

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES
June 8, 2015**

Those present at 7:00 p.m.:

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

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
City Solicitor Bruce Herron
Deputy City Manager Andrew Haines
Planning & Development Director Maureen Feeney Roser
Communications Affairs Officer Ricky Nietubicz
NPD Chief Paul Tiernan
NPD Cpl. James Spadola
NPD Officer Aaron Olicker
Public Works & Water Resources Deputy Director Tim Filasky

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

2. **1. PUBLIC PRESENTATIONS**

A. Proclamation Thanking Launch Trampoline Park For NPD Community Event Sponsorship

01:58

Launch Trampoline Park Manager Daniel Gebre and owners Stephanie and Grant Eldridge and Bill and Shauna Garrett were recognized for helping to provide a memorable and fun experience for local children, fostering good community relations and being a good corporate citizen of Newark.

3. **1-B. PROCLAMATION THANKING TIA HILL FOR NPD VOLUNTEER SERVICE**

03:57

Tia Hill was recognized for volunteering her time to film and produce a video for the Newark Police Department of the "Hug a Cop" campaign which helped the Newark Police Department receive significant recognition and positive international coverage thereby fostering positive community relationships.

4. **1-C. RESOLUTION NO. 15-__: RETIREMENT OF STEVEN WILSON, CODE ENFORCEMENT SUPERVISOR**

06:19

Mr. Wilson was acknowledged for his twenty-five years of service to the City since January 8, 1990. Mr. Wilson worked in the Parks and Recreation Department and Code Enforcement Division.

MOTION BY MS. HADDEN, SECONDED BY MR. MOREHEAD: THAT RESOLUTION NO. 15-J, RETIREMENT OF STEVEN WILSON, CODE ENFORCEMENT SUPERVISOR, BE ACCEPTED AS PRESENTED.

MOTION PASSED UNANIMOUSLY VOTE: 7 to 0

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

Nay: 0.

(RESOLUTION 15-J)

5. 2. ITEMS NOT ON PUBLISHED AGENDA
A. Public

11:06

John Morgan, District 1, commented regarding the University of Delaware's Presidential search. In the past during the hiring process there were open visits to campus so the candidates could engage members of the faculty, the students and also the community. In light of what Newark has been through over the past couple of years, he thought the University administration should be reaching out and trying to engage the public more rather than less.

Ralph Begleiter, District 6 and former Planning Commission member, urged Council to provide municipal Internet service to all citizens, businesses and visitors. He felt there would be benefits to the City both economically as well as to its reputation.

Mr. Markham asked Ms. Houck whether an update regarding municipal Internet was provided by Mr. Brechbuehl as referenced in a March e-mail. Ms. Houck believed there was an update that was provided in a weekly report. She noted that Mr. Brechbuehl met with people and gathered information on this subject. Mr. Markham asked that the City reach out to Messrs. Begleiter and Schwartz for their assistance and work through Safe Cities and the National League of Cities on this matter.

Margaret Cassling, District 1, discussed whether the subvention amount paid by the University of Delaware to the City was adequate considering the services they receive from the City. She added that the University's lack of student housing was a burden on the town and stressful to the community. She hoped the University would take these facts into consideration during their negotiations with the City for the Rodney property and either gift the property or offer it at a very low price.

Len Schwartz, District 3, supported Mr. Begleiter's recommendation that the City take action to bring municipal broadband to Newark. Mr. Schwartz reported Mr. Blair Levin, head of the gig.U project, offered to visit Newark to discuss municipal Internet options.

Helga Huntley, District 1, thought the subject of municipal Internet would be of interest to the public. She suggested that staff pass a draft RFP by Council prior to publishing to ensure that all the information requested is included. Ms. Huntley suggested that public presentations at Council meetings be open to public comment. She expressed frustration with issues experienced while trying to enroll in the McKees Solar Project.

6. 2-B. ELECTED OFFICIALS: None

7. 2-C. UNIVERSITY
(1) Administration

35:46

Rick Deadwyler, UD Government Relations, provided an update on commencement ceremonies and Dela-bration (alumni weekend). UD was pleased that no noise complaints were made. Measurements were taken from several locations to monitor the sound resulting from the event. The Media Services Department and Council member Hadden were involved in the sound monitoring. A farewell event was held at the West campus for the closing of the Rodney and Dickinson complex.

Mr. Markham, asked whether the presidential search process would be open to feedback from the public. He stressed the importance of the University's partnership with the community. Mr. Deadwyler replied that the search in general would be confidential but there would be an opportunity not only for Council but for the community-at-large to provide input into the process. Mr. Deadwyler said he would pass Mr. Markham's and other Council members' remarks on to the search committee.

Mr. Markham stressed his concerns about UD students crossing the railroad tracks in between stopped trains in order to avoid being late for class.

