

CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

August 25, 2014

Those present at 7:00 p.m.:

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

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
Parking Administrator Marvin Howard
Parks & Recreation Director Charles Emerson
Planning & Development Director Maureen Feeney Roser
Planner/DNP Administrator Ricky Nietubicz
Purchasing Administrator Cenise Wright
Public Works & Water Resources Director Tom Coleman
Chief Mechanic Dave Vispi

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. MOREHEAD, SECONDED BY MS. HADDEN TO REMOVE EXECUTIVE SESSION ITEM A FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

3. MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: TO MOVE ITEMS 6-A-1 AND 6-B-2 FORWARD ON THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

4. **6A1. RESOLUTION 14 - __: RECOGNIZING ANGELA DRESSEL FOR HER WORK ON THE PLANNING COMMISSION AND CONTRIBUTIONS TO THE CITY OF NEWARK**

04:08

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Mr. Chapman read the unanimously endorsed Council resolution recognizing Angela Dressel for eight years of dedicated service on the Newark Planning Commission.

(RESOLUTION NO. 14-V)

5. 6-B-2. PRESENTATION: THE BENEFITS OF A VIBRANT DOWNTOWN & DOWNTOWN NEWARK PARTNERSHIP (DNP) HISTORICAL OVERVIEW – DIANE LAIRD, STATE COORDINATOR, DOWNTOWN DELAWARE AND PLANNING AND DEVELOPMENT DEPARTMENT STAFF

07:48

Ms. Hadden thanked staff for putting this presentation together which she requested because she felt that with three new members of Council and a new Mayor that background information on the Downtown Newark Partnership would be beneficial.

Mr. Nietubicz, Downtown Newark Partnership Administrator introduced Diane Laird, State Coordinator for Downtown Delaware. Ms. Laird presented background information on similar efforts throughout the State. There were only seven designated Main Street programs in the State meaning they had a comprehensive program of downtown revitalization, a managing organization or Board of Directors to oversee the efforts, they have paid staffing and four committees of volunteers. It was a partnership that was public and private and was volunteer driven with staff coordination. She said Newark was a model among Main Street programs not only throughout Delaware but within the nation. She said the value of Main Street was partnership development. Newark was one of only six cities or towns that were GAMSAs winners. She noted that the DNP has been a well-oiled machine and applauded the City and the volunteers who have contributed to downtown revitalization and its outcomes. Mr. Nietubicz presented specifics of Newark's efforts through a PowerPoint presentation including the current boundaries of the Partnership which have been changed and expanded several times since 1998. The most recent revision was in 2012 with the incorporation of South Main Street between Apple Road and Park Place. Mr. Nietubicz noted that every business within these boundaries was subject to the \$35 fee on their business license to support the efforts of the DNP.

Mr. Morehead asked for copies of slides and supporting documents. He was uncomfortable supporting downtown businesses only. Mr. Nietubicz stated that everyone has equal opportunity to participate in all of the activities and efforts are through a number of volunteer committees coordinated through a relatively minimal amount of staff time. The Partnership Board appointed by the Mayor with the consent of Council. Each meeting is open to the public and there is a Parking Committee providing guidance on parking. Of special note – over 300 spaces were added to the public parking inventory since the inception of the DNP.

Mr. Nietubicz thinks a lot of questions raised came out of the conversion from Newark Night to Newark Day to New Night Downtown. New Night came out of a 1986 report titled Commerce in Newark that recommended some type of event to reintroduce folks to downtown after the students left. It was originally run by a downtown business association which subsequently evolved into downtown Newark which then evolved into the Downtown Newark Partnership. At that time the DNP was not in the events business and this event was sent to the Parks and Recreation Department who ran it for several years until 2010 and 2011 when there were concerns about health and safety during the event. At that time the recommendation was made to have the DNP run the event. Mr. Nietubicz said they believed they may have gone too far in terms of requiring outside businesses to register through a downtown business in order to participate. There was a sub-committee of merchants that should be reporting recommendations to the DNP Board at their 9/10 meeting.

Mr. Nietubicz stated that the lion's share was from fundraising sponsorship and fee income. These are fees the businesses pay to participate in cooperative advertising campaigns in Food and Brew and Wine and Dine, money raised at the Taste of Newark and through other events, business license fees and UD contributes \$24,000 through their subvention. New Night had line items previously allocated to Parks and Recreation that were moved under Planning and Development at the time and it was assumed

whatever department in the future was to manage the event would transfer those line items. Unused funds from these contributions roll over year-to-year so 2014 began with a surplus.

Mr. Nietubicz said this is private investment downtown since 2004, investment the City has not subsidized or incentivized. The City provided communication so people could get together. It has been over \$150 million dollars just in the downtown, just in the last ten years, thanks largely to volunteer efforts.

COUNCIL COMMENTS:

Mr. Morehead asked for copies of all the slides including Ms. Laird's and requested supporting information regarding the dates and the \$150 million estimate. He was uncomfortable spending the public's money on a subset of the businesses in town as the City had a responsibility to look after all the other businesses as much as the downtown. Mr. Nietubicz responded that downtown was a customized solution for a subset of businesses where there was a certain public need because of the public aspect of Main Street which was the center and focal point of the community. It was not mutually exclusive to efforts that could be undertaken elsewhere through the City. The boundaries could potentially be adjusted.

Mr. Markham asked for information about the change in the tax base downtown. He asked Ms. Laird over how many years was the GAMSAs because he knew they did not give out more than two or three a year. Ms. Laird thought the information was from 1995 because they take three to five each year and there were a couple of years it was not run.

Mr. Gifford asked Mr. Nietubicz to expand on the parking space information – whether it was 300 off-street parking spaces or was it the leased lots. Mr. Nietubicz explained it was predominately the increases to the off-street but he could break it down by on and off.

PUBLIC COMMENTS:

Jeff Lawrence, District 3, thought the DNP was exclusionary. He was aware of an Elkton Road business owner who was driven out of business during the conversion to South Main Street. He felt government should not be involved in picking winners and losers since the free market was more efficient and that consumers should drive business.

