

**CITY OF NEWARK  
DELAWARE  
COUNCIL MEETING MINUTES**

**June 9, 2008**

Those present at 7:30 pm:

Presiding: District 2, Jerry Clifton  
District 1, Paul J. Pomeroy  
District 3, Doug Tuttle  
District 4, David J. Athey  
District 5, Ezra J. Temko

Absent: Mayor Vance A. Funk, III  
District 6, A. Stuart Markham

Staff Members: Interim City Manager Roy Lopata  
City Secretary Patricia Fogg  
City Solicitor Roger Akin  
Assistant to the City Manager Carol Houck  
Police Chief Paul Tiernan  
Interim P&D Director Maureen Feeney Roser  
Parks & Recreation Director Charlie Emerson  
Public Works Director Rich Lapointe

---

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

2. MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT ITEMS 9-A-1, RESOLUTION NO. 08-\_\_: IN APPRECIATION TO JACQUELYN BALDWIN, 9-A-2, RESOLUTION NO. 08-\_\_: IN APPRECIATION TO TIMOTHY J. TOOLE, AND 10-A-1, DuPONT LAND DONATION, BE HEARD FOLLOWING APPROVAL OF THE CITY SECRETARY'S MINUTES.

MOTION PASSED UNANIMOUSLY: VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

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

A. Regular Council Meeting of May 12, 2008

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

4. **9-A-1. RESOLUTION NO. 08-\_\_: IN APPRECIATION TO JACQUELYN BALDWIN**

Mr. Clifton recognized Jacquelyn Baldwin, who served on the Newark Housing Authority since 1994. Mr. Clifton read the resolution which was endorsed unanimously by Council.

**(RESOLUTION 08-P)**

**5. 9-A-2. RESOLUTION NO. 08-\_\_: IN APPRECIATION TO TIMOTHY J. TOOLE**

Mr. Clifton thanked Timothy J. Toole for his service to the community on the Community Development/Revenue Sharing Committee since 1997 and the Home Improvement Program Loan Committee since 1999. The resolution was read by Mr. Clifton and was unanimously endorsed by Council.

**(RESOLUTION 08-O)**

**6. 10-A-1. DuPONT LAND DONATION**

Mr. Lopata reported the DuPont Company dedicated 10.23 acres of land to the City, which had an estimated market value of \$510,000. The property straddled the Christina Creek between the Wilson Farm and the Stine-Haskell Research Center, and was a beautiful part of the stream valley in the greater Newark area. The City intended to keep the land in its natural condition and add it to the growing inventory of protected open space along the Christina and White Clay Creeks. Mr. Lopata stated the City was very pleased to receive the gift on behalf of the residents of Newark.

Jim Collins, General Manager for DuPont's Crop Protection Business, was accompanied by Rick Detweiler, DuPont Government Affairs, Jim Porter, DuPont Engineering Facility Services, Lois Smith, Corporate Real Estate, and Kathy Russell, Facilities Services in Real Estate. Mr. Collins read the press release which announced the land donation.

Mr. Lopata recognized Lois Smith and Charlie Emerson who worked on bringing the project to fruition over a period of years.

Mr. Pomeroy felt the land donation not only honored the City, which prided itself in protecting natural resources, but also showed tremendous generosity on the part of the DuPont Company.

Mr. Tuttle expressed his appreciation as the District 3 Council member which was increased by more than 10 acres.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: TO ACCEPT THE DONATION OF A 10.2-ACRE PARCEL OF LAND ON THE CHRISTINA CREEK FROM THE DuPONT COMPANY'S STINE-HASKELL RESEARCH CENTER.

MOTION PASSED UNANIMOUSLY: VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

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

A. Public - There were no comments forthcoming.

**8. 3-B. UNIVERSITY**

1. Administration – There were no comments forthcoming.

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

There were no comments forthcoming.

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

Mr. Temko welcomed Scott Goss of the Newark Post to the meeting.

