

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES
October 27, 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
District 6, A. Stuart Markham

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
City Solicitor Bruce Herron
Deputy City Manager Andrew Haines
Finance Director Lou Vitola
IT Manager Josh Brechbuehl
Parks & Recreation Director Charlie Emerson
Planning & Development Director Maureen Feeney Roser
Planning & Development Planner Ricky Nietubicz
Chief Paul Tiernan, NPD
Captain Kevin Feeney, NPD
Public Works & Water Resources Director Tom Coleman

1. The regular Council meeting began at 7:00 p.m. with a moment of silent meditation and the Pledge of Allegiance.

2. **PROCLAMATION FOR PANCREATIC CANCER AWARENESS MONTH**

Ms. Sierer presented the proclamation to Matt Wilson announcing the month of November 2014 as Pancreatic Cancer Awareness Month.

3. MOTION BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: TO REMOVE ITEM 5-A, REQUEST OF MEDITERRANEAN GRILL FOR A SPECIAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION AT THE BUSINESS LOCATED AT 230 EAST MAIN STREET, UNIT 612, NEWARK, DELAWARE, FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

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

A. Public

09:14

John Morgan, District 1, did not want Boards and Commissions appointments on the Consent Agenda and opposed two proposed reappointments. (*Comments attached*).

5. Jeff Lawrence, District 3, spoke on refunding unused time on smart parking meters and received clarification that supporting material for the 11/3/14 budget workshop was posted on the City's website.

6. Anne Maring, District 1, requested that voice and text messages be sent from the City to the community with notifications of Council-related meetings and announcements.

7. Jen Wallace, District 3, opposed Mr. Chadwick's appointment to the DNP and wanted appointments be removed from the Consent Agenda to allow public discussion.

8. Len Schwartz, District 3, discussed the City supplying Internet access and suggested forming a committee of University and City personnel to investigate technical issues. He volunteered to serve on such a committee. He noted according to City Code, the franchise was non-exclusive and the City had the right to grant similar use to others or to itself. Mr. Markham suggested a Council member take this on as a project. Mr. Morehead volunteered to do so with assistance from Mr. Markham. Ms. Houck added that staff met with the Chesapeake Crescent Initiative Safe & Smart Cities group last week where this was discussed at length.

9. Donna Means, District 5, discussed board/committee appointments and suggested the Board of Adjustment be larger to allow for a majority vote in the event of a recusal.

10. **1-B. ELECTED OFFICIALS:** None

11. **1-C. UNIVERSITY**

44:55

(1) Administration – Rick Deadwyler, University of Delaware Government Relations, reported the University and Institute of Public Administration launched their third annual college application month. In this month schools provided high school seniors time during the day to complete and submit applications to college. Special focus was placed on underprivileged and low-income students to encourage their interest in college and assist those who would not otherwise consider applying to college. The University would waive application fees for those students who applied during college application month from 10/13 through 11/21. In the last application period over 3,000 Delawareans applied to the University and close to 93% of Delaware residents were admitted.

On 10/29 students and faculty of the Physical Therapy program and the Go-Baby-Go lab would host a mobility challenge to help raise awareness for people with mobility and sociability challenges.

As part of the *Delaware Will Shine* strategic planning effort, the University would host a community town hall on 11/5.

The University was increasing the level of safe, alternative campus activities provided to students around Halloween. There would be an increase in campus community resource officers as well as a full bike patrol.

UD was partnering with Ms. Sierer and the College of Health Sciences in preparation for the inaugural Mayor's Masquerade fun run.

12. **1-C-2. STUDENT BODY REPRESENTATIVE:** None

13. **1-D. LOBBYIST:** None

14. **1-E. CITY MANAGER**

53:19

Ms. Houck noted budget preparations were still underway and the financial workshop presentation was available through the website.

New employee bikes with mobile billboards were part of the effort to promote a healthy Newark and were purchased with a state grant won for being a healthy community.

The City's new refuse truck solved access issues and held more material.

Vehicle pooling was being explored with the goal of using the City's hybrids more.

15. **1-F. COUNCIL MEMBERS**

54:38

Mr. Ruckle

- Thanked all those who were involved in the outreach for his daughter including the Newark Police Department. Emily was expected to return home in the next several days.
- Agreed the City should explore communication with the community via text and voice messaging.
- Credit card information could not be saved on the smart parking meters and therefore extra time paid could not be refunded.

- Was impressed with UD's physical therapy outreach on the STAR Campus.
- Saw the demonstration of the new refuse truck which allowed better access to tight areas based on its improved turning radius.

Mr. Morehead

- Thanked those present for their attendance and participation at meetings.
- Appreciated the City's police force for making Newark a safe place to live.
- Agreed the City should look into public outreach through text and voice messaging.
- Attended the Comprehensive Plan workshop, stressed its importance as it sets the City's tone for the next five years and encouraged public comment.
- The City's snow removal plan was forthcoming.
- Attended the Chesapeake Crescent Initiative workshop. CCI brought a number of corporate individuals involved in municipal experience, utilities, finance, legal, etc. They evaluated Newark as much as could be done in a day. A great deal of time was spent discussing parking downtown although Mr. Morehead did not feel the City had adequate data to discuss parking in depth. CCI's report would probably recommend Newark gather that data before taking action with regard to parking. A recommendation was made to improve the signage for municipal parking lots. Mr. Morehead said there was nothing "big brother" about the organization which had been a concern of several residents. CCI's perspective was Newark had hard decisions to make and the interaction and ability to talk with the public and work together in making those decisions would determine the future.

Ms. Houck reported CCI would present their findings to Council in the near future.

Mr. Markham

- Encouraged everyone to vote on Election Day.
- Kudos to the UD marching band for their participation in Bands of America.
- Enjoyed the Halloween Parade.
- Recommended Council members do a ride along with the Newark Police.
- Attended the CAC meeting and discussed green energy grant funding. CAC will present a recommendation to Council regarding the funding.
- Thanked those who donated their political fundraising event toward the medical expenses for Emily Ruckle and to Jerry Clifton for organizing the event.
- The Curtis Paper Mill Park project was completed.
- He supported text and voice mail messaging but stressed strong control so the public was aware of what they were signing up for.
- Recommended the UD for physical therapy.
- Green Wednesdays were discontinued December 1 through March 1.