Brett Zingarelli, District 4, said not all DNP Committees were volunteer run and pointed out that one was solely staffed by the City. He objected to his tax dollars supporting the organization. He referred to a former Elkton Road business that was pushed out of business because they wanted to expand the shopping district. Mr. Zingarelli objected to the \$35 DNP fee if it had to be paid by every business whether or not they participated. He opposed the City's intervention with downtown businesses.

John Morgan, District 1, said in the 1980's Main Street was in decline. He did not think having a DNP business area two miles long and one block wide was healthy and would be better as a more compact area to be easily walked. He believed any business licensed in the City should be able to join the DNP and be included in events.

Kristin Barnekov-Short, represented GrassRoots which has been on Main Street for 40 years. In the past Main Street was not vibrant and only one block was economically viable. She believed the efforts of the businesses and DNP made Main Street what it is today. She did not think any businesses participating object to including more businesses but to do away with it would be moving backwards. She thought the organization created a platform for businesses to work together and benefits the whole community.

Sasha Aber, of Home Grown Café for 14 years grew up in Newark. She served on the DNP Merchant Committee for four to five years and witnessed growth which she attributed to the DNP and Merchants' Committee. She was happy to pay the \$35 dues and thought the gift cards and the parking validation were a plus. She believed the group was vital to Main Street, helped it to flourish and wanted the businesses to succeed. The individual business members were committed to being on Main Street and being downtown (at an added cost) and put in their time and energy to ensure its growth.

Bob Ashby, owner of the Deer Park and DNP Board member for four years, was in Newark since the mid-1980's. He has a long perspective on what has happened to Main Street and how it has evolved over the years. He credited the efforts of the DNP and the City and the recognition that economic growth was healthy. He hoped something could be done with College Square and Park and Shop. He thought it would be a shame to take the success of the DNP and Main Street in general and throw it out.

Bill Sullivan, Managing Director of the Courtyard Newark, said that although his business was not in the direct area of the Partnership, they benefit from the DNP as does everybody who lives in and visits the City. He said the downtown area was a place of great envy to other cities. When he moved here as a business person he was impressed by Mayor, Council, businesses and volunteers that this was a serious effort. Going back would be counter-productive to the efforts that are there. He said the Great American Main Street Award was something to be proud of and was recognized not only in Delaware but nationally. He was a member of the DNP Board and believed the volunteer effort was unique. He urged Council to continue to support the organization.

Nic DeCaire, Fusion Fitness owner, spoke about the DNP's assistance in helping with fundraising in the community and in particular for the Police Department's K9 unit which raised over \$40,000 and benefits everyone in the City.

Chris Locke, District 5 and Formal Affairs owner since 1972, said he does not understand the anti-government sentiment. He noted that many levels of government promoted businesses for the sake of its citizens. One of the reasons downtown was thriving was the DNP and it was not anti-anybody – anyone can belong to the DNP and participate in the committees. He believed this issue came up because of Newark Night when some people who were not in the downtown Main Street area were not allowed to participate although they had options to contact a local merchant to set up at that location. He said the City could consider including other businesses in the 19711 area and felt it would be a disservice to the City to eliminate the DNP.

Kathy Palacastro, Newark, worked on Main Street for many years and watched its decline and then its return as a booming town through the help of the DNP. She worked as a volunteer for DNP and asked the City not to break up this worthwhile organization.

Joe Charma, was a District 1 resident of 28 years and a 41 year resident of the City. He noted there were some things said tonight that hit him in the wrong way. He was involved formally with the DNP for 15 years, chaired the Design Review Committee and was involved with the Parking Committee and other committees. He and the DNP were dedicated to the success of the City. He pointed out that Wilmington was copying the DNP model. It did not make sense to belittle the Partnership. It was a known fact that a vibrant downtown would make a vibrant City. He urged Council to consider what they are doing since it would have a major economic impact on the City and a major impact on the morale and how the public perceives the City.

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

Mr. Morehead asked Mr. Vitola to confirm the amount the City puts into the Partnership (\$88,000). Mr. Vitola said those were the City's expenses and then the fund raising, UD's contributions, donations and business license fees were usually more than the total of all the DNP expenses. The City budgeted for all expenditures and then showed all the revenue used to offset those expenditures. Mr. Morehead questioned the \$44,000 under Materials and Supplies – Mr. Nietubicz said that covered items like banners and other miscellaneous items of that nature.

2. 1. ITEMS NOT ON PUBLISHED AGENDA:
A. Public

57:41

John Morgan, District 1, provided a copy of his comments and a handout reviewing implications of information that came to light as a result of Ms. Roe's FOIA request to DEMEC. (Comments attached.)

Mr. Morehead asked Dr. Morgan to shorten what he said for Council and the public. Mr. Morgan felt it was important for Council to understand what happened last summer in relation to TDC. He questioned whether some documents were turned over in a timely manner to various people. He urged Council to review the documents he distributed and withheld documents from FOIA requests and get together with appropriate staff members and Mr. Walton in executive session to find out who knew what when. If more had been known last summer, some of the legal conclusions might have been different.

Jeff Lawrence, District 3, addressed the ongoing storm water system issue. He agreed there was a problem but felt residents do not want any tax increase imposed. The City should fix the sewers with money it already has and if the City does not think it has the money, it should stop coming to residents with proposals for other projects that cost money. He felt a large part of the problem stems from the fact that utility lines were running through the sewers. He asked if there were simple things costing little money that could be done to make some impact.

Brett Zingarelli, District 4, said he is not against businesses working together but completely opposed the government's involvement in the private business sector. He remarked it was said there was no subsidized or incentivized benefits of being in the DNP but the DNP's website stated parking was subsidized 50% for the parking voucher program. Also the parking voucher program to park in Lots #2 and #5 – businesses coming to Newark get one to two spots in those permit parking only lots for free, more subsidized incentives.

Dawn Calzada, a 41 year resident of the City, thanked Mayor and Council for the work they do to continue to make Newark a happy and well-balanced community. She suggested those who are unhappy with the system should run for a position on Council where they can have a voice and be part of a solution if one is deemed necessary. She disagreed with the allowance of arms on people in the Chamber who were not police officers. She was saddened the Mayor, City Manager, City Planner and Council were bludgeoned with negative remarks in view of their hard work and all the good they do.

