

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**December 8, 2014**

Those present at 5:30 p.m.:

Presiding: Mayor Polly Sierer  
District 1, Mark Morehead  
District 2, Todd Ruckle (arrived at 6:00 p.m.)  
District 3, Rob Gifford  
District 4, Margrit Hadden  
District 5, Luke Chapman  
District 6, A. Stuart Markham (arrived at 5:35 p.m.)

Staff Members: City Manager Carol Houck  
City Secretary Renee Bensley  
City Solicitor Bruce Herron  
Deputy City Manager Andrew Haines  
Finance Director Lou Vitola  
Planning & Development Director Maureen Feeney Roser  
Planning & Development Planner Ricky Nietubicz  
Planning & Development Supervisor Michael Fortner  
Public Works & Water Resources Director Tom Coleman

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**EXECUTIVE SESSIONS**

- A.** Executive Session pursuant to 29 Del. C. §10004 (b)(4) for the purpose of a strategy session with respect to collective bargaining. (Potential employee benefits)
- B.** Executive Session pursuant to 29 Del. C. §10004 (b)(4) for the purpose of a strategy session involving legal advice from an attorney-at-law regarding potential litigation. (City of Newark-EDG agreement of sale)
- C.** Executive Session pursuant to 29 Del. C. §10004 (b)(2) for the purpose of discussions on site acquisitions for publicly funded capital improvements.

Council entered into Executive Session at 5:30 p.m. and returned to the table at 6:52 p.m.

MOTION BY MR. MOREHEAD, SECONDED BY MR. GIFFORD: THAT THE CITY RETAIN MARK DUNKLE FROM THE LAW FIRM OF PARKOWSKI, GUERKE AND SWAYZE, P.A. TO ASSIST IN POTENTIAL LAND ACQUISITION.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

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

2. **WILMAPCO REGIONAL TRANSPORTATION PLAN UPDATE PRESENTATION**

Heather Dunigan presented the Regional Transportation Plan Update for WILMAPCO to Council. She gave an overview of WILMAPCO's structure, charge and the Transportation Plan. The current plan will expire in March and WILMAPCO is expected to approve the update of the plan at its January meeting.

WILMAPCO has seen some successes over the past four years, including a reduction in crashes, improvement in air quality, greater EZ-Pass enrollment, and a 76%

positive rating as to whether the transportation system meets residents' needs, up from 67%. There are also challenges including meeting the transportation needs of the expected 75% increase in residents age 65+ in the region by 2040 and the increased rates of vehicle miles and freight tonnage at a higher rate than the increase of population.

Driving is still the primary means of travel at 60% for Newark and 80% for the region, but Newark's numbers show that if other transportation options are available, it makes a difference.

Public opinion survey asked where future development should go and 71% of respondents said it should go to existing communities such as Newark.

Funding is a large challenge for the future. There is a long list of projects, but funding is on the decline in New Castle County. Cecil County has a better funding picture, as Maryland approved a series of transportation fee and gas tax increases last year which provides greater predictability for future funding for them.

The plan has three goals with objectives tied to those goals, which focus on achievable actions. These goals include:

1. Supporting sustainable economic development and goods movement
  - a. Maximizing investments
  - b. Developing effective transportation networks
  - c. Planning for energy security and climate change
2. Efficiently transporting people
  - a. Improving system performance
  - b. Promoting accessibility and connectivity
  - c. Engaging the public via an open involvement process
3. Improving quality of life
  - a. Protecting public health and safety
  - b. Promoting active transportation
  - c. Preserving natural and cultural resources
  - d. Ensuring transportation choice and equity

Proposed projects in the Newark area that WILMAPCO expects can be afforded in the short and medium term include:

- Short term (2015-2020)
  - Newark Regional Transportation Center (Train station) Phase I
  - SR4, SR2, to SR896 eastbound improvements
- Medium term (2021-2030)
  - Newark Regional Transportation Center (Train station) Phase II – would allow for the extension of MARC service
  - SR4, SR2 to SR896 westbound improvements

There are no long term projects currently proposed for New Castle County. There is a long list of unfunded projects including the Newark Transportation Plan (except for the train station), the Newark Bicycle Plan and the extension of regional rail access between Newark and Elkton. Comments on the draft plan are being accepted by WILMAPCO until January 5<sup>th</sup>.

Mr. Markham asked what population was covered in the survey where the question regarding needs being met well was asked. Ms. Dunigan stated she believed it was about 1500 people across Cecil and New Castle Counties. Mr. Markham asked to see the breakout of New Castle County, which Ms. Dunigan said she would provide.

Mr. Morehead thanked Ms. Dunigan for her presentation and asked if there were bicycle and pedestrian safety statistics being gathered as well as vehicular crashes. Ms. Dunigan stated that those statistics were also gathered and included and reduction of bicycle and pedestrian related crashes was also a goal of WILMAPCO. The addition of performance measures and hard data is one of the major changes and improvements in the updated plan.

Mr. Morehead asked in reference to energy security and safety, is WILMAPCO looking at the types of products being transported. Ms. Dunigan confirmed that they were and that a freight study is currently underway and greater protections are being reviewed.

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

**A. Public**

**23:05**

John Morgan, District 1, distributed a correction to the November 10 minutes and spoke on the proposed water rate increase. He disagreed with changing the City's charter requirement to incur debt by referendum and the parking garage. (Comments attached)

4. Chris Castillo, West Main Street, appreciated assistance provided to him by the City Manager.

5. Amy Roe, District 4, noted a December 4<sup>th</sup> Wall Street Journal article about oil trains that featured Newark. On the issue of the Rules of Procedure and the removal of a member of the public at the last Council meeting, Ms. Roe read a section of Attorney General opinion 04-IV15 written in September 2004.

6. Helga Huntley, District 1, spoke regarding mutual respect between Council and residents and disagreed with the ejection of Mr. Zingarelli at the November 24<sup>th</sup> meeting.

7. Brett Zingarelli, District 4, appreciated the rules that were read tonight, but believed they had been changed. Mr. Zingarelli asked for a public apology and believed his rights were violated.

8. Dan Beaver, District 4, asked for the contractual obligation to union employees in the City. Ms. Houck stated that the union agreements approved by Mayor and Council provide the required raises. Mr. Beaver disagreed with the ejection of Mr. Zingarelli at the November 24<sup>th</sup> meeting.

