

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES
March 9, 2015**

Those present at 6:00 p.m.:

Presiding: Deputy Mayor, A. Stuart Markham
District 1, Mark Morehead (arrived 6:02 p.m.)
District 2, Todd Ruckle
District 3, Rob Gifford
District 4, Margrit Hadden
District 5, Luke Chapman (arrived 6:05 p.m.)

Absent: Mayor Polly Sierer

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
Electric Director Rick Vitelli
Planner Ricky Nietubicz
Chief Paul Tiernan, NPD

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- A.** Executive Session pursuant to 29 *Del. C.* §10004 (b)(9) for the purpose of discussing personnel matters in which the names, competency and abilities of individual employees are discussed. (This item will be discussed at the conclusion of the regular meeting.)
- B.** 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 6:00 p.m. and returned to the table at 7:00 p.m.

MOTION BY MR. MOREHEAD, SECONDED BY MS. HADDEN: TO RETAIN MARK DUNKLE FROM THE LAW FIRM OF PARKOWSKI, GUERKE & SWAYZE, P.A. AS SPECIAL COUNSEL TO ASSIST IN THE ACQUISITION OF 103 HILLSIDE ROAD FOR STORMWATER DRAINAGE AND/OR PUBLIC PURPOSES.

MOTION PASSED. VOTE: 4 to 1.

Aye: Hadden, Markham, Morehead, Ruckle.

Nay: Gifford.

Absent: Chapman, Sierer.

MOTION BY MR. MOREHEAD, SECONDED BY MR. RUCKLE: THAT THE CITY COMMENCE WITH GOOD FAITH NEGOTIATIONS FOR THE ACQUISITION OF 103 HILLSIDE ROAD.

MOTION PASSED. VOTE: 4 to 1.

Aye: Hadden, Markham, Morehead, Ruckle.

Nay: Gifford.

Absent: Chapman, Sierer.

- 1.** MOTION BY MS. HADDEN, SECONDED BY MR. MOREHEAD: TO REMOVE ITEMS 4-A (BILL 15-04), 4-B (BILL 15-05), 5-A AND 5-B (MAJOR SUBDIVISION AND SPECIAL USE PERMIT 12, 27, 39, 45 AND 49 CENTER STREET) FROM THE AGENDA.

MOTION PASSED. VOTE: 5 to 0.

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

Nay: 0.

Absent: Chapman, Sierer.

2. MOTION BY MR. MOREHEAD, SECONDED BY MS. HADDEN: TO MOVE ITEM 9-A (APPOINTMENT OF ROBERT STOZEK TO THE PLANNING COMMISSION) BEFORE ITEM 1 (ITEMS NOT ON PUBLISHED AGENDA).

MOTION PASSED. VOTE: 5 to 0.

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

Nay: 0.

Absent: Chapman, Sierer.

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

4. **9. APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:**

- A. Appointment of Robert Stozek to the District 1 Position on the Planning Commission

08:05

Mr. Morehead nominated Robert Stozek, 203 Briar Lane, to the position of Planning Commissioner representing District 1. Mr. Stozek brought to the position a unique combination of technical education, extensive career experience and a strong interest as a long-term Newark resident.

There were no public comments.

MOTION BY MS. HADDEN, SECONDED BY MR. RUCKLE: THAT ROBERT STOZEK, 203 BRIAR LANE, BE APPOINTED TO THE DISTRICT 1 POSITION ON THE PLANNING COMMISSION, TERM TO EXPIRE SEPTEMBER 15, 2017.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Absent: Sierer.

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

- A. Public

10:57

Donna Means, District 5, was not receiving all the InformMe system messages. Staff will contact Ms. Means to assist her with the available options. Regarding an erroneous InformMe call made to City residents, Ms. Houck apologized for the timing of the call and explained that it was sent to the wrong group of people. Ms. Means expressed some confusion with trash pickup related to the snow storm.

Helga Huntley, District 1, sometimes found the e-mail messages conveyed by the InformMe system to be incomplete and suggested several areas for improvement.