Ms. Hadden

- Agreed people needed to know what they sign up for regarding text messages.
- Notified her constituents about Green Wednesday ending for the season – asked for information about a back-up plan if service was needed.
- Attended the Police Department promotion ceremony.
- Participated in the Curtis Paper Mill Park opening and congratulated Mr. Markham for his involvement with the project.
- Attended the fund raiser for Emily Ruckle.
- Was a judge at the Halloween musical Spooktacular held at St. Paul's Church.
- Attended the Comprehensive Plan workshop (located on the City's website under "Departments – Planning and Development – Comprehensive Plan V). She encouraged comments be directed to Council or Mike Fortner at mfortner@newark.de.us or presented at the 12/15 workshop. (*Secretary's Note: The 12/15 workshop has since been canceled.*)
- Attended the Rental Housing Needs Assessment Phase I information session and appreciated those who participated. She requested information from staff on how community outreach was handled for this event.
- Attended the Delaware League of Local Governments meeting where Chris Coons was the guest speaker. She encouraged Council to attend at least one meeting a year.
- Worked with Ms. Sierer, a landscape company and members of the Cherry Hill Manor Maintenance Association to take down dead branches and a dead tree at the entrance of the development as part of a bigger beautification and revitalization initiative.
- Encouraged people to visit the new UD STAR Campus Health Sciences Complex.

Mr. Gifford

- Enjoyed the demonstration of the City's new refuse truck and suggested publicizing such events in the future so members of the public could participate.
- Weekly departmental reports may be found on the City's website under the *Departments* link and under the *Agendas/Minutes/Reports* link.
- Expressed thanks to staff for restarting toll evasion enforcement on Route 4. This change would benefit Arbour Park for noise relief from constant truck traffic.
- Met with Arbour Park community members and toured the Rittenhouse trail. Bill Day who has been active with the Christina Conservancy provided interesting information about the creek including a graph of flooding events.
- Attended the Rental Housing Needs Assessment meeting and thought the meeting announcement could have been clearer.
- Thanked Dr. McNutt who was appointed to the Rental Needs Assessment survey and noted he assisted at the event for seven hours.
- Thanked Ms. Bensley for looking at ways to save money through the CivicPlus agenda and minutes streamlining instead of looking at new software.
- Encouraged finding a way to have a running tally of public comments and how to address them regarding the Comprehensive Plan.
- If the City implements voice or text announcements he suggested including information related to Boards and Commissions.
- Thanked Mr. Morehead for attending and giving information on the CCI meeting.

Mr. Chapman

- Commented that the workshop seating arrangement was awkward and had poor sound. He suggested using the dais or getting everybody a microphone on the floor.
- Noted the Comprehensive Plan workshop was scheduled to end at 9:00 p.m. Although the meeting went past that time to finish the last open item he thought it was a good idea to specify an end time to meetings. He suggested ending Council meetings at 11:00 p.m. Regarding ceding time for public speaking he thought Council should work on a guideline with some limitations. Regarding text and voice messaging he felt the City needed a well-qualified communications director and hoped this would happen soon.
- Would work with Finance on messages received from constituents regarding concerns about utility billing issues
- Looked forward to the next Comp Plan meeting where Council and staff can continue discussing the documents and possible changes following several months of public engagement.
- In response to Council comments Ms. Houck reported the City's *Inform Me* system was going through an update that would add different selections. She noted the communications audit was complete and information from that would drive the decision about hiring. Mr. Markham emphasized there were several Council members who were concerned about the communication position. Mr. Morehead asked if the City had a voice mail system that would call the residents – Ms. Houck said *City Watch* was utilized in the past. The current system was *InformMe* where residents had to register to select services they want to receive. Mr. Morehead echoed comments regarding the importance of City communications and urged Council to earmark money for the position in the budget.

Ms. Sierer

- Graduated from the UD physical therapy program following her collarbone injury.
- Attended the UD Disability Day at the Courtyard Marriott which was an opportunity for disabled people to immerse themselves into the community for the day in specific careers to learn the types of potential careers available to persons with disabilities.
- Participated in a Police Department ride along which highlighted the hard work and situations the officers deal with on a daily basis. She commended members of the department for their service to the community.
- The American Planning Association Conference would be held in Newark on 10/28 and 10/29. Mr. Morehead, Ms. Hadden and Ms. Sierer would attend.
- Planned to attend a ride along on Halloween with UDPD.
- Attended the Conservation Advisory Commission meeting with Mr. Markham – the group was working on some good projects.

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

17. 3. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff

1. Second Quarter 2014 Pension Report – Deputy City Manager

01:39:43

Mr. Haines reported the second quarter returned positive results with gains of nearly \$1.9 million (3.6%) in annualized gains. The domestic market was more challenged at that time and the City was 20 points below the benchmark but was still a positive outcome and trending appropriately. Halfway through the year the overall portfolio grew to \$54.2 million representing \$2.8 million year-to-date growth in the Pension Fund.

The OPEB fund also had growth with a 3.2% return in the second quarter. The domestic market was challenged and the global market helped substantiate some of that growth with one of the largest benchmarks outperforming by 123 basis points.

The originally scheduled 11/3 pension workshop has been adjusted with the financial workshop being moved to that date. Instead, at the 11/10 Council meeting there would be a staff report on the pension and recommendations from DT Investment Partners to look at the investment policies, do an RFP regarding management of our services, and consider the creation of the Pension Committee.

Looking at third party consultants, OPEB was discussed throughout last year and where the City should be. With the success of all the union contract negotiations, OPEB is now a closed plan. Since there are no new members going into the post-retirement health plan, staff wants to do a thorough run out now to identify the number of known liabilities. Staff wants to engage Milliman, the City's actuary, to get that real number and that full assessment will come in 2015. Staff wants to identify our actual OPEB obligation and how the City can manage the fiscal obligation to sustain it, but without overfunding it. Staff thinks that will position the City in a more fiscally solvent position moving forward and staff is going to take 2015 to work with Milliman and get the real number for Council.