9. Eric Boye, greater Newark, asked for a public apology to Mr. Zingarelli and more details on the contractual obligations to City staff regarding salary increases. Ms. Houck stated that each union has its own contractual increase amount and the recommended increase for management is 3%. Mr. Boye apologized to Mr. Vitola for comments made at the November 24<sup>th</sup> meeting and made additional comments regarding the budget.

10. Donna Means, District 5, apologized for conduct at previous meetings and discussed traffic congestion on 896/New London Road and the incomplete bike lane due to cars parking on the side of the street. She expressed concern regarding the treatment of businesses in the Newark Shopping Center.

Mr. Chapman stated that prior homes were allowed to park with a permit on New London Road and that he is working on the process to remove the permits from Corbit up to the light. Mr. Markham reported the shopping center was in his district and would e-mail Ms. Means regarding her concerns.

11. Tom Uffner, District 1, disagreed with Ms. Sierer's remarks at the last meeting.

12. **1-B. ELECTED OFFICIALS:** None

13. **1-C. UNIVERSITY**

**56:59**

(1) Administration – Rick Deadwyler, University of Delaware Government Relations, introduced Alan Brangman, Vice President of Facilities, Real Estate and Auxillary Services, for a presentation on the STAR Campus vision and master plan.

Mr. Brangman stated that comments and concerns can be accepted at [STAR@facilities.udel.edu](mailto:STAR@facilities.udel.edu). The master plan has been revised since the original plan in 2011, but the underlying goals remain the same, including the same types of disciplines and the enabling of infrastructure to build out the site. The timeframe for full build out of the northeast corridor of the site near the train station and the College of Health Sciences

is not in the near term. UD and Newark are the “center of the universe” along the I-95 corridor between New York City and Washington, DC. There will be “green corridors” within the STAR Campus to allow for walkability and green space. The campus will be developed in a grid fashion to allow for a more urban feel and personal interaction. There is other potential development, but that is further out in the future so successful projects can build upon each other. The water tower will be retained and a major stormwater management facility is being constructed with the hope of daylighting Silverbrook. Retail and a park-and-ride would be near the train station and a Marriott and conference center may be moved to STAR Campus. The entire campus will have dedicated bike lanes and walking paths. The STAR Campus vision book and draft master plan can be found on their website at [www.udel.edu/star/downloads/14\\_1024\\_visionbook\\_screen.pdf](http://www.udel.edu/star/downloads/14_1024_visionbook_screen.pdf) and [www.udel.edu/star/downloads/14\\_1024\\_masterplan\\_book\\_screen.pdf](http://www.udel.edu/star/downloads/14_1024_masterplan_book_screen.pdf).

14. 1-C-2. **STUDENT BODY REPRESENTATIVE**: None

15. 1-D. **LOBBYIST**: None

16. 1-E. **CITY MANAGER**

**01:07:47**

Ms. Houck noted there is a tremendous amount of information uploaded to Budget Central on the website. Snow Central has also been created on the website, which includes the plan discussed at a previous Council meeting.

17. 1-F. **COUNCIL MEMBERS**

**01:08:25**

**Mr. Gifford**

- Reminded people of the December 15<sup>th</sup> budget meeting and invited comments.
- Complimented the City on Winterfest.

**Ms. Hadden**

- Held a town hall at Pat’s last week and will e-mail answers to questions received soon.
- Conducting a poll for District 4 residents regarding items in the budget.
- Attended the Design Committee meeting and City employee thank you luncheon.
- Worked on several constituent issues.

**Mr. Markham**: None

**Mr. Morehead**

- Welcomed members of the public.
- Regarding the November 24<sup>th</sup> meeting, Mr. Morehead requested the note from Mr. Zingarelli and apologized to Ms. Sierer.
- Asked for budget comments from residents.

**Mr. Ruckle**

- Thanked staff for hard work.
- Requested follow up on the fence issue from the November 24<sup>th</sup> meeting. Ms. Feeney Roser stated that research was completed and she is working with the City Solicitor on an item for future Council consideration.

**Mr. Chapman**: None

**Ms. Sierer**: None

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

19. 3. **SPECIAL DEPARTMENTAL REPORTS**:

A. Special Reports from Manager & Staff

1. Selection of the Next Council Comprehensive Plan Workshop Date – Director of Legislative Services

**01:13:20**

Ms. Bensley stated that a new date for the next Comprehensive Plan workshop needed to be set by Council and reviewed possible dates. Council agreed to reserve both Monday, January 5 and Monday, February 2 at 6:00 p.m.

**20. 3A2. AMENDMENT TO THE 40<sup>TH</sup> YEAR COMMUNITY DEVELOPMENT BLOCK GRANT AWARDS FOR JULY 1, 2014 TO JUNE 30, 2015 – PLANNING AND DEVELOPMENT DEPARTMENT**

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**01:15:13**

Ms. Sierer announced that she would recuse herself from the discussion since she was involved with some of the agencies requesting funding and left the room. Deputy Mayor Markham assumed the role of meeting chair.

Mr. Nietubicz gave an overview of the Community Development Block Grant and Revenue Sharing programs and their histories. Reallocation of surplus funds is being proposed as follows:

- Reduce Façade Improvement Program by \$660.00
- Reduce Home Buyer Incentive Program by \$20,000.00
- Reduce Parks & Recreation Equipment by \$11,599.92
- Reduce Homeward Bound Operational Supplies by \$10,300.00
- Reduce Program Administration by \$50,000.00
- Increase Newark Day Nursery Daycare by \$10,000.00\*
- Increase Newark Energy Watch Program by \$10,000.00\*
- Increase Senior Home Repair Program by \$27,500.00
- Increase Youth Beautification Corps by \$500.00\*
- Increase City of Newark ADA Ramps by \$40,559.92
- Increase Reading ASSIST by \$4,000.00\*

The Planning & Development Department is working with New Castle County to determine regulatory status of re-allocating funds among “public services” programs and new recipients.

**Council Comments:**

Mr. Morehead asked for confirmation that this would reallocation funds from previous year that have not been used. Mr. Nietubicz confirmed that was the case, that the Façade Improvement Program is not administered by the DNP, but does target Main Street businesses, and that the Home Improvement Program and the POOH Program are two separate programs.