6. **1-B. ELECTED OFFICIALS:** None

7. **1-C. UNIVERSITY**

19:58

(1) Administration – Caitlin Olsen, University of Delaware Government Relations, noted that a memorial service was held that day for Dr. Steve Dentel and that he would be sorely missed in the community. Mr. Markham recognized Dr. Dentel's years of community service and his commitment to the Conservation Advisory Commission.

Ms. Olsen reported the University hosted a celebration for receiving the Community Engagement classification from the Carnegie Foundation.

On 3/11 at 6:00 p.m. in Mitchell Hall, Human Rights Activist and Journalist Laura Ling would present the keynote address for the 100th anniversary celebration of the Women's College.

8. **1-C-2. STUDENT BODY REPRESENTATIVE:** None

9. 1-D. **LOBBYIST:** None
10. 1-E. **CITY MANAGER:** None
11. 1-F. **COUNCIL MEMBERS**

22:46

Mr. Chapman: No comments.

Mr. Gifford

- Thanked Ms. Houck for considering the bi-weekly reports.

Ms. Hadden

- Spoke regarding Steve Dentel who was a resident of District 4. Dr. Dentel was an expert in his field of water and bio-solids treatment processes, he was instrumental in the creation of an undergraduate major in environmental engineering at UD and in 2006 he became the faculty advisor for the newly formed Engineers without Borders. His passing would be felt by everyone in Newark because he was a good guy who cared about people and the environment.
- Attended a campus coalition meeting with UD to discuss alcohol and drug use by students.
- Attended the volunteer appreciation ceremony hosted by Parks and Recreation and paid tribute to Newark's many volunteers.
- Attended the Delaware League of Local Governments (DLLG) monthly meeting.
- Was one of many guest bartenders at a JC fundraising event at Caffé Gelato.
- Attended the Comprehensive Plan workshop which focused on Chapter 10 and the Planning Commission meeting to hear the discussion on defining accessory use and neighborhood.
- Had her monthly Meet and Greet last Friday - the next meeting would be held on 4/2 at 5:00 p.m.

Mr. Morehead

- Stated that under State law, the City was required every ten years to define what the public wanted to see in the Comprehensive Development Plan and that there was a clear need for the public to show an interest in this document. Council was currently on Chapter 10 and the City's website contained the next few chapters. Public participation was encouraged.

Mr. Ruckle

- Recognized Earl and Maryann Loomis who were recent homicide victims. Mr. Loomis was a Newark businessman and appraiser for over 40 years.
- Spoke on the DUI hit-and-run death on Delaware Avenue of a former UD student.
- Attended the monthly DLLG meeting where a Federal program was announced for first responders for Wi-Fi across the U.S. called FirstNet.
- Participated as a judge in the Odyssey of the Mind competition.
- Was asked to do an interview with an Eagle Scout for his merit badge - Mr. Ruckle was also an Eagle Scout.

Mr. Markham

- Mayor Sierer was out of town on personal business.
- Regarding the major snow event, it appeared that ice removal was an issue throughout the City and he felt there should be efforts to offer assistance, particularly to the elderly.
- Asked what repairs were planned for the numerous pot holes. Mr. Gifford and Mr. Coleman discussed the Elkton Road situation with State Representative Baumbach. Pot holes could be reported on the City's website. Mr. Morehead commended the City for actively addressing Elkton Road's potholes but expressed concern about safety measures being put in place for the workers in busy traffic areas.
- Verified that the City's salt supply was adequate in the event of another storm.
- A snow emergency was declared on Thursday – on Cleveland Avenue it appeared only the residents cleared their cars. In order to be fair to all he felt if the emergency was declared, the City had to follow through with towing.
- Regarding new carts for yard waste, suggested people in townhouse communities have the opportunity to share carts. Mr. Morehead recommended being able to use the

carts people already had (e.g., label the recycling cans for yard waste and have them picked up regardless of the lid color.)

12. 2. **ITEMS NOT FINISHED AT PREVIOUS MEETING:**

- A. **Bill 15-03** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Creating the Position of Director of Economic Development and Communications (*Postponed from the February 9, 2015 Meeting By Request of Council*)

MOTION BY MR. RUCKLE, SECONDED BY MS. HADDEN: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 15-03.