Council Comments:

Mr. Morehead asked if we would get that answer in July 2015 or use all of 2015 to get to us in 2016. Mr. Haines hoped it would be earlier than mid-year because the OPEB was not as broad of a review but the City had to wait until the end of the calendar year. That data will be updated since it is always lagging but the goal would be the first half not July or August.

Mr. Markham asked if there was any guess on the run out. Mr. Haines said he would not hypothesize.

There was no public comment.

18. 4. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None

19. 5. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:**

B. Request for Council Endorsement of the Designated Downtown District Application of the City of Newark to the State of Delaware

01:45:17

Mr. Nietubicz presented the resolution required for the City's Downtown Development District application through the Office of State Planning Coordination. Designation as a Downtown Development District must include a traditional central business district. The goal of the program was to spur private investment to improve the vitality of neighborhoods and to build a stable community of long-term residents while improving housing stock. Staff looked at historical planning documents and referenced portions of the existing and proposed Comprehensive Plan that referred to neighborhoods immediately adjacent to East Main Street (the New Center Village area) and George Read Village but also some of the housing stock along certain side streets as potential beneficiaries of this program. This fit with long-standing goals of Newark to encourage home ownership and affordable non-student rental housing. If designated, the Delaware State Housing Authority (DSHA) would administer a program to allow grants of up to 20% of private capital investment in buildings there above a \$25,000 threshold. Staff believed this was something Newark could take advantage of to further its long-standing goals.

Council Comments:

Mr. Markham stated that there was one grant per County. Mr. Nietubicz reported the funding cycles were not necessarily annual but there could be no more than one district designated per County in the first cycle. Future cycles could include up to 15 districts. Mr. Markham asked if this would support various programs (POOH, Home Improvement Program, Home Buyer Incentive program) already in place. Mr. Nietubicz said it would as one of the criteria for evaluation was the availability of local incentives.

Mr. Morehead noted the wording was such that if a developer wanted to demolish a block and put up something in the interest of housing stock that they could apply for the 20%. Mr. Nietubicz thought it was possible and said funding would be administered via DSHA. Ms. Feeney Roser confirmed if a developer would go through local development approval regardless of whether they received the funding. Mr. Ruckle felt that DSHA would not agree to fund anything other than home ownership.

Mr. Morehead clarified that Mr. Nietubicz would be the City's District Administrator. He was concerned about item c-2 of the resolution regarding the execution of documents. Ms. Bensley confirmed the resolution was identical to the example given by the State.

AMENDMENT BY MR. MOREHEAD, SECONDED BY MR. CHAPMAN: TO AMEND ITEM C-2 OF THE RESOLUTION TO INCLUDE THE WORDS "WITH AUTHORIZATION OF COUNCIL" AFTER EXECUTING.

AMENDMENT PASSED UNANIMOUSLY. VOTE 7 to 0.

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

Mr. Gifford had questions because when he read through the documentation and the sample information, it seemed that communities with a focused goal had public input. He asked how staff came up with Newark's district. Mr. Nietubicz said research was used from Comp Plan IV as well as language that carries forward in Comp Plan V. There was not specific public input for this particular application. Mr. Gifford questioned why so much University property was included in the application. Mr. Nietubicz said the existing boundaries of the 1 – 6 development districts were utilized. He agreed including University property for something where home ownership was being encouraged did not necessarily make sense – however, the district had to be contiguous and was limited in the total number of acres it could include. Gerrymandering was specifically forbidden. Mr. Gifford felt the City's application was not strong. He asked if there was a way to add the shovel ready projects specific to the application. He was not sure the Center Street area was going to be aligned with this and felt there was a lot of room for improvement.

Mr. Morehead relayed constituent comments that this was not a well thought out plan but was an opportunity to garner financial support for existing plans and programs.

Mr. Gifford asked if the City was committed to the programs we have for 10 years. Mr. Nietubicz replied the City was committed to those programs for several years in the past. If designated as a Downtown Development District the City would be obliged to keep offering some form of local incentives. With regard to the shovel-ready projects, since any project would have to go through the development approval process, staff was not able to do this in a short period of time. Mr. Gifford then offered several editorial corrections.

Mr. Chapman referenced Exhibit A of the map – the Downtown Development District overlay with the New Center Village. He said in reading Planning Commission Meeting minutes from their last meeting in regard to proposed projects on Center Street, there seemed to be a lot of reference to the NCV and that program's inability or failure to get any attraction or see any success. He asked whether this was trying to address any of those issues. Mr. Nietubicz said yes, he believed the project recently reviewed was the first development project in that area since the NCV overlay was adopted. Mr. Chapman asked if this application would have any impact on the development approval process. Mr. Nietubicz said it would not – this would add some leverage or ability for home ownership (specifically NHA) to have more access and take advantage of these funds.

Mr. Ruckle believed Newark had to take this opportunity to get more home owners into the City and pointed out that home ownership promoted stronger communities.

Mr. Markham understood this must include the downtown and residential areas for improvement – from the map it included a large chunk from Districts 2 and 6 and a smaller chunk of District 4. He thought if the NHA could be encouraged and helped with home ownership in that location, the area would significantly improve. The New Center Village plan to try to encourage young professionals and young families to move into this area was a bust. It would be good to do something about that area before it gets redeveloped and was almost 100% rentals there.

Mr. Gifford asked for clarification on Exhibit D, the poverty rate information and the census tracts. Mr. Nietubicz explained it was prescribed in the application document as to the census data to be used and the block groups used that most closely matched the boundaries of the proposed district. Since it was primarily students there were interesting statistics. Mr. Nietubicz said in the focus of the application the income was used as a statistic relative to the home value and the income was roughly a fifth of the City's median income. The home value was 30% higher. Students were skewing the data.

Public Comments:

Jeff Lawrence, District 3, did not believe it was the government's role to incentivize and urged the City to tread carefully before participating in this program.

Anne Maring, District 1, did not see a need to rush into this and felt the homes on Chapel Street and Lovett Avenue offered development opportunities for home ownership. She asked why Newark was not part of the Delaware Valley Housing Assessment. Mr. Morehead followed up on Ms. Maring's question about the City not participating in the Delaware Housing study. Ms. Feeney Roser would get back to Council with this answer.

