AS PRESENTED BE APPROVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.

Nay – 0.

Absent – Tuttle, Clifton.

29. **10-A-2. REAL ESTATE TAX ASSESSMENT QUARTERLY SUPPLEMENTAL ROLL (OCTOBER 1, 2007 TO JUNE 30, 2008)**

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE REAL ESTATE TAX ASSESSMENT QUARTERLY SUPPLEMENTAL ROLL FOR OCTOBER 1, 2007 TO JUNE 30, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.

Nay – 0.

Absent – Tuttle, Clifton.

30. **10-A-3. PENSION PLAN PERFORMANCE REPORT – 3RD QUARTER, 2007**

Mr. McFarland advised that this was the routine required pension plan performance report for the third quarter of 2007, which showed a fairly acceptable return for the quarter at about 1.6%. Since the end of the quarter, the market has fallen off and the City has lost about \$900,000 in the overall assets in the fund (or 1-1/2%). The assets under management were still outperforming the benchmarks; however, the market has done poorly the last few weeks.

With the funding status of the plan being substantially less than the desirable range, it was not a cause for alarm but a concern that should be addressed over the next few years. Potential remedial actions could be addressed either by increasing City and employee contributions or benefit reductions which normally would be addressed during labor negotiations.

Mr. McFarland further explained that the City reached the point with its pension plan where the benefits paid now exceeded the required contributions. He advised that the City was working on a revised investment policy for the pension plan. Mr. Markham asked if it was optional for employees to participate in the pension plan and was told that was correct. However, only two employees were not participating in the pension plan.

MOTION BY MR. MARKHAM, SECONDED BY MR. POMEROY: THAT THE PENSION PLAN PERFORMANCE PROJECT – 3RD QUARTER, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.

31. 10-B. ALDERMAN'S REPORT

MOTION BY MR. POMEROY, SECONDED BY MR. OSBORNE: THAT THE ALDERMAN'S REPORT DATED NOVEMBER 7, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.

32. 10-C. REQUEST FOR EXECUTIVE SESSION RE PERSONNEL

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS LABOR NEGOTIATIONS.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Osborne, Pomeroy, Funk, Athey, Markham.
Nay – 0.
Absent – Tuttle, Clifton.

Council entered into Executive Session at 8:12 pm and returned to the table at 9:02 pm. There was no action required by Council at this time.

33. Meeting adjourned at 9:04 pm.

Susan A. Lamblack, MMC
City Secretary

/pmf