

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**April 14, 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  
Captain John Potts  
M/Cpl. Curtis Davis

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE AGENDA BE AMENDED BY REMOVING ITEM 9-A-3, RESOLUTION NO. 08-\_\_: AMENDING THE NEWARK CITY CHARTER, FROM THE AGENDA AND ADDING ITEMS 9-B-1, RESIGNATION/APPOINTMENT TO TOWN & GOWN COMMITTEE AND 10-A-3, PENSION DISABILITY BENEFIT.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

3. MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON, THAT ITEM 9-A-2, RESOLUTION NO. 08-G: IN APPRECIATION TO FRANK J. OSBORNE, BE HEARD AT THIS TIME.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**9-A-2. RESOLUTION NO 08- IN APPRECIATION TO FRANK J. OSBORNE, COUNCIL MEMBER FIFTH DISTRICT**

Mr. Clifton recognized Frank J. Osborne, who chose not to seek another term of office after serving as a Council Member in Districts One and Five for a total of fourteen years during the period 1967-1970 and 1998-2008. Council expressed appreciation to Mr. Osborne for his public service to the citizens of Newark and for his commitment to the community.

Mr. Clifton read the resolution which was endorsed unanimously by Council.

**(RESOLUTION 08-G)**

Tributes were also presented by Senators Steve Amick and Liane Sorenson on behalf of the Senate and by Representative John Kowalko on behalf of the House of Representatives honoring Mr. Osborne for his many years of service.

**4. 1-B. CONSIDERATION OF CANCELLATION OF MAY 27, 2008 (TUESDAY) COUNCIL MEETING**

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: TO CANCEL THE TUESDAY, MAY 27, 2008 CITY COUNCIL MEETING.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

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

A. Regular Council Meeting of March 24, 2008

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

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

A. Public

Mr. Rick Celeste, 815 Hilltop Road, was impressed with the 250<sup>th</sup> Anniversary Parade and felt it was a tribute to the history of Newark.

Mr. Celeste was pleased to learn of Judge Sleet's ruling rescinding a major portion of the settlement in the dispute with Durkin Contracting and hoped for a reduction of the \$25 million civil suit. He encouraged the City to use this opportunity as a backward looking exercise to examine not only the terms of the contracts but to determine if there were other areas that could be improved upon, such as training for the contract administrators.

7. Mr. Ajit Majmudar, Apt. H-3 West Knoll Apartments, 260 Elkton Road, spoke about the public transportation system in the City and his concern regarding the availability and convenience of bus service based on operating hours and the location of the Transit Hub. Mr. Funk explained the Transit Hub would open by the end of May or early June at which point there would be longer hours for the trolley to take passengers to the inner part of the City. Secondly, the City was working with the University and with Dart on a study to determine how the different transportation systems could better work together. Discussions involved the City's Unicity bus, Dart's Newark routes, and the University's buses, although none were available to residents at this time. Mr. Lopata advised the Unicity bus ran from 7:30am to 5:30pm Monday through Friday, and reported the City tried to get additional funding to extend transit service but had been unsuccessful in their attempt due to the State's lack of resources.

**8. 3-B. UNIVERSITY**

1. Administration

Mr. Rick Armitage complimented the City on the 250<sup>th</sup> Anniversary celebration, and he recognized the hard work that went on behind the scenes. Mr. Markham asked Mr. Armitage to relay thanks to Dr. Harker for judging the parade.

**9. 3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

**10. 3-C. COUNCIL MEMBERS**

Mr. Markham gave a “hats off” to Mr. Funk for his work on the 250<sup>th</sup> Anniversary celebration.

**11.** Mr. Markham offered his thanks to Councilman Osborne for his efforts on Council and his dedicated service to the community.

