

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES**

July 14, 2008

Those present at 7:30 pm:

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

Absent: District 2, Jerry Clifton

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
Finance Director Dennis W. McFarland
Interim P&D Director Maureen Feeney Roser
Public Works Director Richard M. Lapointe

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

2. MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THE AGENDA BE AMENDED BY ADDING ITEM 10-C, EXECUTIVE SESSION RE LITIGATION AND MOVING ITEM 9-A-1 TO BE HEARD FOLLOWING ITEM 3-C.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham, Temko.

Nay – 0.

Absent – Clifton.

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

A. Regular Council Meeting of June 23, 2008

Mr. Temko revised page 4, item 30, first line, by adding the word “state” to read, “Mr. Temko remarked that he and Newark’s *state* legislators...” On page 8, item 43, last paragraph, third line, Mr. Temko added the words “timing issues” to read, “presence of an owner/agent for trespassing tows in terms of the bureaucracy *and timing issues* it would create.” The minutes were approved as revised.

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**

There were no comments forthcoming.

7. 3-C. COUNCIL MEMBERS

Mr. Pomeroy thanked those who participated in the Greater Newark Network session several weeks ago including Mr. Lopata, representatives from the University and DeIDOT.

8. Mr. Pomeroy also thanked staff and Council members who have been supportive of the economic development initiative which he thought was an important issue for the City.

9. Mr. Athey recognized Ms. Houck for her efforts with the *"U Don't Need It?"* program.

10. Mr. Athey said the Fourth of July fireworks display was impressive, in spite of weather concerns.

11. Mr. Athey thought the BRAC day was successful and felt the visitors seemed genuinely interested in the City.

12. Mr. Athey reported that the Planning Commission recommended Council approve the Comprehensive Plan following several months of meetings and three workshops. He proposed holding a workshop meeting on September 16th at 7:00 pm to encourage more public participation and felt there should be an aggressive public notification campaign. Mr. Athey stated that Planning Commissioner Ralph Begleiter put together slides he took of the data in the plan and suggested the Planning Commission be invited to the workshop. Mr. Funk asked if other agencies have reviewed and commented on the plan. Mr. Lopata explained the state agencies and New Castle County have reviewed the plan. Mr. Lopata offered to facilitate the workshop meeting.

13. Mr. Athey said that a bond referendum for open space acquisition was suggested several months ago by Dorothy Miller, and he supported putting something like this to the voters during the next election. He recognized that there were other items that could be considered, such as a parking garage and burying electric wires, and suggested having Mr. Lopata start working with staff on getting financial information together on some of the long term items that have been on hold. Mr. Funk felt that was a reasonable request but preferred to get the City's better bond rating back first. He asked Mr. McFarland when lobbying could be started for that. Mr. McFarland thought it should probably wait until the end of this year's planning process once the capital and operating programs were finalized, and a plan was developed to share with the bond rating agencies.

14. Mr. Tuttle acknowledged Mr. Lopata's memo about the implementation of an instant ticket program which would allow the Building Department to cite violations on the spot, very much like what other municipalities have been doing. He was pleased to see the program would be in place by the fall.

15. Mr. Tuttle attended the first recycling presentation on July 10th. He reported there was a good turnout, with most of the residents being pro-recycling, and he felt the comments and questions boded well for the program's implementation.

16. Mr. Markham was pleased with the success of the *"U Don't Need It?"* program with 89 tons kept from the landfill.

17. Mr. Markham looked forward to the Paper Mills Partners presentation at the July 28th meeting and indicated he was very interested in seeing the project move forward.

18. Mr. Markham reported that he briefly discussed bike sharing with Town & Gown, and the next step was a conference call with Clear Channel to determine

whether the City had the necessary demographics to bring the program to Newark.

19. Mr. Markham was pleased that DeIDOT had put back the right turn lane from Possum Park into Cullen Way after repaving.

20. Mr. Temko offered kudos on the Greater Newark Network and the “*U Don’t Need It?*” program.

21. Mr. Temko thanked Senator Sorenson for signage on New London Road designating the location of Terry Manor.

22. Mr. Temko felt Mr. Athey’s referendum suggestion was appropriate to consider at this time. He received a lot of feedback from residents about open space at the Country Club. He suggested putting forward the cost and then having residents vote on whether to proceed. Mr. Temko also felt further discussion was warranted on utility grounding, since the DeIDOT Elkton Road project was slated for 2010-2016.

23. Mr. Temko agreed that public input was important in order to obtain comments and suggested priorities on the Comprehensive Plan.

24. Mr. Funk said that a reporter who attended all four BRAC tours commented that the City treated the visitors much better than any of the other cities and showed a lot of class.

25. Mr. Funk referenced his memo regarding “For Rent” signs which he felt had become an eyesore, which was a detriment to the aesthetic appearance of many neighborhoods in the City. He said the Sussex County ordinance was a good model to use because it restricted the placement of signs by their height off the ground in inches. Mr. Funk said the City’s current regulations in the Zoning Code were a problem because the size restriction was too large. Mr. Lopata said staff would propose an amendment, and Mr. Akin would then draft an amendment to the ordinance.