Len Schwartz, District 3 and an Engineering Professor at UD, wanted the City to consider supplying Internet access to all residents. He said there were benefits to a community system which helped economic development, saved people lots of money and leveled the playing field so poor people could have access, benefitted town safety, helped merchants, public schools, etc. He noted the commercial services currently available were expensive and slow. He believed the University might be interested in partnering with the City in this effort. The FCC wanted to help communities get into the broadband business. He suggested the City establish a committee and ask staff to provide their input.

Mr. Markham asked about having wireless in the City as part of the Smart Meters. Ms. Houck said the mesh covers the City but the broadband coverage was not adequate. Mr. Vitelli explained that there was not enough bandwidth from the wireless routers throughout the City to offer Internet access. Mr. Morehead thought it was a good idea to explore although it was not feasible at this point in time. Ms. Houck pointed out it would be necessary to review the franchise agreements with the existing companies before moving forward. Mr. Markham knew high-speed Internet was not possible but asked Mr. Vitelli about service on the level of 3G or 4G. Mr. Vitelli will research and report back.

Ted Lake, District 1, thanked Council for approving his Special Use Permit and questioned whether there were any plans for widening the underpass on Casho Mill Road. Ms. Houck reported there were no plans, this would be led by the State and the railroad, would be a long, costly project and there were nearby residents who were opposed to it.

3. 1-B. ELECTED OFFICIALS

01:25:45

Sean Dwyer, legislative aide for State Representative Paul Baumbach shared a letter from him (letter attached). Mr. Baumbach supported items 3A2 (Pension Valuation), 6B1 (Newark Cycle Track Project) and 9C (Appointment of Frank McIntosh to the Planning Commission).

4. 1-C. UNIVERSITY

01:28:44

(1) Administration – Rick Deadwyler, Government Relations, provided an update on activities at the University. Move in day was on Saturday. Classes start Tuesday at 8 a.m. The UD Police Department was paying close attention to the high traffic areas. On Saturday night the University hosted a Silent Disco to welcome new students back to school, on which Ms. Hadden commented positively. A strategic planning initiative (Delaware Will Shine) was recently launched to plan for the next chapter of the University's history. During the next Council meeting Dr. Ishmat Shah from the Executive Committee will offer details and invite the community to participate. The community was invited to the sixth annual Evening in the Garden at on 9/4 at 6 p.m. near the former Girl Scouts building. UD would play its first football game on 8/30 in Pittsburgh, and the home opener was scheduled on 9/6 against Delaware State University.

5. 1-C-2. STUDENT BODY REPRESENTATIVE: None

6. 1-D. LOBBYIST: None

7. 1-E. CITY MANAGER: None.

8. 1-F. COUNCIL MEMBERS

01:33:12

Mr. Chapman

- Good for the City that UD students are back. Thanked NPD for positive feedback during the move-ins for helping to manage the additional pedestrian and vehicular traffic.
- Appreciated the flyer in utility bills for the senior citizen check-in program handled by the County.

Mr. Gifford

- Thanked NPD and College Park Civic for the crime suppression meeting which had a good turnout. He was encouraged by the Madison/College Park area which seemed to be coming together as a community and changing for the better.
- Expressed interest in receiving the lobbyist report.
- Commented on the DNP discussion as he felt there were things that could be or were tightened up such as meetings that overlap, minutes that were not posted, etc. He thought improved fairness would help and encouraged everyone to keep an open mind to make downtown even better.

Ms. Hadden

- Thanked staff for quickly fixing signs that were mistakenly placed on Ritter Lane.
- Attended Newark Housing Authority meeting and thanked the group for its service.
- Attended College Park neighborhood association Police Department presentation on crime suppression and thanked the police for reaching out to the community.
- Attended The Retreat ribbon cutting which was well done.
- Attended K9 fund raiser which was successful and the best year yet as far as funds raised. She thanked Bill Sullivan for opening the Marriott for this benefit and Nic DeCaire of Fusion Fitness for his participation.

Mr. Markham

- Attended the K9 fund raiser.
- Community Day and Taste of Newark events were next month.
- The new Boards and Commissions form completed by a new appointee was considered to be overkill and recommended cutting down questions.

Mr. Morehead

- Had a block party in his neighborhood over the weekend and encouraged others to consider having one in their neighborhood to get to know their neighbors.
- Requested an agenda item for Council to consider whether to have all items requiring action to have a first and second review to enhance the public's involvement.
- Asked if there was any City policy to prohibit Segways from being ridden on City sidewalks.

- Council previously requested the weekly departmental reports include the name of the staff member they were written by – this had not yet been done.
- Noted that grass was not being mowed around the landscaping on Elkton Road. Ms. Houck reported this was the responsibility of the shopping center’s contractor. Mr. Emerson would address the issue.
- The irrigation on three islands on Elkton Road was spraying water into the street.
- Visibility could become an issue driving westbound on Elkton Road turning left onto Chrysler if plantings on the left side of the island grew any taller.
- Regarding the Upper Christina Stream Restoration project and residents’ concerns about whether the work will resolve flooding problems, he clarified that this project was not designed to address the flooding issue in that area.

Mr. Ruckle

- Was pleased to see the flier in the utility bill regarding the elderly hot line and would like efforts made toward helping residents living in their homes that do not want to go to assisted living or who cannot afford it.
- He supported the Downtown Newark Partnership provided there was inclusion for all businesses. He also wanted the City to focus on families and programs for the whole community. He suggested having districts get together with dodgeball tournaments.
- Thanked the Police Department for making Newark the safest city in the State with the lowest crime rate.

Ms. Sierer

- Thanked Code Enforcement and staff for visiting three houses on Cleveland Avenue and Nottingham Road on Saturday with inappropriate signage posted.
- Attended the Newark Bicycle Committee last week and thanked Mark Deshon for inviting her.
- Invited everyone to attend the K9 fund raiser next year where they will have an opportunity to dunk the Mayor.
- Attend ribbon cuttings at Launch Trampoline and Insomnia Cookies.
- Attended the Traffic Committee meeting and volunteer reception ceremony at the Newark Senior Center where they gave out Jefferson Awards to those in the community that volunteer time at the center.
- Attended the Board of Adjustment meeting.
- Spent time at the Newark Covenant Church event at the Senior Center where they distribute backpacks with school supplies to 100+ children in the area.
- Also attended a Chinese dumpling party given by two individuals who host the new Chinese students and give presentations on becoming familiar with Newark.
- Joined Rick Detweiler welcoming UD students and their parents to Newark.
- Adopt a Park Program - there were several parks in the community not yet adopted which involved gathering a group to pick up trash on a regular basis.