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

9. **2-D. LOBBYIST**

50:51

Mr. Armitage referenced the spreadsheet and noted he added one item that was not on tonight's agenda. The only real change between what was published in the last agenda and this evening was the addition of Senate Bill 106 which is a bill regarding prevailing wage. This one was introduced by the Republican leadership. It moved the threshold levels for renovations to \$250,000 and \$500,000 for new construction. It was assigned to the Senate Labor Committee but they had not scheduled a hearing this week. It would again be tied up in the budget negotiations as to what kind of taxes may emerge out of Dover.

The only sponsors on the bill were Republicans, so he thought that eventually would be a quid pro quo to get the Republican votes needed in the Senate to pass any tax bills. They would have to have some Republican votes. There would be some trade there for that to happen. It would be a plus for the city. Mr. Armitage confirmed that the previous guidance from Council was to support anything that moved the threshold numbers up. House Bill 140, which was sitting in limbo, as well as Senate Bill 106, addressed this issue.

Mr. Markham asked how many contracts in the City this affected – the monetary value, and the number of contracts. If somebody comes back and says we will save \$10,000, he would tell Mr. Armitage to push for this but if it saved the City a million dollars, he would absolutely push for it. He wanted the thresholds to be increased.

Ms. Houck replied it was any of the larger construction projects and certainly the street project. Mr. Armitage said the street paving project was the one that jumped out at him as to where the largest savings might be.

Mr. Filasky explained the street program was typically over a million dollars so unless that threshold was hit, it wouldn't really make a difference. Mr. Armitage said he did not know if the contracts were divided up to drop below that or if it could not be done that way. Mr. Filasky said within one year, it was just not going to happen. He added there was a certain construction season they get into and to divide them up, it was just too close together. Ms. Houck said over the years that this was put into place it would provide substantial savings and more could be done with the funds. Less of it would be paying for the paperwork which is what the contractors charge the extra funds for associated with having to do all of the different things associated with the thresholds. Mr. Filasky noted there were smaller, less invasive projects that could be done like micro-surfacing that may or may not break that threshold.

Mr. Gifford asked if this would also apply to the ADA ramps, the smaller projects like sidewalks. Mr. Filasky reported that was Federal money so that may not be affected. Mr. Morehead asked how much of the million dollars was labor costs. Mr. Filasky said the contract should be on the next agenda and he would be able to provide the information at that time.

Mr. Markham pointed out that since the next Council meeting was 6/22 (8 days before the close of the legislative session), Mr. Armitage would have to wait two weeks if Council did not give him direction tonight or he would continue on however he has been supporting it now. Mr. Armitage replied there would be four legislative days at least at this point in time after the Council meeting. He expected that the budget would be a nightmare this year, and that the bond bill may not get written until the weekend of the 28th and the 29th. Ms. Sierer said for HB 140 and SB 106, Mr. Armitage needed concrete direction from Council.

From discussions at the League of Local Government meetings, Ms. Hadden's impression was that SB106 would help out a lot of the smaller municipalities by increasing

these thresholds. Ms. Houck felt it just provided additional funds and Mr. Armitage thought that the common voice of the municipalities together was helpful for the legislature on some issues.

MOTION BY MR. MARKHAM, SECONDED BY MS HADDEN: THAT THE CITY'S LOBBYIST BE DIRECTED TO SUPPORT EFFORTS TO RAISE THE THRESHOLDS FOR THE PREVAILING WAGE.

MOTION PASSED UNANIMOUSLY VOTE: 7 to 0

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

Mr. Armitage mentioned that Senate Bill 83 was in committee this Wednesday. It related to the protection from abuse orders. He noted that the National Rifle Association (his other client) asked him to oppose that bill. The NRA did not think it was balanced in the way it was being presented for the PFA process moving forward. Mr. Markham assumed when Mr. Armitage presented testimony that he would be presenting as the lobbyist for the NRA and not for the City of Newark. Mr. Armitage would make that clear to the legislature.

Mr. Morehead asked Mr. Armitage's sense of SB 83 now. Mr. Armitage thought it would be very controversial and if released from committee, the Senate would spend at least an entire legislative day debating the bill. He was not sure how the vote count would go. It was a simple majority bill that would be very close depending upon whether it got to the floor. The pro tem would much prefer that the senate focus on the money rather than this bill, which will be controversial.

Mr. Ruckle asked what the controversial piece was on trying to take the guns away from people if they get a PFA. Mr. Armitage stated the current PFA system allowed that to happen but in what is being presented now was that in an ex-parte hearing, where a petitioner can go before a Family Court Master or Judge and ask for the Protection from Abuse order, they cannot order the forfeiture of firearms. If this bill passed, it would allow that to happen. An ex-parte hearing is a one-sided hearing. The National Rifle Association feels this eliminates the due process, a cornerstone of the justice system.

