

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**January 14, 2008**

Those present at 7:30 pm:

Presiding: Jerry Clifton, Deputy Mayor  
District 1, Paul J. Pomeroy  
District 3, Doug Tuttle  
District 4, David J. Athey  
District 5, Frank J. Osborne  
District 6, A. Stuart Markham

Absent: Vance A. Funk III, Mayor

Staff Members: City Manager Carl F. Luft  
City Secretary Susan A. Lamblack  
City Solicitor Roger A. Akin  
Assistant to the City Manager Carol S. Houck  
Planning Director Roy H. Lopata  
Water & Wastewater Director Roy A. Simonson  
Finance Director Dennis McFarland  
Chief of Police Paul Tiernan  
Assistant Planning Director Maureen Feeney Roser

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1. The meeting began with a moment of silent meditation and pledge to the flag.
2. MOTION BY MR. OSBORNE, SECONDED BY MR. TUTTLE: THAT THE AGENDA BE AMENDED BY ADDING 9-A-2, RESOLUTION NO. 08-\_\_\_\_: IN MEMORIAM, ROBERT (BOB) S. SMITH; AND REMOVING ITEM 9-B-2, APPOINTMENT TO DOWNTOWN NEWARK PARTNERSHIP AND 9-B-6, APPOINTMENT TO NEWARK HOUSING AUTHORITY.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL:**
  - A. Regular Council Meeting of December 10, 2007

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

4. **3. ITEMS NOT ON PUBLISHED AGENDA:**
  - A. Public

Bruce Diehl, 205 Meriden Drive, asked if the City had any information on the status of the new Newark Country Club being built in Maryland. Site work has begun on the project, but no additional information was available.

Mr. Diehl commented on the recent death of former Councilman Bob Smith, who was also a good friend and neighbor of his for many years.

5. Rick Celeste, 815 Hilltop Road, expressed concern with what he perceived as a recent large increase in the number of rentals in Newark

(specifically, new apartments). He hoped someone was looking at the Comprehensive Plan to make sure the increase gelled with the Plan. His concern was the City could get overbuilt with apartments, and properties could become vacated and not maintained properly creating an additional burden on the City in the future.

Mr. Celeste commented on a recent article in the newspaper that claimed a complaint was filed by a student against the Newark police for police brutality, and asked if that was being followed up. Chief Tiernan explained that complaints were investigated by the lieutenant in charge of Professional Standards, and the Chief reviews the investigation and makes the final determination which is forwarded to the person who made the complaint.

**6. 3-B. UNIVERSITY**

**1. Administration**

Rick Armitage distributed a copy of the University's building plans and asked Council to review it over the next couple of weeks and determine if it was necessary for him to make a formal presentation. In the interim he would make sure the Town & Gown website was updated to reflect the plans.

Mr. Armitage also advised that sometime this summer the University may upgrade steam lines that run under Main Street. He did not know whether that would require digging up the street, nor did he know whether DeIDOT would give the University a permit to do the work because of the recent resurfacing of the street. Mr. Armitage also noted that in May the University would have their strategic plan completed, which may generate comments from the public.

Mr. Athey questioned if the recent real estate parcels on S. College Avenue and Ashley Road purchased by the University would be used for rental housing, and did that mean the University would continue to pay property taxes on those parcels. Mr. Armitage replied in the affirmative.

**7. 3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

**8. 3-C. COUNCIL MEMBERS**

Council members wished everyone a Happy New Year.

9. Mr. Athey asked if there was any reason to be concerned about Grotto's (Main Street location) request to the DABCC to expand their bar. Mr. Luft advised that staff reviewed the request and had no problem with the expansion. Mr. Clifton questioned whether the 152 sq. ft. expansion was total bar and floor space, which seemed large for a four-seat expansion at the bar.