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

10. 3. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff

1. Credit/Debit Card Enabled Parking Meters Clearing Option – Planning & Development Director

01:56:48

Ms. Feeney Roser announced that the meters were to be delivered later this week and set up and installation would begin soon. Staff originally recommended clearing the meters after every vehicle vacates a space as a revenue generation option. Because parking meter fees were user fees, meter revenues were an attractive tool to support municipal finances. The estimate of revenue generated by clearing the meter after each use is approximately \$55,000/year, equivalent to a 1% tax increase. Since this would give revenue diversity which may temper the need for a tax increase, since the revenue burden is on someone who chooses to park at a meter (who may or may not be a City resident), and because the person who paid for the right to park at a meter for a certain amount of time but chooses not to stay that long is not negatively impacted by the meter clearing after they leave, staff thought it was a viable option for Council to consider. She asked for direction and policy which would be implemented and the meters could be installed.

Mr. Morehead said the obvious question was the meters were being installed now as directed by Council without the clearing option yet Ms. Feeney Roser said she would like Council to give direction. Ms. Feeney Roser believed direction was not clear to staff and if Council would make it clear tonight the meters could be installed as directed.

Ms. Hadden thought clearing meters after someone leaves is fair. When people pull into a metered spot their normal expectation is to pay.

Mr. Gifford discussed putting money in meters and this was only a problem when someone interfered with an enforcement officer while writing a ticket. He felt that essentially the rate was increasing. When paying by credit card it seemed more customers prepay the maximum and then the meter is cleared. The website for IPS claims that users can get a 40% increase in revenue from clearing meters. Mr. Gifford questioned the information given of a 4% increase over all parking revenue and asked for clarification.

Mr. Vitola stated that it was less than 4% of the total parking revenue, but if it was viewed in terms of the credit-only revenue, it would be closer to 8%. Mr. Gifford asked what the revenue was from just the new meters installed. Mr. Vitola looked at the numbers a few different ways, but the increase was never more than 12% in any of the calculations. Mr. Gifford stated he approved the purchase of the meters to improve convenience and efficiency, but thinks meter clearing seems punitive, negative, and should not be done.

Mr. Markham reminded Council that most members have not been around for conversations around needing more revenue and wondered what the conversation would be if this discussion was occurring at budget time. The larger issue in his district is taxes. This cost can be avoided if a person wants to avoid it. Mr. Markham has a hard time letting go of \$55,000 per year and finding it some other place, so he is in favor of clearing.

Mr. Ruckle asked what the rate in the parking lots is versus the rate at the meters. Ms. Feeney Roser responded that the rate in the lots is \$1.00 per hour and the rate at the meters is \$1.25 per hour which was done intentionally to encourage long-term parkers to park in the lots. In addition, users pay for the time they are in the lots with a ten minute window where users do not have to pay if they are in and out in that time.

Mr. Morehead questioned whether meters are a revenue generator or if they are for adequate parking turnover for businesses. He felt there were cross purposes. Mr. Morehead asked Mr. Vitola what the incremental revenue estimation is. Mr. Vitola stated that was about \$730,000 per year. Mr. Morehead stated that the question was whether the City wanted \$730,000 or \$785,000 per year. Mr. Morehead stated that there was plenty of money in the budget and that Council has a responsibility not to overtax.

Mr. Chapman stated he is torn between the enjoyment of finding a paid spot with money on the meter and the message being sent to users of Main Street versus raising additional revenue that is the equivalent of a 1% property tax increase. Clearing the meters affects a specific group of users, including those outside the City, while tax increases affect everyone in Newark. Mr. Chapman thought meter clearing could be a positive thing as part of a joint discussion of raising revenue and cutting spending.

Mr. Gifford asked if meters can charge for the time used. Ms. Feeney Roser said that increments can be chosen, but in the 12 minute increments in the fee structure. Mr. Gifford sees this as a fee plus a tax. Mr. Vitola says it is a fee because you are paying for a service being used, but that excess revenue is placed in the general fund. Mr. Gifford asked if there would be a reduction in the need for parking enforcement staff. Ms. Feeney Roser stated there is the potential, but would not know fully until the meters were installed.

PUBLIC COMMENT:

John Morgan, District 1, endorsed Mr. Chapman's comments regarding finding time on meters. He asked if the meters were smart enough to refund unused time. Mr. Howard stated the meters would not do that and are not smart enough to do that at this time. Mr. Morgan discussed the dichotomy between the working of the lots versus the meters, the experience of visitors to downtown and that most visitors likely are residents.

Jeff Lawrence, District 3, reviewed the history of the smart parking meter discussion and discussed ways the meters could provide increased revenue: overhead reduction, increased utilization/collections, and increased enforcement. Mr. Lawrence urged the City to serve the basic needs of the residents for the lowest cost possible and not to support smart meter clearing.

Brett Zingarelli, District 4, felt there was the option to not clear the meters and not spend the \$55,000. Extra money is put in to both not get a ticket and to be able to “pay it forward” to another person. Mr. Zingarelli views clearing the meters as “stealing from the public” and will not put additional money on the meters in the future.

Jane Long, District 4, asked if there was an analysis done on the current meters versus what the City would gain with the smart meters. Mr. Vitola stated that there was a pilot done which showed incremental revenue gains from installing the smart meters. Ms. Long also questioned the change in the revenue and the pay-by-phone feature. Mr. Vitola stated that revenue was expected to nearly double and that the issues with the pay-by-phone feature had been with University smart meters. Ms. Feeney Roser stated that pay-by-phone is an option, but it is not being activated in the beginning with the new meters. Ms. Long stated that she did not agree with the smart meters being cleared.

