

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

June 23, 2008

Those present at 5:00 pm:

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

Staff Members: Interim City Manager Roy Lopata
City Secretary Patricia Fogg
City Solicitor Roger Akin
Finance Director Dennis McFarland
Assistant to the City Manager Carol Houck
Captain John Potts
Public Works Director Rich Lapointe

1. **2-A.** The meeting began with a moment of silent meditation and pledge to the flag.

2. **1. REQUEST FOR EXECUTIVE SESSION RE PENDING LITIGATION (DONALD M. DURKIN CONTRACTING, INC. V. CITY OF NEWARK) – PROPOSED SETTLEMENT, AND PERSONNEL (REVIEW OF CITY MANAGER RESUMES)**

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

Council entered into Executive Session at 5:00 pm and returned to the table at 7:25 pm. Mr. Funk asked Ms. Fogg to read the following announcement:

“During the executive session preceding this meeting, the Mayor and City Council met with our attorneys and reviewed a proposed settlement agreement with Donald M. Durkin Contracting, Inc. (“Durkin”) to end the reservoir litigation. The settlement, which is contingent upon City Council’s approval, requires the City to pay Durkin \$3.6 million. Newark’s insurer has agreed to pay Durkin \$7 million if the Mayor and City Council approve the settlement agreement as written. For these payments, all claims, including the pending appeals in the Durkin litigation, will be dismissed. Durkin and the City will release each other from all claims that any party asserted or could have asserted prior to today.

While the City continues to believe that it would prevail on appeal and thereafter would prevail if a new trial was ordered, the City’s \$3.6 million payment will discharge all judgments against the City – judgments that once totaled in

excess of \$36.7 million. The settlement will also avoid the continuing costs of litigation on appeal and possibly a new trial followed by further appeals.

Because the settlement will finally end the reservoir litigation and will insulate the City from a large judgment if Durkin is successful on appeal, a motion is proposed to authorize the City Manager to execute the settlement agreement and mutual release in the form provided to Council, and to pay \$3.6 million on behalf of the City to Durkin, as required by the settlement agreement and mutual release, from available funds or by necessary means. The City Council also approves the payment of \$7 million by Newark's insurer as part of the settlement with Durkin.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO APPROVE THE SETTLEMENT AGREEMENT AND TO APPROVE THE PAYMENT BY THE CITY OF \$3.6 MILLION TO DURKIN AND \$7 MILLION BY THE CITY'S INSURER.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

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

A. Regular Council Meeting of June 9, 2008

Mr. Athey corrected the number \$325 in the first paragraph on page 8, fifth line to \$225. The minutes were approved as revised.

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

A. Public

Ivan Nusic, 26 Wakefield Drive, felt the minutes of the June 9th meeting were not a clear representation of what occurred at the meeting. He commented on the importance of the minutes and the fact that they could be used for documentation in court. He expressed his intention to listen to the tapes from the meeting, and Ms. Fogg indicated he could do so anytime between the hours of 8:30 am-5:00 pm. Mr. Nusic said that Council members, as elected officials, should not delegate their responsibilities to anyone. He further stated that Council should establish committees to report to them and then decide whether to accept their findings. Mr. Temko offered to contact Mr. Nusic to discuss his concerns.

5. Roland Roth, 274 Beverly Road, suggested the Saturday grass collection be eliminated as the participation rate was only 13%. Mr. Temko said he discussed the program with Public Works and understood they were doing further studies as the statistics have changed since the yard waste ban. Mr. Lopata reported there would be a survey in the next newsletter as to whether residents wanted the service continued. He explained it was an expensive service but residents liked it, and the survey would give Council a better picture of whether it should be continued.