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

MOTION BY MR. RUCKLE, SECONDED BY MR. CHAPMAN: TO APPROVE RESOLUTION NO. 14-BB AUTHORIZING THE CITY OF NEWARK TO SUBMIT AN APPLICATION TO THE STATE OF DELAWARE OFFICE OF STATE PLANNING COORDINATION FOR THE DOWNTOWN DEVELOPMENT DISTRICTS PROGRAM AS AMENDED.

RESOLUTION PASSED AS AMENDED. VOTE 6 to 1.

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

Nay – Gifford.

(RESOLUTION NO. 14-BB)

20. 6. ITEMS SUBMITTED FOR PUBLISHED AGENDA

A. **Council Members:** None

21. 6-B. Others: None

22. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation to Extend Tree Trimming Contract for an Additional Year

02:24:23

Ms. Houck detailed staff's memo dated 10/10/14 – the contract originally provided for fixed hourly rates for labor and equipment to carry out the necessary tree trimming for electric lines. Originally two bids were received. Asplundh offered to maintain their 2014 labor prices and all the terms and conditions of their contract. Funds to cover the cost of the contract were requested for the 2015 Operating Budget totaling \$200,000. It was recommended that Council waive the requirement to accept bids for these services and extend 2014 labor prices and all the terms and conditions of Contract 12-01 for an additional year beginning February 2015. Ms. Houck noted the third year price (2014) being extended was less than the first year price of the previous bidder. The contract required having one truck and crew in Newark all year. It was there recommended that Council authorize extension of the contract for an additional year.

Council Comments:

Mr. Markham remembered several years when Asplundh was the only bidder. He was pleased their prices were less than competitors.

Mr. Morehead thought there were two crews on hand all the time. Ms. Houck clarified it was one truck but there was a different crew that came in for backyards for a 12-week period. Mr. Morehead felt this program was one reason Newark had excellent reliable electric service.

Mr. Gifford understood this needed to be done. He received several complaints about the appearance of trees that were trimmed, particularly since they were in front yards. Another complaint regarded Asplundh's vehicle being broken down and kept idling for six hours in front of a house. Ms. Houck pointed out that Parks and Recreation Supervisor Tom Zaleski was an arborist and could be consulted with trimming concerns. Mr. Chapman received advance notice from the City about the trimming so he was able to do his own work. Ms. Houck will check to determine whether residents were still receiving notification prior to the trimming.

Public Comments:

Ted Lake, District 1, said trees around power lines should be cut back far enough so they do not cause problems to the power lines. He suggested the City might incentivize people to plant trees in a more appropriate area.

Mr. Markham asked whether Verizon and Comcast contributed anything to use the City's poles to help offset tree trimming expenses. Ms. Houck said they pay to be on the pole but not for the trimming.

MOTION BY MR. GIFFORD, SECONDED BY MS. HADDEN: TO WAIVE THE BIDDING REQUIREMENT AND EXTEND THE ELECTRIC LINE TREE TRIMMING WITH ASPLUNDH TREE EXPERT COMPANY AT THE 2014 LABOR PRICES AND ALL THE TERMS AND CONDITIONS OF CONTRACT NO. 12-01 FOR AN ADDITIONAL YEAR BEGINNING FEBRUARY 2015

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

23. 7-B. RECOMMENDATION ON RFP NO. 14-02 – APPLICATION DEVELOPMENT FOR POLICE ACTIVITY TRACKING SYSTEM

02:35:00

Mr. Markham pointed out the number one bidder was his former employer. He did not believe he had any conflict of interest but if other Council members had a concern he would recuse himself. There was no objection from Council.

Mr. Brechbuehl presented the RFP detailed in staff's memo dated 10/8/14 which was for the replacement of the Police Activity Tracking System. Custom software was used to track the activity during police shifts and for case management. The current system was never upgraded or added to and has become inefficient. Diamond Technologies received the highest total score of 270 points from the firms evaluated. This would be a web-based application that would include advanced reporting capabilities, added case management features, a supervisory section and mobile device capability. Funding was from law enforcement seizure funds (the G1291 fund). It was therefore recommended that Council approve the recommendation for the application development portion to Diamond Technologies of Wilmington, DE in the total amount of \$38,000.

Council Comments:

Ms. Hadden asked why the software was customized. Mr. Brechbuehl explained IT was unable to find anything as comprehensive as the Diamond proposal while meeting the department's needs for activity tracking, case management and mobile access.

Mr. Gifford asked whether others were benchmarked locally. Mr. Brechbuehl said those across the country were benchmarked and found targeted pieces of what Newark was trying to do but not in entirety. The cost comparison was very close.

Mr. Morehead assumed there would be future upgrades and asked when that would be. Mr. Brechbuehl suggested a time frame of three to four years before the first upgrade to the system and assumed there would not be a full rebuild at that time. Mr. Morehead asked if the total pricing of \$38,000 was within the ballpark estimate. Mr.

Brechbuehl said the ballpark amount was \$25,000-\$35,000 which was increased by Police Department upgrades. He felt the total cost was a good deal.

Ms. Hadden asked if equipment upgrades were required. Mr. Brechbuehl said no, the virtual server environment implemented this year was primed and ready to go for this program. It would be running off SQL Express which was free and the police cards in the vehicles were equipped to handle the software. Several mobile devices were available but providing this equipment for all officers would have to be considered down the road.

Mr. Gifford asked who would be able to make software upgrades. Mr. Brechbuehl said Diamond Technologies would be utilized for significant upgrades. However, the City could potentially hire third party contractors to do other work. Activity types could be done in house and day-to-day administration was fully on Newark.

Mr. Ruckle asked if the daily activity of each officer could be tracked for statistical purposes. Mr. Brechbuehl said it could be used for public information but more importantly would be used for evaluating the officers on the force. Captain Feeney explained this provided the ability from both a patrol and a department-wide perspective to provide that information on a grander scale which was not available from current software.

Mr. Markham asked a number of technical questions that were addressed by Mr. Brechbuehl. Regarding the City owning the software Mr. Markham suggested talking to other departments that may have similar needs. Mr. Brechbuehl agreed with that idea.

There was no public comment.