36:20

Mr. Haines reviewed a PowerPoint presentation. In 2014 one of the goals of administration was to enhance communication. Following the 2014 resignation of the Community Affairs Officer (CAO), the firm of ab+c Creative Intelligence of Wilmington was hired as a consultant. They reported there were a lot of competing and conflicting voices and no effort to consolidate to provide consistency in the City's communications. Also, there was no apparent branding among the voices. The media content going out was adequate but could be better. They were clear the City needed to enhance or create a dynamic position to impact change within the organization. The decision to be made was whether to continue the status quo with existing positions and operations. Administration felt the new department aligned to allow the City to recruit a dynamic leader and was the preferred solution. The goal was to recruit a unified leader among all the staff who would be able to be a resource both internally and externally for Council and be able to work on community outreach.

It was felt connecting economic development with communications would provide a clear message for business recruitment and all the opportunities that are available in the City and highlight the resources Newark can provide.

Under the Planning & Development Department, the Downtown Newark Partnership (DNP) and the Greater Newark Economic Development Partnership (GNEDP) were doing economic development within the City. The proposal was to consolidate those into a cohesive operation.

Regarding the staff review of where the Parking Division would align, it was decided that it was tied to the DNP and could be enhanced with a high quality leader in the communication part of this department. So the inclusion of the DNP and Parking was there and the GNEDP goals would also be the goals of this department.

In addition to the director position, staff discussed having a public relations associate and media content specialist on staff.

Regarding the director position, Mr. Herron opined the proposed ordinance facilitated the creation of the new department. Based on Newark's Council-Manager form of government the goals and directives set were the responsibility of the City Manager. Mr. Morehead stated Code sections 2-26 and 2-27 specified the Manager may recommend the creation or abolition of departments or the transfer of functions between departments, but it was Council who set the functions of that job. He and Mr. Haines agreed it was not appropriate for the job description to be detailed on the floor.

The newly aligned Planning & Development Department still included Code Enforcement, Maintenance and the Fire Marshal. Parking and the DNP were removed. The goal was to effectively maximize existing resources in 2015 without expanding 2014 expenditures, recruit and hire a dynamic leader that would continue the internal audit by ab+c Creative Intelligence while also helping to shape the City's expectations and benchmarks, better align economic recruitment efforts and separate the recruitment piece from the regulatory piece.

If adopted tonight the start date for the director's position would be mid-year 2015. Regarding discussions during the budget process about the possibility of additional staffing, staff recommended an ongoing analysis to get tangible data to make that determination for the 2016 budget.

Other Code edits were presented that would be necessitated by the passage of Bill 15-03.

Ms. Hadden preferred the department name be changed to Economic Development and Public Relations. While she saw the benefit to having an Economic Development Director, she did not understand the rationale for parking to be a part of this department. She thought it should be a subdivision of the police force.

Mr. Ruckle agreed with Ms. Hadden that parking should fall under the police. He also recommended changing the name of the proposed department to public relations. He encouraged improvements to Channel 22 in line with what was offered by the County.

Mr. Haines explained the parking department transfer involved all parking operations, not just enforcement. Chief Tiernan said Parking Enforcement had been under the police but there were complaints from the public about enforcement so in order to get a friendlier atmosphere downtown, the position would become more of an ambassador position with less focus on handing out tickets. Mr. Haines explained there appeared to be more payment compliance so there was an opportunity for the downtown enforcement officers to become compliance officers which was a trend nationwide.

It made sense to Mr. Morehead to make parking a utility to stand on its own. One department would be responsible for maintenance, enforcement, etc. to pay its own way.

Mr. Chapman preferred that Parking Enforcement not be moved back under the Police Department. There was an opportunity for it to become involved in public relations and he supported the idea of community ambassadors which he felt was progressive. It made sense to him that the parking division was moved under the new department.

Mr. Vitola explained the parking fund was almost its own utility. There were expenses in the form of the Parking Enforcement officers in police and there was some parking meter revenue in finance that was consolidated in the 2015 budget and operating in its own silo of a fund. Mr. Gifford received clarification from Mr. Vitola that it could be transferred and used to pay for other departments. Mr. Gifford suggested that it could either stand on its own or stay in the Planning & Development Department, but he did not want it back in the Police Department.