Mr. Ruckle asked how much a first time homebuyer could receive through the Home Buyer Incentive Program. Mr. Nietubicz confirmed that it was \$5,000, that the recommendation would be to have enough for two loans (\$10,000 total) and did not anticipate higher demand than that. Mr. Ruckle felt the program not well known in the industry and that two loans did not seem like a lot. Mr. Nietubicz welcomed ideas for better marketing the program.

Ms. Hadden asked for clarification of the division of public service funds versus non-public service funds. Mr. Nietubicz confirmed that non-public service funds would stay in that category, but that the City is requesting permission for some public service funds to be allocated to non-public service programs.

**Public Comment:**

Donna Means, District 5, asked how neighborhoods could request access to the equipment funds for their local parks. Mr. Nietubicz indicated that the area has to meet income qualifications, Parks and Recreation would fill out the application in June and it would then be reviewed by the Committee and forwarded for Council consideration.

Tom Uffner, District 1, asked for information about the program administration line item. Mr. Nietubicz stated that the line covered staff overhead, including a portion of the Planner position in the Planning & Development Department and necessary advertising and overhead expenses.

Seeing no other comments, the discussion was brought back to the table.

Mr. Markham indicated that Council has the right to make modifications to the proposal presented.

Mr. Gifford clarified that the total amount for the Community Development Block Grant Program was \$396,291.36 and that the items discussed this evening were just part of that total and that the program administration costs were a small part of the larger total.

MOTION BY MS. HADDEN, SECONDED BY MR. GIFFORD: TO APPROVE THE AMENDMENT TO THE 40<sup>TH</sup> YEAR COMMUNITY DEVELOPMENT BLOCK GRANT AWARDS FOR JULY 1, 2014 TO JUNE 30, 2015.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Recuse: Sierer.

**21. 3A3. 41<sup>ST</sup> YEAR COMMUNITY DEVELOPMENT BLOCK GRANT RECOMMENDATIONS FOR JULY 1, 2015-JUNE 30, 2016 AND 2015 REVENUE SHARING RECOMMENDATIONS FOR JANUARY 1-DECEMBER 31, 2015 – PLANNING & DEVELOPMENT DEPARTMENT**

**01:33:06**

Mr. Nietubicz reviewed the recommendations for the 41<sup>st</sup> year Community Development Block Grant and 2015 Revenue Sharing programs. These recommended allocations included:

- Community Development Block Grant – Public Service Agency
  - Newark Day Nursery Daycare Scholarships – \$25,000.00
  - Parks Department Fee Assistance – \$1,000.00
  - Parks Department Youth Beautification Corps – \$6,690.00
  - Parks Department Dickey Park Programs – \$4,810.00
- Community Development Block Grant – Non-Public Service
  - Newark Senior Center Senior Home Repair Program – \$40,000.00
  - Newark Senior Center Newark Energy Watch Program – \$20,000.00
  - Newark Public Works Department ADA Curb Ramps – \$45,000.00
  - Newark Housing Authority Housing Improvements – \$35,000.00
  - Newark Planning Department Program Administration – \$40,000.00
  - Newark Planning Department Home Improvement Program – \$32,500.00
- Revenue Sharing
  - Newark Senior Center Meals on Wheels – \$23,284.00
  - Newark Arts Alliance Camp Imagine – \$2,000.00
  - Newark Area Welfare Committee Emergency Cash – \$8,000.00
  - Lutheran Community Services Main Towers Groceries for Seniors – \$3,500.00
  - Delaware Guidance Services for Children and Youth Outpatient Mental Health Treatment – \$5,000.00
  - Chimes of Delaware Medical Expenses Program – \$5,500.00
  - Hope Dining Room Operating Expenses – \$3,000.00
  - Newark Symphony Orchestra February Concert and Instrument Petting Zoo – \$1,000.00
  - Mid Atlantic Ballet Scholarships – \$1,500.00
  - PAWS for People Eldercare Program – \$2,500.00
  - YWCA Financial Literacy and Homeownership Counseling – \$4,000.00
  - Newark Bike Project Youth Empowerment Program – \$4,000.00

The floor was opened to questions from Council. Seeing no comments from Council, the floor was opened to the public. There being no further comments, the discussion was returned to the table.

MOTION BY MR. MOREHEAD, SECONDED BY MS. HADDEN: THAT THE 41<sup>ST</sup> YEAR (JULY 1, 2015 – JUNE 30, 2016) COMMUNITY DEVELOPMENT BLOCK

GRANT AND 2015 (JANUARY 1, 2015 – DECEMBER 31, 2015) REVENUE SHARING PROGRAM RECOMMENDATIONS BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Recuse: Sierer.

**22. 3A4. RATIFICATION OF THE SREC ENVIRONMENTAL ATTRIBUTE PURCHASE AGREEMENT – FINANCE DIRECTOR**

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**01:41:35**

Ms. Sierer resumed chairing the meeting.

Mr. Vitola reviewed the funding structure for McKees Solar Park, which included donations from the public, Delaware Green Energy Funds, avoided costs of power, and sale of SRECs. The agreement before Council is for the sale of SRECs to DEMEC at the rate of \$50 per SREC for 20 years. This is judged to be a reasonable amount based on the recent State of Delaware auction results, which produced approximately \$35 per SREC, making the DEMEC offer currently above market. The Pennsylvania market is at about \$40 per SREC, but that would provide additional administrative costs. The New Jersey market is a closed market. DEMEC is seen as an ideal partner as they are able to provide staff expertise that the City does not have and has been the City's partner throughout the McKees Solar Park project. Mr. Vitola recommended that Council approve the SREC purchase contract as proposed.

The floor was opened to questions from Council. Seeing no comments from Council, the floor was opened to the public.

**Public Comment:**

Amy Roe, District 4, reviewed a previous agreement between the City and DEMEC regarding renewable energy credits, the compliance requirements for the Renewable Portfolio standards, the expected proportion of required energy produced by McKees Solar Park, disagreed with the SREC pricing presented, felt that the City should keep SRECs generated or buy them on the market cheaper while selling the City's SRECs more expensively.