MOTION BY MR. RUCKLE, SECONDED BY MR. MOREHEAD: TO AWARD RFP NO. 14-02, APPLICATION DEVELOPMENT FOR POLICE ACTIVITY TRACKING SYSTEM, TO DIAMOND TECHNOLOGIES OF WILMINGTON, DE IN THE TOTAL AMOUNT OF \$38,000.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

24. 7-C. AMENDMENT FOR CONTRACT NO. 13-13 – CURTIS PAPER MILL REMEDIATION AND PARK CONSTRUCTION

02:51:29

Mr. Emerson presented the recommendation to amend Contract No. 13-13 as outlined in staff's memo dated 10/15/14. During construction unforeseen site conditions were discovered that required plan changes. A significant portion of the change order had to do with the three contaminated sites. As a result Pennoni Associates had to make some design changes and import additional fill material to the site. The condition of the soil was not conducive to using it as the fill so the decision was made to relocate and cap it on site working with DNREC's requirements and bringing in additional fill to suffice for the base. The change order amount totaled \$134,588.55 and the majority of that amount would be reimbursed from the DNREC's Brownfields Remediation Program.

Additionally work on Paper Mill Road had to be modified per DeIDOT's direction. The change order also included some credits to the project. The initial contract amount was \$998,798 and there were three additional early change orders of \$44,318. The present contract amount was for \$1,043,116. Funding sources were detailed in the staff memo. Over \$1.3 million was set aside for the project and this amendment would increase the contract amount to \$1,177,704.55. Mr. Emerson noted that a number of the changes were made in the field consulting with DNREC and DeIDOT and the work had to be done at the time knowing reimbursement would be forthcoming.

Council Comments:

Ms. Hadden thanked Mr. Emerson for his invaluable and tireless work on this project. Mr. Ruckle extended kudos as well.

Mr. Chapman asked whether the additional funds requested would come from the Capital Improvement Program. Mr. Emerson was trying to minimize the City funds spent and noted the funding was complicated and had to be utilized appropriately. However, he

hoped there would be leftover CIP money. Mr. Chapman requested a final accounting update to be presented to Council. Mr. Emerson reported that any remaining remediation funding would go back to the State, the bond bill money would go back to DeIDOT, and the DTF money would go back to the DTF program to be reallocated to another State project. The Capital Improvement Program money would go back to the General Fund.

Mr. Chapman asked what happened to unused funds that were allocated toward a specific project or group of projects. He requested a report that Council could go to of all the projects throughout the year and see the answer to his question. Ms. Houck replied it depended on the money – some went into the reserves, some stayed in the utility fund if it was a capital project funded by utility funds. The non-utility related CIP money goes away unless there is a reason for the project to continue. She would ask Mr. Vitola what could be done throughout the year with projects to provide this information to Council.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: TO APPROVE THE AMENDMENT FOR CONTRACT NO. 13-13 – CURTIS MILL PARK REMEDIATION AND PARK CONSTRUCTION INCREASING THE TOTAL CONTRACT AMOUNT TO \$1,177,704.55.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

25. 7-D. RECOMMENDATION ON THE AWARD OF CONTRACT NO. 14-08 – ARBOUR PARK BOOSTER STATION UPGRADES

03:03:17

Mr. Coleman presented the recommendation for the award of Contract No. 14-08 as detailed in staff's memo dated 10/14/14. The booster station was located between 307 and 309 Dove Drive and provided water service to 43 homes at the top of the hill. The existing booster station was old and in poor condition and only provided domestic potable water service of about 80 gallons per minute at the desired water pressure. It did not provide adequate fire service. The project was in the pipeline since 2008 but was postponed by more pressing projects. The existing five horsepower pump would be replaced with a packaged booster station. By upgrading the pump size to give the needed 500 gallons per minute, the existing backup generator had to be replaced. The existing generator was diesel fuel and it was proposed to switch it to natural gas.

Three bids were received with C & T Associates of Souderton, PA being the low bidder at \$326,250. This was higher than the original engineer's estimate of \$257,000 but some changes were made to the plan after the original estimate was done and the price was considered to be fairly competitive. Funding for the project would come from the Arbour Park Booster Station Project and the Water Tank Maintenance project.

Council Comments:

Mr. Ruckle asked the cost of the Windy Hills water tank painting because he received complaints about the tower. Mr. Coleman replied it was \$515,000 and was a substantial project because the exterior of the tank was lead paint and a full enclosure had to be built for containment on the tank as well as getting easements from neighbors.

Mr. Ruckle asked how many pumping stations were around the City. Mr. Coleman said in addition to this, there was a station at Evergreen and a small station similar to Arbour Park serving Highfield Drive. Those were the only ones that pump directly into a neighborhood. Most of the other stations pump into the system and into tanks. This type of station was only needed when there was not a tank beyond the pump.

Mr. Markham asked if the City would get any credit for the existing generator when it was removed. Mr. Coleman reported it would be kept and used elsewhere.

Mr. Morehead understood in some situations the developer does this work (for example Suburban Plaza) and asked how this happened here. Mr. Coleman explained this development was built out when it was in the County and he was not sure how it turned into the City's pump station. His thought if a neighborhood were to come through

like this today it would come with a similar booster station or some sort of hydro-pneumatic tank with a booster and Newark would take it over.

There was no public comment.

MOTION BY MR. CHAPMAN, SECONDED BY MR. RUCKLE: TO AWARD CONTRACT NO. 14-08, ARBOUR PARK BOOSTER STATION UPGRADES, TO C & T ASSOCIATES OF SOUDERTON, PA IN THE TOTAL AMOUNT OF \$326,250.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

26. 8. FINANCIAL STATEMENT: (*Ending September 30, 2014*)