6. Liane Sorenson, State Senator, reported the session ended on June 30th, and the Legislative Wrap-Up would be held on July 8th in the Council Chamber. Senators Sorenson, Amick, and Peterson and Representatives Kowalko, Miro, Maier and Schooley would be in attendance to discuss the key pieces of legislation passed in the 144th General Assembly, review the budget, and talk about next year's session. Mr. Pomeroy asked her to comment on Bluewater Wind. Senator Sorenson reported there was finally an agreement between Delmarva Power and Bluewater Wind. She was the lead sponsor of the resolution which passed the House calling for a vote on the project. She reported the bill might not be necessary in the Senate now that an agreement had been reached. Mr. Temko asked if renewable energy credits would be

controversial, and Senator Sorenson indicated she did not think so, and said if that was needed to get wind power passed, there would be strong consensus. Although she had not yet seen the language in the bill, she thought it would easily be passed.

7. **3-B. UNIVERSITY**

1. Administration – There were no comments forthcoming.

8. **3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

9. **3-C. COUNCIL MEMBERS**

Mr. Pomeroy said he viewed the Durkin reservoir settlement as the first day in the rest of Newark's history. He pointed out that Council sought to get the best possible outcome with as minimal an impact as possible on taxpayers, and he felt the fact that this was done without a tax increase and without a decrease in services represented a big victory.

10. Mr. Pomeroy said the leadership role Senator Sorenson played in the Bluewater Wind agreement had to be especially gratifying for her, and he was pleased the municipalities would have access to this energy source.

11. Mr. Pomeroy noted that although the City had not passed a resolution on open government, he felt strongly about the issue and thanked Senator Sorenson for being a proponent of this important issue.

12. Mr. Pomeroy said he was pleased to attend the 95th Anniversary of Pilgrim Baptist Church and thought the ceremony was a moving and uplifting service.

13. Mr. Pomeroy reported the next public meeting of the Greater Newark Network would be on June 25th. Scott Douglas from the University, Mr. Lopata and DeIDOT were scheduled to make presentations at the meeting.

14. Mr. Athey said in regard to the resolution of the reservoir case, he felt a great degree of uncertainty had been removed which would allow the City to move forward.

15. Mr. Athey reported that he and Messrs. Pomeroy, Temko and Tuttle attended Lobby Day at the Delaware League of Local Governments in Dover. He thanked Senator Sorenson for meeting with them and stated not much was heard on the transfer tax, although he hoped they had been able to make a substantial case on the issue.

16. Mr. Athey reported that as a follow up to the discussion on traffic speeding and fines, he met with the Police Department, and they were moving closer to finalizing a revised fine structure.

17. Mr. Clifton was glad to see the reservoir law suit behind the City, and he thanked all who were involved for the collaborative effort that brought a fitting closure to the issue.

18. Mr. Clifton attended the Youth Police Academy graduation of 32 youths, ages 12 to 16, who trained with the City's Police Department for one week. He felt this and the Citizens Police Academy for the adult community were two of the Police Department's strongest outreach programs. Mr. Clifton was concerned that the grant which funded the program would not exist next year. He hoped the City would decide to fund future programs at a cost of approximately \$6,000 per year.

19. Mr. Clifton pointed out that moving violations were up about 60% this year, which he attributed to increased enforcement.

20. Mr. Clifton thanked Messrs. Lopata and McFarland for working on the electric issue on Woodlawn Avenue.

21. Mr. Tuttle commented on the Visit Delaware Day on June 28th for the Base Realignment and Closure process. He noted the housing bus tour of Newark had a waiting list, which was a good response. Mr. Tuttle felt the City would be even more appealing now to those involved in the transfer since the financial question of the reservoir lawsuit had been resolved.

22. Mr. Markham agreed with Mr. Clifton that the Youth Police Academy graduation was an enjoyable experience and a worthwhile program.

23. Mr. Markham requested that the Paper Mill Partners report be discussed at a July Council meeting.

24. Mr. Markham commented that it was a relief to be done with the reservoir lawsuit and noted he received a number of compliments from residents who enjoyed walking at the site.

25. Mr. Markham received positive comments on the recycling program as well as the suggestion to allow residents to swap to a different size cart if they wanted to do so based on the change in service.