Mr. Lopata explained that last fall Grotto's applied for a building permit to redo the bar area. Under the Zoning Code, they were limited to four additional seats at the bar. When Grotto's first went into the Galleria, they were not under the restriction that seating at the bar was limited to 15% of the total number of seats in the restaurant. He further explained that Grotto's reconfigured some of the internal design of the restaurant. Mr. Lopata sent a letter to the DABCC advising them Grotto's was limited to the additional four seats at the bar. Mr. Clifton asked what if DABCC did not approve the request for expansion. Mr. Lopata said they would not be allowed to use the four additional seats at the bar. Mr. Clifton asked what method of control would be used to make sure the four seats were not used. Mr. Lopata said the restaurant would be inspected and told not to use the seats. That being said, he suspected the DABCC would approve the request since Grotto's already had a liquor license and met the local zoning.

Mr. Luft added that the undercover unit at the Police Department would do the inspection and to date they have done a very good job.

10. Mr. Clifton recognized Mr. Pomeroy's Greater Newark Network meeting that was held last fall and hoped the momentum from that meeting was continuing. Mr. Pomeroy expected to have a report completed by the end of the month, and took this time to thank everyone who attended.

Mr. Clifton advised that he would miss the next meeting because of surgery. He hoped to be at the February 11<sup>th</sup> meeting.

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

12. **5. RECOMMENDATIONS ON CONTRACTS & BIDS:**

- A. Recommendation to Increase Costs Associated with Request for Proposal (RFP) No. 07-03, Design/Build Services for the Refurbishment, Fit-Out & Start Up of a Siemens Treatment Unit at the Curtis Water Treatment Plant

Ms. Houck summarized her memorandum to the City Manager, dated January 4, 2008, wherein she explained that in July of 2007, four design/build teams submitted proposals in accordance with the requirements of RFP No. 07-03, and in September, 2007, Council authorized entering into an agreement with Layne Christensen/Pennoni Associates for the work outlined in that RFP for a total cost of \$567,000. The agreement provided for the engineering, instrumentation and associated installation/construction necessary to outfit two existing but non-operable treatment units. The plant was originally built with five treatment bays, allowing for future growth, but only three of the five bays were outfitted and put into operation. In addition, the RFP identified two new units that should operate from a control panel in full automatic mode. That would have left the original three units on a semi-automated control panel with an interface panel between the two until such time the upgrade of the original units was completed.

The design/build team was asked to suggest alternative options that could result in cost savings or greater operational efficiencies while proceeding with the design/build effort. They have now recommended the elimination of the planned interface panel and the immediate connection of all five-treatment units to the new control panel operating in full automated mode.

It was recommended that Council approve the change in scope to RFP No. 07-03 totaling \$130,000, that would allow for all five treatment bays to be operated by a control panel in full automatic mode at the completion of all work associated with this project.

MOTION BY MR. OSBORNE, SECONDED BY MR. POMEROY: THAT COUNCIL APPROVE A CHANGE IN SCOPE TO RFP NO 07-03 TOTALING \$130,000 THAT WOULD ALLOW FOR ALL FIVE TREATMENT BAYS TO BE OPERATED BY A CONTROL PANEL IN FULL AUTOMATIC MODE AT THE COMPLETION OF ALL WORK ASSOCIATED WITH THIS PROJECT.

Mr. Athey questioned where the check and balance was when the contractor and the designer was one team. Ms. Houck responded by saying that Roy Simonson was very much involved with the project and found as they got into the system, that was an opportunity to find some cost savings and/or some better efficiencies which was brought to staff's attention and evaluated by the Water Director. Everyone believed this proposal was a better way to proceed. When the recommendation was originally approved, if the City had known about some of issues, it could have originally been done this way as opposed to putting in a temporary panel.

Mr. Athey did not doubt that staff reviewed it and thought it was the most efficient way. His concern was he wanted to be sure the City was getting a relatively decent price.

Mr. Simonson said the City's relationship with the supplier of the materials (Siemens) and with the design/build team, and his review of the proposal, made him very confident the City was getting a good value for its money. He thought it went beyond the monetary value and into the operational efficiencies. The proposal would consolidate all of the control work into one project instead of doing it three more times as the next three treatment units got upgraded. Instead the next three improvement projects for the three existing units would become a painting contract and some mechanical valve installation (which he hoped the City could do itself because it was a much simpler project). He noted that he and the working partners did the review and he saw it as a savings all around.

Mr. Osborne thought this was a really good project because the City was getting a lot for a relatively small amount and it was going to a fully automated panel instead of having to go through several steps.