Mr. Chapman asked Mr. Haines what impact there would be on any other part of the division if parking was removed from the department proposal. Mr. Haines said staff believed it had an inherent connection with the DNP and was an economic development piece of it. Staff thought all the parking operations should stay together.

Mr. Morehead noted there was an economic development rate in the utility for electricity as well so the City was familiar with having economic development incentives in other departments they put together under one focus while in separate departments.

Mr. Gifford questioned the decision to combine economic development and communications as they seemed to be disjointed and had a business-centered focus. He felt having an expert communications professional under administration could work well and give more authority versus having the position in a separate department. He asked if this individual would help with communications for all departments. Mr. Haines said in staff's opinion there was a clear message on the need to articulate the economic development message. Mr. Gifford was not familiar with the achievements of the GNEDP and was concerned that instead of having direct communication with Council the DNP would work more closely with staff. According to Mr. Haines, staff was trying to centralize what was being done for the City internally and externally.

Ms. Houck reported when they were thinking about synergies and trying to figure out whether the new position would work in this fashion they thought of economic development and communications broadly. It meant the degree of success Newark had with entities who wanted to live, work, play or partner with the City. It was the net gain of the money flow into the community and was the economic base. The degree of Newark's success was further impacted by the success of communication and outreach to all of these entities. Communication and outreach were the first rule of economic development. The recent evaluation previously discussed resulted in Newark being given an image that is a bit erratic – too many logos, efforts and messages that did not have a cohesive theme.

If economic development at its heart was all things involving the City's outreach and approach of all these communications cohesively through one department focused on a message and what we have to offer to all entities, Newark positions itself to be consistently engaged, responsive, recognized and transparent. The director would be the gate keeper of the City's reputation and what it takes to be attractive as a community. Ms. Houck pointed out that Newark had a parking and economic development synergy that was unique to Newark. If one believed the City's reputation had to do with economic development (staff thought it did) and that links to communication, then that was how the economic development and communications portion were merged into one department.

Mr. Morehead believed communications should come under the City Manager's office and stressed the need for transparency for this important position.

The Chair opened the discussion to the public.

Helga Huntley, District 1, commented that the ordinance did not define any duties or responsibilities for the new position and felt this was the wrong way to create a new position or department. She pointed out that Section 702 of the Charter and related Code chapters specified it was Council's responsibility to create or abolish departments and to divide functions between them. The City Manager may recommend these changes but may not assign functions within a department without Council's approval. She requested the ordinance not be approved unless amended to include the functions of the new department. She opposed combining economic development with the communications function and felt efforts would be focused solely on business interests instead of on the residents. Ms. Huntley disagreed with Ms. Houck's definition of economic development as being public relations to all possible entities connected to the City. She requested the ordinance not be approved unless economic development was stricken from the director's job title. She did not understand why the vacant CAO position could not serve the same purpose as the proposed director's position. Ms. Huntley felt it would be easier to reclassify the pay grade for the communications position to attract a dynamic individual rather than to create a whole new department. She recommended to staff that when presenting two options to Council and the public that they list pros and cons and not preempt the decision by labeling one as preferred. Ms. Huntley questioned if the CAO position was vacant since the City's website currently lists two people serving as CAO's.

Jeff Lawrence, District 3, objected to the idea of economic development and recruitment and felt the proven way to create economic development was for government to stay out of the way.

Mr. Chapman heard across the board that the City needed to do a better job at communications and public relations. He appreciated removing economic development and the DNP from Planning & Development as he felt it was ethically dangerous having the sales office serve as the regulatory body. He thought economic development and parking should be removed in order to focus on the shortfalls in communications and public relations. He agreed with Ms. Huntley that the pay grade should be raised to attract the right talent for the position. He added that funding would have to be found or taken from somewhere else in the budget as discussed in 2015.

Mr. Morehead supported budgeting for the communications function and possibly staff as well. He would support the effort to find that money but did not want to take it from other areas. He stressed it was a priority and noted Council discussed it for a long time.

