

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

January 25, 2016

Those present at 6:00 p.m.:

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

Absent: District 1, Mark Morehead

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
Deputy City Manager Andrew Haines
City Solicitor Bruce Herron
Communications Manager Kelly Bachman
Community Affairs Officer Ricky Nietubicz
Finance Director Lou Vitola
IT Director Joshua Brechbuehl
Parks & Recreation Director Joe Spadafino
Planning & Development Manager Mike Fortner
Planning & Development Planner Tom Fruehstorfer

EXECUTIVE SESSION

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

Council entered into Executive Session at 6:02 p.m. and returned to the table at 7:00 p.m. Ms. Sierer advised that Council concluded its Executive Session.

MOTION BY MR. CHAPMAN, SECONDED BY MR. GIFFORD: THAT THE CITY SECRETARY RECEIVE AN INCREASE IN COMPENSATION OF ONE PERCENT FOR THE FOLLOWING YEAR.

MOTION PASSED: VOTE: 4 to 1.

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

- 1.** The regular Council meeting began at 7:07 p.m. with a moment of silent meditation and the Pledge of Allegiance.

MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: THAT ITEM 8-B, BILL 16-01, ORDINANCE AMENDING CHAPTER 5 ANIMALS, BE REMOVED FROM THE AGENDA.

Mr. Ruckle asked to have a discussion on this item even though it was being removed from the agenda. The next time this came up, he asked the City Solicitor to define in the Code what “cruel mistreatment” was, what “cruel neglect” was and who determined that since it was not defined in the way this was written. He felt it had to be defined since it was going to be a criminal act.

Mr. Gifford asked if that was the reason this item was being removed tonight. Mr. Herron noted there appeared to be some discrepancies between what was in this version of the proposal and what was contained in the State Code that could not be easily reconciled.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

2. 1. PUBLIC PRESENTATIONS

A. Presentation of the GFOA Excellence in Financial Reporting Award to Finance Department

05:00

Representing the Finance Department were Finance Director Lou Vitola, Controller and Deputy Finance Director Jill Hollander, Accountant Jim Smith, Accountant Debi Keeley and Finance Assistant Deborah Kupper.

Ms. Sierer offered her congratulations to the Finance Department, and to the employees present for their hard work in receiving this award.

Providing open access to its financial records earned the City of Newark the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association of the United States and Canada. This was the sixth consecutive year the award was presented to the City, which was evaluated based on its 2014 Comprehensive Annual Financial Report. This certificate is the highest form of recognition in the area of government accounting and financial reporting. Newark's CAFR was judged by an impartial panel, to meet the highest standards of the program, including the demonstration of a constructive spirit of full disclosure to clearly communicate its financial profile and audited financial statements to all interested parties.

Mr. Vitola said that this would not be possible without the dedicated staff sitting here tonight. While he had a lot of accounting training and course work, he was not a CPA, did not have the level of expertise required to put together the CAFR the way this team put it together. He was truly appreciative of their hard work. It took a ton of hours to put it together, and this team did not exist just to do this, everyone had to do everyday duties all day throughout the course of the CAFR preparation which takes five to six months to get it right. They have done it right and, in fact, perfectly according to the GFOA for six years in a row now.

3. 2. ITEMS NOT ON PUBLISHED AGENDA

A. Public

09:02

John Morgan, District 1, was very appreciative of staff for doing a great job of getting the roads cleared promptly.

Jen Wallace, District 3, also thanked the City staff for the roads. They did a great job and her street was completely passable.

Ms. Wallace raised concerns about gender bias in a recent job posting on the City of Newark's Facebook page for a Planning and Design Engineer in the Public Works Department. While she was pleased that the City was using social media accounts to share employment opportunities and appreciated the new, more conversational and upbeat voice in recent postings on the City's social media channels, she felt the posting which read, "Calling all engineers! Doesn't this look like a team that you want to be a part of? Or, do you just want to compare beard-grooming notes with Tim?" showed a level of insensitivity that she did not think was intended, but nonetheless it did not reflect well on the City and may deter female candidates from applying for this job.

She read the follow-up apology on the original post, "We apologize to anyone who was offended by this post." While she was sure the intention was to take responsibility for a mistake and to apologize, she felt the apology was a miss and it was possible that some would interpret the statement to mean that the City was not sorry for making the mistake but sorry some were offended by it. She thought this could have been handled better.

4. 2-B. ELECTED OFFICIALS WHO REPRESENT CITY OF NEWARK RESIDENTS OR UTILITY CUSTOMERS

Ms. Sierer welcomed State Representative Mike Ramone to the meeting.

**5. 2-C. UNIVERSITY
(1) Administration**

12:55

Caitlin Olsen thanked City staff for doing a great job clearing the streets.

The students return for spring semester on February 8th and would be moving back into the dorms the weekend before.

On February 11th the University was hosting a diversity open forum in the Trabant multipurpose rooms at 3:00 PM. It will be moderated by Rick Deadwyler. RSVPs may be sent to udel.edu/diversity, and the diversity plan may be viewed there also.

February 13th was the first ever Blue Hen Winter Field Day Event and would take place in the Delaware Field House at 1:00 PM. It was free and open to children ages 5 to 12. Following the activities they have that day which would be led by club and varsity student athletes all participants would receive a complimentary ticket to attend the men's basketball game that night at 5:00 PM vs. Hofstra. The children who participated would also be invited to the Hen's High Five Tunnel during the halftime game. Registration was accessible at bluehens.com.

Mr. Gifford asked for an update on his previous question about STAR Campus where they were moving some earth back there.

Ms. Hadden noted that she heard today there were several dump trucks carrying snow going through Orchard and Winslow Roads. She was not sure the roads in this residential area were equipped to handle the weight from dump trucks. It seemed to her they could use Delaware Avenue and South College to head out to STAR Campus without going through the neighborhood. She thought they might be UD contractors.

6. 2-C-2. STUDENT BODY REPRESENTATIVE: None

7. 2-D. LOBBYIST: None

8. 2-E. CITY MANAGER

16:31

Ms. Houck welcomed new Communications Manager, Kelly Bachman who joined the City on January 4th.

Ms. Houck was proud about the City's response to the storm. The commitment, communication and the teamwork she witnessed was outstanding from all departments including communications, public works, electric, water, parks and the police.

9. 2-F. COUNCIL MEMBERS

17:51

Mr. Ruckle

- Said the City did a great job plowing, but he received a call from a person in the snow removal business regarding Cleveland Avenue, saying it was one lane. He asked if the City could buy a front end loader that was an 8x10 snow blower that mounted on the front of a truck and went into tight areas to blow the snow instead of moving it.

Mr. Markham

- Condolences to Mr. Morehead on the passing of his father-in-law.

- All in all, a good job on the snow removal. He was glad to see more communication in this regard, and hoped to get more information out to really connect with citizens on how much the City has done, what was going on, and hours. He had conversations with Ms. Bachman about the snow removal PDF and she was quite receptive. He looked forward to her working with staff and having conversations about what should and should not be done on social media.

Mr. Gifford

- Condolences to Mr. Morehead and his family. The snow plan was well received, and he appreciated the planning and the response to the storm.

Mr. Chapman – No comments.

Ms. Hadden

- Welcomed Ms. Bachman and looked forward to reading her communications.
- Gave kudos to the police for the recent crime statistics.
- February 4th was her next meet and greet at 5:00 PM at Pat's Pizzeria, and she hoped to see her district turn out.
- Commended the City of Newark for the fabulous job they did with the snow event and no loss of electric.
- Attended the funeral service of Alice Liechty who contributed a lot of her time to the City during elections. Her shoes would be hard to fill.
- Was working on a UD committee related to student alcohol consumption.
- Attended a ribbon-cutting for a business on Main Street, Unique Impressions, a specialty printing company for T-shirts and unique gifts.
- Attended a meeting addressing issues related to homelessness as a participant in the Greater Newark Interagency Council.
- Gave kudos to the Finance Department for their recent award.

Ms. Sierer

- Kudos to the snow removal process. She received unsolicited thanks from about a dozen constituents for the work that was done and done well.
- Ms. Sierer read the following letter into the record regarding the Newark Public Works Department.

"Dear Mr. Coleman,

I would like to take this opportunity to thank the Newark Public Works Department for donating 16 refuse containers to Habitat for Humanity ReStore, and commend two employees in your department, Jason Winterling and Dave Dougherty. Last October Habitat for Humanity ReStore was looking for containers to improve their metal recycle area. At that time I contacted Jason to determine what the City did with refuse containers that had reached the end of their useful life.

Habitat only needed intact containers, no wheels or lids. Jason indicated that he would work with Dave to keep an eye out for suitable containers. In December, Jason called to say that he had collected 16 containers, and I could come by the yard to see if they were useful. Upon inspection the units were better than expected, with most having lids and wheels. When I came to pick up the containers, employees in the yard were very helpful in providing information on how the department moved the units, and helping me load my truck.

It is the actions of the department to help local charities and its employees that go beyond the call of duty, that make the City of Newark such a desirable place to live. Thanks again."

Fred Lentz, District 5

10. 3. **ITEMS NOT FINISHED AT PREVIOUS MEETING:**
 A. 2016 Rate for City Solicitor and Deputy City Solicitor (*Postponed from December 14, 2015 Meeting by Request of Council*)

24:52

This item was opened for public comment at the request of Mr. Gifford.