Mr. Markham asked if the City was presently running two panels. Mr. Simonson answered that there was the original control panel that was installed when the plant was put into operation. When the project was done, there would be one control panel operating all five units. If this work doesn't get done now, there would be the old panel, a new panel, and an intermediate panel that was talking between the two panels. Mr. Markham asked if there were any plans for any kind of backup. Mr. Simonson explained that the original panel was the equipment and there was no fallback in terms of two sets of panels—one that was running and one that was standing by. The fallback mode in both cases would be to run it manually.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**13. 5-B. RECOMMENDATION TO WAIVE THE BID PROCESS & PURCHASE POLICE VEHICLES FROM STATE OF DELAWARE AWARDED CONTRACT**

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Ms. Houck summarized her memorandum to the City Manager, dated January 7, 2008, wherein she recommended that Council waive the bid process and approve the purchase of four Crown Victoria vehicles from Warnock Automotive, Inc., the State of Delaware vendor, for a total cost of \$83,264.

Ms. Houck explained that three vehicles were identified to be replaced, and it was determined that an additional police vehicle was required to accommodate the new assignment of a Patrol Lieutenant.

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT COUNCIL WAIVE THE BID PROCESS AND AUTHORIZE THE PURCHASE OF FOUR VEHICLES FROM THE STATE OF DELAWARE AWARDED CONTRACT, WARNOCK AUTOMOTIVE, INC. FOR A TOTAL COST OF \$83,264.

Ms. Houck was asked if it was typical to replace a police vehicle at 100,000 miles. She pointed out that it would be six months before the new vehicles were obtained so there would be a lot more miles put on the three that were being replaced. Mr. Tuttle said, based on his prior personal experience, if you got 100,000 miles out of a police vehicle, the City was doing a great job

because they ran 24 hours a day, whether the wheels were moving or not. Ms. Houck reminded Council that computers in the vehicle require the vehicle to be on. Mr. Tuttle thought it was great to piggyback on the state contract because the City was getting a great price.

Mr. Markham asked how the City would dispose of the vehicles and was told the City would hold its annual auction. Also, the City has entered into an online auction opportunity with just the Police Department. She planned to keep track for six months to see if the City got more money for the vehicles and anything else it may sell from the Police Department. Mr. Markham believed the City would get rid of the vehicles faster by selling them online. Mr. Clifton said he watched vehicles be sold on EBAY that got twice as much as what the City was able to get at our auction, not to mention the cost for the auctioneer. Another idea he suggested was to keep a couple cars an extra year and park them for a day or two in different communities. He was told that was a good way to control traffic. He also suggested using the older cars as an incentive for a police officer to use to go back and forth to work if he lived in the City, although he understood that could be a union issue. Ms. Houck said she would discuss these ideas with Chief Tiernan.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

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

None

**15. 7. RECOMMENDATIONS FROM THE PLANNING COMMISSION/DEPT.**

- A. Request of Lang Development Group for the Major Subdivision of 102 East Main Street in Order to Renovate the Existing Building by Removing & Then Enlarging the Rear Portion So That it Can Accommodate a 100-Seat Restaurant Occupying the First Floor & a Portion of the Second Floor & Ten Apartments Occupying the Balance of the Second Floor & Entire Third Floor  
**(RESOLUTION & AGREEMENT PRESENTED)**

MOTION BY MR. OSBORNE, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION BE APPROVED AS SUBMITTED.

Mr. Clifton advised that this would be the public hearing for items 7-A and 7-B.

Jeff Lang, Lang Development Group, 6000 Woolen Way, Newark, provided a brief summary of his plans to renovate and redevelop the building at 102 East Main Street. About a year and half ago the sellers of the property contacted him about purchasing the property. At the same time a restaurant operator who was looking at the site met with Lang Developer to discuss the possibility of locating his business in this building. Mr. Lang visited one of their existing restaurants in West Chester and thought it would be a good addition to the Newark community. He then began more active conversations with the seller about purchasing the property and incorporating the restaurant in the footprint of the building.