Mr. Markham asked Scott Lynch, Energy Services Manager for DEMEC to respond to Ms. Roe's comments on the SREC pricing. Mr. Lynch stated that DEMEC was charged with managing the municipal RPS and made long-term contracts to be able to step into the RPS in 2005 at the level needed. The amount of renewable energy required has increased yearly since 2005. Long term contracts of 20 years have been the DEMEC standard for municipally owned facilities. There are five year projections for compliance, however, the contracts are for 20 years. DEMEC will not be stepping away from their commitment after the five years. Long term pricing has been very volatile and caused some of the McKees project delays. When DEMEC stepped in to assist, it also stated that it would purchase the SRECs from the project and would give price stability for the future. The market varies, but the only market for SRECs in Delaware is the state auction. The 2014 state auction produced a \$98 SREC price for one project because there were not enough participants in the auction. The 2013 auction, which had competitive bidding produced an average price of around \$50. The long term price for 13 years was \$50. DEMEC agreed to that price and came to Council with that offer to give price reliability. The market could go up or down violently. The Pennsylvania market is sub \$50. DEMEC has made an offer and it is up to Council as to whether or not to accept it. Purchased SRECs would go into a bank to be used as needed for all DEMEC members.

Mr. Morehead asked if DEMEC was not for profit, which Mr. Lynch confirmed. Mr. Morehead asked if any profits made would eventually come back to Newark via its DEMEC participation, which Mr. Lynch also confirmed. Mr. Lynch stated that they have a similar deal with the University to purchase SRECs, which they use for scholarship funds.

Mr. Gifford asked what the SREC retirement process was. Mr. Lynch stated that they monitor the SREC account and transfer SRECs quarterly to DEMEC and cut a check to the City. DEMEC then determines monthly what is the SREC requirement for all members, go to the total portfolio and transfer/retire the oldest SRECs first so they are not lost through expiration.

Mr. Morehead asked if the City was compliant with the Renewable Portfolio Standards. Mr. Vitola stated that DEMEC has Newark and all member communities on track for compliance. Mr. Lynch stated there are projections for the number of SRECs for later years and that the first five years are covered. DEMEC is working on fulfilling the needs for the out years, rebalancing as needed and looking for ways to have the lowest compliance cost.

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

Mr. Markham asked for confirmation that DEMEC will buy 100% of the SRECs regardless of the amount. Mr. Vitola stated that 100% of the SRECs generated by McKees Solar Park would be purchased by DEMEC. Mr. Markham stated that by having DEMEC buy the SRECs, other DEMEC municipalities are helping to fund McKees.

Mr. Gifford asked that Ms. Roe be recognized for a follow up question. Ms. Roe felt Mr. Lynch contradicted himself regarding the length of the contracts and asked for clarification on the length and the price of the SRECs in the contract. Mr. Vitola reviewed the potential market risk and the staffing that would be needed to administer the SRECs in house. Mr. Lynch stated there are not five year contracts, only 20 year contracts which have a five year plan mirroring the State's planning structure. DEMEC wanted to give individual municipalities the opportunity to have solar if so desired and are trying to give a fair, reliable price.

Mr. Markham gave some history of the SREC market and its volatility. The goal was for steady income and equity between DEMEC and the City. The SRECs also go into the Renewable Energy Portfolio for the City.

MOTION BY MR. MARKHAM, SECONDED BY MOREHEAD: THAT COUNCIL APPROVE THE ENVIRONMENTAL ATTRIBUTE PURCHASE AGREEMENT BETWEEN THE CITY OF NEWARK AND DELAWARE MUNICIPAL ELECTRIC CORPORATION, INC.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay: 0.

**23. 4. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

**A. Bill 14-26 – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Adding a Definition For and Criteria to Operate No Impact Home Businesses**

**02:16:59**

Mr. Morehead recused himself from the discussion as he felt it had the potential to directly impact him and left the room.

Ms. Bensley read the bill by title.

MOTION BY MR. GIFFORD, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL NO. 14-26.

Ms. Feeney Roser reviewed the bill which would permit home businesses that have no impact on the surrounding community without requiring special use permits. The current regulations and benefits of home businesses were reviewed. The proposed resolution would be to create a definition of a "No Impact Home Business," require standards that enforce the business to have no impact on residential character, traffic, hazards or nuisances, and establish an application and affidavit. The bill would create a definition in Section 32-4(a) of the Code and would amend Sections 32-9(a), 32-10(a), 32-11(a), 32-12(a), 32-13(a), 32-13.1(a) and 32-13.3(a) to add the standards amendment.

The Planning Commission reviewed the bill at its September and October meetings, contributed feedback which was incorporated and recommended unanimously to approve the recommendation to Council.

Mr. Markham clarified that applicants for no impact uses would no longer have to come before Council, which Ms. Feeney Roser confirmed. Mr. Markham asked if a home business would have an NAICS code as asked on the application. Ms. Feeney Roser stated that not all businesses would but that the Planning Commission wanted it included to help classify businesses and the Planning Department is prepared to assist applicants in filling out the form.

Mr. Ruckle asked if someone like an architect would be considered a no impact business. Ms. Feeney Roser stated that if an architect did not have clients visiting the home, they would qualify, but if clients were visiting the home, they would not.

Mr. Gifford asked how much a business license costs. Ms. Feeney Roser stated that it varies based on types of businesses. Mr. Vitola stated that home based businesses are usually between \$50 and \$100. Mr. Gifford asked what the benefit of coming forward is. Ms. Feeney Roser stated that some business are required by other entities to have a license. Mr. Gifford asked if a big revenue boost is expected, which Ms. Feeney Roser stated there was not. Mr. Gifford asked what the penalty is for no license. Ms. Feeney Roser stated that they would then just be required to get a business license and cease and desist until they get one.

Ms. Hadden commented that sometimes professional conferences related to various fields require business licenses for discounts.

**Public Comment:**

John Morgan, District 1, supported the bill and asked if immediate neighbors would be alerted. Ms. Feeney Roser stated that the ordinance in its current form would make it a permitted use, so there would be no notification requirement.

Amy Roe, District 4, asked for clarification on the meaning of “incidental and subordinate.”

Helga Huntley, District 1, suggested providing an appeals process and taking out the last sentence of amendment 1.

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

Mr. Markham asked if the appeals process had been considered. Ms. Feeney Roser stated that upon receipt of a complaint, the City would inspect the property in question and if an issue was found, the business license would be revoked until such time that the business applied for a special use permit, which would come before Council. Mr. Markham asked how that decision would be made. Ms. Feeney Roser stated that a violation notice would be sent and there would be an administrative hearing through the Alderman’s Court. If the Court revoked the license, the business would then have to apply for a special use permit. Mr. Markham asked about the comment regarding the subset of businesses. Ms. Feeney Roser stated that line was added by the Planning Commission and if Council wanted to remove it, there was no objection.

Ms. Hadden stated that sentence could start with “Examples of no impact home businesses may include...” Ms. Feeney Roser felt that was acceptable.

Mr. Gifford asked if the Planning Commission had any comment on the “incidental and subordinate” issue. Ms. Feeney Roser stated that the Commission had no comments on that issue.

**MOTION BY MS. HADDEN, SECONDED BY MR. RUCKLE: THAT AMENDMENT #1 OF BILL 14-26 BE AMENDED TO ADD “EXAMPLES OF” TO THE BEGINNING OF THE LAST SENTENCE.**

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Recuse: Morehead.

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: THAT BILL 14-26 BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Recuse: Morehead.

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

- A. Request of Assadollah Pirestani For the Major Subdivision of 1.774 Acres to Extinguish the Lot Line Between Two Existing Parcels and Subdivide to Create Four Single Family RS Zoned Lots, One of Which Will Contain the Existing Home at the Property Located at 305 Capitol Trail (**Resolution and Agreement Included**)

**02:39:17**

Ms. Bensley read the project title into the record.

Mr. Richard Forsten, Esq., representing the applicant Moe Pirestani, presented the project located at 305 Capitol Trail which would take two existing lots along Capitol Trail and creating four lots. The existing lots total approximately 1.77 acres. There is an existing house along Capitol Trail. A private road would be created to service the three lots at the back of the property. This plan complies with the zoning and Comprehensive Plan requirements and the Planning Commission voted 5-0 to recommend the application. The Planning Commission received approximately 60 letters of support and no letters of opposition. There were some residents who oppose the project, however, in Mr. Forsten's view, it does comply with the Code. Mr. Joseph Charma, Landmark Science & Engineering was also available for questions.

**Council Comments:**

Mr. Ruckle was concerned about the access road not being completed and requested assurances from the developer that it would be. Mr. Forsten stated that the applicant would be happy to add to the agreement that the private right-of-way be constructed in full before the issuance of the first Certificate of Occupancy.

Ms. Hadden asked if the private right-of-way could be guaranteed to be maintained. Mr. Forsten stated there would be a homeowner's association tasked to maintain the private right-of-way and there would be a legal mechanism to require compliance and participation.

Mr. Morehead asked for confirmation that the City would not be doing trash pickup along that road, which Mr. Forsten confirmed that it would be private trash pickup or City trash pickup from Capitol Trail and that the City would not be responsible for plowing

Mr. Gifford asked if the last driveway was considered part of the turnaround area at the end of the road. Mr. Charma stated that the end of the driveway is large enough to accommodate a turnaround, meets the State standards for width and radii for a K-turn and was approved by Code Enforcement.

Mr. Gifford asked if the potential buyers will fully understand how much maintenance will be required, how the developer plans to relay that and how the City can ensure that it does not eventually have to be responsible for repairs. Mr. Charma stated that grinder pumps will be enumerated in their deeds and will need to be informed of what the buyers' individual and HOA responsibilities are, but it is buyer beware that it is a private system. Mr. Forsten stated there is also a disclosure requirement under Delaware law that has to be provided to buyers.

Mr. Gifford asked if there had been any consideration to having one fewer lot and a community stormwater retention facility. Mr. Charma stated that the traditional retention facility has gone to the wayside and subsurface infiltration is the preferred method.

Mr. Gifford asked what was found in the soil testing. Mr. Charma stated that soil borings showed that the higher borings showed better infiltration and the lower borings showed poorer infiltration and the systems will be designed accordingly, which will mean a larger facility for areas with poorer infiltration.

Ms. Hadden asked if the existing homes have these systems in place. Mr. Charma indicated that Laura's Glen has a stormwater management pond. Ms. Hadden asked if the existing homes have flooding issues. Mr. Charma could not speak to that but did not expect to exacerbate any existing conditions.

Mr. Markham asked Mr. Herron to confirm this was a by right plan, which Mr. Herron confirmed that it was and Council's discretion was limited to reasonable conditions to prevent negative effects on nearby residents. Mr. Markham was concerned with stormwater runoff and requested that the stormwater system be in place before the first building permit is issued. He felt it was a reasonable request to have the road in with its stormwater management and the other plans be in place before the issuance of a building permit. Mr. Charma stated that as soon as pavement is in, the runoff has to be managed and that systems have to be inspected and in place before the Certificate of Occupancy is issued. Mr. Forsten stated that there are logistical issues to be considered. Mr. Charma stated that the condition is reasonable. Mr. Markham felt the configuration setup was odd, which Mr. Charma stated was a result of Laura's Glen. Mr. Markham was concerned that if the stormwater system was not in, that Laura's Glen would not be able to handle the additional runoff.

Mr. Morehead asked if there is a limit to the amount of stormwater required to be retained. Mr. Charma stated that the system is required to deal with a 100-year storm, but above that, there is no parameter.

#### **Public Comments:**

Annalee Cloud, Stafford, supported the project and believed Mr. Pirestani has the right to use his property within the law.

Kathy Melcher, read two letters written by Russ Wagner, 313 Capitol Trail and Alberina Ziemba, 111 Trout Stream, both supporting the project.

Lee Rose, Lumbrook, supported the project and believed Mr. Pirestani has the right to use his property within the law.

Michelle McCandless, District 2, supported the project and believed Mr. Pirestani has the right to use his property within the law.

Stan Tucker, 309 Capitol Trail, felt that there were health, safety and welfare concerns with this project, did not agree with the characterization that this was a zero runoff project, disagreed with the stormwater management plans, felt no more than two homes should be built to allow for more vegetative control, questioned the ability of the applicant to develop the property and was concerned about greater flooding issues.

Dianne Akins, District 2 (Laura's Glen), stated that her sump pump is constantly running due to runoff issues and relayed Laura's Glen's experience with relying on a homeowner's association for maintenance

Dr. Wilson, District 2, supported the project and believed Mr. Pirestani has the right to use his property within the law.

Gail Gianetti, Trout Stream Drive, stated her concern about flooding due to the proximity to the floodplain and is against the project.

Brett Zingarelli, District 4, felt Mr. Pirestani has the right to use his property within the law and was concerned about fire trucks being able to turn around within a driveway, if the driveway can handle the weight of the fire truck and if snow removal is a requirement of the homeowners' association.

Al Lawler, 301 Capitol Trail, thought that Laura's Glen was supposed to have its ground water problem taken care of by its developer and supported the development of the proposed project.

Eric Boye, greater Newark, felt Mr. Pirestani has the right to use his property within the law and discussed the City's storm water drainage repair issue and if it might have a positive impact on the affected area.

John Morgan, District 1, felt Mr. Pirestani has the right to use his property within the law if it doesn't have a negative impact on neighbors or the community and would like people to think carefully about storm water effects in approving development.

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

Mr. Ruckle thanked all his constituents who came out tonight.

Mr. Chapman asked for clarification regarding whether the plan is legal with four proposed homes including existing structure. Ms. Feeney Roser said four lots total are allowed in RS zoning. Mr. Chapman asked the status of the stormwater management system. Mr. Coleman stated that the details are not finalized. Mr. Chapman asked for clarity on the legal requirements. Mr. Coleman stated that some of the ability to construct the facilities is going to be dependent on construction staging and the stormwater facility would need to be fully in place by the issuance of the last Certificate of Occupancy. The stormwater under the right of way could go in first and then the facilities on the individual lots. Mr. Chapman asked how the water needing to be managed would be calculated. Mr. Coleman stated that the developer would do modeling of the existing conditions to give a predevelopment runoff rate and volume to determine what management would be needed.

Mr. Chapman asked the applicant if the installation of the stormwater management system before construction would be agreeable. Mr. Charma stated the driveway and its adjacent system would go in first and explained this is not uncommon.

Mr. Gifford asked why there is a 2,500 square footage minimum for the homes. Mr. Forsten stated that the applicant agreed to that size and wanted flexibility if a buyer wanted a larger home.

Mr. Morehead asked if the stormwater system repairs would affect the flooding issue, which Mr. Coleman stated they would not. Mr. Coleman stated that the private drive would need to be at a similar quality level to a public road and that the turnaround area would be reviewed.

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: INSERT "THE DEVELOPER AGREES TO HAVE THE STORM WATER MANAGEMENT FOR THE DEVELOPMENT COMPLETED PRIOR TO THE ISSUANCE OF THE BUILDING PERMIT FOR THE SECOND LOT" TO BE INSERTED AFTER #12 IN THE SUBDIVISION AGREEMENT  
MOTION PASSED UNANIMOUSLY. VOTE: 7 TO 0.

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

MOTION BY MR. RUCKLE, SECONDED BY MR. MOREHEAD: INSERT "THE DEVELOPER AGREES TO COMPLETE THE PRIVATE ACCESS ROAD PRIOR TO ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY" BETWEEN ITEMS 11 AND 12.

MOTION PASSED UNANIMOUSLY. VOTE: 7 TO 0.

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

MOTION BY MS. HADDEN, SECONDED BY MR. RUCKLE: TO INSERT “INCLUDING THE FIRE ACCESS TURNAROUND” TO THE PREVIOUS AMENDMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 TO 0.

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

MOTION BY MR. RUCKLE, SECONDED BY MR. GIFFORD: TO APPROVE AGREEMENT AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 TO 0.

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

**(RESOLUTION NO. 14-DD)**

**25. 5B. REQUEST OF THE DEL SOL RESTAURANT FOR A SPECIAL USE PERMIT TO ALLOW THE EXTENSION OF HOURS FOR THE SALE OF ALCOHOLIC BEVERAGES FROM ENDING AT 10:00 P.M. TO ENDING AT 1:00 A.M. SEVEN DAYS PER WEEK FOR CONSUMPTION AT THE RESTAURANT LOCATED AT 60 NORTH COLLEGE AVENUE**

**03:41:15**

Ms. Bensley read the title into the record.

Mr. Fortner reviewed the application for a revision to the special use permit to allow an extension of the time to sell alcoholic beverages to 1:00 a.m. seven days per week at the Del Sol Restaurant located at 60 North College Avenue. A history of the site was given and it was reported that no problems had been reported with the existing alcohol sales at the location. If the site were to have problems, Council would have the ability to revoke the permit. City departments did not express any concerns and the Planning Department recommended approval of the application.

Mr. Markham asked if the restaurant has maintained the same ownership through its name changes. Mr. Yonathan Galindo stated that he is now the owner of the restaurant, but he had worked for the previous versions of the restaurant prior to purchasing it and has owned the restaurant for two years. Mr. Markham asked what the normal hours of the restaurant are. Mr. Galindo stated that the restaurant is open from 11:00 a.m. to 10:30 p.m. on Friday and Saturday, 11:00 a.m. to 10:00 p.m. Monday through Thursday and 11:00 a.m. to 9:00 p.m. on Sunday, however, he would like to extend the hours until 1:00 a.m. and have the ability to open earlier for brunch.

Mr. Chapman asked for information regarding the pending redevelopment plan for the site. Mr. Galindo stated that it would affect his restaurant, but that he is planning to reopen in the new building in a year.

Ms. Hadden asked if the bar would close at 1:00 a.m., but the establishment would not close until later. Mr. Galindo stated that the restaurant would close shortly after 1:00 a.m.

**Public Comments:**

Eric Boye, greater Newark, supported the application.

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

Ms. Hadden asked if there were any single family residences that would be affected by the restaurant being open that late. Mr. Fortner stated that there were three or four parcels on Cleveland Avenue that may be affected. Mr. Markham stated that the parking lot of the building backs up to the parcels on Cleveland Avenue. Ms. Hadden confirmed that Council would retain the right to revoke the permit if there were problems.

Mr. Gifford asked if the outdoor patio would also be open until 1:00 a.m. Mr. Chapman stated that it would.

**MOTION BY MR. CHAPMAN, SECONDED MR. RUCKLE: TO APPROVE THE APPLICATION AS PRESENTED.**

**MOTION PASSED UNANIMOUSLY. VOTE: 7 TO 0.**

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

Nay – 0.

**26. 5C. REQUEST OF DELI DAYS LLC FOR A PAYMENT PLAN FOR THE PARKING WAIVER OWED FOR THE BUSINESS LOCATED AT 168 EAST MAIN STREET**

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**03:51:52**

Ms. Bensley read the title into the record.

Ms. Feeney Roser reviewed the history of the project at 168 East Main Street (Arena's Deli) and explained that due to higher than expected cost for renovation, the applicants have requested to pay their parking waiver fee in installments. There was precedent for payment plans in the past, therefore, the Planning Department believed it was reasonable to spread the payment out over three yearly installments of \$20,384 each. The first installment would be due before issuance of the Certificate of Occupancy and the last two installments would be due on the anniversary of the Certificate of Occupancy for the next two years. Mr. Paul Kuhns, the applicant, was present.

Mr. Morehead asked what happens if they go out of business. Ms. Feeney Roser said that was a concern, which is part of why the Department is recommending three years instead of the requested five years, but did not believe there was any legal recourse to collect the money. Mr. Herron said it would be difficult. Mr. Vitola suggested that the City could request a Letter of Credit or incorporate the decision in to a formal agreement, which would be hard to enforce. Mr. Kuhns stated that he did not anticipate having any issues with Arena's staying open in the longer term.

Mr. Chapman stated that if Arena's were to fail, a subsequent applicant would have to pay the parking fee waiver and supported the payment plan.

**Public Comments:**

John Morgan, District 1, reiterated Councilman Chapman's point and stated that a payment plan would encourage responsible businesses on Main Street.

Brett Zingarelli, District 4, supported the payment plan, but did not support the parking waiver system.

Eric Boye, greater Newark, did not support the parking waiver system.

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

**MOTION BY MR. CHAPMAN, SECONDED BY MR. MARKHAM: TO APPROVE THE RECOMMENDATION OF A THREE YEAR INSTALLMENT PAYMENT PLAN FOR THE PARKING WAIVER FOR 168 EAST MAIN STREET.**

**MOTION PASSED UNANIMOUSLY. VOTE: 7 TO 0.**

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

Nay – 0.

27. MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: TO CONTINUE THE COUNCIL MEETING UNTIL 11:30 P.M.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

28. 6. **ITEMS SUBMITTED FOR PUBLISHED AGENDA**

A. **Council Members:** None

29. 6-B. **Others:** None

30. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS:**

A. Recommendation to Waive the Bid Process for the Purchase of Dual Trash and Recycling Solar Compactors

**04:06:05**

Mr. Coleman presented the recommendation to purchase dual trash and recycling solar compactors. A three unit pilot was done on Main Street since the summer and that any issues that the City has had, BigBelly, the vendor, has provided excellent customer service. Collections have been reduced from seven days to one day per week, with the exception of busy weekends, which required two collections for the week. Other cities contacted were pleased with the program. This would expand recycling to Main Street and add collection to South Main Street. The payback is anticipated to be approximately 1.7 years if Newark wants to expand recycling. The Conservation Advisory Commission also recommended the recycling expansion and the purchase. This would also improve the general cleanliness of the cans and help with rodent control. The charging of the solar batteries was not anticipated to be an issue.

**Council Comments:**

Mr. Gifford asked if there was a match for the recycling grant. Mr. Coleman stated he thought it stood alone. Mr. Gifford asked how many cans were on Main Street. Mr. Coleman stated there were 25 total. Ms. Houck stated that the previous types of recycling cans lent themselves to greater contamination and that staff felt that these would be an improvement and wanted to also implement an education component.

Ms. Sierer thought there was merit to having consistent types of collection units on Main Street.

Mr. Gifford thought the City could buy more later if it chose.

Mr. Morehead asked what the weight of the bins would be. Mr. Coleman stated that a completely full bin would be approximately 100 pounds. Mr. Morehead asked how they were being picked up. Mr. Coleman stated that two people at times have been sent out to pick them up, but it is mostly one person who has not been letting the cans fill to capacity. Mr. Morehead questioned whether that weight was OSHA compliant, which Mr. Coleman stated he would need to check.

Mr. Gifford asked how Waste Management picked up the compactors, which Mr. Coleman did not know. Mr. Gifford asked if it could be picked up with the City's collection machines, which Mr. Coleman stated that they could not without alterations.

Ms. Hadden asked how long the batteries last and how much do they cost. Mr. Coleman stated that the batteries have approximately a five year life and are approximately \$50 each, which was calculated as part of the payback. Ms. Hadden asked what the refuse workers who would be reassigned would be doing. Mr. Coleman indicated that they are picked up by the dumpster crew, which has two men.

Mr. Markham asked if there were any security concerns with people being able to hide things in the cans. Mr. Coleman stated that the hopper door has key access and that they can be locked remotely in the case of big events.

**Public Comments:**

Brett Zingarelli, District 4, was concerned about the weight of the unit and OSHA compliance.

Eric Boye, greater Newark, asked about the cost of the unit and the grant money available. He expressed concern about contamination of recycling.

John Morgan, District 1, believed the recycling would be contaminated.

Tom Uffner, District 1, asked Council to consider only purchasing the units that would be covered by grant money.

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

Mr. Gifford asked if advertising could be used to pay for the compactors in the future. Mr. Coleman stated that staff looked into having full wraps, but they only lasted two to three years and there were issues with the sign ordinance. Alternative options being explored would be installing frames on the side of the units with City messaging and recycling education.

Mr. Markham asked how 27 cans was selected. Mr. Coleman stated that there were 30 cans existing, three which have already been replaced, leaving 27. Mr. Markham noted that the payback gets worse the fewer cans that are replaced.

Ms. Houck stated that there was a 40% diversion rate in the pilot and that the recycling generates no tipping fee cost for the City.

Mr. Morehead asked about the trash and recycling collection schedule. Mr. Coleman stated it would be a two day collection – one for trash and one for recycling.

MOTION BY MR. GIFFORD, SECONDED BY MR. CHAPMAN: TO BUY ONLY NINE SYSTEMS USING THE GRANT MONEY.

MOTION PASSED. VOTE: 6 to 1.

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

**31. MOTION BY MR. MOREHEAD, SECONDED BY MR. GIFFORD: TO CONTINUE WITH ITEM 9A**

MOTION PASSED. VOTE: 6 to 1.

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

**32. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:**

**A.** Appointment of John Morgan to the District 1 Position on the Boards and Commissions Review Committee

**04:32:23**

Mr. Morehead stated that he was nominating John Morgan to represent District 1 on the Boards and Commissions Review Committee due to his qualifications and willingness to attend the meeting and serve on the board.

Mr. Markham asked if Dr. Morgan felt there would be any conflict of interest since he is an employee of the University. Dr. Morgan did not foresee a conflict.

Ms. Sierer asked what specific committees Dr. Morgan has served on. Dr. Morgan listed several University committees and professional organizations he had worked on.

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

MOTION BY MR. CHAPMAN, SECONDED BY MR. GIFFORD: TO APPROVE THE APPOINTMENT OF JOHN MORGAN TO THE BOARDS AND COMMISSIONS REVIEW COMMITTEE.

MOTION PASSED. VOTE: 6 to 1.

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

**33. MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: TO EXTEND THE MEETING TO FINISH THE AGENDA.**

MOTION PASSED. VOTE: 6 to 1.

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

**34. 8. FINANCIAL STATEMENT: (Ending October 31, 2014)**

**04:38:50**

Mr. Vitola reviewed the unaudited financial statements for the first ten months of the year. On a citywide consolidated basis, there is an operating surplus of about \$6.4 million, which is about \$375,000 better than the budget. This is the third consecutive monthly improvement since July. The governmental funds have been steady over the last three months. Strong transfer taxes have been offsetting weaker fine and parking revenues, which were expected. Permits, property taxes, grants, park fees, and franchise fees are within a reasonable band of the budget figures. On the expense side, the year-to-date variance has improved to \$298,000 with September and October expenses under budget. Variances are caused by legal and contractual expenses in the Legislative Department, which are improving, and higher personnel expenses in the IT, Planning and Legislative Departments. In the enterprise funds, all three utilities performed well in the first three quarters, although the Electric utility is normalizing, the Water and Sewer margins are tracking higher than the budget.

Mr. Vitola addressed questions from last month. Mr. Markham had asked about the jump in sewer revenue on last month's graph. Part of the reason is that the revenue is net revenue. Expenses are accrued based on expectations, but the expenses have not been as high as expected. It is the opposite on the water side since there were higher expenses than expected in water this year.

Enterprise fund expenses are tracking below the budget at +\$207,000. The cash position at the end of October was \$31.1 million: less than \$100,000 in the smart meter accounts, \$10 million in Operating cash and \$21 million in cash reserves. The Operating account balance will shrink as the City moves away from the property tax collection deadline of September 30<sup>th</sup>.

Mr. Markham felt the McKees Solar Park should only have items unusual to McKees charged to the maintenance of McKees when charting the costs associated. Mr. Vitola said he would work to ensure that the chart reflected that.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: TO ACCEPT THE FINANCIAL STATEMENT ENDING OCTOBER 31, 2014.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**35. APPROVAL OF CONSENT AGENDA:**

**04:44:04**

Mr. Gifford asked that item 10A be removed from the Consent Agenda.

- B. Receipt of Alderman's Report – December 1, 2014
- C. Receipt of Planning Commission Minutes – November 4, 2014
- D. Cancellation of the December 22, 2014 Regular Council Meeting
- E. **First Reading – Bill 14-31 – An Ordinance Amending Chapter 30, Water, Code of the City of Newark, Delaware, By Removing the Fire Hydrant Service Charge For Properties Outside City Limits – Second Reading – January 12, 2015**

Ms. Bensley read the Consent Agenda as amended.

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**36. 10A. APPROVAL OF COUNCIL MEETING MINUTES – NOVEMBER 10, 2014**  
**04:44:54**

Mr. Gifford asked that the comments submitted by Dr. Morgan under item 1A be corrected as part of the minutes, which Ms. Bensley confirmed they would be.

MOTION BY MR. GIFFORD, SECONDED BY MS. HADDEN: TO APPROVE THE COUNCIL MEETING MINUTES OF NOVEMBER 10, 2014 AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**37. Meeting adjourned at 11:44 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 December 8, 2014**

The discussion about yet again increasing water rates at the last Council meeting on November 24 prompted me to examine some articles in the Newark Post from the spring of 2001 about the process which led to the construction of our city's reservoir. In February 2001 the water rate was \$1.82 per thousand gallons, and in April 2001 the citizens of Newark voted in a referendum by a ratio of about 5:1 to increase it by \$1.37 (75%) to \$3.19 per thousand gallons to raise the \$16 million needed to pay for constructing the reservoir and the \$3 million for a smaller water project.

As we all know, a few years later things went very bad when the City of Newark cancelled its contract with the Durkin Construction company and Durkin sued the City and was awarded a judgment of about \$37 million, which eventually was reduced through negotiations. Though many citizens of Newark were profoundly concerned about these missteps, there was nothing like the sort of public outcry, with bitter recriminations, which we have recently experienced over our city's engagement with TDC. I believe the fundamental reason there were no such problems back then is that the citizens of Newark had voted overwhelmingly in favor of constructing the reservoir in a widely-publicized referendum, so they couldn't blame members of Council, or members of the City's staff, for moving forward with this project.

With this relatively recent example in mind, I believe it would be wise for Council to continue to allow the citizens of Newark to vote in a referendum on any large project which could potentially cost the taxpayers of our City several million dollars. Hence I strongly urge that at next Monday's Council meeting you reject a change in our City's charter to allow our City to borrow up to \$32 million for various infrastructure projects without first getting the approval of the citizens of Newark in a referendum. Whatever slight savings might be realized through participation in the state's bond program (at most a few hundred thousand dollars per year) will not be worth it if a multi-million dollar project which was approved by Council (perhaps by only a 4-3 or 5-2 vote) but not by the citizens of Newark goes bad and the citizens are left on the hook for paying the bills.

Hence I also urge you not to proceed with spending over \$14 million on a downtown parking garage, whose economic viability and supposed benefits are at best very uncertain, unless and until the citizens of Newark have had an opportunity to participate in a referendum on whether they think such a downtown parking garage should be constructed. Meanwhile, it would be wise to invest a few thousand dollars in providing larger signs directing drivers to the parking areas behind the businesses on Main Street.