Mr. Herron reiterated if the ordinance was approved, it would establish the department. Council could vote to approve it and then direct staff to come back and recommend the functions of the department or it could be postponed indefinitely to come back with a clean ordinance in line with the discussion.

Question on the Motion was called.

MOTION DEFEATED. VOTE: 0 to 6.

Aye: 0.

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

Absent: Sierer.

Mr. Markham stated the direction to staff was to come back with a public relations position. Mr. Chapman added that should be tied to a budgetary request for consideration at the same time. Mr. Morehead requested that staff come back with several options – for a separate department or for the staff within the City Manager’s office.

13. 3. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff: None

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

C. **Bill 15-07** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Defining Fence Height Limitations

Ms. Bensley read Bill No. 15-07 by title only.

MOTION BY MR. RUCKLE, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 15-07.

02:08:13

Ms. Feeney Roser reported at a recent Council meeting a resident expressed concern regarding the height of a neighbor’s fence and the City’s inability to legally require that the fence height be reduced. Council asked staff to review the fence height restrictions and determine whether they were adequate. The two City Codes that may apply were the Building and Zoning Codes. The Building Property Maintenance and Residential Codes did not address the issue of fence height but instead focused on structural soundness, maintenance, repair of fences and permitting requirements. The City Zoning Code does restrict the height of fences but only those in the front yards of residential properties. Staff research found that most communities restrict fence height in the front yard as Newark does but a majority also restrict fence heights in the side and rear yards of residential districts (Newark did not). The review found that other communities restrict fence heights in the side and rear yards varying between six and ten feet sometimes dependent on whether the rear or side yard of that property was adjacent to a non-residential type use. The recommendations proposed would create a definition of fence height in the Code and then create height restrictions for residential properties. Fence height was proposed to be defined as the vertical distance measured from the ground immediately adjacent to the bottom of the fence to the highest point including any appurtenances. For the height restriction staff suggested amending Code section 32-56.6 to be titled “Fence Height” and adding verbiage to the existing height restrictions for fences in front yards by indicating that all fences or similar structures erected in a side and/or rear yard of any residentially-zoned property or developed property shall not exceed 6.5 feet in height at any point except when the fence is adjacent to a non-residential use in which case it may not exceed 10 feet at any point. That must also conform to the restrictions about visibility at corners (already in the Code). If approved, staff thought the ordinance would increase consistency while providing adequate screening options for residents. Code Enforcement would enforce fence height restrictions for new fences. It would not address the fence height that brought the matter to Council’s attention in the first place because the fence was already grandfathered in.

Mr. Ruckle noted there was a dispute between neighbors that brought this to his attention. He looked at this as a safety issue. If something happened in a yard without a gate it would be difficult for a police officer to get over a fence more than six feet in height. He felt a higher fence of 15-30 feet would be unsafe in wind conditions and would put an undue amount of shade on someone else’s property.

Regarding the initial complaint Mr. Gifford asked how high the fence was – Mr. Ruckle responded that it was a little over 10 feet. The definition of fence was reviewed. Mr. Gifford asked how high a chain link fence could be installed in a residential area. Ms. Feeney Roser said her interpretation was six feet. Mr. Gifford was concerned that would create the side effect of everyone putting up chain link fences rather than wooden. He pointed out that a number of fences in his neighborhood were over 6.5 feet high.

Mr. Ruckle said a variance could be requested if someone had a reason to install a higher fence and noted that the BOCA Code was 6 feet.

The Chair opened the discussion to the public.

Jeff Lawrence, District 3, thought creating more restrictions and more legislation was unnecessary.

Tom Uffner, District ,1 said the ordinance was not needed and would not solve any problems.

Mr. Chapman felt the height should be addressed by the Police Department in regard to public safety. Cpl. Sharpe referred to residents with pools where the Police Department and the Fire Department might have to gain access. Mr. Morehead reported that a four foot minimum fence was required around a pool.

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

Question on the Motion was called.

MOTION DEFEATED. VOTE: 2 to 4.

Aye: Markham, Ruckle.

Nay: Chapman, Gifford, Hadden, Morehead.

Absent: Sierer.