**12.** Mr. Markham congratulated Mr. Temko on his Council seat.

**13.** Mr. Markham reported Paper Mill Partners had their first meeting to discuss options for the former Curtis Paper Mill site. Quite a few ideas were generated such as art gardens, amphitheater, market space, and pavilion structure. Some of the suggestions were to make it something different, something bold, and to display the Japanese surrender document in some manner since the paper was produced at the Paper Mill. The next meeting of the group will be on Thursday, May 1<sup>st</sup> at 7:00-8:30pm at the Newark Senior Center.

**14.** Mr. Markham mentioned “U Don’t Need It” and volunteers were asked to contact Ms. Houck directly. Ms. Houck noted information would be on Channel 22 and on the City’s website.

**15.** Mr. Athey commended the 250<sup>th</sup> Anniversary celebration and thanked Mr. Funk for a wonderful job. He hoped the City would recognize those who had a part in the celebration, and Mr. Funk said he planned to send a pin to all who assisted which involved between 150-200 people.

**16.** Mr. Athey offered best wishes to Mr. Osborne and remarked that it was a sincere pleasure working with him.

**17.** Mr. Athey looked forward to having Mr. Temko join Council and congratulated the residents of the Fifth District for the huge election turnout.

**18.** Mr. Athey thanked the Parks & Recreation Department for their diligence on cleaning up the graffiti on the Jim Hall Trail and Mr. Lopata for his follow up on the problem.

**19.** Mr. Athey asked if Mr. Lopata’s memo to Mr. Dentel (CAC Chair) regarding the climate registry had been forwarded to the CAC. Mr. Lopata said the memo had been sent.

**20.** Mr. Athey referenced the Main Street Forum sponsored by the Friends of Newark, and he appreciated Mr. Funk’s efforts on behalf of the event. Mr. Athey was impressed with the speaker, Mr. Rypkema, and thought a lot of ideas were generated by the forum.

**21.** Mr. Clifton applauded Mr. Funk for a tremendous 250<sup>th</sup> Anniversary celebration, and felt it was a great weekend for Newark.

**22.** Mr. Clifton thanked Mr. Osborne for coming forward during a tough time for the district and for the City and noted he brought back stability and a different style of representation to the district. Mr. Clifton appreciated the friendship and conversations they had though the years.

**23.** Mr. Clifton congratulated Mr. Temko on his victory and looked forward to having him serve on Council.

**24.** Mr. Clifton thanked Chief Tiernan and Officer Marconi of the Police Department for taking public input at the George Read Village Civic Association meeting.

25. Mr. Pomeroy thanked Senators Amick and Sorenson and Representative Kowalko for attending the Council meeting to present tributes to Mr. Osborne.
26. Mr. Pomeroy praised Mr. Funk as a tireless supporter and ambassador for the City at the 250<sup>th</sup> Anniversary celebration and recognized the volunteers and City staff who were involved.
27. Mr. Pomeroy congratulated Mr. Temko and commended both candidates for running a race with dignity and class.
28. Mr. Pomeroy appreciated Mr. Osborne for serving as a role model and a mentor and being a positive representative of the City.
29. Mr. Pomeroy expressed gratitude to the Board of Election members for their time and effort with the District Five Council election.
30. Mr. Osborne recognized the efforts of Mr. Funk and City staff in making the 250<sup>th</sup> Anniversary celebration an excellent event for the City.
31. Mr. Osborne congratulated Mr. Temko on his election and on the turnout of voters in District Five.
32. Mr. Osborne thanked Council for their cooperation over the years and for the support they offered him during his fourteen years of service to the City.
33. Mr. Tuttle joined in the accolades for the week, from the election through the 250<sup>th</sup> Anniversary festivities, and deemed it an excellent week for the City. Mr. Tuttle recognized Messrs. Temko and Mullen for a great campaign that brought out an incredible number of voters in District Five. Mr. Tuttle also recognized Mr. Osborne for his commitment to the community.
34. Mr. Tuttle thought Council should work to rationalize mobility within the City. He reported there was a past experiment where a University route was made available to the public, but the insurance cost was prohibitive. He felt it was time to revisit the subject and felt some of the changes DART was making around the Hub were not well understood in terms of the routes that will continue to serve the City. He felt it was important to publicize information about the new system, perhaps via the City's website.
35. Mr. Funk will miss Mr. Osborne and welcomed Mr. Temko to Council. He felt the 250<sup>th</sup> celebration was a great occasion for the City and acknowledged the efforts of all the volunteers and City staff for their professionalism and spirit of cooperation.