03:13:01

Mr. Vitola presented the unaudited Financial Statements for the nine months ending 9/30/14. On a Citywide consolidated basis there was an operating surplus of almost \$5.8 million or about \$260,000 lower than the budgeted surplus. This reflected a second consecutive monthly improvement since July. Governmental funds showed strong transfer tax receipts for a third straight month. August and September featured a large number of smaller real estate transactions, a positive sign. Most other major revenue areas including permits, property taxes, park fees, franchise fees and other revenue were all exceeding or close to the budget. Court fines and parking meter revenue continued to lag and would be behind at the end of the year. On the expense side the year to date variance to budget improved to \$367,000 after September's expenses were under budget. The year to date expense variance was driven by legal and contractual expenses in the Legislative Department although that improved over the last two months. There were also higher personnel expenses in the IT, Planning and Legislative Departments. In the Enterprise funds all three utilities were performing well for the first three quarters. Water and Sewer margins both tracked higher than the budget through September. The Electric fund continued to drive the positive revenue variance as it had throughout the year. Mild weather pushed volumes down in July and August in the Electric utility. However September was hotter than usual while the extreme weather in the first two and a half months of the year caused very high usage so the unusual off months carried electric through the weaker summer months. Enterprise fund expenses were tracking right with the budget and were within one tenth of one percent of budgeted expenses. The cash position at the end of September was \$31.3 million which consisted of less than \$100,000 in the Smart Meter accounts, \$10.2 million in Operating Cash and \$21 million in the City's Cash Reserves.

Mr. Vitola then addressed requests made by Council members during previous meetings:

- Mr. Morehead requested showing the cost of the avoidance measures as an attachment to the September Financial Statements – what was shown was how the revenue shortfalls could be overcome related to the Parking and Court fines. This was done through a combination of coming in under budget on certain projects and deferring other projects until funding was available.
- Mr. Gifford asked how the Legislative Department would finish the year. As mentioned earlier the negative variance was improving and legal bills fell to manageable amounts. It appeared the year would be finished with the budget being overspent by \$47,000. Mr. Markham had the same question for the Consolidated 2014 budget – this was still in projection mode and nothing was final but the budget called for a consolidated surplus of just over \$200,000. The year should finish with a \$350,000 total surplus.
- Mr. Markham asked for a recap of why the semi-monthly payroll processing would not be ideal for the City. The problem first surfaced when expenditures were over budget due to processing three payrolls in May. The problem would be overcome by seasonalizing expenses in 2015 (same as done with utility and other irregular revenues). Another suggestion to overcome the problem was to go to 24 semi-monthly payroll periods instead of 26 bi-weekly payroll periods. There were problems there – payroll to fall on the weekday of the month closest to the 15th and closest to the last day of the month makes it difficult for employees trying to time their pay with some of their largest

household expenses. Currently payroll is a two-week cycle which presents a routine regular workload to plan around. Going off cycle would make the timing of the tax payments to the Federal government and states more difficult, would make the workload irregular and more difficult, the direct deposit process to employees would be subject to the irregular timing – some months have 30 days, some have 31 – so hourly employees would be paid different amounts from time to time. February presents a problem. Federal overtime regulations were based on a 40-hour work week so there would still be concurrent tracking of an overtime calendar along with the payroll calendar which would be difficult, it would have to be assured employees were being paid pursuant to their contracts and Federal regulations, and the actual weeks would be bisected by the half month payroll period. There would be a lot of work to track it, reconcile it and comply with overtime rules. While there were some benefits, the administrative costs and the employee and union issues would not be enough to overcome the benefit.

- Mr. Markham asked about a solar renewable energy credit contract with DEMEC. Mr. Vitola reported that terms were being considered that were favorable to the City and DEMEC. DEMEC would produce a draft contract for the City's review and subject to approval by Council and DEMEC's Board. This would be an agenda item as soon as Mr. Vitola has a draft to share. McKees solar park was now operational and generating SRECs. The sale of the SRECs was one of the revenue streams that would help offset and eventually repay the cost of the solar farm. The panels began producing power on 10/9, and the highest peak of 192 kilowatts was on 10/19 with 11,440 Kwh generated as of 10/26, or a savings to the City of \$1,000.
- Council also requested a report on the credit enabled parking meters after each month of operations. September was the first full month of operations and the meters generated a total of \$83,423 which represented an increase of about 32% over last September. The payback analysis and revenue modeling estimated long-term revenue close to 67% higher. He thought the numbers so far were encouraging. The first four months of the pilot revenue was less than \$2,400 on average a month. The next three months it grew to \$2,700, and it grew to over \$3,000 in the last three months.

Council Comments:

Mr. Morehead asked the projected peak at McKees. Mr. Vitola said it was 230 Kwh, so to hit 83% of peak was good for a non-summer day. Mr. Markham added that April and May would most likely have the highest peak days.

Mr. Markham asked whether McKees was registered with PJM to receive credit for SRECs. Mr. Vitola said it was not as they were still in testing mode to get the Internet connection set up. Mr. Markham encouraged that be done as soon as possible. He asked if there was a payoff projection – Mr. Vitola reported the initial projection was early 2017. The initial estimate was December 2016 and staff was layering on the cost of two change orders which would probably push the payback about three months. In addition there were costs related to the launch. Mr. Markham saw it as 16 months or less based on green energy funds, SRECs and cost avoidance. Mr. Vitola noted the CAC allocation funding would be rebuilt so the first \$250,000 of the project had to be rebuilt. Mr. Markham recommended breaking that out separately.

Mr. Markham asked if the raceway improvement dam replacement was at the water treatment plant and Mr. Vitola replied it was.

Mr. Markham asked if the City was at full strength for Parking Enforcement Officers. Ms. Houck said they were and less tickets were being issued with smart meters.

Mr. Markham commented on the cash balance of \$31.3 million and asked what the RSA number was that would have to come out of that \$31 million. Mr. Vitola said close to \$600,000 was being projected but he wanted to wait until the end of the year to calculate the RSA. Mr. Markham thought it sounded like being well above the \$27.5 million target for reserves. Mr. Vitola said the cash projection was in the \$24 million range.

Mr. Markham referenced the Sewer revenue which seemed significantly above budget and asked if it was due to timing with billing from New Castle County. Mr. Vitola said there was an accrual number used while waiting for the bill. Secondly, revenues were part of the reason Water and Sewer revenues looked higher now and the move to monthly billing was accruing revenue dollars more quickly.

Mr. Morehead asked that programs approved by Council be implemented in a timely manner during the next budget year. Mr. Vitola said staff was working to do this to make the budget look realistic. He added there would be a request to amend the 2014 budget because it was heavy on transfer tax revenue and short on parking meter revenue and it was important to have it line up.