Mr. Herron explained this began with his request for \$10 per hour increase in the solicitor billing rate which would be the first increase in five years and would result in the rate being \$10 to \$60 per hour less than the rates charged by the solicitors for all other municipalities in the state. He was not present the last time this came before Council and knew since then the City Secretary gave Council a rather detailed memo with some history, so he would be happy to answer any questions from Council.

Ms. Hadden asked if any of the rates used for comparison were part-time solicitors as well. Ms. Bensley said they were.

Mr. Gifford asked Ms. Bensley what the City of Newport arrangement of \$44K per year meant. Ms. Bensley said they did not provide any additional details as far as how many hours that entailed.

Mr. Chapman did not think the agenda item was exactly what Council's discussion had led them to. He thought the take away from the last Council meeting was a direction to investigate whether the City's organization warranted or would be better served by a full time solicitor position, the comparable cost and other considerations. He understood that was most recently done 14 years ago, so the data was too old to help with any clear direction. He thought that Council could warrant an increase looking at comparables if the current organizational structure was maintained. He thought a bigger take away from the last meeting was whether that was something Council wanted to do, and he did not feel like Council had enough information to have that conversation. He still did not feel like Council had that information, but if it was decided to make that stage two and discuss a rate increase under the current structure, he was fine with that.

Ms. Hadden was inclined to go ahead and discuss the rate increase under the current configuration. Council could always have the discussion about whether a full time solicitor was needed. Having looked through the history, she was not necessarily of the mind that the City needed a full time solicitor at this point in time. Thinking that way, she would like to come to some type of a decision about a rate increase for the current configuration.

Mr. Markham said the item before Council was setting the rate. He lived through at least one City Solicitor review, and Council did quite a bit of soul-searching in the last one, interviewed people and made a decision to keep outside counsel and some of that was flexibility in terms of who was available. Another thing was who would be attracted. He remembered previous candidates, one that probably would have qualified for the in-house was very inexperienced at the time and fresh out of law school. Council could take the same path in reviewing things, but he expected to come to the same conclusion based on past history. With that said, they could address the rate, which, based on what he saw for rates, was pretty low compared to other lawyers. He knew there was concern about some of the advice Council was given. There was a lot that the public did not see because it was confidential, and there was a lot of good advice Council received as well.

Mr. Gifford agreed with the line of thinking that Mr. Markham put forward. Looking at the analysis from the previous Council, they were talking about the number of hours. Essentially, there were two positions - the Deputy Solicitor and the Solicitor, so it was difficult to have that be one person. He thought in the end that it would not cost any less, plus he thought the City would maintain maximum flexibility by having outside counsel which could be changed at any time. He was inclined to keep the structure the same for now and not go through that process. Mr. Gifford thought the fact brought up by Ms. Sierer that there was no review process for the solicitors should be remedied. For tonight he suggested deciding on the rate increase, and then having a future agenda item for what to do on a regular basis for the City Solicitor and Deputy Solicitor. One thing that became clear when Mr. Gifford was reading this was that he had a really good idea what the Solicitor did, but the Deputy Solicitor was a bit of a black box to him. He felt maybe Council needed to do a little bit more work to understand that as well.

Mr. Ruckle pointed out with the size of the City and how it was growing, there were huge increases each year from 2011 to 2015, and spent \$312,578 for the Solicitor and Deputy in 2015. He thought at some point down the road this would reach \$500,000. At that time the City could have one city solicitor but would always have to outsource specialty items. If Mr. Herron was interested in working full time with City benefits, maybe Council could go from there.

Mr. Markham clarified that the Deputy City Solicitor handled all the Alderman's Court cases, so he was a busy guy. Mr. Gifford understood the hours he put in when he was in the court, but he did not know if there was anything in addition to that, that Council needed to be aware of. He knew it was many hours a week. The problem was the Solicitor could not be in two places at once, so if something was happening on a court day, then somebody else was needed. Mr. Markham agreed two people would always be needed.

Mr. Markham pointed out that benefit costs could be quite staggering especially for a public government organization. Ms. Sierer said there would still be instances where the City Solicitor could not be used so all outside legal services would not go away.

Regarding the review process, it was Ms. Sierer's understanding that Council could not review contractors, so she was not sure how to come to a solution on that. Mr. Gifford suggested an approach might be that Council could regularly rebid it or vote to renew it each year. Ms. Sierer asked Mr. Herron if he could provide some options on his review process. She asked how that could be done legally if at all. Mr. Herron said at this point it was difficult because it was not something that could be done in Executive Session as it was with other positions in the City. Mr. Gifford noted the review could be done at a public meeting. Mr. Herron said Council could talk in general, but could not talk about specific legal issues that might be pending before the City. Mr. Gifford said they could talk about approaches though and how work gets done. Mr. Herron agreed.

Mr. Chapman said in relation to the request of an increase of \$10 an hour for the solicitor and deputy solicitor he had no issue with it and thought the City was getting a good deal when comparing market rates. As far as the review process, he did not see it as a truly effective review of past performance, but as an opportunity for Council to consider the options and have a platform to discuss what they had and what they might get. It might end up being a double-edged sword but with that regular rebidding (similar to Council terms) they may or may not have other applicants.

Mr. Sierer asked if there was a contract. Mr. Herron said it was a series of two week contracts from Council meeting to Council meeting, but there was no real contract. Ms. Sierer asked if a contract could be written, and Mr. Herron said there could be.

Ms. Hadden asked if she could legally communicate with counsel directly regarding concerns or compliments regarding their performance. Mr. Herron stated she could legally do that. Ms. Hadden said that was good for her.

Ms. Sierer responded the point being if Council members had something they wanted to share with the City Solicitor, then it was their responsibility as Council Members to share those thoughts with the City Solicitor. She encouraged them to do so.

Mr. Gifford added that a discussion could be added to the agenda anytime.

The Chair opened the discussion to the public.

John Morgan, District 1, thought it was important that there be an annual review of the performance of the City Solicitors. He said when getting advice from lawyers, just because a lawyer said you could do something legally, does not mean it should be done, particularly if doing it could lead to expensive legal battles in which the only certainty was that the lawyer would charge a lot of money for his services.

He reiterated Ms. Bensley's comment that the personnel exemption in FOIA did not apply, so any review or evaluation that included Council as a whole would have to take place in public. He noted various concerns regarding some of the legal advice

received from the City Solicitor regarding TDC and felt those positions were likely to provoke legal challenges and cost taxpayers hundreds of thousands of dollars in what he felt were avoidable legal fees for the City Solicitor and outside legal counsel. He requested that Council review documents he distributed related to TDC as well as documents that had been withheld from FOIA requests.

The discussion was brought back to the table.

MOTION BY MR. CHAPMAN, SECONDED BY MS. HADDEN: TO INCREASE THE RATES FOR THE CITY SOLICITOR AND DEPUTY CITY SOLICITOR BY \$10 PER HOUR FOR BOTH RETROACTIVELY TO JANUARY 1, 2016.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

11. 4. **APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:**
None

12. 5. **SPECIAL DEPARTMENTAL REPORTS:**

A. Special Reports from Manager & Staff:

1. City Logo Redevelopment Presentation – Communications Manager

49:17

Kelly Bachman, Communications Manager reported that over the past three weeks she met with each of the departments to perform an introductory communications audit, assessing what was working well and identifying areas for improvement. After the initial communications audit, she decided to focus on systemic issues first, opportunities to enhance overall communications between the City and its varied audiences. To that end, one of the first items to be addressed was the City logo.

For purposes of this conversation, she referred to the former logo as Logo 1 and the new logo as Logo 2. Logo 1 was developed in the early 1990s and included the words "Newark," "Delaware," and "Committed to Service Excellence." It included depictions of a cityscape, complete with land, water, trees, birds, and the arc. Logo 2 was derived from a logo originally developed for the Greater Newark Economic Development Partnership. The original intent was to adopt a logo that was clean, modern, and adaptable to current digital standards, and by adopting a logo that was already developed, the City viewed it as an opportunity to address the digital requirements while keeping costs low. When the City presented its plan for a logo transition from Logo 1 to Logo 2 this past October, there was significant discussion amongst Council and the public regarding the design change. The feedback and the input that was shared during that and subsequent meetings has helped inform efforts to develop a revised logo that addressed both the intrinsic emotional connection that many residents have with Logo 1 as well as the technical requirements necessary to continue communicating effectively in the digital age.

The new logo being presented, Logo 3, had two variations and contained many similar qualities to Logo 1. It preserved the words, "Newark" and "Delaware" in both variations. For the horizontal variation, the words "Committed to Service Excellence" were incorporated as well. The cityscape remained, though it was modified to current digital standards, and the double arc was preserved. This was a two color design, with identified Pantone colors that would serve as Newark blue and Newark green, to ensure continuity of color regardless of how the logo was applied.

When necessary, a one color and a gray-scale version of the logo were designed with identified Pantone colors for those applications as well. To provide a sense of how Logo 3 would be implemented, mock-ups were created of several applications. None had been implemented at this time and were just for viewing purposes. She showed examples of versions of Logo 3 on the website, Twitter page, Facebook page and letterhead.

Staff was prepared to move forward immediately by integrating Logo 3 in all digital applications, including the website, social media and letterhead, which was currently printed on demand. They were also prepared to order updated business cards immediately as needed. Within the community, the plan was to simultaneously replace all gateway signs into the City and any decals located on or in the City municipal buildings. Public Works was doing an inventory of the total number of gateway signs that must be replaced and would provide a cost estimate as soon as possible. Other community signs including Parks and Rec signage would be replaced as needed or in conjunction with the regular maintenance schedule. Signage on City-owned vehicles would also be updated as needed, similar to the transition seen with the police vehicles. Signage on the two vehicles currently having Logo 2 would be updated immediately. Finally, any clothing and promotional items ordered by the city would use Logo 3 moving forward as needed.

Ms. Bachman noted staff chose a course of implementation they felt addressed the greatest needs while minimizing unnecessary costs. Given the similarity between Logos 1 and 3, the changeover was viewed as fairly benign pending full implementation.

Ms. Sierer asked which logo would be used on vehicles and which one would be used on signs with items like "parks and recreation" on it where needed. Ms. Bachman noted the bottom one would be used on vehicles and would also be used on letterhead.

Ms. Hadden asked which one would be used on the uniforms. Ms. Bachman said it could be either.

Mr. Markham asked why replace the entrances to the City. He thought they were similar enough and unique enough that they could stand on their own. Ms. Bachman said there were discussions about updating the gateway signs regardless of what the logo would be. She thought this just provided an opportunity to freshen up how the gateway signs appeared to the public while implementing the new logo. Mr. Markham did not think that discussion made Council. Ms. Houck said one of the things staff was talking about (and this could be phased in as well) was the attractiveness of the signs just being thrown on the metal poles that were typical for a street sign as opposed to how some communities do it in a much more attractive fashion, maybe closer to the ground, maybe with some plantings. It had not come to Council because it had not been put into play yet, but staff expected that if a change was made to the logo, that the signs into the City as well as the entrance to the building would also be beautified.

Mr. Markham felt the current signs were unique and easily spotted. He did not want signs that would be completely ignored by people driving by and not knowing they were in the City. Also, there was the cost associated with those new signs, and he did not know if that was necessary at this point in time. The big request from the resident who brought this before Council was that "Committed to Service Excellence" was very important to a lot of long-term residents, so having that on the vehicles was a good idea.

Ms. Sierer was in favor of beautifying the signage at the gateways into the City. For a City of this size that has a lot of beautiful islands, she thought first impressions on the major gateways in was important. She felt this may be an opportunity for additional island beautification. She suggested taking a look at it and coming back with some costs.

Mr. Markham felt the island beautification signs were extremely basic. In fact, they blended in, so having some type of designation for Newark on those signs would be good. Ms. Sierer agreed. She thought incorporating the logo into those beautification signs would enhance the islands.

Ms. Sierer believed the letterhead was much improved from what was being used the past number of years.

Ms. Hadden liked the new look, liked the way the two designs were integrated and the Pantone colors that were chosen. She thought they looked fresh and crisp. She was paying attention to the signage in Newark for a couple of months, and was surprised to see it in some places. She guessed she had gotten used to it in some areas. She did like the fact that many of the elements of the old design were incorporated into the new, and

felt it was important to say "Committed to Service Excellence" since the public liked the services provided by the City. She commended Ms. Bachman for doing a nice job on a difficult first project.

Mr. Gifford thought the major issue with the logo was not necessarily the logo that was chosen but the process staff chose to take. With something that was a City-facing item entering the City or on letterhead, he felt there should be a better process. There should be some public discussion first before making changes, or just brought to Council. He thought the logo was better. Jean White liked some of the elements in the old one, and the one piece that seemed to be missing and that a couple residents pointed out to him was that there was nothing about the University in there anymore. He thought the arc maybe referred to the University a little bit. It seemed like the two houses and the tree could be really any suburban location. There were about nine signs to change and while he was in favor of beautification, taxes were just raised quite a bit, so he hoped it was not too expensive an effort to make these changes.

Mr. Chapman said one of the comments that he had when version 2 was why, what was staff trying to address or fix. He thought the historical review was succinct and as he understood it, there was issues with the preexisting logo that it was not very mobile friendly or transferable from interface to interface. Ms. Bachman said the digital transfer was what was most concerning about the old logo and was requiring a new logo. The small birds and some of the intricate details in Logo 1 were not easily transferable to digital medium. Having something that was cleaner in appearance was the original goal for a logo change. Mr. Chapman guessed the conversation moved to, if the existing logo was updated, what else should be addressed. He felt when something was changed that was not imperative, he tried to make sure there was a problem to be fixed first, so rather than just say "Get rid of the new reiteration and continue using what was used," he thought that made sense. In regard to re-branding, he felt it was important to be unified and the cost of a full change-out versus a modified, as needed change-out, should be understood to consider the value of a unified branding change when finalizing what would be used and implemented. That way it was something to be celebrated and recognized as "that says the City of Newark to me" as residents and visitors. Otherwise, it lost its impact.

The big miss he thought existed in the existing branding (and it was something he brought up to Ms. Houck after he was elected in 2012), was that there was confusion even among people who have lived in Delaware and in Newark, and the City of Newark their entire lives as to what is the difference between Newark and the City of Newark and the zip codes and "am I a City resident or not?" That was an easy misunderstanding to make, he thought, unless people were a resident, were highly engaged or actually made the mistake themselves.

One of the things he brought up in terms of modifying the existing branding late last year was to incorporate "The City of" into the branding and logo making it very clear that any correspondence, vehicles, and employees were representing the City of Newark very clearly. When driving from suburban Newark into the City of Newark, the gateway sign was not very impactful. The gateway sign should be "The City of Newark, Delaware." That, to him, was as important as "Committed to Service Excellence." He thought the new iterations were much better. He could get behind their use. He thought it was details in terms of working out when "Committed to Service Excellence" would be included and where and that sort of thing. He could not support implementation now until some serious conversation and possibly design work was put around the inclusion of "The City of."

The Chair opened the discussion to public comment.

Jen Wallace, District 3, was a communications professional and created and oversaw the development of many logos. She preferred to leave logo creation to those who specialize in it because she understood how critically important a logo was. An organization's logo was a foundational component of its branding, and the communication of the organization's overall mission and identity to the public. She urged Council to instruct staff not to adopt it. She could appreciate the thoughtfulness of incorporating some elements from Logo 1, but felt the new version was ultimately a miss. She did not think the original logo created in the 1990s was perfect, but because of its long use, it

was easily identifiable. It was more dynamic, giving a nod given to the many layers of the City, the residential neighborhoods, the University, small businesses, larger businesses, parks and open spaces. The original logo seemed welcoming and like Newark was a great place to live and work. It described the present and spoke to the future of the City.

The proposed logo was more limiting and made Newark seem like only a village of residential homes. The other layers of the City were missing. She felt the logo was more appropriate for a home improvement company or a residential real estate firm. She did not think it was right for the City. She liked the proposed Pantone colors. She understood the challenges of using the original logo, but thought the City needed to be careful about rushing through another logo just to get the job done. There was already one misstep by adopting a variation of the Greater Newark Economic Development Partnership logo, which was also dated, had not been popular with residents or Council, and broke one of the sacrosanct rules of logo design – do not use another organization's logo. Rushing through the process to replace the Newark Economic Development Partnership logo would be another misstep. It would be putting more bad after bad. Replacing the logo was a big deal for every institution, and especially for the City. Most likely it would be used for the next 20 to 25 years like the last one. It should accurately represent the present and work for the future. The City was not presently a village of single family homes, and it did not seem likely that would be the future, either.

She suggested Council instruct staff not to adopt the proposed logo and instead return to using the original logo, abandoning the Greater Newark Economic Development Partnership logo that was incorporated in the same places. She thought using the two was confusing to residents. She also suggested putting the development of a new City logo on the back burner until such time the City could hire an outside firm who specialized in logo creation to create a new logo. In her opinion, right now was not right time to undertake that step. She felt the adoption of the new Comprehensive Development Plan should be accomplished, and that the City had more pressing matters to spend money on, like storm water management and the aging infrastructure.

John Morgan, District 1, agreed there ought to be something in the logo showing that the City was not just a residential community and suggested adding "Committed to Service" on one line and "Excellence" on the bottom line where it would really stand out.

The discussion was brought back to the table.

Ms. Sierer wanted to give staff direction to take these ideas and come back with another proposal and a cost analysis of what it would take to do this and, if was in the budget, should it be done all at once or phase it in. Ms. Hadden also thought a cost analysis would be a good to have to help Council do the right thing by a new logo.

Mr. Gifford agreed he liked the colors which were a definite improvement, and he liked incorporating elements from the old logo. He agreed that there were some other elements that may have been missed, so this was an opportunity to address that. He would also like to see it together as a full project – which signs would be replaced and with what. He felt there was no rush to do it, just get it right.

Mr. Markham understood the idea behind the change of logo but said it should be something Council was excited about and was backing and pushing to the constituents. He was not hearing that at the table tonight.

Mr. Chapman understood there was going to be a cost to change out Logo 2 from its use, but he wanted to see it eradicated immediately. He did not want it on anything. It was out there and circulated for months now, and was diluting branding recognition, creating confusion and creating an issue for members of staff and members of Council in terms of community engagement.

Ms. Houck said it could – with the feedback received tonight, everything would be transferred back to the old logo and staff would come back with some financial information and share more history, and then Council could make some decisions.

Mr. Ruckle suggested running a contest Citywide to design a logo. There were a lot of graphic artists in the City that would probably jump at the chance to get their work to be at the entrance way to the City. Ms. Houck explained the City of Newark and the University spent a lot of money on a branding exercise for the Greater Newark Economic Development Partnership where Logo 2 came from. She agreed with Ms. Wallace that the City had a lot of things to spend money on. That was one of the reasons staff tried to use the logo that was already funded. She was concerned about trying to engage the community and have people submit something for a contest but would not want to get people's hopes up and then possibly not end up finding something. A full branding would cost money, but staff would come back to Council with some information so everyone would be in a better position to make a decision.

13. 6. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation to Award Contract No. 15-14 – Furnishing Labor and Equipment for Tree Removal, Pruning and Creek Clearance Operations

01:21:15

Mr. Spadafino presented Contract No. 15-14, which provided hourly pricing for services for pruning, removal, and free clearance of trees for a three year period at City parks and open space areas. The contract would commence on March 1, 2016. Out of the six bids received, Miller's Tree Service was the low bid for tree removal and tree clearance at an hourly rate of \$50 for a normal rate and \$100 for a premium rate. Greenscape was the low bid for tree pruning and dead-wooding at a normal rate of \$60 per hour and a premium rate of \$62.50. Funding to cover the anticipated costs of these services were included in the Parks and Recreation Department budget. The funding for 2016 was set at \$42,000. It was recommended that Contract No. 15-14 for tree removal and pre-clearance be awarded to Miller Tree Service at the cost of \$50 per normal labor hour and \$100 per premium labor hour. In addition, it was recommended that tree pruning and dead-wooding be awarded to Greenscape at the cost of \$60 per normal labor and \$62.50 for premium labor hour.

Mr. Markham asked if all the bidders understood what work was supposed to be done, noting that one was six times the lowest rate. Mr. Spadafino said they did. As a matter of fact, Miller's Tree Service had the contract before and was very familiar. According to Tom Zaleski, the City's arborist, Greenscape came highly recommended.

Mr. Ruckle asked what constituted a normal hour and a premium hour. Mr. Spadafino said the normal rate was in effect Monday through Saturday from 7 A.M. to 5 P.M. and the premium rate was effective Saturday from 5 P.M. and all day Sunday.

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: TO AWARD CONTRACT NUMBER 15-14 FOR FURNISHING LABOR AND EQUIPMENT FOR TREE PRUNING, REMOVAL AND CREEK CLEARANCE OPERATIONS TO MILLER'S TREE SERVICE FOR TREE REMOVAL AND CREEK CLEARANCE AND FOR TREE PRUNING AND DEADWOODING TO GREENSCAPE.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

14. 6-B. DALLAM ROAD WATER TOWER LEASE AGREEMENT – 117 BENT LANE – NEWARK COMMUNITY RADIO

01:25:02

Mr. Fortner introduced a City of Newark and Newark Community Radio Lease Agreement for the use of the water tower at 290 Dallam Road and to put telecommunications equipment on top of it. This was very common throughout the City to place this type of equipment on water towers.

In November 2015, this came to Council as a special use permit. Stephen Worden, the applicant, wanted to install a utility pole with the antenna on the property in order to facilitate Newark Community Radio. After the property owner and the owner of Newark

Community Radio had discussions with the surrounding property owners, there was a lot of concern about the antenna and the look of it and the safety of it. The applicant decided to pull his application and pursue an opportunity for the City to have the antenna installed on a nearby water tower to alleviate the community's concern. Without the presence of this utility pole and the antenna, the Newark Community Radio operated as a no-impact, home-based business, so there would be no traffic, no signs and nothing outside. All meetings were conducted at restaurants or coffee shops and not at the home.

The agreement used the same type of format used with telecommunications companies. It included the nominal \$1 fee, and in return, Mr. Worden would be part of the emergency alert system and an avenue for the Communications Manager to do community outreach through the radio station.

Mr. Worden was present to answer questions about Newark Community Radio and Messrs. Coleman and Herron reviewed the lease agreement which was acceptable to them.

Mr. Gifford noted this was done for other telecommunications companies, and in general the City put staff time into these agreements. He asked if \$1 was normally charged or whether it was different for each person who applied. Mr. Fortner said it was a much higher fee. For example, the MCI agreement for this tower was \$30,000. Mr. Gifford listened to the radio station and was not saying anything about the station or the service it would provide the City, but did want to see on future agreements where the City's costs were covered. He knew that there would be a service provided through the radio station for community outreach, and maybe that offset it. However, the City did a lot of things for little money, and it was hard to cover the costs. If Mr. Gifford understood it properly, putting up the tower was the responsibility of the radio station, not the City. Mr. Fortner confirmed that was correct and to take it down when there was maintenance. Mr. Gifford noted a City staff person was required to open the location for service and asked if the station would pay for that. Mr. Fortner noted they would only pay if it was after hours.

Mr. Markham asked if the City charged for special use permits. Mr. Fortner confirmed that a special use permit was already charged for this. Mr. Markham thought this seemed like a win-win for everybody.

Mr. Ruckle thought this was a great opportunity for the City with the outreach and all those opportunities. Right now there was just the UD station. Now there would be a local station just for the City of Newark. He thought it was a great opportunity for the city.

The Chair opened the discussion to public comment.

Jane Churchill, District 1 had questions about the location of the broadcast tower on the Dallam water tank. She asked whether locating a broadcast tower on City property negated all the regulations and ordinances applying to such structures. The Code indicated broadcast towers should be located in MI zones where they had a requirement to be 350 feet from residential areas in the Code. There appeared to be no need for a special use permit if the tower was located on City property, which also had distance requirements from residents, the same 350 feet. She asked if adjacent residences on Dallam Road and Bent Lane were apprised of this lease and the broadcast tower location. When the City addressed the illegal installation of the broadcast tower at 117 Bent Lane and made a decision that it had to be removed, the residents did not expect it to be moved 800 or 900 feet north, but still within a residential area with a City endorsement.

Ms. Churchill had additional questions about the lease which she had not seen. She asked if this nonprofit corporation was blinding everyone to the need to follow Newark Code. City Code defined broadcasting as a business. She asked if a for-profit entity would be extended the same privileges that the lease the City was now extending to this nonprofit. She thought she heard a comment that in other locations, facilities or companies like that were charged \$100,000. Another matter, since 117 Bent Lane was the official address of this entity and it owned this tower, would there be additional antenna required on the exterior of the house at 117 Bent Lane. Ms. Churchill urged Council to reject this lease and the location of this broadcast tower in a residential area. She asked

if the residents close to this know what was being put there. She understood from talking to the manager of the department that there were no other antennas on this water tower. There were some in other places in the City, and he said the City did not pay any attention to this 350 foot requirement that they be from residential areas.

Mr. Fortner explained this was antenna equipment installed on top of a City-owned water tower. This was very common. There was an agreement for MCI that was put through Council a few years back, but they never installed their equipment. The distance of 350 feet was for a full radio tower. This request was for equipment installed on top of a water tower. This type of equipment was installed on all types of buildings, University and City buildings, so it was very common. The fact that it was a nonprofit did not have any bearing. The concern was to get this antenna, outside the residential area but putting it on top of a water tower where it would be less invasive.

Steve Worden, District 1 said Ken Chisholm was the resident across the street from the water tower. Mr. Gifford asked where on the water tower it would be. Mr. Worden said he would let the engineer decide that. Mr. Gifford asked if the property owners around there knew about it. Mr. Worden knew some did.

Ken Chisholm, 6 Bent Lane (immediately across the street from the water tower on 290 Dallam Road) said when they initially erected the antenna at 117 Bent Lane and there was some concern from the neighbors down at that end of the neighborhood, he went around to all of the neighbors and asked them if they supported the idea of Newark Community Radio, had any concerns about where the antenna would be located, and at that point in time, communicated they were considering moving the antenna from 117 Bent Lane to the Dallam Road water tower. No one had any concerns at that point in time, at least on both sides of the first block of Bent Lane between Nottingham Road and Dallam, and a little bit further down Bent Lane, probably about 10 or 12 neighbors, so they were aware of it.

Ms. Sierer asked if the 350 feet applied to an actual tower, not an antenna going on top of an existing structure. Mr. Chisholm said exactly. He thought there was some initial concern about the radio frequency energy, and he tried to explain this to most of the people that he talked to that this antenna would be generating radio frequency radio energy of about 1.2 microwatts, which was about one five thousandth of the energy from a cell phone, and that energy was basically right in front of the antenna. It was not at ground level, so the exposure to residents in the neighborhood was basically none.

Mr. Gifford said there were some concerns about interference for the direct neighbor. He did not know if that would be true. Mr. Chisholm said he would ask an engineer about that. Mr. Gifford said the other question brought up was did it operate any differently – what was needed on the home to operate this station – was it all Internet connectivity to the antenna? Mr. Worden replied there would be a studio to transmitter link, which was a radio broadcast itself, a much smaller antenna than the previous.

Ms. Churchill asked if the residents near there had been notified by the City. She heard that they were interviewed by the people responsible for this tower. She was told by City staff that the neighbors were informed of what was happening at 117 Bent Lane. She lived three houses from there and never met this man before. He never spoken to her or to her next door neighbors and yet he told everybody that the immediate neighbors were all informed of this. The first notice they had was November 9. If that notice had not been sent by the City, they would not have known a thing about it. That was why she urged the City to notify the residents officially that this lease was about to be signed and there was an antenna to be put on the tower. She thought the residents deserved that rather than this word of mouth. Ms. Sierer asked if the City was required to do that first. Mr. Herron said to his knowledge, there was no legal public notification requirement other than what was done to publicize this tonight. Mr. Ruckle said he knew things were put up on the water tower in his Stafford/Windy Hills neighborhood all the time, and they never received any type of notification.

John Morgan, District 1, said there may be no legal requirement to notify the neighbors in situations like this, but felt there was no prohibition against the City notifying

the neighbors. This is where he thought it was good, especially given the events of the last few years, for the City to err on the side of keeping the citizens informed. He asked if the radio station would carry advertisements of a commercial nature. Mr. Worden said the station was owned by a non-profit charity, a 501(c)3 organization recognized by the IRS as an educational broadcast service and was prohibited from airing commercials. There were sponsorship opportunities for agencies, activities, businesses, events and ministries, but they were very limited. The FCC had very strict guidelines no different than any other national public radio station.

The discussion was returned to the table.

Ms. Hadden asked Ms. Churchill - she stated that the residents did not know until November 2015 when the City of Newark notified them, but then the statement was made that no one had been notified, so she was confused. Ms. Churchill said this was the illegal tower that was placed there, and there was to be a special use application filed. The residents were notified of that special use application. In November, they were notified that this special use was going to come up for discussion at the Council meeting. That was subsequently withdrawn, and so no further action was taken on that, but it was that notification that alerted the people in the surrounding area. That was why she made her suggestion that people Dallam Road and Bent Lane be so notified so they were aware of what was being put there.

Ms. Sierer asked Ms. Bensley to speak to the notification procedures. Ms. Bensley said for the first special use permit there was a requirement by Code to notify all residents within a 300 foot radius of the property by mail within ten days prior to the public hearing. There was also a requirement to publish notice in the newspaper fifteen days prior to the public hearing that the hearing would occur for the special use permit. There were no such notification requirements outside of the normal seven day FOIA requirements for posting for contracts, so there was not an individualized mailing done for this particular contract. Nothing was sent out for a special use permit application because now it was a no-impact home-based business, and they were no longer applying for a special use permit. She could not speak to the additional fees.

MOTION BY MR. RUCKLE, SECONDED BY MR. CHAPMAN: THAT THE DALLAM ROAD WATER TOWER LEASE AGREEMENT AT 117 BENT LANE FOR NEWARK COMMUNITY RADIO BE APPROVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

15. 7. FINANCIAL STATEMENT: (Ending November 30, 2015)

01:47:42

Mr. Vitola presented the unaudited financial statements for the year-to-date period ending November 30. As mentioned last month, the year-to-date operating surplus was very close to budget for the first eight months of the year, but then dipped to \$304,000 off the budget pace over the three months in November. The trends discussed in the last two reports had not changed much. The governmental and enterprise funds continued to show negative variance to budget. The governmental funds, again, were due to fine and permit revenue shortfalls. The fines were driven by the decrease in red light camera fees. The fines were down across the board and reflected the police statistics.

The permit receipt shortfall was due to the timing and magnitude of projects. There were a lot of large projects that hit in 2014 such as UD's Harrington Hall renovations, the new Academy Street dining and residence hall, Kate's Place renovations and the Newark Shopping Center. There were a lot of projects again this year, but none of that magnitude. Expenses continued to track under budget which was mitigating the impact of the lower revenue and that continued through December. December's transfer taxes were expected to completely offset the revenue shortfall as a result of the sale of Rittenhouse properties.

In the enterprise funds, the electric utility was no longer propping up the water and sewer utilities as a mild summer and warmer winter through November, but also through December, pushed the electric margins down. The two shoulder months performed well while the peak months were weak. Even though it was close to the end of January, until the year was closed from an accounting perspective, he had to wait to determine whether there was an over or under collection in the electric fund this year. That information was still on pace for the first February Council meeting, but the RSA would be done at the second Council meeting in February. The initial look at December results showed it was a weak revenue month. Water and sewer sales remained behind the budgeted volume which was driving down margins too, but November's usage was strong and helped water and sewer margins rebound.

Expenditures in the enterprise funds were 6.5% under budget for the third month in a row which seemed insignificant, but often expenses ramped up approaching the end of the year. Things like water and sewer main breaks and other problems usually showed themselves, but they were not seen this year, and the enterprise and governmental funds were still tracking very low expense-wise. All department directors were aware of the revenue shortfalls as they began to surface, so they were doing a great job of avoiding unnecessary spending through the end of the year.

The other funds continued to benefit from lower fuel costs and lower than usual insurance claims. The cash position at the end of November was \$29.9 million: \$8.6 million in operating cash and \$21.3 million in the City's cash reserves. One of the City's current liabilities was the electric regulatory liability which was \$1 million at the end of November, the same position it was at the end of October. Part of that was the revenue stabilization adjustment or RSA, and that was being passed back to customers on current monthly electric bills.

Mr. Gifford asked what the City was spending less on, what was saved. Mr. Vitola said a lot was lower than expected personnel expenses, for example, if a position was open longer than expected, if a position was not filled or if there was turn over, the wages as well as all of the associated expenses like health care and insurance were saved.

Mr. Gifford asked if any projects were pushed off. Mr. Vitola could get a list of any capital projects that were pushed off. The cash drop in almost \$2 million from October to November was because projects were picking up steam and getting finished through the year. When he talked about expenses on this report, it was operating expenses. Fuel was a big one and insurances and personnel were the primary expenses.

Mr. Vitola said some of it was utility costs too, the sewer expenses were much lower than expected with the County. That was based on volume. Mr. Gifford asked if this was expected to continue this into next year and whether enough was hedged into next year's budget to deal with this potential issue of under collecting.

Mr. Gifford asked if Mr. Vitola expected this issue moving forward. Mr. Vitola said, no, January was probably a strong month to start the year. January was not over yet and some of the worst of it was hitting right now. Electric was over collected all of 2012, 2013, 2014 and the first eight months of 2015, so the under collection was new and may not even materialize to the extent of an under collection through the whole twelve months of the year even though the last couple of months were weak, it may not be so bad.

Mr. Markham knew it was good news that the budget would be brought back into balance through the transfer tax, but that was kind of a small miracle. Mr. Vitola agreed it was not sustainable. Mr. Markham said that was a big concern, especially since the State was eyeing the City's portion of the transfer tax and that would make Newark's budget very difficult at that point in time. Mr. Vitola said the lower fines were due to red lights. Mr. Markham thought it was due to lower staffing. Mr. Vitola said they were both right. The red light camera was the larger dollar amount he believed. He could provide a breakdown of exactly what lines were under, but it was all of them – traffic, court, red light camera. Red light camera was particularly pronounced because there was a vendor change-over first which completely disrupted the tickets. Then the green light arrow times and the yellow light times were extended to more appropriately meet traffic so there were fewer

violators. That was the one that really tanked, from close to \$500,000 a year all the way down to \$250,000 or lighter. The hope was that it would rebound to \$250,000 in 2016.

Mr. Markham noted Newark's red light cameras were always in the same place – he thought DelDOT would not move them. Mr. Markham thought they should be placed where they would do the most impact safety wise. He remembered discussions about the police and traffic being under staffed for at least six months. Ms. Houck said it was a direct correlation to the recruitment process and the length of time required to get an officer on the road. Mr. Markham asked what the target was to take care of filling these positions. Ms. Houck explained that a graduation was coming up early February. Mr. Haines said the City had cadets in the last four consecutive state and county academies. Two were coming out in the next three weeks and recruitment efforts would glean a list of fifty to sixty candidates to try to get one or two. Mr. Markham asked how many openings there were right now. Mr. Haines replied there was at least one vacancy that would come up this year. Probably fifty-seven candidates were vetted from the last list trying to get two.

Mr. Markham could not imagine a position would be filled and functioning probably until sometime in April. Mr. Haines said there was six months in the academy and then once out of the academy every officer had three months of field training. Ms. Houck added there were some who recently graduated that were going through their training on the road right now. Mr. Markham said it was not just the fine issue, but when the City was low on traffic officers, there were safety issues as well.

Mr. Markham thought Mr. Vitola was going to find out when the green energy backlog would be paid off. Mr. Vitola did not recall the number. He thought he responded in a memo or in a weekly but he did not remember it off the top of his head. His original thought was end of December, but that was before the church got in queue. He thought the new date was end of March but would have to clarify.

Mr. Markham said on the water, sewer and electric, that Newark had a very smart population and would conserve. He asked if any of the Artesian and United information about volumes was public and if it was possible to find out from Delmarva if they had a similar trend. Mr. Vitola would do his best to find out. Artesian was publicly traded but were a private organization and were not required to disclose that. He was able to piece together from their third quarter earnings report when Newark first reported that water was light, that Artesian's water seemed to be flat. That was all he could discern from the language which said 100% of their growth and revenue was related to rate increase which implied that their volume was flat, but he did not know to what degree or any details.

Mr. Markham thought Newark and United were friendly because of interconnection agreements and other things. Mr. Vitola had contacts at United that could be approached. He asked other cities in New Castle County about their water consumption and it varied, but it sounded like Newark was the only one experiencing volume decreases. New Castle was up 1-2%. Middletown was up several percent and was growing. Mr. Vitola would continue that research and did not think anyone else had smart water meters installed. Mr. Markham said customers were given the tools to understand their water usage. Mr. Vitola said APWA might have some resources about the trend post implementation. Conservation was built into the 2016 budget so there were no lofty revenue goals for 2016. Hopefully the projection was no worse than forecast, just the 1% conservation.

Mr. Markham asked if the University was using conservation efforts. Mr. Vitola said their new buildings would be more efficient and certainly more efficient than Rodney and Dickinson which came offline. That investigation would be continued. The number one thing with the University was getting the rest of the large meters installed and that was moving. Mr. Markham asked how many large volume meters were still outstanding. Mr. Vitola thought the count was in the teens.

There was no public comment. The discussion was brought back to the table.

MOTION BY MR. MARKHAM, SECONDED BY MR. CHAPMAN: THAT THE UNAUDITED FINANCIAL STATEMENT FOR NOVEMBER 30TH, 2015 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

16. **8. ORDINANCES FOR SECOND READING & PUBLIC HEARING**
A. Bill 15-39 – An Ordinance Amending Chapter 14A, Floodplains, Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware, to Ensure Consistency of the Floodplain Regulations with Federal Requirements and Language and to Provide More Clarity and Properly Assign Responsibilities and Powers Related to Floodplain Regulations

02:01:58

Ms. Bensley read Bill 15-39 by title only.

MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 15-39.

Mr. Fruehstorfer presented Bill 15-39 which incorporated the January 12, 2015 amendments to the floodplain code.

The floodplain regulations were required as part of the National Flood Insurance Program to protect the public health, safety and general welfare. The regulations helped to minimize development that was inappropriately located, inadequately elevated, improperly flood proofed or otherwise unprotected from flood damage.

The floodplain regulations were initially added to Code in 1972 and the City agreed by resolution to meet the requirements of the National Flood Insurance Program. It was accepted for participation in the program in 1974. Generally, this meant that in return for adding appropriate floodplain development regulations through City Code, residents were eligible for flood insurance through NFIP, and because the Code met a certain higher level of standards, residents were eligible for discounted flood insurance rates. If the Code did not meet federal standards, residents would pay more for flood insurance. With this in mind, Code revisions for uniform language and verification were recently required to remain in compliance with the NFIP fee.

Chapters 27 and 32 were revised and Chapter 14A, Floodplains, was added as a separate chapter in January 2015 by Ordinance 14-32 (*Secretary's Note: The revisions referenced were passed in Bill 14-32, which became Ordinance 15-02.*). The revisions separated the floodplain section into its own chapter, provided uniform language and referenced current flood maps. There was no intention to change any requirements of the Code. The ordinance needed to be passed by February 2015 to meet federal regulatory deadlines. Questions arose from the public and City Council during the discussion of the bill at the meeting in January 2015. Because it needed to be passed in February, it was passed at that time, and the following proposed amendments addressed those questions as well as several other issues that were discovered during the Planning Department's evaluation of the chapters. As there was no intention to change the meaning of the Code, only improve organization and clarity to maintain compliance, if other ideas came up that affected the meaning of the Code, those ideas could be addressed separately. The goal tonight was to address the organization and clarity questions and comments that came up during the last Council meeting during the Planning Department review and the Planning Commission review.

The first amendment was in section 14A and that was the basis for establishing special flood hazard areas. There was thought during the Council meeting that "or for other purposes" was wide open. Thus, "if approved by City Council" verbiage was added to clarify that.

The second amendment was also a result of a comment from the Council meeting. There was concern about potential cross purpose situations with definitions. After reviewing the Code, no other use of "substantial improvement" was found. Substantial

and improvement were each used separately, but not together. There may have also been some confusion with the 50% in there. He thought there was something in Building Code that if over 50% of the area of something was affected, it prompted something to happen, but nothing for substantial improvement. Upon examination, it was felt that "determination of market value" should be better clarified. It was found to be better described in the section of Chapter 32, but it would be recommended to delete that section which he would further discuss later.

The wording added here underlined was from that section of Chapter 32 proposed to be deleted. Mr. Fruehstorfer clarified that as a practice when a building permit came into the Planning Department now that was in the floodplain, the assessed value was determined by adjusting the home's assessed building values, which were 1983 values, and then adjusting those with the Consumer Price Index to determine the current value. If a home or a property would turn out that the cost of the work being done was over 50% of the value that would prompt it to meet floodplain regulations. If the property owner did not agree with that assessment, they would be free to get a private one.

The Planning Commission during their review thought it should be better defined. Mr. Fruehstorfer explained to them that he was in the process of making a floodplain brochure that explained the floodplain code NFIP and thought something could be included that the current way of handling it was though the assessment records and they had the right to get a property appraiser. The Planning Commission agreed with that recommendation.

Mr. Fruehstorfer skipped over amendment three and went to amendment four. It was observed during the Council meeting that non-residential structures had more protection. Amendment 4(b)(2) struck out, "All attendant utility and sanitary facilities shall be flood proofed up to the same floor elevation." That same protection was not provided for residential structures. Through their review, they could find no reason not to include that protection with residential structures only also. He pointed out that Section 14A-29, protection of flood-carrying capacity, was a section of Code that prohibited building in the floodplain or building buildings in the floodplain that would raise the level of flood waters. Flood proofing sanitary facilities and utilities had nothing to do with flood carrying capacity, so they thought it was best to strike out this comment here and put it somewhere that made more sense. Also during the Planning Commission meeting, the Commission was confused by the including basement statement. It said here, "The residential structure shall have the lowest floor, including basement, elevated a minimum of 18 inches above the 100-year flood." They said it was no longer a basement. They did not like that. Basically, that was in there so someone could not say, "Well, this basement is not a floor by my definition so I can have it." It was important to have it as part of the NFIP standard code. Staff thought it was okay to strike that, but add, "Basements are not permitted." That satisfied everyone and met the intent.

Regarding the all attendant utility and sanitary facilities comment, in Amendment 3 (building and structures section), the underlined words were added at the bottom "New construction or substantial improvements to existing buildings and structures that are located, in whole or in part, in special flood hazard areas shall have the lowest floor elevated..." Again, this protected the floodplain but also protected the buildings, so it made sense to have it here. Mr. Fruehstorfer added, "All accompanying utility and sanitary equipment..." rather than "attendant." He pointed out there was nothing here saying that it was just for nonresidential structures now so this was the only thing actually being changed in the Code in these amendments. Again the term "Basements are not permitted" was included.

Amendments 5 and 6 were together because they were closely related. Sections 27-20 and 27-21 defined what must be included in drawings submitted by developers for minor and major subdivisions. There were two issues addressed with these amendments and both addressed issues that were brought up by public comments at the Council meeting. It was pointed out that the Code still referenced the OFD in places when the intent had been to replace OFD, Open Floodway District, with SFHA. The Planning Department initially recommended adding "special flood hazard area (SFHA), formerly known as the", into this to straighten it up. However, at the Planning Commission meeting

they made a suggestion to add in SFHA so that was done here. A search of the Code for Open Floodway District to find any other spots that were missed turned up nine spots, so there would be seven others addressed in future amendments. Also in this case, there was a question about the floodway fringe. Staff was recommending the removal of references to the floodway fringe from the Code. Mr. Fruehstorfer would describe why in more detail under a later amendment, but for now if floodway fringe references were removed, there was no reason for developers to identify that in their plans.

Amendment 7 was the same as some of the earlier ones with the addition of "Special Flood Hazard Area". Amendment 8 was doing the same thing. Section 32-5 was a table that defined and briefly described abbreviations to the zoning districts, so here SFHA was added to OFD and right now "Special Flood Hazard Area".

Amendment 9 was doing the same thing adding "Special Flood Hazard Area" but also during Mr. Fruehstorfer's review, he noticed this section had requirements that were generally included in the new chapter of 14A that should have been deleted from this section when the new chapter was created. It must have been missed, but it was not the only thing that was missed here. In the middle of the page, he highlighted the "above the 100-year flood" – there was a change made many years ago that changed that to "18 inches above the 100-year flood", so this was a change that was missed many years ago so this was incorrect now. Much of the other information here was included in Chapter 14A so "any changes must conform to the requirements of 14A" was added and the rest of this section was deleted. Mr. Fruehstorfer noted that highlighted about a third of the way down the page, "as determined through the assessment records or by bonafide property appraiser", was where the verbiage came from that earlier amendment.

Amendment 10 was another "special flood hazard area" addition.

He came across Amendment 11 during his search for the open floodway district and found another instance where 'special flood hazard area' was not included, but then realized that while this was a good list of requirements that must be met to grant the variances, it was listed under the power of the Board of Adjustment. Chapter 14A gave City Council the power to grant variances in the special flood hazard areas, not the Board of Adjustment, so this should all be deleted.

Amendment 12 was another "special flood hazard area" addition.

Amendment 13 had two issues. First, this was included in a list of conditional uses in the floodplain. There was a typo in here, it said, "or rebuilding or an existing" - that should be replaced with "of". The second thing was in a list of allowable conditional uses in the floodplain. Much of that list was three or four word very clear statements. This one was a paragraph and other sections under it as partial sentences that did not make much sense. The other thing in this list that was complicated was written in full sentences and he thought it made more sense to add a "for" in the front, "for reconstruction, improvement or rebuilding of an existing building, foundation of a previous existing building that had been abandoned or otherwise occupied for a period of more than one year. Such improvement or rebuilding shall be limited to..." It read much more clearly as a complete sentence rather than two separate statements.

Amendment 14 described the floodway fringe issues. In section (b) at the beginning of the crossed out sections, "Requirements for land adjoining open floodway district (OFD) known as the floodway fringe (FF)." First, what did "land adjoining the open floodway district" mean? Was that five feet of land, was it fifty feet of land, was it the entire parcel? It did not say and was not clear. Second, floodway fringe was a confusing term because the Code definition under (b) was the only definition of floodway fringe in the Code said it was, "the land adjoining the special flood hazard area" while FEMA's definition was the area outside of the floodway but inside the floodplain. So, by FEMA definition, the floodway fringe was inside the floodplain, but by City definition, the floodway fringe was outside of the floodplain. Third, the Code currently said "all uses permitted according to the respective zoning district or classifications depicted on the official zoning map shall be allowed." That basically said was if the area beside it was RS and it was okay to build a patio up to the edge of the property, it was allowed. Then further down in

the paragraph, "the Planning Director and the Director of Public Works shall have determined if such a development or change is in compliance with the objectives and standards set forth in 32-93," that was Chapter 14A and referred to Chapter 14A. 14A said what can and cannot be done in the floodplain. It did not say what could and could not be done in the area beside the floodplain. Basically, this told the directors to do something they did not have the power to do.

Finally, Chapter 27, appendix 3 of the drainage codes and the riparian buffer section included a 50 foot buffer beyond the special flood hazard area. 32-96 tried to add some additional protection. This tried to add protection outside the floodplain and did not, but Chapter 27 included an enforceable 50 foot buffer outside of the special flood hazard area, so the floodway fringe reference here was unnecessary and confusing. Mr. Fruehstorfer said it made more sense to remove the reference to the floodway fringe.

Amendment 15 was section 32-102 which regulated the buyer information packet, now known as the Deed Transfer Affidavit. Purchasers of property were required to come into the Planning and Development Department. They look at a map showing the zoning of their property, the zoning of the neighboring properties and the location of the floodplain in reference to the property, not the floodway fringe. Properties in the floodplain with a mortgage were required by the bank to get flood insurance. The floodway fringe was not on the map and as he said, the City's definition of floodway fringe was questionable so it made more sense here to get rid of the reference and instead the Code should say "any special flood hazard area" formerly known as the Open Floodway District.

If there were any questions about the floodway fringe comments, he noted there was a section of the White Clay Creek on the map displayed where the two blue lines were a stream. The area outside of that was somewhat hashed. That was the floodway, which was the basic part of the stream that conveyed most of the water down the stream and then to the flood. The area outside of that, according to FEMA was a floodway fringe, then according to City Code, everything outside of that was a floodway fringe.

Ms. Hadden asked if according to the City's definition, Newark's floodway fringe was outside of the floodway fringe. Mr. Fruehstorfer said the City's floodway fringe would be the yellow areas. The map he referred to was actually the 500 year rather than the 100 year flood and there were areas just anywhere, according to the Code should be anything outside, and it was not clear what that encompassed.

Mr. Chapman commented that the ordinance change and its amendments as presented was probably the most thorough presentation he saw since he was on Council. He thought the background given and the commentary provided with Mr. Fruehstorfer's subsequent presentation were phenomenal and should be replicated. It was extremely thorough and clear and addressed questions that he recalled were raised by the public.

The Chair opened the discussion to public comment.

John Morgan, District 1, said flood issues were connected with Newark's known storm water problems. He thought it would be wise for the City to be very conservative in allowing construction in areas within the 500 year flood area because of increasingly heavy storms and those 500 year floods may start recurring every century. The hundred year floods may start recurring every 20 years, so he urged caution going forward when people come with edgy developments right next to a creek or a stream.

The discussion was brought back to the table.

Mr. Gifford commented on the very thorough presentation. He asked if staff got all the action items taken from notes back then or did they go through the audio. Mr. Fruehstorfer responded yes, he first went through the notes, but notes were not verbatim so he did go back and listen to it.

Mr. Markham said this was really talking about clean up and language here, correct, because it got his attention when a map got put up of his district. There was a lot of White Clay in his district so he asked how this would this affect anybody today. Mr.

Fruehstorfer said the only change as he mentioned was this would now require flood proofing of utilities for residential, in addition to nonresidential so it made them stricter. Taking away the floodway fringe reference did not change anything. As it was written now, the Public Works Director or the Planning Director could not stop something. He did not think there was anything that could be planned in the area beside it that the Code would allow them to stop it for. Also, the riparian buffer protection offered the fifty foot protection outside of the special flood hazard area. That basically did what the floodway fringe comment was trying to do.

Mr. Markham asked for a better definition of the flooding protection from utilities. Mr. Fruehstorfer did not know if this was ever going to happen in the City. Building was not allowed in the floodplain, but for some reason, if someone did want to add onto their house in the floodplain, it seemed to him someone could add on if they elevated 18 inches above the BFE, the 100 year flood. If that was done, electricity would come up into the home. That meter would have to be enclosed in a conduit up and to the point where it was 18 inches above, and the meter would have to be above and the same thing with gas meters. Drain pipes would have to be sealed.

Mr. Markham pointed out a house that was built on the corner of Creek Bend that he guaranteed was in the floodplain.

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: THAT BILL 15-39, ORDINANCE AMENDING CHAPTER 14A, FLOODPLAINS, CHAPTER 27, SUBDIVISIONS AND CHAPTER 32, ZONING CODE TO ENSURE CONSISTENCY OF THE FLOODPLAIN REGULATIONS WITH FEDERAL REQUIREMENTS AND LANGUAGE TO PROVIDE MORE CLARITY AND TO PROVIDE OR PROPERLY ASSIGN RESPONSIBILITIES AND POWERS RELATED TO FLOODPLAIN REGULATIONS.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

(ORDINANCE NO. 16-05)

17. 9. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:**
A. Request of Taylor Wiseman & Taylor on Behalf of Five Star Quality Care, Inc. for the Major Subdivision of 3.307 Acres in Order to Add a 35,828 Square Foot, 48 Bed Memory Care Unit to the Existing Millcroft Facility Located on the West Side of Possum Park Road, Immediately South of Cullen Way (Parcels #1806200083-1806200094 Inclusive) ***(Resolution and Agreement Included)***

02:30:17

(Secretary's Note: Items 9-A and 9-B were discussed simultaneously but voted on separately.)

Michael Hoffman, Esq., represented the applicant. Mr. Hoffman was joined by Taylor, Wiseman and Taylor project engineers Bob McNally and Mark Thompson, project architect Walt Zapor of KCBA Architects, and Rob Eckenrode representing Millcroft.

Mr. Hoffman presented the key points of the project which was a proposed expansion to the existing Millcroft facility. The expansion would be for a memory care facility on an adjacent parcel. Mr. Hoffman referred to a visual showing the site and the immediate surroundings.

The lot was previously approved for a 10 unit active adult 55 plus community in 2006. That would have been named Stonevale. The old plan had access coming off of Cullen Way, at the entrance to the Hunt of Louviers.

What was interesting about the site was that it was right on the border of the City of Newark and New Castle County. The existing facility rested within New Castle County. The site being discussed tonight was within the City of Newark. That meant there were multiple jurisdictions to go through for approval. They had an active re-subdivision application before New Castle County that required variances, but more or less, they would be providing access through the New Castle County piece of property. The variances were already secured from New Castle County. A memory care unit as a nursing home facility required a special use permit from Council, and they were also seeking a major subdivision approval. The site was about 3.3 acres located right on the outer edge of the City. The proposal was to have the parking partly on the New Castle County piece and then the balance of parking and the actual facility in the City of Newark. They proposed a loop road for fire emergency access.

Robert Eckenrode reported the existing Millcroft community operated as a senior living community since 1982. The existing property had 62 independent living units and 26 in the assisted living units which was licensed for 36 residents. The healthcare unit, which was skilled nursing, had 110 beds in the existing community. So, there were over 200 residents in the current community, none of which featured care for Alzheimer's residents. This addition on the adjoining property provided that care of 48 units to the residents of the City of Newark.

Mr. Hoffman said the facility would be devoted to memory care of patients. All access to the site was coming through the existing Millcroft facility in New Castle County, but there was no access proposed off of Cullen Way. However, in working with the Fire Marshall, they needed those services in the event of an emergency, so, a loop road was proposed around the facility. It would be a porous road to provide the emergency access while also not hindering storm water management for the site.

As for parking, the Code required 25 parking spaces. As part of this expansion, the proposal was for 46. The difficulty was that 13 were proposed on the City of Newark side, and the balance of the 46 were proposed in New Castle County. Since jurisdictions were crossed, there was a breakdown between City and then the New Castle County side. All of this was to say it would operate as one site, but in order to respect the corporate and the jurisdictional formalities, a cross access would be required to provide the access through a parking easement and a utility easement.

As Council was aware, there were specific dimensional requirements as well as more subjective analysis required for a special use permit. This plan, as the Planning Department noted, met the dimensional requirements. In other words, it met the minimum lot area, minimum lot width. It had 48 beds which was under the maximum permitted.

As for the subjective, the applicant was in close contact with the Hunt at Louviers and met with them three times going back to 2014. They enjoyed a very good relationship with them as the immediately adjacent affected community. Landscaping was proposed around the perimeter to really get a nestled-in look.

The actual layout was a 16 by 3 household scheme. In other words, there were 16 units in each of the wings, totaling the 48 proposed beds. Toward the front there were town hall, shopping and café districts to provide amenities for the residents.

Regarding the elevation, a brick façade was proposed. As for landscaping, this was very important to the community to ensure that a landscaping buffer was created. A storm water dry basin and a couple of rain gardens were proposed as well as the porous loop road to assist in storm water. There were also several retaining walls on the site, and he reviewed the texture and the color of those.

Regarding storm water, under Delaware law, the post conditions could not have a runoff any worse in terms of quality or quantity than the pre-conditions. They focused on making sure that was the case with a dry basin and the rain gardens. The community preferred a dry basin as the Hunt at Louviers had a number of them, and they would be incorporated into the site.

Mr. Hoffman referred to the cross access easement and showed an example of the exhibit that would be attached to the easement. There would be three components. The first component was the access being provided off of Possum Park, not Cullen Way. The parking spaces were incorporated and all told were 46 spaces. Then there was the utility easement to connect with the existing facility.

The site, as proposed, complied with the dimensional regulations as noted by the Planning Department. It also complied as far as more of the subjective elements. There were three particular factors when Council was evaluating a special use permit. (1) The proposed use would not adversely affect the health and safety of persons within the neighborhood of the proposed use. The applicant worked hard to be in communication with the immediately adjacent community to ensure that their concerns were incorporated. (2) The use could not be detrimental to public welfare or injurious to property and improvements in the neighborhood. The applicant believed that this proposal struck a balance and was respectful of both the public interest and the neighbors' interest as well. (3) The use could not be in conflict with the purposes of the City's Comprehensive Development Plan. The memory care facility provided a need in the City of Newark that was currently lacking. The Comprehensive Plan supported providing those services for the community and, in fact, the most recent census noticed that Newark's population was aging. So providing these facilities in this area with the community's involvement was in line with the intent and the purpose of the Comprehensive Development Plan.

Mr. Markham noticed the agreement had a provision to help the residents with maintaining their landscaping at the front of the entrance which was good to see in writing. He asked for confirmation that the new facility would connect to City utilities for electric, water, and sewer. Mr. Hoffman verified that was correct.

Mr. Markham referenced the suggestion from the Planning Commission to make sure that there was a condition for denial of access to Cullen Way. Mr. Hoffman said as far as the denial of access, they incorporated that within the subdivision agreement in an express provision as well. Mr. Markham asked for confirmation from staff that the Cullen Way access was incorporated in the agreement. According to Ms. Sierer, item k in the Resolution stated there shall be no motor vehicle access to Cullen Way from the site.

Mr. Hoffman said the one suggestion from staff they did not incorporate related to a sidewalk directly through the site as opposed to coming through the entrance way. Their decision was based on the fact that this facility would operate as a singular campus with a purpose of serving as a memory care facility. In addition, there were challenges with the topography that figured into their decision.

Mr. Markham noted the sidewalk was continuing down Possum Park – it was piecemeal but hopefully, Possum Park would have a sidewalk all the way down at some point in the future.

Mr. Ruckle thought the facility would be a great asset to the City. He related the great care and management provided to a family member who recently stayed at the existing Millcroft facility

The Chair opened the discussion to the public.

Mike Ramone, 21st District State Representative mentioned a comment aside from this discussion that the State would not be reducing money going to the municipalities.

Mr. Ramone asked Mr. Hoffman to go to the aerial view. He was speaking on behalf of Chanterelle, which happened to be the neighborhood right across the street. It was a Newark address but was in New Castle County. His district was Chanterelle, not the Hunt at Louviers. Mr. Ramone met with residents of Chanterelle and gave them an idea of what was going on. There was very little objection. He felt this was a wonderful facility and supported it. However, there were a couple things brought up and then the big thing they did not know was the adjustment from Cullen onto Possum Park. Everybody thought that was where the original neighborhood was going to go out at the extension, and then it was going to be this, and then later some people found out that was different

than a year a half ago when he first brought this up, and that brought a lot of concerns. He suggested working with the builder to come up with something that worked for everybody and possibly modifying that entrance. The feeling was with 45 additional homes, there would be problems getting in and out.

Another issue was the sidewalk. DeIDOT was looking at plans to bring the sidewalk up past Holy Angels and all the way down to Wendy's, bring it across the street when they re-do the Old Possum Park Road and the intersection going into Chapel Woods, and then coming up the road. He was looking for support in trying to get two synchronized lights there, but only one was on the plan.

The sidewalk coming from Cullen dead-ended right there, and he would like it to continue all the way down past both sites to stop where it would then be picked up with the state. He knew that would be helpful to people in the community.

Mr. Markham noted there was a commitment to do the old Stonevale property for the sidewalk, so the question was how far down would that continue. Mr. Ramone was thinking right past the pond, and they would try to pick it up from there. Mr. Markham knew they already committed to do the new property, so it was just a matter of trying to extend it. Regarding the traffic light, it was very difficult getting out at the Hunt of Louviers in either direction these days. Mr. Ramone said this would help them also. Mr. Ramone knew a lot of people in the Hunt and understood the Cullen Drive exit for all these would not work either. He knew the right exit was Possum Park and was asking for help to get that intersection dressed up a little bit with a flashing light.

Mr. Ramone addressed the transition from building to being done. The biggest question was the consideration of being so close to both communities during building. The fact that it was twisted to look at the other facility, half of the people really liked that. Several did not, because they like the aesthetics of the pond and how well it was done on the first one. They hoped it would be something similar and asked was to keep that same level, the drawings we see how nice it looks down Cullen, please wrap that all the way around across the front.

The last request was to consider when the project was done to move the dumpsters and everything more internal than where they are now. People in the front of the neighborhood say they hear the trucks there at 6 a.m. but were not supposed to be there until 7:00 to empty the dumpsters. Or, somehow, if they could consider some kind of addressment. That was every single thing that anybody in the community brought up.

Mr. Ramone thought this was the right thing to do and that Millcroft had been very good neighbors. He hoped for some consideration on the landscaping, the sidewalk, the construction transition period and if there was any way to move the dumpsters or have them emptied later in the morning, and then of course, the biggest project which was the access coming in out of the neighborhood.

Mr. Markham said these were the same kind of issues heard from the Hunt of Louviers residents – landscaping, sidewalks, aesthetics and access. He hoped to help Representative Ramone because he thought it helped everyone in the neighborhood. He thought the conversation would be harder regarding the location of the traffic light.

Mr. Hoffman said for purposes here, he did have notes but would have to take it back to his team. He could not commit to anything tonight beyond a commitment to look into it and to maintain communication with Representative Ramone.

Mr. Ramone said the light they were talking about that he had spoken to DeIDOT about would only be a blinking light, not a fully functional light. It would synchronize at times during school or getting in and getting out in the morning. With the light that was planned, going down towards Holy Angels at the cut-off of Old Possum, there would be a whole intersection that would dovetail with Chapel Hills. They were going to move that intersection up again, so they would be right across the street from each other. There was already a plan to be done, and he was trying to get them to add a blinking light. So, either

location, if there was the blinking light, it still provided the same synchronized changing at certain times of the day that would probably help either or both neighborhoods.

Mr. Gifford thought that trash could be picked up in the County at 6:00 a.m., but not until 7:00 a.m. in the City.

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: TO APPROVE THE MAJOR SUBDIVISION OF 3.307 ACRES LOCATED ON THE WEST SIDE OF POSSUM PARK ROAD, IMMEDIATELY SOUTH OF CULLEN WAY, AND NORTH OF THE EXISTING SENIOR LIVING FACILITY COMMONLY KNOWN AS MILLCROFT.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

(RESOLUTION NO. 16-B)

18. **9-B. REQUEST OF TAYLOR WISEMAN & TAYLOR ON BEHALF OF FIVE STAR QUALITY CARE, INC. FOR A SPECIAL USE PERMIT FOR A 48 BED MEMORY CARE UNIT (NURSING CARE FACILITY) AS PART OF THE PROPOSED MAJOR SUBDIVISION PLAN AT THE PROPERTY LOCATED ON THE WEST SIDE OF POSSUM PARK ROAD, IMMEDIATELY SOUTH OF CULLEN WAY (PARCELS #1806200083-1806200094 INCLUSIVE) (SEE 9-A)**
(See Item 9-A)

03:00:16

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: TO APPROVE THE SPECIAL USE PERMIT FOR MILLCROFT MEMORY CARE FACILITY ON POSSUM PARK RD.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Morehead.

19. **9-C. REQUEST OF MID-ATLANTIC BALLET FOR A SPECIAL USE PERMIT FOR A COMMERCIAL INDOOR RECREATION FACILITY AT THE BUSINESS LOCATED AT 500 INTERCHANGE BOULEVARD**

03:01:09

Mr. Fortner presented the special use application by Mid-Atlantic Ballet. They would like to relocate their facility to 500 Interchange Boulevard. This was an MOR district. It was permitted there with a special use permit, under active indoor recreation. They met the criteria for a special use permit. There were no department objections, and the Planning and Development Department recommended in favor of the special use permit. It did not adversely affect the health and safety in the neighborhood, was not detrimental to the public welfare and did not conflict with the Comprehensive Development Plan.

Mr. Markham asked if the applicant was going to leave Main Street for Interchange Boulevard. Chuck Halfen, Mid-Atlantic Ballet president said yes because the cost of the Main Street facility was detrimental to their budget.

There were no public comments, so the discussion was returned to the table.

MOTION BY MR. GIFFORD, SECONDED BY MR. MARKHAM: TO APPROVE THE REQUEST OF MID-ATLANTIC BALLET FOR A SPECIAL USE PERMIT FOR A COMMERCIAL INDOOR RECREATION FACILITY AT THE BUSINESS LOCATED AT 500 INTERCHANGE BOULEVARD.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

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

- A. **Council Members:** None
- B. **Others:** None

21. 11. **APPROVAL OF CONSENT AGENDA**

03:03:13

Ms. Bensley read the Consent Agenda in its entirety.

- A. Approval of Council Meeting Minutes – December 14, 2015
- B. Receipt of Alderman’s Report – January 12, 2016
- C. Real Estate Tax Assessment Quarterly Supplemental Rolls – November 10, 2015 and January 7, 2016
- D. ***First Reading – Bill 16-03*** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BLR (Limited Business Residential) to BB (Central Business District) 0.753 Acres Located at 249 East Main Street – ***Second Reading – February 22, 2016***

MOTION BY MR. MARKHAM, SECONDED BY MR. GIFFORD: THAT THE CONSENT AGENDA BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

22. **Meeting adjourned at 10:10 p.m.**

Renee Bensley
Director of Legislative Services
City Secretary