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

- C. Request of Shri Swami Naravayan, LLC for the Administrative Subdivision of 6.03 Acres Located at 1119 South College Avenue to be known as Candlewood Suites in Order to Dedicate Approximately 653 Square Feet of Land to DeIDOT For a Right-of-Way Along South College Avenue and a 15 Foot Permanent Easement Along South College Avenue (**Resolution Attached**)

02:40:26

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

Ms. Feeney Roser reported the administrative subdivision was the adjustment of property lines or straightening of boundaries. It did not create a new buildable lot. Adjacent property owners were notified of the request and letters of objection were received from two adjacent property owners. The objection had to do with offsite drainage that existed for decades and would be addressed by the construction plan.

The Planning Commission reviewed the plan at their February 3 meeting and recommended Council approval. Council previously approved a major subdivision and Special Use Permit in order to construct a six story, 101 room Candlewood Suites hotel at the site on February 22, 2010. Tonight's discussion, however, was limited to the administrative subdivision requested by DeIDOT.

John Tracey, Esq., Young Conaway Stargatt & Taylor, explained this was driven by DeIDOT and involved the dedication of 15' permanent easements along the road frontage perimeters of the property and two small wedges of property totaling about 650 feet for the right of way along South College Avenue.

There was no public comment.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Absent: Sierer.

(RESOLUTION NO. 15-C)

16. 6. ITEMS SUBMITTED FOR PUBLISHED AGENDA

A. Council Members:

1. **Resolution 15-__**: Retirement of James Lawrence, Electric Line Supervisor

02:51:08

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

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Absent: Sierer

(RESOLUTION NO. 15-D)

17. 6-A-2. RESOLUTION 15-__ : REVOCATION OF SPECIAL RESIDENTIAL PARKING DISTRICT LOCATED ON NEW LONDON ROAD BETWEEN CORBIT STREET AND CLEVELAND AVENUE

02:51:58

Chief Tiernan reported that complaints were received regarding significant traffic delays at the special permit parking district in front of 109-131 New London Road. The Traffic Division made several recommendations regarding this location. The first was to eliminate the special parking district and eventually to make it a no stopping or standing zone and to petition DeIDOT to examine whether to add a turn lane from Corbit Street to Hillside Avenue.

Mr. Chapman added there was no on-street parking allowed prior to the redevelopment of Campus Walk. There was no intention to provide or grant on-street parking for this development, but there was an apparent administrative oversight between departments and DeIDOT.

Chief Tiernan confirmed that the issue of bicycle traffic markings would be discussed with DeIDOT.

If Council voted to support the resolution, a revocation notice would be issued immediately to the three current permits holders.

The discussion was opened to the public.

Stuart Isaacs, District 5, New London Road, was one of the residents with a parking permit. He recommended changing the traffic light at Cleveland Avenue by making the left hand turn signal longer. Mr. Markham asked Ms. Houck to discuss the left turn signal with Public Works.

Mr. Chapman said this traffic situation was the paramount issue for residents in his district.

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

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Absent: Sierer

(RESOLUTION NO. 15-E)

18. 6-B. Others: None

19. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation to Award RFP No. 14-01R – Lobbying and Intergovernmental Services

03:09:22

Ms. Wright reported that the two firms who submitted proposals for the RFP were asked to make a presentation to Council this evening. Rick Armitage, Government and Community Relations LLC, was in attendance. Ned Davis Associates notified the City that they wished to withdraw from consideration for the RFP.

Mr. Armitage reported this was his 29th year as a registered lobbyist in the State of Delaware and 26 of those years were with the University. His other client over the past two years since retiring from the University in 2012 was the National Rifle Association.

He felt a good lobbyist had to try to represent their client well, was bipartisan, had a reputation for honesty, be well known by members of the Legislature, the Governor, his staff and cabinet members and be committed to their client.

Mr. Armitage met with Carl Luft, Executive Director of the League of Local Governments. There were a number of issues municipalities throughout the State were trying to deal with this year, one being municipal street aid – the Governor recommended \$3 million (\$2 million less than last year's budget). There were a number of other issues related to prevailing wage and implementation of the Clean Water Act and how it would impact municipalities across the State. PILOT funds and a hotel tax were other issues.