- 11.** Mr. Temko thanked the Parks and Recreation Department for their efforts at Newark Nite. Mr. Temko conducted a survey at his booth where environmental sustainability was identified by participants as a top priority for the City.
- 12.** Mr. Temko planned to meet in early July with the State's Attorney General to discuss student voting rights.
- 13.** Mr. Tuttle recognized the new Chair of the Newark Housing Authority Board, Susan Eggert, and thanked her for her willingness to serve in this capacity.
- 14.** Mr. Tuttle reported the University Center for Community Research and Service hosted an outstanding program last Friday with Henry Cisneros as their keynote speaker. Several members of the Newark community were in attendance, and there was a call to action as the City reviews opportunities for new development in terms of providing affordable housing for working individuals.
- 15.** Mr. Tuttle was pleased the Public Works Department had the recycling survey at Newark Nite, and he hoped feedback from the residents would be positive. Mr. Lopata noted the pamphlet had been designed by the City's Community Affairs Officer, Dana Johnston.
- 16.** Mr. Athey thought the City put its best foot forward at Newark Nite, and he appreciated seeing recycling and stormwater information available at the event.
- 17.** Mr. Athey was pleased the Memorial Day ceremony was held in spite of the parade's cancellation due to rain.
- 18.** Mr. Athey thanked Mr. Lopata for handling a rental situation on Sunset Road.
- 19.** Mr. Athey commended Chief Tiernan and Officers Saunders and Vickers for attending the College Park Neighborhood Association meeting.
- 20.** Mr. Pomeroy recognized Senator Sorenson for her attendance at the meeting.
- 21.** Mr. Pomeroy was pleased with the strong City presence at Newark Nite, and he heard many positive comments to that effect.
- 22.** Mr. Pomeroy thanked Mr. Lopata for working to incorporate Aetna Fire Department into the early stages of the building process to allow them to express concerns about important issues.
- 23.** Mr. Pomeroy acknowledged Ms. Roser for her efforts on the BRAC visit. Ms. Roser reported that "Visit Delaware Day," scheduled for June 28th, was an opportunity for BRAC-impacted individuals to explore New Castle County for their residential and business needs. At this time, 320 people were signed up for the event, and approximately 500 were expected to attend. A "Welcome to Newark" packet was prepared which included a welcome letter, downtown map and guide, information about upcoming events, and coupons from downtown businesses. The bus tour would present an opportunity to show off downtown Newark and the University of Delaware campus. Ms. Roser noted they were working on ways to welcome the visitors and make the trip down Main Street more exciting. The group was scheduled to arrive at Clayton Hall around 10:30, and there would be a booth at that location with information highlighting Newark as a great place to work and live. Ms. Roser invited Council members to attend to represent the City. The booth would be open from 10-4, and welcoming remarks were scheduled at 11:00 with lunch at noon. At 1:00, several bus trips were planned to show housing options in the area. Thus far, 93 people had signed up for the

Newark tour. The event would conclude with a 4:30 departure. Mr. Pomeroy noted the BRAC process would be a long one, and this would be the City's opportunity to make a good first impression. He recommended that various departments be available to handle any last minute glitches that might give a negative impression to the group during their tour.

**24.** Mr. Pomeroy was grateful for the participation at the Greater Newark Network meeting, and their next public meeting was scheduled for June 25th.

**25.** Mr. Clifton thanked Ms. Roser and Messrs. Pomeroy and Funk for the effort they put forth in the BRAC relocation, and he felt the City would reap the benefits in the future.

**26.** Mr. Clifton welcomed Scott Goss of the Newark Post, and he looked forward to working with him. He said Christine Neff would be missed.

**27.** Mr. Clifton discussed the City's electric rates in comparison to other municipalities in the state and to Delmarva Power. Newark's residential rate for 1000 kilowatts was \$137 compared to \$150 for Delmarva and was also lower than the rate in most other municipalities.

**28.** Mr. Clifton represented the City at the Memorial Day ceremony at the Delaware Memorial Bridge. He was also honored to be present at the return of the 153<sup>rd</sup> MP's from Iraq, and NPD Officer Dan Marsilli and Jake Potts, Captain Potts' son, were among the returnees. Mr. Clifton was proud of their service and also noted Lt. Jerry Simpson's daughter recently returned with the reserves from Iraq. Mr. Clifton welcomed them all back to the Newark family.

**29.** Mr. Clifton thanked Chief Tiernan and Officer Marconi for their time and interaction with the neighbors at the George Read Village picnic.

**30.** Mr. Clifton referenced a legal notice for a liquor license application for Kildare's Restaurant at the former site of Shaggy's on Main Street. The license would include Sundays as well as a patio permit. Ms. Fogg and Mr. Lopata researched the restrictions that had been imposed on Shaggy's which limited the operating hours of the deck to 11:00 pm Sunday through Thursday, and 1:00 am on Friday and Saturday. Mr. Clifton was concerned about the close proximity of the patio to the dormitories and thought the City should request similar restricted operating hours. Mr. Clifton noted that a written protest had to be filed with the Delaware ABCC on or before June 16<sup>th</sup>.