Public Comments:

Mr. Morgan, District 1, reported the University issued their payroll on a semi-monthly schedule and said not to fix the City's payroll if it was not broken.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: TO RECEIVE THE SEPTEMBER 30, 2014 FINANCIAL STATEMENTS.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

27. 9. APPROVAL OF CONSENT AGENDA

03:33:01

Mr. Gifford removed item 9-B, Reappointment of Bob Chadwick to the Downtown Newark Partnership, from the agenda.

Ms. Bensley read the Consent Agenda as amended.

A. Receipt of Alderman's Report – October 14, 2014

C. *First Reading* – Bill 14-22 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Establishing Definitions For Types of Council Meetings and Notification Requirements – ***Second Reading* – November 10, 2014**

D. *First Reading* – Bill 14-23 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Permitting a Designee of the City Manager to Administratively Review and Approve Purchases and Contracts Exceeding the Sum of \$5,000.00 But Less Than \$25,000.00 – ***Second Reading* – November 10, 2014**

E. *First Reading* – Bill 14-24 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Updating Management Classification and Establishing the Position of Deputy Chief of Police – ***Second Reading* – November 10, 2014**

MOTION BY MS. HADDEN, SECONDED BY MR. RUCKLE: TO APPROVE THE CONSENT AGENDA AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

28. 9-B. REAPPOINTMENT OF BOB CHADWICK TO THE DOWNTOWN NEWARK PARTNERSHIP FOR A THREE YEAR TERM TO EXPIRE JULY 15, 2017

03:34:55

Mr. Gifford felt Mr. Chadwick's application should be fully completed and a resume attached before being reviewed by Council. During that discussion there might be somebody in the Newark area who could better represent the Chamber on the Downtown Newark Partnership.

Mr. Morehead agreed the application form should be completed if the person was interested in serving. He also believed the applicant should be a City resident and was concerned about a conflict of interest.

Ms. Sierer nominated Mr. Chadwick because he served the DNP for several years and expressed an interest to continue. She felt his service to the DNP was beneficial to the Partnership.

Mr. Chapman asked if the conflict of interest was in reference to anyone from the Chamber of Commerce potentially having a conflict serving on the DNP. Mr. Morehead

stated the purpose of the Chamber was to enhance economic development in the County and he thought there was an opportunity for it to be at cross purposes.

Ms. Sierer added that Mr. Chadwick was part of the Greater Newark Economic Development Partnership so there was a transition for him to move into this position in the past on the DNP.

Mr. Chapman did not give any credit to the argument for conflict of interest. Mr. Gifford asked Mr. Morehead if his objection was because Mr. Chadwick's position on the Chamber of Commerce was paid versus him being a member. Mr. Morehead said yes, he was paid. Mr. Chapman felt it made complete sense to reserve a DNP board member spot for someone from the Chamber. He thought an employee made more sense than a member because their job was to promote economic development and bring businesses into the County. Mr. Morehead was of the opinion that the DNP's purpose was to recommend to Council and to the degree they do not do that he was not in support of promoting other activities. The sole purpose of the DNP was to advise Council and if Council wanted them to do other things they should change the law.

Mr. Markham felt there would be missed opportunities for the City not to be involved with the Chamber and suggested going back to Mr. Chadwick to request him to complete the application and add his resume or bio.

Ms. Sierer withdrew agenda item 9-B until further notice.

29. Meeting adjourned at 10:36 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 October 27, 2014

This evening I will begin with some observations on a proposed reappointment of someone to the Downtown Newark Partnership (DNP). Because this reappointment appears on the Consent Agenda, which is not open to public comment when it will be considered by Council much later tonight, I must make my observations now rather than when you get to the Consent Agenda several hours from now. Hence I shall again express my opinion that appointments to our city's Boards and Commissions should *never* appear on the Consent Agenda, but rather should be separate agenda items of their own, under the heading "Appointments to Boards and Commissions", open to public comment when they are considered by Council, as indeed they were until November 2009.

Unlike some other citizens of Newark, I am not philosophically opposed to the existence of the DNP, which has done much to improve Newark's downtown business district during the past 15 years. I do, however, believe that members of Council and other citizens of Newark should recognize that the interests of some of the members of the DNP, especially those who live far outside our city, are not always aligned with the interests of the residents of the City of Newark.

Our city's code specifies that the membership of the DNP shall include "one representative of the New Castle County Chamber of Commerce or Delaware Chamber of Commerce". From 2007 to 2011 its representative was Ron Walker, the former President of the New Castle County Chamber of Commerce, who has long lived on Kells Avenue here in Newark. Several years ago Ron Walker also served on our city's Town & Gown Commission. Nobody can question Ron Walker's engagement with the governance of our city and his devotion to preserving the health and quality of life of his fellow residents.

In the summer of 2011, after Ron Walker had retired from the New Castle County Chamber of Commerce, his place on the DNP was taken by Bob Chadwick, the Executive Vice-President of the New Castle County Chamber of Commerce. Mr. Chadwick lives in northern Wilmington, about 12 miles outside our city. By itself, this would not greatly concern me. I am concerned, however, with Mr. Chadwick's actions in August 2013 to interfere with the governance of our city by promoting The Data Centers' plans to build a large power plant on UD's STAR Campus, close to residential neighborhoods. I refer you to the attached printouts from Mr. Chadwick's "Greater Newark Network" blog, on which he wrote "a terrific economic development project that will yield numerous benefits to the community (see my blog post of Aug. 22nd) is being challenged by a small handful of people who are spreading misinformation about the project throughout the community". In fact, as became clear in the months thereafter, almost all the misinformation was being spread by TDC and its gullible supporters, including Mr. Chadwick, who in his August 22 blog repeated TDC's unjustified claims about capturing almost all the CO₂ they would produce and using the enormous amounts of steam they would produce for aquaponics and hydroponics, and concluded by saying "Please let your local elected officials, including your State Representative, your State Senator, and your City Councilperson know that you support this important project." Those of you who received a barrage of emails and phone calls in support of TDC's project last year know whom to thank for them. Now that TDC's supposedly "state-of-the art" project has been rejected by the University of Delaware because it "is not consistent with high quality development and a first class science and technology campus" and TDC is being sued by Duffield Associates and Constructure for not paying its accumulated bills amounting to about \$1.3 million, perhaps you can see the humor in the

situation of the leadership of the New Castle County Chamber of Commerce promoting a "billion-dollar project" which turned out to be a high-tech "get-rich-quick" scheme run out of a mailbox in a UPS Store.

On his application form, Mr. Chadwick left several apparently relevant questions unanswered, such as "Explain why you are seeking appointment to this committee."

"Which of your personal or professional skills do you feel will enhance this committee?"

He also did not include the requested resume showing his previous employment history, and as you can see, his recent actions prompt questions about his judgment of proposed development projects for our city.

According to its LinkedIn page, the New Castle County Chamber of Commerce has over 1,400 members. I would like to ask whether anything has been done to ask any of those Chamber of Commerce members who reside in the City of Newark, as opposed to elsewhere in New Castle County, whether they would be willing to serve as the representative of the New Castle County Chamber of Commerce on our city's Downtown Newark Partnership. If not, I would suggest that you not approve Mr. Chadwick's reappointment to the DNP later tonight, and that in the next few weeks you solicit nominations of residents of Newark who are active in the New Castle County Chamber of Commerce to fill this vacancy on the DNP. I hope it is now much clearer that those who serve on our city's Boards and Commissions should put the interests of our city and its citizens first, not the interests of outside developers looking to make several quick megabucks.

I would now like to turn to the reappointment of Mr. David Levandoski to our city's Board of Adjustment, which was approved by a 5-2 vote of Council two weeks ago. I will not repeat the statements I made during that meeting's public comment period to highlight the obvious conflict of interest Mr. Levandoski will again have should there ever be another controversial development project on the STAR Campus, but I will respond now, as I could not two weeks ago, to some of the remarks made by some of the members of Council.

To Councilman Markham's observation that there are many instances of conflicts of interest, I would reply that just as "two wrongs don't make a right", multiple wrongs don't make a right. Conflicts of interest are wrong, so wherever possible they should be avoided. Besides the direct conflict of interest posed by someone voting on a project in which he or his employer has a financial stake, there is also the indirect conflict of interest posed by someone being a member of a board whose other members may vote on a project in which he or his employer has a financial stake. That is why, even though our City's website states that members of the Board of Adjustment "shall have knowledge and experience in urban and rural development problems", owners and employees of property development companies doing business in the City of Newark have not been appointed to our city's Board of Adjustment, even though they could and probably would recuse themselves when one of their own development projects was considered by the Board. We don't want to have even the appearance of the classic "if you scratch my back, I'll scratch yours" exchange of favors involving various developers and their employees taking turns to approve one another's projects.

Furthermore, in response to Councilwoman Hadden's remarks about her personal interview of Mr. Levandoski, I would observe that although it's good that she made the extra effort to ask him some pertinent questions, it would have been even better if Mr. Levandoski had appeared before Council to answer these

questions in public. Especially after all that has happened in the past couple of years, the citizens of Newark deserve an opportunity to hear for themselves about Mr. Levandoski's involvement with TDC's project in 2011 and 2012 and early 2013, when it was still being kept secret from them. Moreover, some of the questions which I posed two weeks ago remain unanswered, such as whether Mr. Levandoski disclosed to Mayor Funk his own involvement with TDC's power plant project and UD's lease agreement with TDC when Mayor Funk nominated him to our city's Board of Adjustment in January 2013.

All human beings make mistakes, and it's especially easy to make mistakes when one is physically and mentally exhausted, after a long and tiring day followed by 5 hours of a Council meeting which has dragged on past midnight. If any members of Council are now having second thoughts about how they voted two weeks ago, I have some good news for you. You should soon have a chance to reconsider your vote, since Council's vote to approve Mr. Levandoski's reappointment to the Board of Adjustment for only a 3-year term was actually *illegal*. According to the law of the State of Delaware, Title 22, Section 322(b), and our city's Municipal Code, Section 32-65 (copies attached), appointments to the Board of Adjustment shall be "**for a full term of four years**". This same mistake was made last autumn, when Mr. Curtis Bedford was appointed to the Board of Adjustment for only a 3-year term at the Council meeting on October 14, 2013, and this error was corrected by amending the term of his appointment to 4 years at the Council meeting on December 9, 2013. Now something similar will have to be done yet again.

I hope it is becoming increasingly clear that appointments to Boards and Commissions should not be viewed as routine and uncontroversial matters which can safely be approved without discussion on a Consent Agenda. This is especially true of the Board of Adjustment, which exercises a quasi-judicial role, sometimes involving projects worth tens or even hundreds of millions of dollars. Unlike other boards and commissions, which merely make recommendations to Council, the Board of Adjustment makes legally binding decisions, which cannot be appealed to Council, but rather can be appealed only to the Superior Court of the State of Delaware. Hence it is especially important that appointments to this board be carefully scrutinized and thoughtfully discussed by all members of Council, with plenty of opportunity for input by the citizens of Newark.

I have sometimes heard that it is difficult to find suitably qualified people who are willing to serve on the Board of Adjustment. Hence I would direct your attention to the little-known provision in both the Delaware Code and our city's Municipal Code that "each member of the board shall be entitled to compensation in consideration for his services as determined by council". The staff in our city's Planning Department and its legal counsel (typically Mr. Bruce Herron) are paid for the time they spend in preparing documents for variances and appeals and then attending meetings of the Board of Adjustment, so it would seem only fair that the hard-working members of the Board of Adjustment should also be paid for their time.

I would also observe that much more could be done to solicit nominations from the citizens of Newark for service not only on the Board of Adjustment, but also on other boards and commissions. Several times each year, I receive email messages from the City of Newark containing the "Municipal Newsletter", the "City E-News", and the "Parks & Recreation Activity Guide", and on October 14, less than 2 weeks ago, I received from the City an invitation to the "Mayor's Masquerade Fun Run/Walk". Surely it should be possible for the City staff to send all the citizens on their email list a notice that several terms on the city's Boards and Commissions will soon be expiring, and asking for nominations of good people to serve on them. That would be a very good way of promoting the engagement of many more citizens of Newark in the governance of our city.