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

None

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

A. Contract 08-03, Purchase of One Mini Digger Derrick

Ms. Houck summarized her memo to Council dated April 3, 2008. This contract provided for a track mounted mini digger derrick transported by a trailer for use by the Electric Department. Only one sealed bid was received for this contract that met all the specifications. According to Ms. Houck, the equipment was very specialized which she felt was the reason only one bid was received. Funds were available from two capital projects, and it was therefore recommended to award the contract to Dueco, Incorporated at the bid price of \$120,732.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT CONTRACT 08-03 BE AWARDED TO DUECO, INCORPORATED, AT A TOTAL BID AMOUNT OF \$120,732 FOR THE PURCHASE OF ONE MINI DIGGER DERRICK.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**38. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING**

A. 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. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-06.

Mr. Clifton commented the sign was proposed in the area of the Newark Senior Center where several small arterial roads fed into a larger road that was subject to speeding vehicles. He felt a stop sign was needed and noted the Traffic Committee was not unanimous on the Bill. Further, Mr. Clifton requested the Traffic Committee to revisit his request for a stop sign where Village Road exits onto White Chapel Drive. Mr. Lopata will ask the Traffic Committee to explore this possibility.

Representative John Kowalko, 134 North Dillwyn Road, credited Mr. Clifton for the stop sign at Witherspoon Lane and Aylesboro Road, an area with an over-55 community that was vulnerable to speeding.

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. 08-04)**

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

None

**40. 8. ORDINANCES FOR FIRST READING**

A. Bill 08-08 - An Ordinance Amending Chapter 30, Water, Article VII, Water Resource Protection Regulations, By Adopting & Incorporating Subsequent Amendments to the Current Water Resources Agency's Water Resource Protection Area Map

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

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(2<sup>ND</sup> READING 4/28/08)**

**41. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA**

**A. Council Members:**

**1. Discussion re Speeding Fines (Councilman Athey)**

Mr. Athey had studied traffic and pedestrian safety issues for a number of years and was particularly concerned about speeding in residential neighborhoods. Mr. Lopata's memo outlined four recommended ordinance changes, and one raised the base excess speeding fine from \$20 to \$25.

Mr. Athey felt the recommended change implementing an additional fine for vehicles traveling 20 mph above the speed limit warranted further consideration. From a residential viewpoint, he thought 20 mph over the speed limit was too high a limit and suggested reducing this to 10 mph over. Mr. Pomeroy supported dropping it to 10 mph. Mr. Tuttle felt 15 mph over was more reasonable as it was easy to inadvertently go 10 mph over. Mr. Clifton agreed with Mr. Athey and felt drivers could reasonably be expected to keep their speed less than 10 mph above the limit, He was also concerned about the potential for disaster on narrow residential streets.

Captain Potts thought 15 mph was a reasonable starting point, and the Police Department's threshold for ticketing vehicles was generally around 10 mph over.

Mr. Markham thought the fine should be looked at as a tool to discourage speeding rather than an attempt to collect additional funds for the City.

Mr. Funk suggested the ordinance be prepared for 15 mph over with the fine raised to \$25 and its effectiveness evaluated at a later date.

Mr. Athey agreed to follow the staff recommendation of 15 mph over and said the ordinance could be revisited in the future if the results did not prove satisfactory.

On a separate issue not addressed in the report, Mr. Lopata stated Ms. Wilkers recommended increasing the mail-in ticket fee from \$15 to \$20. Mr. Funk advised Mr. Lopata to include the fee change in the Bill.

It was the consensus of Council that staff be directed to provide the appropriate ordinance.