Mr. Lang said that he would not infringe upon the existing lot in the back or jeopardize the parking utility of a portion of Lot #3. The building would be expanded about 40' from the end of the present structure while still maintaining all of the parking spaces. When the additional square footage is added to the building, he would have to tear down the back portion of the building, maintain

and renovate the historic structure, and add a second and third floor for residential use.

On November 6, 2007 the Planning Commission approved his proposal. Since that time, Mr. Lang has continued discussions with the restaurant operator. He hoped to add about 10' to the back of the building which added about 316 sq. ft. to the building and led to reconfiguring the second and third floors to add a tenth unit to the building. He was able to re-engineer the site, revise the footprint, and not impact the parking to avoid asking for a revised parking waiver.

Mr. Lang referred to the back portion of the site (parking spaces) that has been under a lease agreement with the sellers and the City. He proposed to dedicate to the City that portion of the site currently leased as a portion of City Parking Lot #3 and, in return, the City would agree to waive the parking waiver fee which would otherwise apply to the site.

Mr. Lang has a sales agreement to purchase the property assuming he received Council's approval of the subdivision. It was his intent to manage the the entire building (restaurant and apartments).

The chair opened the discussion to the public.

Victoria Owen, 719 Lehigh Road, asked the developer to retain the national registered name for the property which was the "Bank of Delaware Building."

Jean White, 103 Radcliffe Drive, pointed out that the demolition of the back part of the building which would be rebuilt, would increase the footprint by 53%. She questioned why the height of the back portion would be increased, whether a restaurant was a good use for the building, how a restaurant with a 15-seat bar and live floor show entertainment would impact the alcohol scene on Main Street, and whether it was wise to put 40 college students in the building with no parking in combination with the possible apartments over the old CVS building—all of which would have no parking made available.

Ms. White referred to the fact that the developer would agree to duplicate and carry out the historic architectural design of the facades of the existing building on all building elevations visible from public rights-of-way. She pointed out that the Secretary of Interior Standards for historic buildings did not recommend that one duplicate the exact form, material style and details of the historic portion. She asked that the resolution/agreement be amended to say the developer agrees to "compliment" and carry out the addition so as to compliment, in the appropriate way, the historic portion.

With regard to signage, Ms. White asked the developer to come up with a nice wood-carved sign that may be painted and perhaps lighted from the back. If it has to be internally lighted, she asked that great care be taken so that an inappropriate sign was not the end result.

Ms. White originally thought the entranceway was going to be on the side, but after being told by Mr. Lang that it would be in the front she was no longer concerned. She was also concerned that the stone wall was going to be removed, but was told it would remain although it may be added to when plantings were incorporated. Since outside seating would be available on the front porch, Ms. White asked that the umbrellas not advertise beer or alcohol.

Ms. White thought it was important that that the City would gain part of the parking lot. But even more important was the fact that an historic building would be improved and maintained. How the historic building was improved was most important in her opinion. Therefore she asked, as a condition of approval, that Lang Development consult with the State Historic Preservation Office on the rehabilitation. Although that would not obligate Mr. Lang to follow every

suggestion that might be made, there may be things he could learn from their suggestions. Also, there were state and federal tax credits Mr. Lang may find useful by following the guidelines in preserving the building.

Ms. White took this time to voice her opinion on the Planning Commission granting parking waivers. She personally felt a parking waiver should also require Council's approval.

Bruce Diehl, 205 Meriden Drive, asked if there would be an elevator in the building and was told no. He thought that would cause a problem with part of the restaurant being located on the second floor. Mr. Lang advised there would be a second set of stairs for servers. He also explained that he attempted to design the building to accommodate the potential need of the restaurateur he has been talking to. He was confident the space he created would accommodate any restaurant. Mr. Diehl questioned handicap access. Mr. Lang said he had to comply with all ADA requirements, and would provide access not only from the front but also from the side to avoid putting a ramp in the front of the building.

Sheila Anderson, 207 Sypherd Drive, expressed concern about the lack of parking. She would like to be assured that the stone wall would remain and the integrity of the materials, colors, windows and doorways, etc. be honored. She would like to see real quality put into the building.