In addition, right now, under PFA, there are some other options for the forfeiture of the weapons. It can go to someone who is not prohibited, it can go to a firearms dealer. In the new legislature that would pass, it could only go to police departments. What was added is ammunition and firearms, which is new for police departments to have to deal with storage and in common law, there was a bailment issue that the police departments receive these weapons. They now have custodial obligations that they would have to return the weapons at the end in the same condition that they were forfeited, which for some agencies probably would not create a problem but for others it might, particularly in much smaller jurisdictions. It has to be stored in a facility separate from evidence. There will be a lot of arguments back and forth about how to do that.

Mr. Markham confirmed that the bill was in the senate right now and reviewed the sponsors. He did not want Newark to take a position on this against local legislators without having a thorough conversation on the bill. Ms. Sierer pointed out that since it was still in committee, it was not at a point where Council needed to give direction.

Mr. Armitage referenced the local preemption limiting the open carry in municipal jurisdictions. There were now at least two drafts and there was not a significant difference between the two drafts. It will be relatively prescriptive. If a jurisdiction decided they wanted to opt in to creating the ordinance limiting open carry in municipal facilities, they could do that. He did not think the League made a decision regarding taking an official position - it would be discussed at the legislative committee meeting on June 16th.

Mr. Armitage also mentioned the telecommunications bill. Legislation would be introduced this year that would phase out the taxing authority of municipalities for Verizon's copper wire that runs through jurisdictions throughout the state. The impact

statewide is \$9.5 million and it would begin in 2015 if it passed and would phase out completely by 2018. The idea in the bill was to establish a committee that would work during this phase out period from 2015 to 2018 to come up with a plan of action to make all the municipalities and school districts whole for the amount of tax that would be lost for the phase out of the copper. Also, copper phase out for Delaware was expected to occur in 2016 according to Verizon who was leading the bill. Mr. Armitage and Ms. Houck would work to gather additional information to provide to Council.

Mr. Gifford had a number of concerns about local preemption. His biggest concern was item c in the proposed bill (roving municipal areas) and the implications for meetings held outside of the municipal building. His interpretation was that those locations would become a municipal building. He thought that would be problematic for meetings held in private areas such as restaurants where the preemption law might be imposed upon them. Mr. Gifford's objection to the law was that it would provide nothing more than a perception of safety.

No further direction was requested by Mr. Armitage.

10. 2-E. CITY MANAGER

01:11:59

Ms. Houck reported that the 9th year of the UDon't Need It student move out program occurred and ended last Saturday. Sales doubled from last year as a result of making some changes to the number of days. Three very large trucks filled with items went to Goodwill and will be provided to various agencies. Five full dumpsters of recyclables for wood and metal were also captured and kept out of the landfill as well. Final figures will be reported at a later date.

Final preparation was on for A New Night Downtown which will occur Saturday from 3 to 9 PM. Participant registration numbers were large.

Council was asked to set August 31st at 6 PM for a special meeting on the noise ordinance. That date was confirmed with Compliance Environmental and Val who presented to Council last September. Mr. Morehead asked the difference between a workshop and a special meeting. Mr. Herron explained that the Code was recently revised to define those terms. Ms. Bensley added that a workshop would just be a presentation without any action by Council, and a special meeting would be if there was action that needed to be taken by Council.

Mr. Markham commented that Council could not vote on ordinance changes that night without them being advertised for first and second readings. They could only provide direction. It was agreed to call the meeting a workshop and to plan for 8/31 at 6 PM.

Ms. Houck confirmed that the next Comprehensive Plan workshop would be held on 8/3. Ms. Sierer noted that the information for the meeting would be provided to Council on a flash drive by 7/6.

Mr. Morehead asked that the information be posted as a draft on the City's website on 7/6. Ms. Houck confirmed that it would be.

Mr. Gifford explained the final draft was delayed in getting to Council because of improvements to the GIS maps and some other details being worked on to enhance the document.

11. 2-F. COUNCIL MEMBERS

01:18:27

Mr. Chapman: None

Mr. Morehead

- Referenced festivals held in surrounding areas and encouraged Council and staff to think about what kind of event Newark could become famous for regionally and nationally. This would help improve the City's image and bring it to the public forefront.

Mr. Markham

- When he visited UDon't Need It, he was pleased to see that the tent was emptying out. He asked whether trash drive-throughs were still being done to pick up sofas and other items. Mr. Filasky responded that Public Works was still doing the drive-throughs.
- Regarding the county looking at reassessment, they have decided not to move forward and there will be no change to their reassessment process.
- Mr. Markham supported inviting Blair Levin to Newark to discuss municipal Internet but said there should be some type of background check done in advance. Ms. Houck planned to have Mr. Brechbuehl reach out and believed he already knew of him.
- Mr. Markham commented about the passing of Beau Biden and said no matter who you are, what your political background was, the man served the State of Delaware.

Mr. Ruckle

- Attended a condo association meeting for Washington House. They asked if something could be done about the large A-frame signs blocking pedestrian access on Main Street. There were complaints about not having adequate parking for visitors on Fridays and Saturdays and the residents supported the idea of a parking garage built by a private partnership.
- The University did an amazing job on the alumni event.
- Mr. Ruckle agreed with Mr. Morehead on the idea of a large festival in Newark, and he would like to partner with the University on this type of event.
- Commented on the passing of Beau Biden – he played football against him when he was at Archmere, and he was an amazing leader. It was a sad loss to the community.