**42. 9-B-2. RESOLUTION NO. 08-\_\_ : IN APPRECIATION TO FRANK J. OSBORNE, COUNCIL MEMBER FIFTH DISTRICT**

(See Item #3)

**43. 9-B. COMMITTEES, BOARDS & COMMISSIONS**

None.

**44. 9-B-1. RESIGNATION/APPOINTMENT TO TOWN & GOWN COMMITTEE**

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE RESIGNATION OF EZRA TEMKO FROM THE T&G COMMITTEE BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. OSBORNE, SECONDED BY MR. CLIFTON: THAT RACHAEL HURLEY BE APPOINTED TO REPRESENT A UNIVERSITY OF DELAWARE GRADUATE STUDENT RESIDING IN THE CITY TO THE T&G COMMITTEE FOR A TERM ENDING AUGUST, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**45. 9-C. OTHERS**

1. Request for City to Participate with State/County/City of Wilmington in Fort Monmouth / “BRAC” Conference

Mr. Lopata reported the City was asked by New Castle County to participate in a BRAC Conference in Forth Monmouth, New Jersey on Thursday, May 8<sup>th</sup>. If the City decided to attend the conference, the cost would be \$2,500. Mr. Funk and other members of Council thought it was an excellent idea for the City to be involved, and it was the consensus of Council that the City should be a participant. Mr. Pomeroy, Mr. Funk and Ms. Roser will represent the City at the conference.

**46. 10. SPECIAL DEPARTMENTAL REPORTS**

- A. Special Reports from Manager & Staff
  1. Renaming of Newark Planning Department

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: TO REVISE THE OFFICIAL NAME OF THE CITY “PLANNING DEPARTMENT” TO THE “PLANNING AND DEVELOPMENT DEPARTMENT”.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**47. 10-A-2. PROPOSAL TO AMEND ADMINISTRATIVE SERVICES AGREEMENT WITH ICMA-RC**

Mr. Lopata explained the employee 457 Deferred Compensation Plan was currently administered by ICMA-RC. The proposed amendment to the plan was a matter of eliminating the management fee of 0.29%. ICMA-RC has offered to provide this service at no cost to the employees in exchange for a five year contract commitment.

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: TO COMMIT TO A FIVE YEAR CONTRACT FOR THE ADMINISTRATIVE SERVICES AGREEMENT WITH ICMA-RC IN EXCHANGE FOR A WAIVER OF THE 0.29% MANAGEMENT FEE.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**48. 10-A-3. PENSION DISABILITY BENEFIT FOR ROBERT WISNIEWSKI**

Mr. Lopata noted Mr. Wisniewski was unable to perform his duties due to a medical condition, and this was a request for a pension disability benefit. Mr. Wisniewski would be eligible for his regular pension in December, but due to his inability to work, it was recommended to start his disability benefit on May 1<sup>st</sup>. Mr. Markham asked if the employee was able to work in any capacity, and Mr.

Lopata stated the employee was unable to do so based on the physician's information.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: TO APPROVE THE PENSION DISABILITY BENEFIT FOR MR. WISNIEWSKI IN THE AMOUNT OF \$1,157.04 EFFECTIVE MAY 1, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**49. 10-B. ALDERMAN'S REPORT**

MOTION BY MR. OSBORNE, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORT DATED APRIL 2, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**50. 10-C. FINANCIAL STATEMENT**

Mr. Osborne remarked that it was an excellent idea having the summary at the beginning of the report, and Mr. Pomeroy concurred.

MOTION BY MR. OSBORNE, SECONDED BY MR. MARKHAM: THAT THE FINANCIAL REPORT DATED FEBRUARY, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**51. 10-D. REQUEST FOR EXECUTIVE SESSION RE LITIGATION**

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Council entered into Executive Session at 8:43 pm and returned to the table at 9:24pm. Mr. Funk said no further action was required.

**52. Meeting adjourned at 9:25pm.**

Patricia M. Fogg, CMC  
City Secretary

/pmf