Mr. Markham raised the City's stormwater challenges and whether the State would have funding to help Newark and where the State was headed with green energy funding.

Mr. Morehead was curious about the reporting structure, specifically around PILOT. He said it was not clear to him whether Council had a single voice regarding PILOT and wanted to understand how that voice would be developed.

Ms. Hadden had a question about the fees and understood comments about making sure Mr. Armitage was given goals agreed upon by all Council members. Mr. Herron advised if there was an issue that arises where the City had to speak with one voice to its lobbyist, it needed to be discussed at the Council meeting and then direction given to Mr. Armitage.

In response to Mr. Ruckle's comment regarding possible conflicts, Mr. Armitage explained he had only one other client (NRA) and if hired by the City did not anticipate taking on any others.

Ms. Houck said the recommendation was for a March 1 start (this was behind schedule) at a base fee of \$42,000 that would be pro-rated to the actual start date. Staff did not recommend including the two supplemental fees at this time because funding was not available this year. However the fees would be budgeted for in 2016 and 2017 in accordance with the fee appendix.

There was no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MR. CHAPMAN: THAT CONTRACT NO. 14-01R, BE AWARDED TO RICK ARMITAGE, GOVERNMENT AND COMMUNITY RELATIONS LLC, FOR A THREE YEAR TERM AND THE 2015 BUDGET AMENDED TO TRANSFER \$5,835 FROM THE ADMINISTRATIVE AND LEGISLATIVE LEGAL/CONSULTING SERVICES BUDGETS INTO THE LOBBYING SERVICES BUDGET TO COVER THE 2015 COMPENSATION AMOUNT OF \$41,670. THE 2016 AND 2017 COMPENSATION SHALL NOT EXCEED \$53,200 PER 12-MONTH TERM.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Absent: Sierer

20. 8. FINANCIAL STATEMENT: *(Ending December 31, 2014)*

03:26:57

Mr. Vitola presented the unaudited Financial Statements for 2014. On a Citywide consolidated basis an operating surplus of \$7.5 million was shown, about \$155,000 better than the budgeted surplus. The governmental funds were very stable over the last half year. High transfer tax receipts were offsetting lower fines and under-budget parking revenue was discussed regularly for most of the year. Transfer taxes were noted to be overachieving since the sale of the Christina Mill complex. Since then there was another relatively large sale with the Newark Shopping Center and a volume of residential property sales. All other areas such as permits, business licenses, property taxes, park fees, grants and franchise fees were all within a reasonable band of the budget and there

were no major surprises throughout the end of the year. Permits finished ahead of the 2014 budget as a result of some large and small scale commercial activity like the Newark Shopping Center and some UD and 1743 Holdings activity. On the expense side the year to date variance to budget improved to \$122,000 after expenses were under budget each of the last four months of the year. In the enterprise funds water and sewer performed well throughout the end of the year. Water consumption was about 18% higher in 2014 vs. 2013 and exceeded the budget by about 4.5% (nearly 50 million gallons) which translated to a value of about \$350,000. Not all was realized in the form of higher margin because water had to be purchased throughout the year, but the water margin still exceeded budget in part due to the higher than expected water volume. Sewer revenues beat budget by about 2.5% while sewer expenditures were almost 1.5% lower than the budget and that combined for a stronger sewer margin. The electric utilities revenue was higher on volume but the higher volume pushed Kwh purchases up to the point that the electric gross margin was just below budget. The year started off strong in 2014 with the polar vortex and the high peaking volumes, then there was a mild summer. September was unusually strong and October through December were weak. Mr. Vitola felt there would always be some variability in the electric utility but finishing close to the budget was good because it was less to consider and factor into the RSA. Enterprise fund operating expenses were tracking below the budget at \$365,000 to the positive representing the third consecutive month of improvement to finish the year strong there. The electric fund drove that positive variance and the parking fund added about another \$25,000 in positive variance under the budget while the water and sewer funds offset and combined to finish the year about \$1,500 below budget. The cash position at the end of the year was \$29.7 million consisting of \$8.6 million in the operating cash account, \$21.1 million in the City's cash reserves and a residual amount in the Smart meter account that was applied to the lease payment at close. The lagging invoices and accounting from McKees was complete. The final project summary was reported in the financial statement packet and showed the funding sources. That was the last of the summary reports – now it would just be the detail that showed the monthly activity. Based on the operations through February, the payback was estimated for February or March 2017. That time line was a little bit shorter than last reported because of the amount of green energy funds that were available to offset the cost of the project right at its completion. In November the City began accumulating SREC's in the PJM tracking system, so Newark earned almost \$1,500 in SREC revenue through December and another \$2,000 since then. There will be a reconciliation with DEMEC on a quarterly basis for the actual payments but we were generating the SREC's and banking them.