Mr. Gifford

- Regarding municipal Internet he knew it was included in the weekly reports and wanted to chime in during public comments but could not remember the summary – he suggested having all the comments in one place to be able to read through them.
- Thanked the police for apprehending the suspect in Rittenhouse Park.
- Following-up on some of the trash collection, there was one weekend morning when Ritter Lane was littered with debris and it disappeared very rapidly, so he was very happy with Public Works.
- Regarding the subject of festivals, he attended Lehigh University where they had a music fest. It seemed to be a pretty nice event with multiple days and it had some family and late night aspects to it. He felt there were a lot of music lovers in this area and it might be something to consider. Mr. Morehead thought some kind of bike races would be good. Mr. Sierer was already working on that type of an event.

Ms. Hadden

- Attended the campus coalition on alcohol and drug abuse with Ms. Sierer. It was a working group at UD organized to brainstorm ideas to remediate student binge drinking and drinking on campus. They put together a strategic plan approved by Provost Grosso and UD would be putting it on their website. She suggested the City also post it online.
- Dealt with multiple constituent concerns, many related to students moving out of District 4. She commended the City for responding quickly to serious trash concerns.
- Commended the University of Delaware for their excellent handling of alumni weekend this year. She did not receive a single complaint.
- During her monthly meeting at Pat's, Ms. Hadden discussed where the participants stood on the waste RFP that went out and the Rodney Dickinson properties and anything else they should be concerned with and she gathered a lot of information. She encouraged District 4 residents to continue to attend.
- Added her voice to the Citywide Internet, especially with what the University of Delaware already built and their experts. She thought it would be difficult but achievable, especially if other college towns have done it.
- Thought at some point there was an ordinance that prohibited A signs on sidewalks. It was passed back in the 80's or 90's. Ms. Feeney Roser reported there was an ordinance against them – they were prohibited signs and she believed in the mid-90's they were added back.
- Regarding the passing of Beau Biden, Ms. Hadden said it is very difficult for a parent to bury a child. Delaware has lost a fine young man who gave a lot of his time to the country and to our State. His loss will be felt.

Ms. Sierer

- Supported the municipal broadband potential project and would like to be involved in the process.
- Visited several fifth grade classes in the past several weeks. Their concern was that Newark did not have a sledding policy. They sent 55 letters which were interesting and profound.
- Attended a Design Committee meeting last Tuesday. She was pleased to learn about a young adult who was interested in joining the committee and doing some beautification projects in the Main Street and South Main Street areas.
- Volunteered at the Newark Community Garden at Fairfield Park where she has a plot. The ribbon cutting ceremony for the garden is 6/30 at 6:30 PM. She encouraged the community to participate.
- Spoke at St. Thomas Episcopal Church where they have a new speaker's forum, similar to a town hall. She encouraged other churches in the area to do the same thing.

12. 3. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

13. 4. **APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:**
A. Appointment of Bill Moore to the Board of Adjustment to Fill the Vacant At-Large Position Expiring September 15, 2017

01:34:43

Ms. Sierer nominated Mr. Moore to fill the vacant at-large position due to the resignation of Curtis Bedford. Mr. Moore was a 38-year resident of Newark who looked forward to contributing to the community. Mr. Morehead added that Mr. Moore was a District 1 resident who was an involved citizen of Newark and would be a solid appointment to the Board. Mr. Gifford contacted Mr. Moore and was confident in his ability to judge issues before the Board based on the facts presented and the laws in place. Ms. Sierer added that Mr. Moore had concerns about filling out detailed information on the application since it is published on the City's website.

Mr. Morehead wanted Council to consider (and possibly give direction to staff) that training be offered as new members of the Board were brought on board. He pointed out that the Board was quasi-judicial and several years ago Mr. Walton gave training to the Board about what it means to be on the Board and how decisions should be legally based. The training was also open to Council members. Ms. Sierer said staff could look into who on the Board did not have the training. Mr. Markham attended the training as well and stressed the importance of the decision-making ability of the Board.

The Chair opened the discussion to the public.

John Morgan, District 1, endorsed Mr. Morehead's suggestion about orientation and training for new Board members. Mr. Morgan reported that under Delaware State law Board members shall have knowledge of and experience in the problems of urban and rural development. When looking at Mr. Moore's application, it was not obvious to him that he did have such a background. Mr. Morgan urged that going forward, Council members should focus on the requirements of the law. He did not want the City to get a situation where the legitimacy of the Board was open to challenge because the requirements of State law were not followed.

Helga Huntley, District 1, expressed concern about Max Walton's involvement with Board of Adjustment training and she said if it was decided to invited somebody to train the Board, she wanted Council to ensure that person would not be allowed to argue any case in front of the Board while members this person trained remained on the Board.

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

MOTION BY MS. SIERER, SECONDED BY MR. MOREHEAD: THAT BILL MOORE BE APPOINTED TO FILL THE BOARD OF ADJUSTMENT VACANT AT-LARGE POSITION EXPIRING SEPTEMBER 15, 2017

MOTION PASSED UNANIMOUSLY VOTE: 7 to 0

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

14. 5. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. 2015 Edward Byrne Memorial Justice Grant Application Review –
NPD

01:46:27

Chief Tiernan reported the Newark Police Department was awarded \$21,742 from the Edward Byrne Memorial Justice Assistance Grant. They intended to use the money for overtime funded patrols and identify problem areas. Upon Council's approval, the grant would be submitted for formal acceptance.

Regarding the program narrative in Attachment 2, Mr. Morehead asked if it would be in the grant as he was uncomfortable with the contrast between the celebration of "Hug a Cop" and the commentary. He said it was not all students who created problems and we should keep that in mind in our partnership with the University and specifically our approach to policing in the community.

Mr. Chapman thought it was mentioned because of the statistical data the Police Department had which was directly tied to the influx of students. He did not think a student reading it would find it to be incriminating.

Chief Tiernan pointed out that the line above that said it was to ensure the safety of the business owners, the residents and the safety of the students.

Ms. Hadden reported that the data the campus coalition discovered for alcohol use by University students was that they work hard but they play really hard too. They were also victims of predators when they come to campus and often alcohol was a means to an end. She did not have a problem with the grant application and agreed it showed that the police were busy when the students came back to campus. In her district she saw groups of students looking for a party, often underage, and the older students were pulling them in.

Chief Tiernan said about 1% of the students caused the problems and the intent was not to say that all the students were bad but that was where the activity was and that was where they wanted to be to protect the community and the students.

The Chair opened the discussion to the public.

Helga Huntley, District 1, did not object to the grant but expressed concern with the language chosen by the Police Department in the supporting documents. She pointed out that page 7 of the PDF showed the attachments were part of the application and thus thought the language should be corrected before this was submitted. She suggested rewording to "The Newark Police Department has to maintain the peace and ensure everyone's safety including that of the students involved in the parties and alcohol consumption."

She also felt there was a problem in Attachment Three under strategies. It stated that, "disorderly behavior associated with these areas meaning those with mainly student population, such as consumption of alcoholic beverages and partying usually draw subjects from outside of these areas, the results are increase in robberies and violent crime". She said the wording implied that merely the consumption of alcoholic beverages and partying constituted disorderly conduct. It also implied that visitors to these areas result in more violent crime. She recommended the wording "Disorderly behavior associated with these areas such as excessive and/or illegal consumption of alcoholic beverages and excessive partying often draw unruly guests from outside of these areas. The result is an increase in robberies and violent crime."

Ms. Huntley pointed out that the ad asking for public input on the application did not provide information on the grant application and did not explain how the "targeted neighborhoods" would be chosen or who was funding these grants. The memos attached

to the agenda item seemed to contradict each other whereby the first one dated May 19 talked about a grant application to be submitted whereas the second dated the same day referred to a grant the police department was already awarded. She asked which it was.

According to Chief Tiernan the Police Department was notified each year by the Justice Department that this funding was available and that if they meet the criteria, they can receive the award. They put together the grant application to talk about the issue and include that they want to protect the students and the community, that there were a few problems with parties. A lot of the student parties were advertised on the Internet and through media, so they have a lot of problems where uninvited people come to the parties. There was a group a few years ago that would go into houses or apartments and steal pocketbooks, purses, computers, etc. There was another group that pulled out guns and robbed the students at gunpoint. Those are difficult problems. The application is on the website for public comment and then goes to Council. If Council approves it, they click on a button and will get the money.

Ms. Huntley asked if she should submit her comments made tonight through the public comment link on the website or were her comments were sufficient. Chief Tiernan said the application had been submitted to the Federal government and was awaiting Council approval.

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

Mr. Morehead wanted Council to consider giving direction that the document be wordsmithed. He did not think it should go forward in its present form.

Mr. Markham said this document had been submitted many years in this form and had been successful in obtaining the grant. He understood the concerns about the grant writing but thought it was important to get the funding to target certain areas and solve problems. He would support rewriting it if it could be turned around and still be successful.

Ms. Hadden noted that Chief Tiernan's memo said the City had been awarded the money from the Edward Byrne Memorial Justice Assistance grant.

Mr. Gifford was confused about whether this was or was not granted and he asked that future documents clarify what Council would be voting on. He thought there should be a discussion before submitting some grant applications and thought the public notice could be better handled. In this case, he supported the application.

Ms. Sierer clarified with Chief Tiernan that part of the requirement of the Federal grant was that it be submitted to Council.

MOTION BY MR. MARKHAM, SECONDED BY MR. RUCKLE: THAT THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT 2015 BE APPROVED WITH THE STIPULATION THAT THE WORDING BE MODIFIED FOR THE NEXT SUBMISSION.

MOTION PASSED. VOTE: 6 to 1.

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

Nay: Morehead.

15. 6. RECOMMENDATIONS ON CONTRACTS & BIDS:
A. Recommendation on Purchase of Police Uniforms

02:05:24

Chief Tiernan reported that every year the Police Department replaced worn, damaged or ripped uniform items for the sworn officers and purchased uniforms for the new recruits. The Police Department purchased the uniforms from Red the Uniform Tailor of Lakewood, New Jersey for many years. The uniforms were of high quality and custom tailored for each officer, unlike uniforms provided by other manufacturers, which were off the rack with just hemming and waist adjustments.

Mr. Markham asked how long a uniform would last. It depended on the wear and tear. A uniform committee would be looking into a different material for the uniforms that might last a little bit longer, and that would be visited in 2016. Shirts and pants were replaced every year and jackets and hats could last ten years.

Mr. Gifford asked how many uniforms each officer had. Ms. Reutter was in charge of getting uniforms and that was done at the end of the year. Uniforms for detectives could last for years since they mostly wear suits and ties. Mr. Gifford asked how much cheaper it was to purchase the off-the-rack uniforms. Chief Tiernan was not sure since the uniforms were purchased through Red the Tailor since he started with the City. Ms. Houck thought they had been using Red the Tailor for over 15 years. Chief Tiernan said last year they looked at another company but there were complaints about the uniforms being baggy and the material sagging and not being as good.

The Chair opened the discussion to the public.

Helga Huntley, District 1, reminded everyone that Section 223 of the Code provided for specific and limited instances where a bidding process for purchases over \$25,000 may be waived. This includes, in Section C, when the City Manager advises Council that soliciting bids would be useless or inadvisable because of a single source of supply or because the services are of a professional nature. Section D, when the City Manager determines formal bidding is not practical. Section F, to use existing State or County contracts that have been publicly bid. To ensure that the City stays within its laws, she recommend that anytime the City Manager requested Council to waive the bid requirement, she include in the request which of these reasons justified the request. Ms. Huntley was having trouble seeing which one applied in this case. It sounded like a good idea to be using the tailor, but she also thought that it might be a good idea to put out a request for bid to see whether there were alternatives.

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

Mr. Gifford asked which reason would be used to waive the bid process. Ms. Houck said the reason it would not be advisable was because in previous years it was ineffective in that the product received was not up to par and had to be returned and it was believed this was in the best interest of the Police Department. Mr. Gifford asked when we got the tailor service if that was bid out. Ms. Houck said there was a quote and various tailors were visited. Chief Tiernan said they looked into it last year and the only other one found was the one in Lewes. Delaware State Police, New Castle County Police, Middletown Police and University of Delaware Police all use the Red the Tailor.

Mr. Morehead asked if any had a State contract. Chief Tiernan did not know. Ms. Houck believed Red the Tailor had it in the past. Mr. Gifford asked if that would change the pricing. Ms. Houck said we would have it if is – this is based on unit pricing and on our best guess of what uniforms will be needed. Ms. Reutter does an evaluation and gets information from officers to see who thinks they will need different pieces of apparel. Chief Tiernan reported it was on State contract.

MOTION BY MR. CHAPMAN, SECONDED BY MS. HADDEN: THAT THE RECOMMENDATION ON THE PURCHASE OF POLICE UNIFORMS FROM RED THE UNIFORM TAILOR OF LAKEWOOD, NJ, BE APPROVED.

MOTION PASSED UNANIMOUSLY VOTE: 7 to 0

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

16. 6-B. RECOMMENDATION TO AWARD CONTRACT NO. 15-09 – 2015 ADA HANDICAPPED RAMP INSTALLATION PROGRAM

02:13:15

Tim Filasky presented the recommendation for the 2015 Americans with Disabilities Act Handicap Ramp Installation Program. The proposal this year was to do 39 locations which included curb replacement, handicap ramp installation and hot mix

patching around the handicap ramps. There was a capital project for the handicap ramp installations since about 2009. About \$120,000 was budgeted since 2009 to upgrade the ramps around the City.

The map included with the recommendation is the smaller map of the area targeted this year which had small red dots that were circled. Everything within the circle would be done this year. In upcoming years feedback from the residents was needed if there were any locations they found to be neglected.

As of 11/21/2014, there were 1,600 total ramps throughout the city. There were 1,150 ADA compliant ramps and 450 non-ADA compliant ramps. There were about 10 years to go on this schedule at the same funding amount.

Mr. Morehead referenced an area brought to his attention by a resident of District 1 down Main Street towards the Deer Park and being able to get across that intersection. He asked if that was evaluated. Mr. Filasky said the issue there was State roads which may or may not have a State project that was in the works. He would get back to Mr. Morehead on whether that was moving forward.

Mr. Morehead questioned the funding. When he looked at the 40th year he saw \$45,000 but \$46,635 was listed. Mr. Filasky said the 40th year should be \$46,635 – it was carried forward from previous years. The 41st year started July 1, so that money was not available until July 1st. Mr. Morehead said the City was earmarking money and basically taking that out of the hands of the group that makes the decision. Ms. Feeney Roser explained that the committee was working on applications that would be available July 1, 2016. The planning was for the 42nd year, the City was in the 41st and closing the 40th.

Mr. Morehead had a finance question. CDBG was listed in the operating budget yet this was a capital project – he would get with Mr. Vitola about this.

Mr. Gifford said he had spoken with Mr. Coleman about the ramps that were done in the Devon and Binns neighborhood and other parts of the City. He was disappointed with the quality of the work completed in a lot of places. He asked Mr. Coleman if anything could be done about the ramps and whether the City could get compensation for the poor workmanship. It seemed the City was not because there was disagreement between who provided the concrete and who used the concrete. Was there any way to put a guarantee in this contract to know who was responsible for the final product? Mr. Filasky said the only thing that found so far was that there was a difference between suppliers and our inspectors were instructed not to accept them. A meeting was held with the contractor that we recommended to make sure that the supplier is the supplier of the City's choice, not a supplier that was necessarily the cheapest.

Mr. Gifford was pleased the City found out who provides good concrete and would require them to use that. However, if a situation came up where the quality of the work was in question, how does the City ensure that it can get that work repaired. Mr. Filasky said it was typically on our inspectors to make sure the work was done properly. Mr. Gifford asked if the City had warranties for things that cannot be seen at the moment that the work was completed – as some of the repairs fell apart within nine months. Mr. Filasky did not know if it was nine months, but he thought there was at least a year good workmanship guarantee that came along with the contractor.

Mr. Gifford said he would stress that and make sure whoever was chosen here see some of the poor work that was done. Mr. Filasky said there were a few weather related items that also had an effect such as the longer you go into the season, the colder the concrete is, it does not set as well as when it is installed in the construction season.

Mr. Markham asked how areas were chosen and asked when they would get to District 6. He also asked if anything was done along New London or Cleveland Avenue yet. Mr. Filasky said they would come with a DeIDOT contract. Mr. Markham would see Mr. Filasky about his requests.

There was no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MR. CHAPMAN: TO AWARD CONTRACT NO. 15-09 FOR THE 2015 ADA HANDICAP RAMP INSTALLATION PROGRAM TO ALBERT G. CIPOLLONI, JR. & SONS FOR THE BID TOTALING \$108,936.50.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0

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

Nay: 0.

17. 7. **FINANCIAL STATEMENT:** None

18. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING**

A. **Bill 15-14** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Updating Management Classifications and Establishing Field Management Emergency Essential Time

02:25:02

Ms. Bensley read Bill No. 15-14 by title only.

MOTION BY MS. HADDEN, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 15-14.

Mr. Haines said were three amendments to this ordinance. Amendment 1 contained two technical ones. The Parks Superintendent was an edit that Ms. Bensley caught as it was being introduced as a house cleaning item. It was listed twice and was listed in the wrong category.

The Planning and Design Engineer edit showed a pay grade reduction from 23 to 22. This was to provide equity. There were three field engineers in the Public Works and Water Resources Department, and this would provide equity across the board and also align the department better organizationally.

The Planning Design Engineer was a more attractive, professional title but it was necessary to align the pay grade across the board before re-classing any employees into that position.

Amendment two related to salary compression. In November there was a discussion about the Electric Department where there were compression issues and the supervisor position was converted to superintendent. In this situation there was a consequence with a salary inversion for a management employee who had about twice the seniority (over 20 years) supervising a division within Public Works. One of his direct reports was earning more than he was on base wage. According to Mr. Haines these were taken on a case-by-case basis. In order to correct this from a structural standpoint he proposed changing the Public Works and Water Resources Supervisor position from a pay grade 17 to a pay grade 19.

Amendment 3 – in the event City Hall closed for an emergency situation, there was a policy where there was a one-to-one match for comp time. In thinking about two winter storms ago when all employees were encouraged to stay home, the emergency responders would come in and there was a scenario where there was a lot of one-to-one match from a comp time standpoint for those members.

The FOP started a policy for essential time to be able to say there was an annual bucket of time for first responders. There were scenarios with maybe eight days of events with early closings or delayed opening or closed or not at all. There was just a bucket of time to offset that intent. The FOP was the group leader and AFSCME and CWA agreed. It was specifically for those who were emergency essential responders, which ostensibly was all of ASCME, the 911 dispatchers and CWA and all of FOP.

This was specifically for field managers coming in with their crews when there were main breaks and power outages. This was the bottom tier of the field management team. They were identified as emergency essential personnel from the management side.

Mr. Gifford asked why the emergency essential time had to roll over. Mr. Haines explained it looked at the years where they may have been called in 8-10 days. They were compensated for coming in. Some of them may have offset their schedules and interrupt or change personal plans. Assuming the weather, if an event occurred, probably overtook whatever personal event they were going to anyway but it allowed them to say, "I didn't get to do certain things this year. At least maybe I can try to schedule that again next year." That was part of the dialogue with the negotiation. This terminology was worked out with the other three groups. This was the same language as in the other contract so there was equity from a parity standpoint. They did not want it to compound, so just a piece of it can roll and there is no terminal leave or vacationing out. It was an acknowledgement of being a first responder. Mr. Gifford thought it was interesting that it does payout in addition to vacation and sick time.

Regarding Amendment 2, Mr. Gifford questioned whether the management employee was maxed out in the level 17. Mr. Haines replied they were and this would solve the problem for a short period of time. Mr. Gifford said it gets down to is it necessary to make sure that was always the case. What if there was a younger supervisor and a 35 year mechanic they were supervising. He was failing to realize where this was always a problem if there was one individual making more than their supervisor.

Mr. Haines tried to look at it from a direct report standpoint because there were scenarios where, specifically in AFSCME the maintenance team and also the Electric and Water Departments were the higher pay grade. As discussed in Amendment 1, there were those three field supervisors the City was trying to align the tasks to be able to divide up that workload. In this situation, the direct report, there were some labor philosophies that whether he or she, from a pay grade standpoint, was structured to develop from within. In dialogues with the union members, administration wanted to encourage employees to take on a leadership role.

Part of this has also been an efficiency gain where in the maintenance yard, the management employee back was converted back into a union employee, so there was a working super in AFSCME and had four individuals with the ability to turn wrenches. Two years ago there was a conversation that you had a management employee and three mechanics and from a labor standpoint, you cannot have the management employee in there turning wrenches.

The Chair opened the discussion to the public.

John Morgan, District 1, pointed out at universities there were many cases where department chairs were paid less than some of the most valued faculty.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0

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

Nay: 0.

19. 9. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:** None

20. 10. **ITEMS SUBMITTED FOR PUBLISHED AGENDA**

A. **Council Members:**

1. **Resolution No. 15-__:** Resolution Adopting the New Castle County Multi-Jurisdictional All Hazard Mitigation Plan

02:36:21

Ms. Bensley reported this was the identical resolution to one that was put before Council on April 27th. After that resolution was passed, notice was received from New

Castle County that FEMA had notified them that any resolutions that had been adopted before the FEMA approval date of the New Castle County All Hazard Mitigation Plan would not be accepted as resolutions in support of this. Originally we were asked if we could just change the date. We could not do that because the date was directly tied to the date of passage. Therefore the resolution was being put forward again for Council approval. The County advised that there were minimal changes, none of any significance to the plan, with FEMA's approval.

Mr. Markham asked if there were any changes to the resolution in front of Council. Ms. Bensley said it was identical to the resolution passed on April 27.

The Chair opened the discussion to the public.

Helga Huntley, District 1, said it was clear to her that the regulators from the EPA wanted Council to approve the final version of the plan because there were changes made to the plan and that Council approved a plan that is not the plan being submitted to FEMA in its final version. It was obvious to her that it was necessary, if the City wants to subscribe to the hazard mitigation plan that the County was going to subscribe to that Council will have to pass it again. It also appeared to me that it would be wise for Council to know what they were passing.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. RUCKLE: TO APPROVE THE NEW CASTLE COUNTY MULTI-JURISDICTIONAL ALL HAZARD MITIGATION PLAN

MOTION PASSED. VOTE: 5 TO 2.

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

(RESOLUTION NO. 15-K)

21. 10-A-2. RESOLUTION NO. 15-: IN MEMORIAM, JOSEPH R. "BEAU" BIDEN, III
02:40:36

Helga Huntley, District 1, pointed out a minor spelling correction.

MOTION BY MR. MARKHAM, SECONDED BY MR. RUCKLE: THAT RESOLUTION NO. 15-___, IN MEMORIAM, JOSEPH R. "BEAU" BIDEN, III, BE APPROVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0

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

(RESOLUTION NO. 15-L)

22. 10-B. Others: None

23. 11. APPROVAL OF CONSENT AGENDA
02:41:33

- A. Approval of Council Meeting Minutes – May 11, 2015
- B. Approval of Council Workshop Minutes – May 18, 2015
- C. Approval of Council Meeting Minutes – May 26, 2015
- D. Approval of Court of Assessment Appeals Minutes – May 26, 2015
- E. Receipt of Alderman's Report – May 28, 2015
- F. Receipt of Planning Commission Minutes – May 5, 2015
- G. Resignation of Curtis Bedford From the Board of Adjustment
- H. **First Reading – Bill 15-16** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BC (General Business) to

BB (Central Business District) 1.047 Acres Located at 60 North College Avenue – **Second Reading – July 27, 2015**

Ms. Bensley read the Consent Agenda in its entirety.

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

24. Meeting adjourned at 9:42 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary

DRAFT