26. Mr. Temko said it was a great day for Newark in regard to the lawsuit settlement and the Bluewater Wind agreement.

27. Mr. Temko extended his thanks to Mr. McFarland for helping him with a number of issues during the past several weeks.

28. Mr. Temko offered kudos to the Police Department from residents of his district who felt their stepped-up enforcement helped to make the community safer by cutting down on speeding.

29. Mr. Temko indicated he received the required number of signatures from the residents on Country Club Drive to proceed with a traffic calming study. He planned to discuss this with the Police Department.

30. Mr. Temko remarked that he and the Newark legislators were on record in support of open government, and he hoped Council would consider adopting a resolution during the next legislative session.

31. Mr. Funk said he appreciated the opportunity of representing the United States at the World Municipal Peace Conference at The Hague. In addition, he also served as a moderator and a presenter and felt it was a special experience being with other mayors from around the world.

32. Mr. Funk was glad the City would be able to move on now that the reservoir lawsuit was concluded as there were many things he wanted to accomplish in the next several years.

33. Mr. Funk said Newark was the first City to sign on to be part of Bluewater Wind, so he was pleased to see that moving forward.

34. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING**
None

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

A. Recommendation to Waive the Requirement for Sealed Bids in Association with Road Restoration Quotes

Ms. Houck stated the Water Department identified four locations where temporary repairs were made following water main breaks that now required permanent repairs. Originally, the cost was expected to come in under the \$25,000 bid threshold, and therefore price quotes were obtained as opposed to following the normal sealed bid process. She reported that four bids were received from contractors who have done satisfactory work for the City. For that reason, Council was asked to waive the bid requirement and allow Guardian Construction Company to make the permanent patch repairs at a cost of \$33,178.

Mr. Markham recommended using the sealed bid process in the future unless there was a good reason not to do so. Mr. Lopata stated that the normal process was typically if the cost was expected to come in under \$25,000, quotes were obtained. In this case, the quotes came in above the \$25,000 threshold.

Ms. Houck noted a future goal would be to try to include these repairs into street projects.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: TO WAIVE THE SEALED BID REQUIREMENT IN ASSOCIATION WITH ROAD RESTORATION QUOTES AND AUTHORIZE THE INTERIM CITY MANAGER TO ENTER INTO AN AGREEMENT WITH GUARDIAN CONSTRUCTION COMPANY FOR STREET REPAIR WORK IN THE AMOUNT OF \$33,178.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

36. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING

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

Ms. Fogg read Bill 08-03 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-03.

Captain Potts explained the proposal would change the alarm ordinance from a permit-based system requiring a lot of paperwork between the City and the alarm user to a basic registration system. He noted the fee for the alarm registration application was raised from \$8 to \$10, and the fines were also increased. The fifth false alarm penalty was raised to \$100, the sixth to \$150, and the seventh and subsequent false alarms to \$200. Provisions were included to adjust the count of false alarms caused by incidents such as power outages, telephone company actions, weather, etc.

Captain Potts had statistics showing 726 alarm calls last year, and only two were burglaries. He was concerned the police officers might begin to let their guard down after responding to continual false alarm calls.

Mr. Funk thought five false alarms before a fine was imposed was a high limit. Captain Potts said it was currently set at four, but Council had the discretion to lower it, and the Police Department had no objection to four.

Mr. Pomeroy asked whether the volume of false alarms was high enough to require registration in general. Captain Potts said registration was necessary, and it identified property owners and emergency contacts.

Mr. Clifton supported lowering the false alarm penalty from five and asked whether automatic dialing devices were permitted. Captain Potts responded they were prohibited and could not go through the Police Department's trunk line.

AMENDMENT BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO CHANGE THE FALSE ALARM VIOLATION PENALTY FROM FIVE TO FOUR AND CHANGE THE FINE STRUCTURE ACCORDINGLY.

AMENDMENT PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

The Chair opened the discussion to the public.

Robert Bruner, 382 S. College Avenue, questioned whether the landlord or tenant would be responsible for false alarm fines caused by the tenant. Mr. Funk advised him that the fine was the landlord's responsibility.

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

Ms. Fogg noted the effective date of the ordinance would be 90 days from the meeting as the Police Department wanted additional time to make the public aware of the change.

AMENDMENT BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO MAKE THE EFFECTIVE DATE OF ORDINANCE 08-13 SEPTEMBER 20, 2008.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Question on the Motion as amended was called.

MOTION AS AMENDED PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(ORDINANCE NO. 08-13)

37. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS

None

38. 8. ORDINANCES FOR FIRST READING

A. Bill 08-14 – An Ordinance Amending the Zoning Map of the City of Newark, By Rezoning from RM (Multi-Family Dwellings – Garden Apartments) to BLR (Business Limited Residential) .56 Acres Located at 203 New London Road

Ms. Fogg read Bill 08-14 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT THIS BE THE FIRST READING OF BILL 08-14.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 7/14/08)

39. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA

- A. Council Members:
1. Discussion re Newark Fellows Program

Mr. Temko reported the program would build the partnership between the University and the City and capitalize on it by having students perform research and serve in a variety of support roles for the City. Students would be unpaid but would receive academic credit for providing this service. Mr. Temko talked with the Political Science Department who was enthusiastic about the program. There was also a catch-all credit that could be used for students outside that department. The terms would be 40 hours worked for one credit with the norm being 3 credits or 120 hours worked per semester, or about 10 hours a week. After determining Council's interest, Mr. Temko met with Mr. Lopata and Ms. Fogg and it was decided that to provide the best experience for students, they should have a supervised direct experience. Thus, the Fellows would be placed in the City within different departments. For example, someone placed in the Parks & Recreation Department would be able to help support the CAC in addition to programs within Parks & Rec. A Fellow in the City Manager's office would be able to assist Council in addition to working on other projects. Regarding concerns about confidentiality, Mr. Temko spoke with a legislative Fellow and an administrative assistant in Dover who said it was understood confidential matters were not supposed to be discussed although they had no signed agreement to that effect.

Mr. Temko asked Council to support creating the program and that the program be developed out of the City Manager's office.

Mr. Tuttle pointed out the proposed program was to begin in the fall 2008 semester (Mr. Lopata's memo inadvertently stated fall 2009.)

Mr. Clifton had no objections and wholeheartedly supported the program, although he had raised the issue of confidentiality. Mr. Lopata said there would be some type of operating manual prepared for the Fellows. Further, the City had years of good experience with interns when they were supervised and directed with close-ended projects.

Mr. Markham asked who would decide the priorities for the Fellows, and Mr. Lopata indicated he felt the best procedure would be for Council members to make their requests through the City Manager's office.

40. 9-A-2. DISCUSSION RE HOURS OF OPERATION ON PATIO OF KILDARE'S RESTAURANT IN THE GALLERIA, MAIN STREET

Mr. Funk said he spoke with Mr. Dave Magrogan, owner of Kildare's Restaurant, who had no objection to the restrictions regarding the operating hours on the patio discussed in the City's letter to the ABCC. Since there was agreement on the restricted hours, there was no further discussion at this time.

41. 9-B-1. COMMITTEES, BOARDS & COMMISSIONS

1. Appointment to Community Development/Revenue Sharing Committee – District 1

Mr. Pomeroy recommended the appointment of Dorothy Ross, 907 Pickett Lane, to the CD/RS Committee. Mr. Clifton remarked Ms. Ross served on the Board of Ethics, was a University employee and an upstanding person.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: TO APPOINT DOROTHY ROSS TO SERVE ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING COMMITTEE TO FILL AN UNEXPIRED TERM; SAID TERM TO EXPIRE MARCH 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

42. 9-C. OTHERS
None

43. 10. SPECIAL DEPARTMENTAL REPORTS
A. Special Reports from Manager & Staff
1. Discussion re Updating the City's Towing Ordinance Regarding "Predatory Towing"

Mr. Lopata reported the Police and the Planning Departments and the City Manager's office discussed suggested changes and needed direction from Council before the ordinance was drafted. He recommended the following suggestions:

a) A storage fee time limitation stipulating that storage fees would not be imposed until 24 hours after towing. Currently, a storage fee was charged immediately.

b) Increased fines for property owners and towing operators who violated the revised ordinance.

c) Require the property owner or property owner's agent to be on site when towing occurred in parking areas with six or more spaces. The property owner could not designate the towing company to be their agent since this would defeat the purpose. Mr. Athey asked how they chose parking lots with six or more spaces, and Mr. Lopata said the number was chosen arbitrarily as it did not make sense to require an owner or agent to wait around the smaller lots holding only two or three cars.

d) Add a new section insuring there would be no financial relationship between the towing company and the property owner.

e) A licensing system for towing operators who were not contracted with or licensed by the City. Mr. Funk suggested as part of the licensing process, a maximum fee could be established, possibly the same fee that was currently charged for City tows.

Mr. Lopata thought these changes would provide a stringent set of tools and, if adopted, would stop predatory towing.

Mr. Funk commented that over the last several months, he noticed an increase in complaints from residents about the high towing fees, and some were as high as \$160-\$180.

Mr. Athey had no problem with the changes, although he felt they would create some controversy.

Mr. Tuttle was not sure if it was a good idea to include a licensing system.

Mr. Temko thought the suggestions were good, including the licensing aspect, but he saw the possibility of conflict with the section that required the presence of an owner/agent for trespassing tows in terms of the bureaucracy it would create. Mr. Temko received a letter from a constituent recommending that

towing companies be prohibited from charging storage fees when their lot was not open during regular business hours, such as holidays.

Mr. Clifton felt the property owner should be able to designate an agent to be on site during trespass tows (such as the manager on duty). He agreed with the licensing provision and thought storage fees should be addressed. Mr. Clifton suggested instead of regulating the cost, perhaps part of the business license agreement should require a statement of fees for public record. Mr. Lopata said that could be done, but the real issue was to try and stop people from being charged a hefty storage fee in addition to the towing charge.

Mr. Pomeroy's concern related to whether towing companies could make people wait several days before getting their car out of storage in order to charge higher fees. Captain Potts stated the current ordinance required that tow companies stay open two hours past the last tow, although they could charge after-hour fees. Mr. Funk reported that 96% of the cars were picked up within 24 hours.

Mr. Markham asked whether fine enforcement came under the jurisdiction of the Alderman's Court. Mr. Funk replied it was covered by City ordinance and therefore came under the purview of the Alderman's Court.

44. 10-A-2. DISCUSSION RE HANDICAPPED RAMPS AND SIDEWALKS

Mr. Lapointe reported the ADA required all municipalities to perform a self-evaluation of their facilities and to provide a transition plan to bring those facilities up to ADA standards. The resolution attached to his memo of May 16th showed the City's commitment to the plan which addressed the sidewalk system.

When the ordinance was presented to Council on January 22, 2007, the main issue was deciding responsibility for the cost and installation of the ramps. According to Mr. Lapointe, there were currently three major points to the existing Code's intent: (1) All residents have paid for their curbs and their sidewalks. (2) The Code has a provision for the installation of new sidewalks at locations that did not currently have sidewalks and indicated that the adjacent homeowner was responsible for the installation of those sidewalks. (3) All adjacent homeowners were responsible for the maintenance of their sidewalks. Mr. Lapointe tried to reflect the intent of the original Code in the new ordinance and noted there was still some tweaking needed before the ordinance was finalized.

Mr. Lapointe explained the City would be responsible for the installation of all handicapped ramps on corners (such as the intersection of two right-of-ways) under the new Code and ADA requirements. As for private driveways utilized primarily by individual businesses, he stated this would mostly apply to businesses on state highways where state regulations have often required return curbs. An example would be the shopping center on New London Road. At that location, the islands created by the entrances to the shopping center do not have handicapped ramps, and he did not feel the City should be responsible for installing ramps for a private commercial entity.

Mr. Clifton clarified if, for example, the Park N Shop shopping center did not have ramps, the owner would be responsible for installing the ramps but would not be responsible for the curb cut at the corner where the former Wilmington Trust Bank was located. Mr. Lapointe verified that was a correct assumption.

Mr. Lapointe said the Code provided the City the authority to do inspections and notify adjacent homeowners of repairs that were needed to meet ADA standards, and the City had the same authority in the case of businesses.

Mr. Akin thought the ordinance should be brought back as a first reading once Mr. Lapointe made his changes rather than taking it off the table since the first reading was approved on January 8, 2007.

Mr. Markham mentioned a major objection from the previous discussion was that the residents would be responsible for installing the ramps which would be very costly.

While Mr. Clifton favored ADA requirements, he thought it would be counter-intuitive for a pedestrian-friendly community such as Newark to expect the homeowner to install and maintain the curb cut and the ramp. Mr. Clifton referenced a situation where the City paid for a curb in District 5. He felt the City should maintain responsibility for the ramps because, unlike sidewalks, the curb cuts had the potential of damage from cars and trucks shortcutting and running over them.

Mr. Athey reviewed the minutes from the January 22, 2007 meeting. During the 2007 discussion, Mr. Lapointe felt if the resident or adjacent homeowner was responsible for sidewalk installation, they should also be responsible for the installation of the curb ramp. This had since changed as the ADA requirements now made the City to be responsible for the installation of ramps at the intersection of streets. As for private driveways, the installation of the ramp would be the responsibility of the homeowner, but most residents do not have the return curbs that would require some type of curb ramp. Mr. Athey was concerned about the amount residents would be expected to pay but noted they had an option for appeal to the Board of Sidewalk Appeals.

Mr. Clifton was confused about the crosswalk area on Edjil Drive and the intersection of Anita Drive where there was a ramp on both sides of the street. He commented that all the new ADA compliant curb cuts he saw were similar to those in New York City where for 90 degrees the curb was flush with the street. Mr. Lapointe said the DeIDOT specifications showed four different types of ramps, depending on the existing situation. In the case of Edjil, there was already a handicapped ramp going across Edjil. That ramp could not be used in the existing location, so the City had to provide another ramp to go across. Mr. Lapointe explained that each situation could be different which would be the most difficult part of this program due to the time involved to survey the locations and find a design that would meet ADA specifications.

Mr. Tuttle asked whether a 20-year time line was reasonable for the City to develop a transition plan. Mr. Lapointe said when he considered the cost associated with this work in addition to budget criteria and other restraints, he estimated the City could not afford to spend more than \$100,000 - \$110,000 a year on the program. In regard to the possibility of an audit by the Department of Justice or the Federal Highway Administration, he felt having a transition plan in place would be satisfactory. Mr. Tuttle said even if a 20-year transition plan satisfied legal requirements, it might not be reasonable to tell residents the City was willing to wait 20 years to complete the project. Mr. Lapointe said although the City may not be compliant, 90% of the required ramps were in place, and there was a high priority to install the remaining required ramps.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: TO SUSPEND THE RULES AND ALLOW PUBLIC COMMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

There being no comments forthcoming, the discussion was returned to the table. There was no further discussion of the subject by Council.

45. 10-B. ALDERMAN'S REPORT

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORT DATED JUNE 17, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

46. 10-C. FINANCIAL STATEMENT

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT THE FINANCIAL REPORT DATED MAY 31, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

47. Meeting adjourned at 9:05 pm.

Patricia M. Fogg, CMC
City Secretary

/av