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

Mr. Markham asked Mr. Lang what he valued the parking property that would be deeded to the City. Mr. Lang estimated the value of the land to be between \$400,000 and \$500,000. Mr. Markham asked for a brief description of the target restaurant and what it would look like. Mr. Lang provided photographs of the inside of the proposed restaurant. The restaurant would provide an oyster house kind of feel with a raw bar, high quality food, fresh seafood, etc. As the owner of the building, and with residents in the building, he wanted a good restaurant that created a value to the community and was a good neighbor to the tenants in the building.

Mr. Markham commented on the number of apartments and the number of people they would accommodate. Mr. Lang said most of the units would be two-bedrooms with some having the potential of four-bedroom units. Therefore, instead of agreeing to a maximum of four per unit, the agreement reflects a maximum of 40 people in the apartments. That also gave him the flexibility of having one-bedroom units.

Mr. Markham asked Mr. Lopata for a reason why the permitted number allowed was by apartment and not by a square footage calculation. Mr. Lopata said that because they were not 100% sure about the internal layout, he recommended using the maximum of 40. Mr. Lopata felt in terms of impact outside the building, which he thought everyone was interested in from a community standpoint, it was the total number of people on the site rather than how the apartments were laid out inside.

Mr. Markham pointed out for the record that Council received a letter from a resident on Center Street who really did not state his feeling one way or the other on the project, but reminded Council that they discussed the removal of the rental restriction on Center Street, and he thought this represented a change in Council's direction around that area. The person who sent the letter hoped Council would revisit that for Center Street. Mr. Athey commented that he thought the letter was interesting because the resident did not object to the bar but the next paragraph was almost contradictory to that statement.

Mr. Athey said he wasn't so sure that he would have granted the parking waiver and thought there had to be a reason why that was the purview of the

Planning Commission. Mr. Lopata interjected that the parking waiver was appealable to City Council (as stated in the Code) and they could overturn a parking waiver. Mr. Lopata further explained that when the parking waiver ordinance was adopted, it would be an economic development tool, and if someone was applying for just a parking waiver (which the City almost never gets), that would go to the Planning Commission for approval, disapproval, or approval with conditions. He emphasized that the parking waiver could go to Council through a procedure in the Code. He also pointed out that if Council turned down the subdivision and special use permit, the parking waiver was moot. Mr. Clifton asked what was the process for appealing a parking waiver.

Mr. Lopata said since 1986 when the parking waiver ordinance was adopted, there has never been an appeal. If a developer felt they were unfairly dealt with (the parking waiver denied), they would appeal to the City Manager or the Planning Director and it would be placed on an agenda for Council's review. A Council Member not happy with a parking waiver that was granted could also ask that Council review it.

Mr. Clifton thought if someone wanted to appeal the parking waiver for this development, it was too late. Mr. Lopata thought Council would have known by now if someone wanted to appeal the parking waiver that was granted in December because the weekly report, the Planning Department memos, the Planning Commission minutes, etc. were given to Council. He also stressed if there was something Council wanted to revisit, that could be done by placing the item on the agenda.

Mr. Athey suggested that Council discuss parking waivers in general since they were granted by the Planning Commission. He asked for a memo on the subject for discussion in the future. Mr. Lopata said that no memo was needed and a proposal to change the Zoning Code could be given to the Planning Commission for their review if that was the direction Council wanted to go. He reiterated that there have been many parking waivers and almost all of them have come back to Council in this format. He thought less than five parking waivers stayed at the Planning Commission level. Although he did not think the Code needed to be changed, Mr. Lopata said if Council wanted it changed, he would draft the appropriate language. Mr. Clifton thought the Code should be changed because the Planning Commission was not directly responsible for the citizens of Newark—they were the City Council's responsibility.

Mr. Osborne asked if the long-term lot leased from the School District was full. Mr. Lopata said it was fully leased as well as Lot #5, but because it was winter session, less cars were parked in the lots. Lot #3 was close to full capacity. In terms of long-term parking needs, Mr. Lopata thought Council would have to address long-term parking needs in the near future because he did not think they could continue to approve downtown projects of this size and scale without having a long-term plan. Mr. Luft interjected that at the last Downtown Newark Partnership meeting, the board asked the Parking Committee to step up their review of long-term parking. The study has been completed and recommended if the City was going to build a parking garage, it needed to get a partner and it was time to address those issues.

Mr. Tuttle asked who submitted the language in the agreement for #5 where the developer agreed to duplicate and carry out the historic architectural design of the facades of the existing building on all building elevations visible from public rights-of-way. Mr. Lopata said the language was from the guide provided by the State Historic Preservation Office and the Department of Interior that needed to be followed if Mr. Lang applied for tax credits. The City will suggest that he used that guide, but won't come under it directly because he did not come under the City's historic preservation ordinance because he was not changing 50% of the façade of the historic building. His plan was to rehabilitate and preserve it and the City would recommend that he do it under those guidelines. Mr. Lopata said it was the City's intent that he complement, not

duplicate the architectural design because when you duplicate it, it tended to look fake. Therefore, Mr. Lopata had no problem changing the word “duplicate” to “compliment.”

Mr. Athey asked Mr. Lang if he had any problem with contacting the State Historic Preservation Office for guidelines. Mr. Lang said he was obligated to restore the building, and has talked to Joan Larrivee about another project (the Wilson Farm) at length who referred him to the office of Dr. Ames at the University. He was also working with Professor Rebecca Sheppard and her students who surveyed extensively the Wilson house and barns and thought she may be able lend some assistance at this site. Mr. Lang said he was willing to work with Professor Larrivee and Dr. Ames about restoring the building to its original look.

Mr. Pomeroy believed Mr. Lang would be true to his word and asked if he would be willing to amend the agreement to reflect his willingness to contact the State Historic Preservation Office. Mr. Lopata interjected that the City historic building code ordinance calls for a technical advisory committee that has a representative from the Historic Building Survey at the University of Delaware and the New Castle County Historic Preservation Committee. He preferred if the agreement was amended that the language refer to consulting with the technical advisory committee rather than going straight to the state because they could be slow. Mr. Lang advised that he had no problem with adding that to the agreement.

Mr. Pomeroy asked if the apartments would be hard wired for smoke alarms and was told that was required by the Code. Mr. Pomeroy questioned the signage on the property, which Mr. Lopata said that any signage within the historic portion of the building would be designed so it was integral to the historic design.

AMENDMENT BY MR. POMEROY, SECONDED BY MR. TUTTLE: THE DESIGN OF ANY SIGNAGE IN THE HISTORIC PORTION OF THE BUILDING WOULD BE DESIGNED SO IT WAS INTEGRAL TO THE HISTORIC DESIGN OF THE BUILDING.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0

Absent – Funk.

Mr. Pomeroy looked at this development from an economic development perspective. When looking at the market place, there were fewer and fewer of these projects in places other than Newark. This project would fill a vacancy on Main Street and the importance of that should not be understated. He believed redevelopment of projects kept Newark moving forward at a time when other cities weren't moving forward in the same manner. In his mind, that was the most important aspect of the project. Mr. Pomeroy was excited that a historic building was being saved for another generation to enjoy. He used the Deer Park as an example where the public had the opportunity to experience the history of that building and make a connection to that location. He reiterated that he strongly supported the project for the economic development purpose of it and for the importance of developing Main Street in a responsible manner.

Mr. Osborne saw this as a good idea to preserve a historic building and make it a part of the streetscape for the City. He saw it as an advantage to have a variety of architecture on Main Street and it was a good example of the kinds of things he would like preserved. He liked keeping the front entrance and providing a separate handicap entrance on the side of the building.

Mr. Tuttle appreciated the fact that a covered walkway was planned to link access to the building to the parking behind it. People sometimes don't want to park in the lots provided by the City because they don't find them convenient to their ultimate destination. This was a good use of existing parking and a shelter to get individuals into the building with handicap accessible as well.

Mr. Clifton agreed with the comments made regarding this project. With regard to parking waivers, he pointed out that he has voted against downtown projects because of parking waivers. That being said, he planned to support this request because the City was getting the use of the parking spaces that complimented the number of apartments and then some. His concern with parking waivers on Main Street was in the long term. If sometime in the future the University decided to provide enough housing for their students, the apartments approved downtown would soon become empty and it would be difficult to market them as condominiums to non-students because no parking would be available. He was, however, encouraged, to hear the City was looking at the broader parking picture because it was absolutely critical.

Question on the Motion as Amended was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**(RESOLUTION 08-A)**

**16. 7-B. REQUEST OF LANG DEVELOPMENT GROUP FOR A  
SPECIAL USE PERMIT AT THE PROPERTY LOCATED AT 102  
EAST MAIN STREET IN ORDER TO CONSTRUCT  
APARTMENTS IN A BB ZONING DISTRICT**

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**(Secretary's Note: Public hearing was held under Item #15.)**

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT THE SPECIAL USE PERMIT TO CONSTRUCT APARTMENTS IN A BB ZONING DISTRICT AT 102 EAST MAIN STREET BE GRANTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**17. 8. ORDINANCE FOR FIRST READING: None**

**18. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

A. Council Members:

1. Review of RFP No. 07-05, Executive Search Consultant/City Manager Recruitment Services

The RFP No. 07-05 received six proposals which were ranked by Mayor and Council. There was a short discussion with regard to interviewing the top three firms which included: The Mercer Group, Slavin Management, and the Par Group. All firms were ranked relatively similar and the prices were all similar. Because the hiring of a new City Manager was such a critical issue, it was agreed that all members of Council needed to be present for the interviews of these firms. It was decided that a Special Meeting would be held on Monday, February 11<sup>th</sup> at 5:00 pm. Each firm would be given a maximum of one hour and then the Regular Meeting would follow at 8:00 pm. Ms. Houck will contact the

firms and arrange the interviews. Council asked that the regular agenda be kept to a minimum that night.

**19. 9-A-2. RESOLUTION NO. 08- : IN MEMORIAM, ROBERT S. SMITH**

MOTION BY MR. OSBORNE, SECONDED BY MR. POMEROY: THAT THE RESOLUTION BE APPROVED AS READ.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**(RESOLUTION NO. 08-B)**

Mr. Pomeroy said that Bob Smith was a great public servant and role model to him when he began his career in government. He was a true friend who would be deeply missed. Mr. Osborne recognized his friendship with Mr. Smith, as well as Bob's commitment to the Newark community.

**20. 9-B. COMMITTEES, BOARDS & COMMISSIONS:**

1. Appointment to Election Board – Districts 4 & 5

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT GLORIA HICKEY, 94 KELLS AVENUE, BE REAPPOINTED TO THE ELECTION BOARD; SAID TERM TO EXPIRE JANUARY 14, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

MOTION BY MR. OSBORNE, SECONDED BY MR. POMEROY: THAT ALICE LIECHTY, 101 MERIDEN DRIVE, BE REAPPOINTED TO THE ELECTION BOARD; SAID TERM TO EXPIRE JANUARY 14, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**21. 9-B-2. APPOINTMENT TO DOWNTOWN NEWARK PARTNERSHIP (MAYOR'S APPOINTMENT)**

This item was removed from the agenda.

**22. 9-B-3. APPOINTMENTS TO DOWNTOWN NEWARK PARTNERSHIP PARKING COMMITTEE (MAYORS APPOINTMENTS)**

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE DOWNTOWN NEWARK PARTNERSHIP PARKING COMMITTEE BE REAPPOINTED FOR A THREE-YEAR TERM; SAID TERMS TO EXPIRE JANUARY 11, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

The members included: John Newcomer, Esquire, James Bloser, John Brook, Barbara Clifton, Heather Dunigan, Sally Miller, Jim Grimes, Joseph VanHorn, and Dennis McFarland.

**23. 9-B-4. APPOINTMENT OF NEWARK MEMORIAL DAY PARADE COMMITTEE (MAYOR'S APPOINTMENT)**

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MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT THE NEWARK MEMORIAL DAY PARADE COMMITTEE BE REAPPOINTED FOR A ONE-YEAR TERM.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

The members include: Ltc. Sheldon Slater, Ltc Robert Hyland, Linda Burns, Maj. & Mrs. Thomas Kelly, Robert Cronin, Col. Thomas Parkins, Tim Brooks, Paddy Wilcox, and a representative from the U.S. Army ROTC (UofD), the U.S. Air Force ROTC (UofD), the U.S. Marine Corps Reserve, the Delaware National Guard, the VFW Post 475, the American Legion, the Waves, and the Vietnam Veterans of America.

**24. 9-B-5. PLANNING COMMISSION MINUTES OF DECEMBER 4, 2007**

MOTION BY MR. POMEROY, SECONDED BY MR. OSBORNE: THAT THE PLANNING COMMISSION MINUTES OF DECEMBER 4, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**25. 9-B-6. APPOINTMENT TO NEWARK HOUSING AUTHORITY (MAYOR'S APPOINTMENT)**

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This item was removed from the agenda.

**26. 9-C. OTHERS: None**

**27. 10. SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. Discussion re Retention of Outside Counsel Concerning County Club Estates

Mr. Akin referred to his memorandum to Mayor and Council, dated January 14, 2008, regarding his recommendation for outside counsel concerning the County Club Estates. He had previously recommended Max Walton and Wendie Stabler, both very experienced in land use matters. Three members of Council advised him of their endorsement of Ms. Stabler. Therefore, he recommended that Wendie Stabler would be an excellent choice and asked for authority to engage Ms. Stabler for special land use consultation in the Country Club Estates matter.

Mr. Pomeroy thought it made good sense to have a supplemental review from an outside expert on this proposed development, and thought it would be very helpful to Council and the public. In his opinion, Wendie Stabler was a very good choice and thought they should move forward with this. He questioned

whether they should discuss the parameters from a budgetary standpoint at this time.

Mr. Akin advised that in a prior memo he provided Ms. Stabler's hourly rate. He believed Ms. Stabler would be reasonable in regard to the hours she committed to the project, and would encourage her to do that. He believed the files she would be reviewing and the research she would be doing was rather a finite amount of time (estimated at 15-20 hours maximum which would include an appearance at the meeting). Mr. Pomeroy questioned if the billing would be done on a monthly basis so that Council would be kept aware of the cost. Mr. Akin said he would be glad to ask Ms. Stabler to do that. Mr. Athey was comfortable with the 20 hours.

Mr. Clifton advised there was a request from the public to speak on this issue and asked if Council wanted to suspend the rules to hear the speaker.

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THE RULES BE SUSPENDED TO HEAR FROM THE PUBLIC.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

Bill Pace, 13 E. Mill Station Drive, questioned the purpose of hiring the outside counsel.

Mr. Akin explained that because of the substantial public attention to the Country Club Estates matter, and the already somewhat contentious nature of some of the presentations on the subject, Council suggested it may be appropriate to retain the counsel of an experienced land use attorney, even more experienced than himself, to consult with and get a second opinion on the status of the project and Council's prerogatives in considering the project. Council has now authorized bringing in an outside private attorney very experienced in land use and in giving advice to bodies considering very high profile plans.

Mr. Pomeroy added that to date the process has gone through the Planning Department and the Planning Commission. In preparation of coming before Council, he thought this would give them a supplemental legal look at the issues surrounding the project.

Mr. Clifton added that he thought it was important for Council to know precisely what their absolute parameters were in order to work with the developer to get the best possible project that was expected in the community.

MOTION BY MR. TUTTLE, SECONDED BY MR. POMEROY: THAT COUNCIL APPROVE RETAINING WENDIE STABLER AT AN HOURLY RATE OF \$360.00.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**28. 10-B. ALDERMAN'S REPORT**

MOTION BY MR. ATHEY, SECONDED BY MR. OSBORNE: THAT THE ALDERMAN'S REPORTS DATED DECEMBER 18, 2007 AND JANUARY 4, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**29. 10-C. FINANCIAL STATEMENT**

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT THE FINANCIAL STATEMENT ENDING NOVEMBER 30, 2007 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

**30. 10-D. REQUEST FOR EXECUTIVE SESSION RE PERSONNEL**

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS PERSONNEL.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Tuttle, Osborne, Pomeroy, Clifton, Athey, Markham.

Nay – 0.

Absent – Funk.

Council entered into Executive Session at 9:28 pm and returned to the table at 10:17 pm. Mr. Clifton advised that no action was required by Council at this time.

**31. Meeting adjourned at 10:18 pm.**

Susan A. Lamblack, MMC  
City Secretary

/pmf