Mr. Lopata said this was a grandfathered use and did not require a special use permit. The City had no control over the hours, as these were under the sole jurisdiction of the ABCC. However, the City could recommend restricted hours to the ABCC.

Messrs. Tuttle, Clifton and Athey favored the same restricted hours but Mr. Tuttle noted Council had previously considered a 10:00 pm closing Sunday through Thursday for Shaggys. Mr. Lopata agreed the hours were more than fair for an outdoor venue. Mr. Athey thought the new owner should be given the opportunity to state his case before the protest was filed, but the filing deadline was prior to the next Council meeting.

Mr. Clifton said the petitioner's public hearing would occur in front of the body that would make the final decision and that Council was acting on behalf of the neighbors who would be most impacted. He wanted to move forward.

Mr. Temko asked to open the discussion to the public and yielded his time to Mrs. White. Jean White, 103 Radcliffe Drive, had been to a number of ABCC hearings and said if the City did not file a protest petition, there would be no hearing. She urged Council to file a formal protest so the discussion would occur at a public hearing where the applicant could respond to the comments. Mrs.

White then suggested the installation of an opaque screen on the dormitory side of the deck to provide privacy to the students residing in Harter Hall.

Mr. Temko recommended filing the protest with the ABCC and inviting the applicant to the 6/23 Council meeting to discuss the proposed restrictions before making a final decision.

Mr. Akin said in order to meet the filing deadline, the Interim City Manager could send a letter to the Commissioner on behalf of Council stating that the City wanted the ABCC to consider restrictions on the hours of business for certain aspects of the property based on experience with predecessor businesses. He felt this would notify the public, the Commissioner and the business owner of the City's concerns.

Mr. Pomeroy felt the City should take a much less adversarial approach and requested a personal outreach to the owner prior to filing a protest with the ABCC. He noted that Council had mechanisms at their disposal to deal with noise violations and other issues.

Mr. Clifton agreed with Mr. Temko's idea and with Mr. Akin's wording. He felt if the applicant was agreeable to the City's suggested restrictions, the ABCC hearing could possibly be avoided.

Mr. Tuttle advised the property could not obtain a liquor license under the present Code and could only exist adjacent to a dorm hall because of the grandfathering. He felt it was a reasonable step for Council to try to preserve the tranquility of the area by requesting restricted operating hours on the patio.

Mr. Lopata intended to send a protest petition to the ABCC with wording as previously outlined by Mr. Akin, and he planned to contact the prospective tenant to discuss the proposed restrictions and notify them that this subject would be on the Council agenda for 6/23.

Mr. Temko requested that no reference be made to past owners and problem behavior in the protest petition.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: TO FILE A PROTEST PETITION WITH THE DELAWARE ABCC REGARDING KILDARE'S APPLICATION FOR A LIQUOR LICENSE AND TO INVITE THE RESTAURANT OPERATOR TO THE 6/23/08 COUNCIL MEETING TO DISCUSS THE PROPOSED OPERATING HOURS OF THE PATIO.

Question on the Motion was called.

MOTION PASSED: VOTE: 4 to 1.

Aye – Athey, Clifton, Tuttle, Temko.

Nay – Pomeroy.

Absent – Funk, Markham.

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

None

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

None

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

A. Bill 08-11 An Ordinance Amending Ch. 32, Zoning, By Revising Review Requirements for BB (Central Business) District Parking Waivers

Mr. Clifton read Bill 08-11 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. POMEROY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-11.

Mr. Lopata explained the amendment came from Mr. Clifton's recommendation and would add a stipulation to the parking waiver system in the Zoning Code that any Council member could ask for a review of parking waivers following the Planning Commission's decision. He explained in many instances, parking waivers came before Council with subdivisions and rezonings, but sometimes they came freestanding, and those stopped at the Planning Commission. Now, in addition to the Planning Director and the City Manager, Council could ask that a parking waiver be reviewed in a formal manner.

The Chair opened the discussion to the public.

Mrs. Jean White, 103 Radcliffe Drive, said the item came about in response to remarks she made at the 1/14/08 Council meeting regarding the Lang Development project at 102 E. Main Street which added ten apartments with no parking provided. The parking waiver for the project was approved at the Planning Commission meeting. Mrs. White thought in all cases the parking waiver should automatically be reviewed by Council after being voted on by the Planning Commission. She referenced the Planning Commission review of Panera Bread where the Mayor urged the Commission to vote for the parking waiver. According to Mrs. White, the minutes of the meeting stated a Planning Commission member felt it was inappropriate for any member of Council to lobby the Planning Commission. Mrs. White felt the situation would have been avoided if the waiver was automatically reviewed by Council. She also discussed the 45-day limit to review, modify, or deny waivers and said the procedure left a developer or property owner in limbo while they waited to see if a review was requested.

Mr. Lopata reported that the parking waiver, adopted in 1986, was the single most important tool the City had in the renaissance of the downtown area. Before the parking waiver, essentially uses could not change for many downtown properties. At that time, the City also streamlined the development review process to include parking waivers. Freestanding parking waivers (such as Panera Bread) that had no other approval necessary would go only to the Planning Commission, but they had a built-in appeal process. Mr. Lopata thought the ordinance met the intent that was discussed earlier in the year where any Council member wanting to review the action of the Planning Commission could do so without making it an automatic process. Mr. Lopata noted there have been no requests to overturn parking waivers since 1986.

Mr. Athey thought the issue was whether it was appropriate for the Planning Commission to make parking waiver decisions when they were not obligated to residents in the same way Council was, and the intent was to bring parking waivers to Council. Mr. Lopata pointed out that the Board of Adjustment (a non-elected board) made more drastic final decisions that did not come before Council. Mr. Athey noted there was legal representation at Board of Adjustment meetings but not at Planning Commission meetings.

Mr. Clifton agreed with Mr. Athey that in some respects the issue reflected Mrs. White's concerns that the process could end at the Planning Commission which was an advisory board. However, the ordinance would allow a developer or owner the ability to come before Council if the parking waiver became a sticking point. Regarding the 45-day review period, Mr. Clifton noted that amount of time could go past the time frame it could come to Council in the normal flow. In other words, Council could approve a project in 30 days from Planning Commission to Council, and yet 45 days were given to register an appeal.

Mr. Lopata thought Mrs. White suggested that the Planning Commission and Council review all parking waivers. When he spoke to Panera Bread, the one-stop shopping aspect appealed to them in terms of timing. Mr. Athey said if a more drastic change was made to the Code putting parking waivers under the purview of Council rather than the Planning Commission, he did not believe more onerous road blocks were being created, and that would satisfy Mr. Clifton's intent.

Mr. Athey said the impetus for the change was the 102 E. Main project which had to come before Council regardless of the parking waiver. In that case he did not see where a Council review would slow down the development process. In another example such as Panera Bread, which did not have to be reviewed by Council, the Planning Commission would have been by-passed and Council would have made a decision within a similar time period required for Planning Commission review.

Mr. Temko asked if the Planning Commission had the legal authority to make these decisions provided there was an appeal process. Mr. Akin said historically that has been the rule, and the final authority could be placed anywhere it was reasonable. Mr. Temko thought the Planning Commission had done a good job handling parking waivers, and there was no reason to take away their authority. He noted the waivers were beneficial because they discouraged people from owning and having their cars in the downtown area.

Mr. Pomeroy said the Planning Commission was empowered to make some sustentative decisions for the City. He thought giving Council the opportunity to review parking waivers was an important fail safe to have in the Code and thought it captured the spirit of what Council was trying to achieve without providing too much additional regulation.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**(ORDINANCE NO. 08-11)**

**34. 6-B. BILL 08-12 – AN ORDINANCE AMENDING CH. 20, MOTOR VEHICLES & TRAFFIC, BY AMENDING THE PENALTY FOR DRIVING IN EXCESS OF THE SPEED LIMIT**

---

Mr. Clifton read Bill 08-12 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-12.

Mr. Athey stated that Newark had more pedestrians and bicyclists than any other town in the state, and speeding was clearly a big issue, particularly in residential neighborhoods. In meetings with the Police Department, they expressed concern about speeding on major thoroughfares such as Elkton Road where their recommendation was to have an escalated fine starting at 20 mph over the limit, and Mr. Athey wanted it to start at 10 mph. At a previous Council meeting, Mr. Tuttle suggested a compromise of 15 mph. Mr. Athey said at the first reading, the ordinance proposed \$8 per mph over the limit starting at 15 mph which he wanted structured back to 10 mph. He also put forth an alternate proposal that would increase it at \$4 per mile over the speed limit starting at 6

mph over so there would be a more gradual increase. The Police Department counter-recommended \$4 per mile starting at about 5 or 6 mph over, with an escalator kicking in at 20 mph over.

Mr. Athey developed another plan to keep the fine structure simple. He proposed for every mph over the speed limit, that was how many dollars per mile you would pay. For example, at 5 miles over the speed limit, the fine would be \$25 (plus additional costs), 10 miles over the speed limit would be \$100, 15 over would be \$325, 20 over would be \$400. Mr. Athey also suggested tracking these funds so they could be earmarked for more traffic enforcement, traffic calming, signage, etc. He felt it was important for the City to make it known that the increased fines were not a revenue enhancer but instead were designed to modify behavior. In addition, he thought a two-pronged approach of increasing the fines and increasing the enforcement was the best way to proceed.

Mr. Clifton's concern was that 15 miles over the speed limit in George Read Village was double the speed limit, with similar situations on Tyre Avenue and Whitechapel Drive. He felt the message should be sent that Newark takes its pedestrian-friendly status very seriously in regard to speeding fines.

Mr. Temko said aggressive driving needed to be a primary focus, and he was not sure the smaller fines would have much of an impact on changing behaviors. He felt it was important to direct the revenue from the fines toward traffic calming and aggressive driving.

Mr. Pomeroy said speeding in residential neighborhoods was the number one issue he heard about from constituents on a regular basis. He wanted people to be afraid to speed in Newark because if they got caught, the hammer would come down on them. He felt that was a tone the City needed to set and strictly enforce. He supported the idea of earmarking the funds for traffic enforcement and thought it was important to have proper signage and strict enforcement.

Mr. Clifton recommended reworking the ordinance to where it had a higher escalator so it hit \$400 at 20 mph over with a sliding scale that was simple for people to understand and to also develop a way to track the funds.

Mr. Athey suggested the ordinance should be tabled until July to give him an opportunity to work further with the Police Department and have staff determine how to track the additional revenues and prioritize where the funds would be directed.

Mr. Temko stated that he did not want the City to become a community where people thought of it as a speed trap where they did not want to go.

Mr. Clifton asked if a Probation Before Judgment was available for speeding. Mr. Akin advised that the Motor Vehicle chapter in the Code was referenced under the PBJ ordinance.

The Chair opened the discussion to the public.

Mr. Ivan Nusic, 26 Wakefield Drive, was concerned about speeding in school zones and the proposed language which he felt was much too complicated. Mr. Nusic thought Council should use simpler language to avoid the possibility of a court challenge. He asked if the Police Department had radar calibration equipment in the event that certification had to be provided to the court. Mr. Clifton believed no printout was required for the radar equipment. Mr. Lopata said one of the goals that the Police Department and the staff were striving for was simplicity.

Mr. Steve Purvis, 9 E. Mill Station Drive, applauded the Police Department for doing a great enforcement job. He felt the fines should be significantly increased but suggested giving a warning to first offenders.

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

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT BILL NO. 08-12 BE TABLED UNTIL THE SECOND COUNCIL MEETING IN JULY.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**35. 6-C. BILL 08-13 – AN ORDINANCE AMENDING CH. 2, ADMINISTRATION, BY AMENDING THE FEE ASSESSED IN ALDERMAN’S COURT FOR COURT COSTS FOR MAILED-IN SUMMONS**

---

Mr. Clifton read Bill 08-13 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-13.

Mr. Lopata reported the fee would change from \$15 to \$20 and noted that the fee remained at \$15 in the JP courts, but they also had a 50% surcharge on the fine.

The Chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned to the table.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**(ORDINANCE 08-12)**

**36. 7-A. REQUEST FROM CORROZI-FOUNTAINVIEW, LLC, FOR A REVISION TO THE APPROVED SUBDIVISION AGREEMENT FOR THE DEVELOPMENT OF FOUNTAINVIEW LOCATED AT THE WEST END OF WHITECHAPEL DRIVE, NEWARK, TO PERMIT THE CONTINUED OWNERSHIP AND OCCUPANCY BY SOME INDIVIDUALS UNDER 55 YEAR OF AGE**

---

Mr. Lopata explained that through some inadvertent confusion, several of the condominium units at Fountainview were sold or leased to individuals who were under 55 years of age which was not in conformance with the City’s Zoning Code. Therefore, an addendum to the subdivision agreement was prepared listing the units involved, and those units would be grandfathered. Current occupants of the units less than 55 years of age would be able to continue to live there until the units were sold. At that time, the original Zoning Code provisions regarding age restrictions would apply.

Mr. Lopata related that the City Secretary had learned some individual unit numbers supplied by the developer’s office did not match the City’s information.

However, he suggested that Council approve the agreement in concept while staff obtained the correct address information in order to update the agreement before it was signed and recorded.

MOTION BY MR. TEMKO, SECONDED BY MR. TUTTLE: TO APPROVE THE REVISION TO THE FOUNTAINVIEW SUBDIVISION AGREEMENT TO PERMIT THE CONTINUED OWNERSHIP AND OCCUPANCY BY SOME INDIVIDUALS UNDER THE AGE OF 55.

The Chair opened the discussion to the public.

Thomas D. Whittington, Jr., Esquire represented Mr. Corrozi. Mr. Whittington acknowledged the errors made in selling and leasing units at Fountainview to adults under the age of 55 and stated it was his client's intent to correct the mistakes that were made.

Jack Corrozi of Corrozi-Fountainview, LLC, apologized and said since the dialog began with the City, no one under the age of 55 had signed a contract.

Mr. Athey questioned the use of the term "reasonable period of time" on page 3 of the agreement. Mr. Akin advised he agreed to this term to leave some play so that honest people could agree or disagree on the efforts made by an owner to sell a property.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**37. 8. ORDINANCES FOR FIRST READING**

- A. Bill 08-03 – An Ordinance Amending Chapter 22, Police Offenses, By Providing for New Burglary & Robbery Alarm System Regulations

Mr. Clifton read Bill 08-03 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THIS BE THE FIRST READING OF BILL 08-03.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**(2<sup>ND</sup> READING 6/23/08)**

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

- A. Council Members:

1. Resolution No. 08-\_\_\_: In Appreciation to Jacquelyn Baldwin

(See item #4)

**39. 9-A-2. RESOLUTION NO. 08-\_\_: IN APPRECIATION TO TIMOTHY J. TOOLE**

---

(See item #5)

**40. 9-B-1. PLANNING COMMISSION MINUTES OF MAY 6, 2008**

MOTION BY MR. POMEROY, SECONDED MR. TEMKO: THAT THE PLANNING COMMISSION MINUTES OF MAY 6, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**41. 9-C. OTHERS**

None

**42. 10. SPECIAL DEPARTMENTAL REPORTS**

A. Special Reports from Manager & Staff

1. DuPont Land Donation

(See item #6)

**43. 10-A-2. PENSION DISABILITY FOR THOMAS LeMIN**

Mr. Lopata explained that because of Lt. LeMin's physical condition, he would go on disability, and Council, as the Trustees, had to approve the disability benefit as detailed in Mr. Lopata's memo of 5/22/08. Lt. LeMin was in agreement with the arrangement. Mr. Lopata said the City was sorry to see Lt. LeMin leave, and Mr. Clifton agreed he had done a lot for the City, and his retirement would be a huge loss to the department.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: TO APPROVE THE PENSION DISABILITY BENEFIT FOR THOMAS LeMIN IN THE AMOUNT OF \$2,782.13 PER MONTH EFFECTIVE JULY 1, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**44. 10-A-3. PROPOSED UPDATED UNICITY BUS SERVICE AGREEMENT**

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: TO APPROVE THE UNICITY BUS SERVICE AGREEMENT BETWEEN THE DELAWARE TRANSIT CORPORATION AND THE CITY OF NEWARK AND THE COMPANION AGREEMENT BETWEEN THE CITY AND THE UNIVERSITY OF DELAWARE FOR THE STATE FISCAL YEAR BEGINNING JULY 1, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**45. 10-A-4. REFERRAL OF 2009-2013 CAPITAL BUDGET TO THE PLANNING COMMISSION**

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: TO REFER THE 2009-2013 CAPITAL BUDGET TO THE PLANNING COMMISSION FOR CONSIDERATION AT THEIR SCHEDULED MEETING ON JULY 1, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**46. 10-B. ALDERMAN'S REPORT**

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THE ALDERMAN'S REPORTS DATED MAY 22 & JUNE 4, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**47. 10-C. FINANCIAL STATEMENT**

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THE FINANCIAL REPORT DATED MAY 20, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Pomeroy, Athey, Clifton, Tuttle, Temko.

Nay – 0.

Absent – Funk, Markham.

**48. Meeting adjourned at 9:30 pm.**

Patricia M. Fogg, CMC  
City Secretary

/av