At the next meeting information will be shared on the new parking meters as requested by Mr. Gifford. Staff was also working on a review of the reserves to accompany the January financials as requested by Mr. Morehead.

Mr. Morehead questioned the 18% increase in water measured at the use meters. Mr. Vitola thought it was largely attributable to the new meters but there was no certainty.

Mr. Markham referenced the cash balance and said typically at this time of year an RSA amount was being set aside – Mr. Vitola thought it was \$1.5 million and said it was on the balance sheet in the regulatory liability line. Thus there was \$28.5 million in the cash reserve.

Mr. Markham and Mr. Vitola discussed the payback on McKees solar park which was CAC funded. Mr. Markham noted the CAC funds were set aside by previous Councils specifically to buy green energy funds. Mr. Vitola said it would take until February 2017 to pay those funds back and then it would be another number of months before the \$250,000 CAC funds were rebuilt.

Mr. Chapman recapped that Mr. Markham wanted to grant the money forward before it was fully collected on repayment from McKees rather than waiting until that bank was restored before re-granting it. Mr. Chapman preferred to wait until the bank was refilled and the repayment was realized before going forward. Mr. Markham said the question was whether to reestablish the \$250,000 back into a fund for the CAC.

Mr. Vitola added a clarifying comment – there were several different funding sources including green energy funds. There was \$250,000 in CAC funds and roughly \$100,000 in the City's own general fund appropriations. Mr. Markham's recommendation

was to finish the \$100,000 payback to the general fund appropriation funds and then make the green energy funds available sooner for whatever project was available afterwards.

Mr. Markham suggested that the restriction be removed on the number of green energy blocks available for purchase. Once the marketing was finished and blocks were still available, interested parties could buy more which would speed up the payoff. Mr. Vitola thought that was a good idea.

Mr. Chapman noted this was just a report showing how the fund was currently recorded and could be brought back for future discussion and a decision by Council.

There was no public comment.

21. 10. APPROVAL OF CONSENT AGENDA

- A.** Approval of Council Meeting Minutes – February 9, 2015
- B.** Receipt of Alderman’s Report – February 19, 2015
- C.** Receipt of Planning Commission Minutes – February 3, 2015
- D.** Receipt of Real Estate Tax Assessment Quarterly Supplemental Roll
- E.** ***First Reading – Bill 15-08*** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Changing Certain Penalty Provisions in Accordance with State Law – ***Second Reading – March 23, 2015***
- F.** ***First Reading – Bill 15-09*** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Creating a Pension Committee – ***Second Reading – March 23, 2015***
- G.** ***First Reading – Bill 15-10*** – An Ordinance Amending Chapter 11, Electricity, Code of the City of Newark, Delaware, By Revising the Formula for the Computation of the Revenue Stabilization Adjustment (RSA) Clause – ***Second Reading – March 23, 2015***

03:46:54

Ms. Bensley read the Consent Agenda in its entirety.

MOTION BY MR. CHAPMAN, SECONDED BY MR. RUCKLE: THAT THE CONSENT AGENDA BE APPROVED AS SUBMITTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay: 0.

Absent: Sierer

22. Mr. Markham announced that there would be a five minute recess before Council returned to Executive Session.

23. Executive Session pursuant to 29 Del. C. §10004 (b)(9) for the purpose of discussing personnel matters in which the names, competency and abilities of individual employees are discussed.

Mr. Markham advised that Council returned from Executive Session and there was no action necessary at this time.

24. Meeting adjourned at 11:42 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary