

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

March 24, 2008

Those present at 7:30 pm:

Presiding: Vance A. Funk, III, Mayor
District 1, Paul J. Pomeroy
District 2, Jerry Clifton
District 3, Doug Tuttle
District 4, David J. Athey
District 5, Frank J. Osborne
District 6, A. Stuart Markham

Staff Members: Interim City Manager Roy H. Lopata
City Secretary Patricia M. Fogg
City Solicitor Roger A. Akin
Assistant to the City Manager Carol S. Houck
Assistant to the City Manager Charles M. Zusag
Interim Planning Director Maureen Feeney Roser
Water & Wastewater Director Roy A. Simonson
Finance Director Dennis McFarland
Chief of Police Paul M. Tiernan

1. The meeting began with a moment of silent meditation and pledge to the flag.

2. **1-B. PROCLAMATION: NATIONAL TELECOMMUNICATOR'S WEEK**

Mr. Clifton read a proclamation honoring the Police Department Telecommunicators (Dispatchers) during National Public Safety Telecommunicator's Week, held April 13-19th. Mr. Funk said the City was proud to have such outstanding dispatchers.

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL**

A. Regular Council Meeting of March 10, 2008

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

4. **3. ITEMS NOT ON PUBLISHED AGENDA**

A. Public

There were no comments forthcoming.

5. **3-B. UNIVERSITY**

1. Administration

There were no comments forthcoming.

6. **3-B-2. STUDENT BODY REPRESENTATIVE**

Dave Tulley, President of the Greek Council at the University of Delaware, distributed a Chapter Assessment Program which was a report issued every semester containing highlights from fall, 2007. Also included was a template which was given to every Chapter at the beginning of the semester for them to

complete, showing the requirements to be fulfilled in order to be an active Chapter. Also included were quick facts on Greek life at the University. Mr. Tulley encouraged Council members to review this information. The Greek system was made up of 36 recognized organizations including 21 fraternities and 17 sororities. This included 2,300 undergraduate members, or approximately 15% of the University population. In 2007 the Delaware Greek community donated over \$137,000 to more than 45 different charities. In addition, UD Greeks performed some 4,500 hours of community service during the fall semester.

Mr. Tulley was pleased to report that the level of Chapter incidences has declined. Chapters have recognized the importance of socializing in a safe and appropriate manner while protecting the integrity of their charter, the University of Delaware, and the City of Newark. As mentioned to Council last semester, a Greek Chapter was required to register any social event with their respective Greek governing council at the University and their respective national office. Chapters that have failed to abide by University policy have been suspended and were classified as underground establishments. The unrecognized Chapters do not receive any University or Greek-wide support.

Mr. Tulley said the annual Greek week festivities will be held in early May, and all proceeds from the week's events will benefit the Emmaus House and the Early Learning Center at the University of Delaware. Mr. Tulley thanked Council for their continued support and said the organization looked forward to building a stronger relationship with the City in the years to come. The Greeks were also pleased to assist with the upcoming 250th Anniversary celebration.

Mr. Funk appreciated the outstanding cooperation and support the Greek organization provided to the community.

Messrs. Pomeroy and Osborne thanked Mr. Tulley for the Greek's service to the City and the University. Mr. Pomeroy noted the importance of keeping an open line of communication between the City and the Greek organization.

Mr. Tulley encouraged communication regarding any concerns to be directed either to him or to Matt Lenno (Greek advisor).

7. 3-C. COUNCIL MEMBERS

Mr. Pomeroy announced Mr. Osborne's term on Council was coming to a close after serving the City for many years.

8. Mr. Pomeroy thanked Mr. Lopata for his response to issues regarding the Greater Newark Network.

9. Mr. Clifton congratulated the Building Department for their efforts with rental permit enforcement.

10. Mr. Clifton complimented Mr. Lopata on the improvements he made to the Administrative Report.

11. Mr. Athey welcomed Mr. Lopata, Interim City Manager, to the table and wished him the best of luck in his new role.

12. Mr. Athey also recognized the Building Department for assisting him with a rental issue.

13. Mr. Athey acknowledged the work of the Police Department on the issue of speeding fines and noted this subject would be discussed at the April 14th Council meeting.

14. Mr. Athey recognized Ms. Houck for her continuing efforts on the “U Don’t Need It” campaign.

15. Mr. Athey received a request from the developer of Victoria Mews to waive the rental permit fee based on the property’s low income housing status. He noted Staff was not in favor of this waiver and asked Council members for their comments. Mr. Funk felt a waiver would set a bad precedent, and Mr. Pomeroy agreed this could add a level of arbitrary decision making and open the door for similar requests. Mr. Athey will advise the developer that Council was not inclined to favor this request, but he had the option to formally bring his appeal to Council.

16. Mr. Markham reported Paper Mills Partners met during the past week for a “get acquainted” session. The first formal meeting of the group was scheduled for April 3rd at 7:00 pm at the Newark Senior Center.

17. Mr. Markham noted the experiment with the speed sign on Kirkwood Highway was successful in slowing down traffic, and he expected further conversation on that option in the future.

18. Mr. Markham asked Ms. Houck for an update on “U Don’t Need It.” Ms. Houck said they were in the process of recruiting community volunteers. They planned to send detailed information about the campaign to the charitable organizations with an application form for donation requests. Tents will be provided by Events Unlimited, who has offered to put up and take down the tents at no charge.

19. Mr. Markham encouraged District Five residents to vote in the election for City Council on April 8th.

20. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING**

None

21. **5. RECOMMENDATIONS ON CONTRACTS & BIDS**

A. Recommendation to Approve Sanitary Sewer Repair Project Cost Share of 45% Towards State & Tribal Assistance Grant (STAG) Award

Ms. Houck summarized her memo to Council dated March 17, 2008. The City’s application for FY 2009 Appropriations Funding for above-grade sanitary sewer creek crossings was reviewed by the Appropriations Committee. A 45% cost share of \$540,000 was required of the City before the EPA would award a STAG grant. These funds will be included in the 2009 Capital Program, and Council was asked to authorize the City’s commitment for the cost share. Mr. Tuttle observed the Federal, 2009 fiscal year started October 1st, so it might be possible to step up the timeline for the project prior to January 1st. Ms. Houck said the design for the corrective measures should be finished by June or July, 2008, at which time the City could start the process to hire a contractor. Mr. Lopata noted that would require a budget amendment by Council. Mr. Markham asked when the County would make a funding decision, and Ms. Houck advised Mr. Simonson did not yet have an update. Mr. Clifton asked if these crossings were the only two locations in the City that were above ground, crossed a creek and were constructed in the same manner. Ms. Houck affirmed they were the only two areas of concern.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO APPROVE SANITARY SEWER REPAIR PROJECT COST SHARE OF 45% TOWARDS STATE & TRIBAL ASSISTANCE GRANT (STAG) AWARD.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

22. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING

A. Bill 08-04 An Ordinance Amending Ch. 2, Administration, By Revising the Pay Plan for Management Employees, Effective April 1, 2008

Ms. Fogg read Bill 08-04 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-04.

Mr. Osborne asked how long the pay plan would remain in effect. Mr. Funk clarified it was effective for only one year.

Mr. Pomeroy thought it was worth noting that a number of other government entities were not able to provide the modest increases to their employees that the City has been able to manage. He felt the employees should be credited with keeping costs under control while continuing to provide an excellent level of service and allowing no increase in taxes. Mr. Lopata explained the proposed increase would keep management increases in line with the other employees and paralleled the three labor agreements previously approved.

Mr. Markham reviewed his notes from last year where he discussed the County and the State's budget problems and belt tightening and his concern about whether the City should follow their lead. If such a plan was implemented, it was agreed it would have to be addressed with the unions and be done across the board. Mr. Markham asked whether any of that discussion had taken place. Mr. Lopata advised the contracts involved in the current increase were previously negotiated and agreed to by Council and staff. Further, the AFSCME contract would be discussed in Executive Session, and the reflection of the cost containment Council had discussed would become apparent. Historically, Council has given management employees the same level of increase as the other employees, and it was clearly a policy decision to be made by Council.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(ORDINANCE NO. 08-03)

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: TO AUTHORIZE THE CITY MANAGER TO INCREASE BY 4% THE ANNUAL BASE SALARY FOR EACH MANAGEMENT EMPLOYEE WITHIN THE ADOPTED RANGES EFFECTIVE APRIL 1, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

23. 6-A-1. 2008 SALARY INCREASE FOR ALDERMAN & DEPUTY ALDERMAN

Mr. Lopata said the proposed 4% increases mirrored the management increase.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THE ALDERMAN'S SALARY BE INCREASED BY 4% TO \$35,629 EFFECTIVE APRIL 1, 2008 AND THE DEPUTY ALDERMAN'S SALARY BE INCREASED BY 4% TO AN HOURLY RATE OF \$83.20 EFFECTIVE APRIL 1, 2008.

Mr. Pomeroy asked whether the current hourly rate for the Deputy Alderman was working out well in respect to the shared workload. Following his appointment as Interim City Manager, Mr. Lopata met with the Alderman who seemed satisfied with the existing arrangement.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

24. 6-A-2. 2008 SALARY INCREASE FOR CITY SECRETARY

Mr. Lopata advised this was the same situation for the City Secretary that he previously explained under the management increase.

MOTION BY MR. POMEROY, SECONDED BY MR. OSBORNE: TO INCREASE THE BASE SALARY RATE FOR THE CITY SECRETARY POSITION TO \$67,600 EFFECTIVE APRIL 1, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

25. 7. RECOMMENDATIONS FROM THE PLANNING COMMISSION/DEPT.
None

26. 8. ORDINANCES FOR FIRST READING

A. Bill 08-05 - An Ordinance Amending the Zoning Map of the City of Newark, By Rezoning From BN (Neighborhood Shopping) to BB (Central Business) .3867 Acres, Located at 119 Elkton Road

Ms. Fogg read Bill 08-05 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 08-05.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 4/28/08)

27. 8-B. BILL 08-06 - AN ORDINANCE AMENDING CH. 20, MOTOR VEHICLE & TRAFFIC, BY PROVIDING FOR A STOP SIGN NORTHBOUND ON DUNSMORE ROAD, TURNBRIDGE ROAD, FARNSWORTH DRIVE & AYLESBORO ROAD AT THE INTERSECTION WITH WHITE CHAPEL DRIVE

Ms. Fogg read Bill 08-06 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT THIS BE THE FIRST READING OF BILL 08-06.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 4/14/08)

28. 8-C. BILL 08-07 AN ORDINANCE ANNEXING & ZONING TO BC (GENERAL COMMERCIAL) 3.7386 ACRE PROPERTY LOCATED AT 1364 & 1370 MARROWS ROAD & 709 OGLETOWN ROAD

Ms. Fogg read Bill 08-07 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 08-07.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 4/28/08)

29. 9-A. COUNCIL MEMBERS

None

30. 9-B-1. APPOINTMENTS TO CONSERVATION ADVISORY COMMISSION

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT ANN MORRISON BE APPOINTED TO THE CAC FOR A THREE-YEAR TERM; SAID TERM EXPIRING MARCH, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT STEVEN BEARD BE REAPPOINTED TO THE CAC FOR ANOTHER THREE-YEAR TERM; SAID TERM EXPIRING MARCH, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. FUNK, SECONDED BY MR. POMEROY: THAT THOMAS FRUEHSTORFER BE REAPPOINTED TO THE CAC FOR ANOTHER THREE-YEAR TERM; SAID TERM EXPIRING MARCH, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

31. 9-B-2. APPOINTMENTS TO & RESIGNATION FROM COMMUNITY DEVELOPMENT/REVENUE SHARING COMMITTEE

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT PATRICIA WILCOX BE REAPPOINTED TO THE CD/RS COMMITTEE FOR ANOTHER THREE-YEAR TERM; SAID TERM EXPIRING MARCH, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. FUNK, SECONDED BY MR. CLIFTON: THAT LILLIAN GREEN BE REAPPOINTED TO THE CD/RS COMMITTEE FOR ANOTHER THREE-YEAR TERM; SAID TERM EXPIRING MARCH, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT COUNCIL ACCEPT THE RESIGNATION OF LEE ENGLER FROM THE CD/RS COMMITTEE.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

32. 9-C. OTHERS

None.

33. 10. SPECIAL DEPARTMENTAL REPORTS:

- A. Special Reports from Manager & Staff:
 - 1. Appointment of Acting Interim City Manager

MOTION BY MR. OSBORNE, SECONDED BY MR. CLIFTON: APPOINTING CAROL S. HOUCK AS ACTING INTERIM CITY MANAGER.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

34. 10-A-2. APPOINTMENT OF DEPUTY CITY SECRETARY

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: APPOINTING ALICE VAN VEEN AS DEPUTY CITY SECRETARY.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

35. 10-A-3. RECOMMENDATION RE INSURANCE RENEWALS FOR 2008-2009

Mr. McFarland outlined the proposal for insurance coverage for the City for the period April 1, 2008 to March 31, 2009. He recommended renewal of the

City's coverage for general liability, automobile and casualty policies with St. Paul Travelers and for property and boiler and machinery insurance covered by CHUBB. Total premiums for the calendar period approximate \$494,000, a 25% increase over the current amount. Some of the reasons for the substantial increase were documented in the memo and related to the City's loss experience over the past several years. At a meeting in January regarding the City's policy and claims, St. Paul's Travelers indicated there would be a substantial premium increase. There was a similar increase in the property insurance with Chubb that was much more explicable, reflecting a full year of coverage for the reservoir and a reappraisal on the municipal building. The department heads were asked to re-estimate the replacement value of all the significant pieces of property in their departments which substantially increased the City's coverage amounts. Mr. McFarland recommended Council authorize going forward with the new policies.

Mr. Funk was expecting increases of approximately 40%. Mr. McFarland reported the insurers recognized the City was making efforts to improve risk management practices and control the claims going forward.

In regard to vehicle accidents, Mr. Clifton thought defensive driving classes should be a requirement for all employees who drove City vehicles. Mr. McFarland stated the training was required for the union employees (FOP and AFSCME) and was made available to all other City employees. He advised the City received insurance credit for having a good program. Mr. Markham mentioned there was an option to complete the class via the Internet.

In terms of controlling losses going forward, Mr. McFarland had been involved in preliminary conversations about a more formal risk management program, which would include defensive driving. Mr. McFarland said Travelers had a broad risk management program, and those that fit the City's practices could be adopted.

Mr. Pomeroy agreed with the Mayor that the increase was not as significant as he expected and asked what process was used to determine whether the City had an adequate level of coverage. Mr. McFarland said he and his staff walked through the deductibles, the coverages, and the claims history. Most of the changes were made in terms of the property by considering the valuations.

MOTION BY MR. CLIFTON, SECONDED BY MR. OSBORNE: TO RENEW THE CITY'S INSURANCE COVERAGE WITH ST. PAUL'S TRAVELER'S FOR GENERAL LIABILITY, AUTOMOBILE AND CASUALTY POLICIES AND WITH CHUBB FOR PROPERTY, BOILER AND MACHINERY INSURANCE FOR THE PERIOD APRIL 1, 2008 TO MARCH 31, 2009.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

36. 10-B. ALDERMAN'S REPORT

MOTION BY MR. OSBORNE, SECONDED BY MR. TUTTLE: THAT THE ALDERMAN'S REPORT DATED MARCH 18, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

37. 10-C. REQUEST FOR EXECUTIVE SESSION RE LAND ACQUISITION, LITIGATION & PERSONNEL

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT COUNCIL ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS LAND ACQUISITION, LITIGATION AND PERSONNEL.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Council entered into Executive Session at 8:10 pm and returned to the table at 10:10 pm. Mr. Funk said a motion was needed to approve the contract.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT COUNCIL APPROVE THE AFSCME CONTRACT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

38. Meeting adjourned at 10:11 pm.

Patricia M. Fogg, CMC
City Secretary

/pmf