Carol McKelvey, District 4, felt Council was spending too much time talking about the smart meter topic and recommended that the City take the \$55,000.

Tom Uffner, District 1, raised the issues of security of the smart meters regarding early meter clearing and does not support clearing the meters.

Martin Nicholson, greater Newark, felt that with revenue being doubled that the \$55,000 was not worth it.

Seeing no more public comment, the discussion was brought back to the table.

Mr. Morehead would like Council to consider that the revenue increase from the meters without clearing was the equivalent of 13% of the tax base, so is an additional \$55,000 needed. He felt that government would spend all of the money it is given.

MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: TO HAVE THE METER CLEARED AFTER EACH USE ON THE CREDIT/DEBIT CARD ENABLED PARKING METERS.

MOTION PASSED. VOTE: 4 to 3.

Aye: Hadden, Markham, Ruckle, Sierer.

Nay: Chapman, Gifford, Morehead.

11. 3-A-2. 2014 PENSION VALUATION REPORT

02:36:22

Mr. Haines presented the 2014 Pension Valuation final report. The 2014 funded status of the defined benefit pension fund is 66.7%, which grew 1.8 percentage points. Key parts of the report include over two years reducing the amortization from 30 years to 28 years and reducing the expected rate of return from 7.5% to 7%. The City is encouraged to appropriate fund, and if possible overfund, the pension to help avoid insolvency. Since three out of four employee groups are now on defined contribution plans, the actuaries are better able to project the needs of the pension fund. However, the gains seen from the new union contracts would not be seen until the 2015 report. Mr. Haines reviewed the Annual Required Contribution (“ARC”) and the ARC legacy. The combined efforts of overfunding the ARC contribution, reducing the amortization and reducing the expected rate of return led to the increased funded status.

Mr. Markham asked what the recommended ARC value was for this year. Mr. Vitola stated it was \$3.17 million. Mr. Markham asked if that number has been reduced due to performance. Mr. Vitola stated that the ARC was expected to be roughly the same as 2013, which was \$3.07 million, but that the City wanted to overfund the pension

contributions in the 2014 budget and did so by \$300,000. The total being funded for 2014 is \$3.37 million. The ARC itself is \$100,000 higher than 2013, but that did not change the \$3.37 million number that the City had planned. Mr. Vitola felt it was appropriate but not overly generous to the point that it would harm the budget. Mr. Markham asked if the \$3.17 million number was in the budget for next year. Mr. Vitola confirmed that it was. Mr. Markham asked Ms. Bensley if approval of the report means that Council is committing to the ARC. Ms. Bensley stated that the motion tonight would be only to accept the report.

Mr. Chapman asked how far in the future the incremental reductions go. Mr. Haines stated that the plan was to hold the expected rate of return at 7% and to continue to reduce the amortization by one year each year until it reaches 20 years from the current 28 years. Mr. Chapman asked if a better funding of the ARC number is achieved at 7% due to the continued reduction in amortization. Mr. Vitola stated that the City has looked at Russell's predicted returns and the actuarial recommendations and feels it is in an appropriate spot, but that in the future, a percentage drop in the rate of return is the quickest way to increase the ARC. Mr. Chapman commented on the history of the markets and the contractual promises of the City to retirees. Mr. Chapman was happy with the recommendations by the actuaries and would support additional ARC funding.

Mr. Morehead thanked Mr. Chapman for the information he gave and asked about the payments to the ARC in 2014 and plans for overfunding the ARC in next year's budget. Mr. Vitola reviewed the timeline for the decisions regarding the 2014 ARC funding and stated that the tentative funding number for 2015 was \$3.37 million. Mr. Morehead requested that overfunding the ARC be strongly considered for 2015 and wants pension funding to be a priority in the budget as he does not want to "kick the can down the road."

There were no public comments.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: TO ACCEPT THE 2014 PENSION VALUATION REPORT AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

12. MOTION BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: TO MOVE ITEM 6-B-1 FORWARD ON THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

13. 6-B. OTHERS
1. NEWARK CYCLE TRACK PROJECT UPDATE – NEWARK BICYCLE COMMITTEE

02:55:23

Mark Deshon, District 5 and Newark Bicycle Committee Chair, asked Council to support a letter from the City to DelDOT expressing the desire to partner with DelDOT on a protected two-way cycle track on Delaware Avenue between Newark High School and Orchard Road. This would be the first cycle track in Delaware and would be one of the first projects implemented from the recently adopted Newark Bicycle Plan. The Bicycle Committee believes this is the right time to get the project on DelDOT's developmental docket. The League of American Bicyclists included this project as one of the items that would help Newark move to Silver status as a Bicycle Friendly Community. The University is in support of this improvement to aid student cycle safety. A recommended change to the letter would be to add a date of completion of the end of 2017.

Mr. Gifford asked how the traffic lanes would be affected. Mr. Deshon stated that there should still be two lanes of traffic. A benefit of the University being a supporter is that it owns much of the land along the route and may need to assist with some

easements. Mr. Gifford asked what the estimated cost to the City would be. Ms. Houck stated that the request is for DeIDOT to fund the construction of the cycle track, but the City would be responsible for maintenance.

James Wilson, Executive Director, Bike Delaware, stated that DeIDOT's road design manual has elements currently that prohibits cycle tracks and would need to be changed. Bike Delaware is interested in this as a pilot program for other municipalities and to facilitate the needed administrative changes in the road design manual.

Mr. Morehead asked about the types of protection that would be used. Mr. Deshon stated that there are 10 to 14 different types that could be used, but the purpose of the current conversation is to get the project on DeIDOT's radar. Mr. Morehead stated that he fully supports the project as long as the needed safety elements are in place.

Public Comment:

Jonathan Kirch, Hopkins Estates and American Heart Association, supported the project as a resident and on behalf of his employer since it would increase the health and quality of life of residents.

Brett Zingarelli, District 4, expressed support for the project and concern regarding the price range presented in the paper and plowing changes that may need to be made.

Martin Nicholson, greater Newark, agreed with Mr. Morehead's comments regarding safety concerns and expressed concerns regarding DUIs on bicycles.

James Wilson, Bike Delaware, spoke regarding the need for municipalities to get their fair share of transportation money, which means smaller, multi-modal transportation projects. He sees Newark as the best opportunity to install a cycle track first. This project would provide a financially sustainable transportation system that allows residents to spend less on transportation, which is an ongoing economic stimulus.

Mr. Deshon complimented the City for its work on making biking friendlier in Newark and appreciated the mindset of the City.

Mr. Markham hopes this will help figure out the traffic issue and encouraged the Bicycle Committee to look into a bike share project. Mr. Deshon reported that there have been talks with the University about such a project and that it was emphasized that it would need to be open to all residents.

Mr. Ruckle spoke regarding making Main Street more bike friendly as well.

Ms. Hadden asked why the crossroad limitations were placed on the prospective cycle track instead of having it run the length of the road. Mr. Coleman stated that this issue is the right-of-way width and that it was not wide enough before Orchard Road.

Mr. Chapman suggested that all Council members names and signatures be added, thanked Mr. Deshon and Mr. Wilson for being leaders in this effort and encouraged additional future outreach to DeIDOT. Mr. Chapman asked Mr. Bilodeau if there was any reason Council should not sign the letter, which Mr. Bilodeau stated there was not.

MOTION BY MR. CHAPMAN, SECONDED BY MR. RUCKLE: TO ADD THAT THE PROJECT BE COMPLETED NO LATER THAN 2017 AND TO ADD COUNCIL MEMBER NAMES TO THE SIGNING OF THE LETTER.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: TO APPROVE THE LETTER AS AMENDED.

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

14. 4. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None
15. 5. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:** None
16. 6. **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**
 - A. **Council Members**
 1. Resolution 14-__: Recognizing Angela Dressel for her Work on the Planning Commission and Contributions to the City of Newark
(See Item #4.)
17. **6-A-2. DISCUSSION OF PREPARATION OF COUNCIL MINUTES AND DIRECTION FROM COUNCIL – COUNCILMAN MOREHEAD**

03:17:01

Ms. Sierer stated that this item was precipitated by inconsistencies found between the draft minutes posted on the website and the final minutes that were posted. The first draft of the minutes was posted in error on the website instead of the final draft that was distributed to Council. The final draft was the version provided to Council, approved at the 8/11 Council meeting and is now posted on the website.

Mr. Morehead asked the City Secretary to explain the procedures and process of the creation of the Council minutes.

Ms. Bensley reviewed the procedures for the preparation of Council Minutes, including drafting, editing, finalizing and posting of both the audio recording of the meeting and the written version of the draft and final minutes. She further reviewed the City and State regulations surrounding meeting minutes and suggested that Council consider reviewing the policy of posting draft minutes on the website.

Mr. Morehead stated a preference for having draft minutes available on the website to the public. Ms. Bensley stated that typically there will not be multiple versions of the minutes and that the situation precipitating the conversation was an anomaly. Mr. Morehead reiterated his desire to continue posting draft minutes on the website.

Mr. Gifford stated a preference for having draft minutes posted on the website.

Public Comment:

John Morgan, District 1, stated that there is no link to the minutes on the agenda, but there is a link on the minutes page. Ms. Bensley stated that the reason is that the intent is to replace the draft with the final version of the minutes once approved by Council. Mr. Morgan felt it was important that the public be looking at same documents as Council and expressed his displeasure with abbreviation of minutes with the advent of technology. He felt that the recording of public comments in the minutes was deficient and suggested that comments be submitted by the public to be appended to the minutes.

Jeff Lawrence, District 3, asked about the cost of outsourcing the transcription of the audio. Ms. Bensley stated that the court reporter hired for the March Board of Adjustment meeting cost over \$2,000 to produce an approximately 200 page transcript within a week. Mr. Gifford asked what the cost was to have after meeting audio transcribed. Ms. Bensley could not speak to that as that service has not been used. Mr. Chapman stated that technological advances being discussed in minutes production may be able to be part of the future conversation.

Mr. Markham stated that this conversation occurs every few years and previous City Secretaries have found that verbatim minutes are time-consuming and costly. He would like to see agenda items projected on screen for the audience to follow.

Tom Uffner, District 1, suggested change management software to allow people to see various versions of the minutes. Mr. Uffner stated that public comment was usually off the cuff which did not facilitate written comments to be submitted.

Ms. Sierer asked for direction to the City Secretary regarding minutes. Mr. Gifford and Mr. Morehead expressed support for posting draft minutes. Mr. Morehead also requested that editing be done equitably for all speakers in the minutes.

18. 6-B. OTHERS
1. NEWARK CYCLE TRACK PROJECT UPDATE – NEWARK BICYCLE COMMITTEE

(See Item # 13)

19. 6-B-2. PRESENTATION: THE BENEFITS OF A VIBRANT DOWNTOWN & DOWNTOWN NEWARK PARTNERSHIP (DNP) HISTORICAL OVERVIEW – DIANE LAIRD, STATE COORDINATOR, DOWNTOWN DELAWARE AND PLANNING AND DEVELOPMENT DEPARTMENT STAFF

(See Item #5)

20. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation for Contract No. 14-07 – The Purchase of One 2015 Ford F-650XL Regular Cab

03:35:49

Mr. Coleman presented the recommendation for Contract No. 14-07 to purchase a 2015 Ford F-650XL regular cab. Dump truck No. 522 has been identified for replacement this year. The fleet was reviewed for the needs of the Public Works and Water Resources Department and the Ford F-650XL was identified as being able to fill needs that are not met within the current fleet. This truck will have a stainless steel dump body, which is more resistant to corrosion, a drop down side bed that is safer and quicker for pothole patching, safety lighting to assist with traffic control, a V-plow instead of a straight blade which will add plowing functionality, and an under tailgate salt spreader. Funds for this purchase are allocated in the Capital Budget. Two bids were received and Brian Hoskins Ford, Inc. was the lowest responsible bidder at \$106,500

Ms. Hadden asked if there was an associated vehicle trade in. Mr. Coleman stated that the trade-in value was less than the value of having it as a backup. Dave Vispi, Senior Mechanic, stated that a reserve piece is usually kept until a limit is met for repair costs.

Mr. Markham asked about the snow plowing plan and if this new truck fits with that plan. Mr. Coleman stated that the plan is still in the works and that this truck fits into the plan. Mr. Markham asked if a local company can match an out of state bid. Ms. Houck stated there is a process if it is a City of Newark vendor. Mr. Vispi stated that there is no one on the state contract who can supply the truck needed. Mr. Markham stated his preference that the City buy vehicles from vendors within the state.

Mr. Ruckle asked if there were transfer taxes being paid when buying vehicles from out of state. Mr. Markham stated that he believes that no transfer tax is charged if you are in Delaware and purchasing from another state. Mr. Vispi stated that the City handles the tagging in the garage and the process is free for the City.

Mr. Morehead asked about the cost and benefit of the stainless steel. Mr. Vispi stated that the stainless steel upgrade prevents the bed from degrading due to road salt in the bed. There were also limits in options due to the drop side feature requested. In addition the V-Plow will help with cul-de-sac and Main Street plowing. Mr. Morehead asked about the disparity between the budgeted and bid amount. Mr. Coleman stated that was due to the different type of truck being purchased as the result of the fleet needs assessment. Mr. Morehead asked what happens to the extra money. Mr. Vitola stated that it stays in the equipment replacement reserve and that the money is set aside over the life of the asset, not in one year's budget.

There were no public comments.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: THAT CONTRACT NO. 14-07, PURCHASE OF ONE 2015 FORD F-650XL REGULAR CAB, BE AWARDED TO BRIAN HOSKINS FORD, INC. OF COATESVILLE, PA IN THE AMOUNT OF \$106,500.00.

Aye: Chapman, Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

21. 7-B. RECOMMENDATION ON RFP NO. 14-01 – LOBBYING AND INTERGOVERNMENTAL CONSULTANT SERVICES

03:50:18

Ms. Wright presented the recommendation for RFP No. 14-01, Lobbying and Intergovernmental Consultant Services. The RFP was advertised in the News Journal and on the City's website. Copies of the RFP were delivered to 17 prospective firms with two sealed proposals submitted. Based on the rankings of the RFP review committee, the recommendation was to award the bid to The Byrd Group LLC in the amount of \$20,000 per year for a four year term.

Ms. Hadden would like to close out the RFP and re-bid due to concern regarding the timing of the bid and the recommendation of The Byrd Group to hone the parameters of the RFP if price is a concern. Mr. Morehead agreed with Ms. Hadden.

Mr. Ruckle would like the City to explore having a lobbyist on staff.

Mr. Markham had no objections to rebidding, but wanted to ensure that the City has representation by the start of the legislative session and suggested looking into combining the lobbying position with the currently vacant communications position.

Mr. Chapman asked for clarification regarding the suggested contract of \$20,000 per year for a four-year term. Ms. Wright stated that the contract is a set price for all four years. Mr. Chapman asked about the value of a four-year commitment. Ms. Houck stated that the value is in not having to rebid the contract each year and to have a locked in price. However, this does not prevent either side from terminating the agreement at any time. Mr. Markham and Mr. Bilodeau stated that the language of the contract would have to be reviewed regarding termination.

Ms. Houck advised that in order to rebid the contract, Council must reject all bids.

Public Comments:

John Morgan, District 1, was pleased with the discussion and recounted Mr. Byrd's comments from the previous meeting. He suggested not having a limit of \$20,000 on the rebid RFP to attract more applicants who would place Newark as a top priority.

Brett Zingarelli, District 4, agreed with Mr. Morgan's remarks and would like a City employee to be considered as the lobbyist and commented on the recommendation of The Byrd Group.

MOTION BY MR. MOREHEAD, SECONDED BY MS. HADDEN: THAT THE CITY REJECT ALL BIDS IN RESPONSE TO RFP NO. 14-01.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye: Chapman, Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

22. 8. FINANCIAL STATEMENT: (Ending July 31, 2014)

04:03:22

Mr. Vitola presented the unaudited financial statements for the first seven months of the year. The year-to-date operating surplus is \$2.8 million, which is about \$307,000 lower than the budgeted surplus. Transfer tax receipts were one of the drivers of improvement from June to July with the sale of the Christina Mill Apartments, as well as permit revenue from University and commercial projects. Property taxes, park fees, franchise taxes, interest income and other revenues should keep pace with the budget for the rest of the year with the exceptions being court fines and parking revenues. Expenses are currently \$349,000 over budget, which is an improvement of \$330,000 since last month and two months of improvement overall. In the Enterprise funds, the Electric Fund is driving the positive variance. The Water and Sewer funds are tracking higher than the budget, but to a lesser extent than electric. The positive variance is offset by expenses that are 4.5% over budget due to Water Fund activity. The cash position at the end of July was \$26.6 million, which consisted of \$5.6 million in operating cash, \$21 million in cash reserves and less than \$100,000 in the Smart Meters project accounts. To address a question from last month regarding why the April 2013 sewer revenue was so

low, the sewer utility revenues are expressed as a net of utility purchases, which are normalized with accruals. The combination of an unexpected increase from the County as well as higher than expected flows, which meant the bill from the County was higher than the accruals, which creates irregularities in the sewer margins. To address another question regarding cash and accounts receivable from last month, accounts receivable was higher this year as compared to last year at the same time. The first notable difference is that the UD electric payment for July did not hit by July 31 and the June payment did not hit by June 30, which Mr. Vitola will look into to see why this has changed. The City also implemented a new tax billing system, which took two extra weeks to get tax bills out this year. All property taxes should be collected by September. Another question was regarding the over collection of electric revenues. The City is on track to over collect on electric revenues for this year on the same pace as last year, which should give another negative RSA as a giveback to customers in 2015. Finally, there was a question regarding bimonthly versus biweekly paychecks. A review is being undertaken to review concerns regarding overtime calculations, shifts, pay periods, and efficiencies for Finance Department staff. A report will be brought back to Council at a later date.

Council Comments:

Mr. Morehead commented that the budget is improving but there is still work to do.

Mr. Markham asked if August water revenues were expected to improve due to monthly billing. Mr. Vitola stated that he did not think it would be a meaningful revenue difference. Mr. Markham asked if everyone was on monthly billing. Mr. Vitola stated that by the end of the week, all cycles will be converted to monthly billing.

Mr. Morehead spoke regarding a constituent concern regarding receiving final utility readings for renters moving out of properties.

There were no public comments.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT THE JULY 31, 2014 FINANCIAL STATEMENTS BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

23. 9. APPROVAL OF CONSENT AGENDA

04:10:20

- A. Approval of Council Meeting Minutes – August 11, 2014
- B. Receipt of Alderman's Report – August 14, 2014
- C. Appointment of Frank McIntosh to the Vacant District Six Position on the Planning Commission to Expire September 15, 2017
- D. Approval of Unicity Bus Service for State Fiscal Year 2014-2015
- E. Approval of Special Council Meeting Minutes – August 11, 2014

Ms. Bensley read the Consent Agenda in its entirety

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

24. Meeting adjourned at 11:09 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary

Public Comments by John Morgan (District 1) at the Newark City Council Meeting on August 25, 2014

This evening I would like to review for you the implications of some of the information which has come to light as a result of Amy Roe's FOIA request to DEMEC, with reference to the handouts which I distributed at the Council meeting on July 28, and to the longer version of the minutes of that meeting, which were posted on the City's website that evening but were removed the following day.

Since late October 2013, thanks to Amy Roe's FOIA request to DEDO, we have known that in April 2013 Gene Kern submitted to DEDO a grant application for a project which involved a data center and a 248 MW gas-fired power plant on the STAR Campus. The data center was supposed to be built in two phases, each of which would have at full occupancy an IT Critical Load of 54 MW (totaling 108 MW) and an Ancillary Load, computed with an unjustifiably high PUE of 1.83, of 45 MW (totaling 90 MW).

Thanks to Amy Roe's FOIA request to DEMEC, we now know that on July 8, 2013, Fred Wass of TDC sent an email message to Patrick McCullar and Carol Houck, with copies to Gene Kern and others associated with TDC, which mentioned the "Benefit" that "TDC will provide a minimum of 50 MW's of DEMEC (City of Newark's) Load up to 120 MW's contingent on TDC's internal load requirements". This proposed minimum of 50 MW indicates that when the Phase I data center would begin to be occupied, and the IT Critical Load would be much less than 54 MW and the Ancillary Load would be much less than 45 MW, most of the power produced by the power plant would be sold to DEMEC. This shows that in July 2013 it was planned that at the beginning of the operation of the Phase I data center, the supposedly "accessory use" of this proposed power would greatly exceed the maximum 30% figure which is supposed to be important for a genuine "accessory use". This is consistent with Patrick McCullar's comments in his email messages of July 9 and 10, 2013, to Carol Houck, in which he wrote "They are marketing a Power Plant to their investors, not a Data Center", and "The project now appears to be more of a merchant power plant behind your meter than a Data Center", and "I cannot agree to pay out-of-market rates that raise DEMEC's AVC [= Average Variable Cost]", which indicates that at that time TDC wanted to lock the residents of Newark into paying inflated costs for their electricity.

Moreover, since 50 MW is about 20% of 248 MW, it is hard to understand Carol Houck's statement in her email message to Paul Baumbach dated August 2, 2013, that "We believe this backup reserves represents approximately 10% of the total future capacity of the plant". And clearly 120 MW, which is almost 50% of 248 MW, would greatly exceed the maximum 30% figure for genuine "accessory use".

It is hard to avoid the conclusion that back in July 2013, our City's staff were not paying adequate attention to the important issue of whether the plans for TDC's power plant would constitute a genuine "accessory use", despite Paul Baumbach repeatedly urging them to consider carefully this issue. I now quote two sentences from Paul Baumbach's email message of July 30, 2013 to Carol Houck, Maureen Feeney Roser, Michael Fortner, and Andrew Haines: "I urge the city to reconsider Mr. Herron's July 10, 2013 memo. It contains very questionable conclusions, which, if followed, will open up the city to exposure of expensive, and likely successful, lawsuits." I don't know how successful will be the residents' appeal of the City's Zoning Verification to Superior Court, but there is no doubt that the City's legal bill, which must be paid by the taxpayers of Newark, already exceeds \$500,000. I wonder whether most of these legal expenses could have been avoided if these emails to and from Carol Houck, which were recently revealed by Amy Roe's FOIA request to DEMEC, had been shared with Council and Max Walton in a timely manner back in August 2013.

1B
Sean Dwyer



PAUL S. BAUMBACH
STATE REPRESENTATIVE
23rd District

HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

Thank you Mayor, and City Council members, for the opportunity to share some comments on three items on your agenda this evening

On agenda item 3A2, I would like to applaud the efforts of Deputy City Manager Haines and Finance Director Vitoli, on managing the reduction of the investment return assumption from 7.25% to 7.00%, a more responsible level, and on overseeing the increase in the funding status from 64.9% to 66.7%.

I would like to share my comments on agenda item 6B1, the Newark Cycle Track Project Update. As a resident of District 1, I commuted to the eastern end of the town for the majority of my 24 years of residence. While there is an east-bound bike lane, on Cleveland Avenue, there is no accessible west-bound bike lane in downtown Newark, and while the sharrows are an improvement, riding west-bound on a bike on Main Street is not for the faint-of-heart.

I also spent four years as a UD undergrad, and I had a bike for all of that time. At that time, the city was in a way more bicycle-friendly, as there was less downtown traffic than there is today.

The proposed two-way protected lane for cyclists would be very beneficial to our city. It can serve to reduce traffic, ensure safety, improve our community's health, and make our downtown more economically attractive. I am very appreciative of the University of Delaware's support for this project, which is not too surprising as many of the likely users of this lane would be UD students.

I encourage you to approve the proposed two-way protected lane for cyclists along Delaware Avenue.

Thank you for your consideration of this request.

Finally, on agenda item 9C, I would like to express my full support of the appointment of Frank McIntosh to the Planning Commission, and to thank Councilperson Markham for nominating Mr. McIntosh.

Sincerely,

A handwritten signature in cursive script that reads "Paul Baumbach".

Paul Baumbach
State Representative 23rd District