26. Mr. Funk commented that there were several items on Channel 22 that needed to be updated.

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

A. COUNCIL MEMBERS:

1. Discussion re Elkton Road Project – Sidewalk Options

Chante Hastings and several other representatives of DeIDOT were available to answer questions regarding brick sidewalk options for Elkton Road. Mr. Lopata summarized the three options which were:

Option 1 - four-foot wide brick-like sidewalk with one-foot concrete strip for \$132,000.

Option 2 - four-foot wide concrete sidewalk with a one-foot brick strip for \$44,000.

Option 3 - five-foot wide concrete sidewalk with one-foot wide brick strip and brick bands for \$66,000.

Mr. Funk said he preferred Option Three because it would be easier to walk on with less of a tripping hazard, and it was classy looking. Mr. Markham stated the purpose of changing the sidewalk was to tie it in with Main Street. Mr. Lopata agreed the theory was to try to extend the look and feel of Main Street without having to make it match exactly. According to DeIDOT, this came about when some recent development projects proposed brick sidewalk across the frontage, and rather than have intermittent pieces of different styles of brick sidewalk, it would be better to put in one continuous sidewalk in the main developed area. Mr. Pomeroy preferred Option Three and asked whether Option

One might be problematic with weeds growing in between the joints. DeIDOT representatives explained there were sealant-type products used after installation which, when combined with the sand that got swept into the joints, sealed the gaps and reduced weed growth. Mr. Athey asked when a decision had to be made on the sidewalk. Ms. Hastings said it would be during final construction plans in the summer of 2009. Mr. Athey was inclined to delay a decision on the sidewalk. Mr. Funk said he remembered Senator Sorenson saying she would be able to get community transportation funds to cover the sidewalk cost. Mr. Markham asked if the price was subject to change, and Ms. Hastings said the estimate was subject to change and could be updated once the contract was bid to obtain the actual cost. There would be an additional cost to extend the length in front of the Municipal Building since the quote had been from Apple Road to Delaware Avenue. Mr. Pomeroy felt if there was unanimous opinion, the decision should be made now. Mr. Funk said this would not be binding upon the City until it went out to bid. Mr. Temko thought even if the decision was made tonight, it could be revisited if the funding was not provided by the state legislators. Ms. Hastings said they would not add the sidewalks into their plans until they had a firm decision that the City wanted the option and had the funding. Mr. Tuttle confirmed that the costs would not be affected if money was found to bury electric lines underground. Mr. Lopata asked if there was any option Council wanted to rule out, and it was agreed to rule out Option Two and select Option Three on a preliminary basis. Mr. Markham stated that Council ruled out plain concrete as well when they made the commitment to re-do the Elkton Road sidewalk. Mr. Temko said the DNP would discuss extending the Elkton Road boundary beyond the Municipal Building at their next meeting. Mr. Lopata advised the cost for the sidewalk would be included in the budget this fall with a footnote that grant funding was being sought.

28. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING

None

29. 5. RECOMMENDATIONS ON CONTRACTS & BIDS

A. Contract No. 08-06 – Purchase of a 2008 Litter Vacuum

Ms. Houck advised the litter vacuum used on Main Street needed to be replaced. Five vendors received the City's contract documents, and only one, Tennant Sales & Service Company, submitted a bid for an all-terrain litter vacuum for the total cost of \$36,458.59. The other possible bidders were contacted, some of whom felt their equipment could not meet key specifications (such as the height of the unit) so it could go under signs and awnings. Others had sweepers rather than vacuums, and one did not get their bid in on time. Equipment replacement funds were available for the purchase, and Ms. Houck recommended the contract be awarded to Tennant. Mr. Funk asked if there was much difference between Tennant's quote and the company that submitted a late bid. Ms. Houck said in addition to being priced higher, their unit was more of an indoor unit and would not likely meet the required specifications. Mr. Markham asked if eight years was the typical life span of the vacuum, and Ms. Houck said the City's chief mechanic advised it was a reasonable amount of time. Mr. Temko asked the warranty period for the equipment, and Ms. Houck said it was probably one year. She explained there had not been many maintenance problems with the existing equipment until the last two years.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT CONTRACT NO. 08-06, PURCHASE OF ONE ATLV LITTER VACUUM, BE AWARDED TO TENNANT SALES & SERVICE COMPANY FOR A TOTAL COST OF \$36,458.59.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham, Temko.

Nay – 0.

Absent – Clifton.

30. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING

- 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

NOTE: The public hearing on this item and 7-A was held at the same time.)

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

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-14.

Chris Flathers, KCI Technologies, 1352 Marrows Road, explained the proposal would add a second residential apartment building to the northern end of the site and provide an enhanced parking area in the center. The southern portion of the site and the northwestern corner would be used for stormwater facilities to address the City's requirements. Several comments were received from the Planning Commission and from the public, and revisions were made to the plan to incorporate some of the concerns. There were a few remaining issues they planned to work out with the Public Works Department in relation to the stormwater facilities. Those issues would be addressed through the development of the construction documents and the detailed stormwater design. One of the main concerns from the Planning Commission was the existing façade on the front of the current structure. There was a large porch area, and several residents thought it was important to keep that feature. The plan was to replicate it in the new building. Another concern was that the original plan pushed the proposed building back on the site and had a different setback from the existing structure. Based on that recommendation, the building was pushed forward to help maintain the symmetry across the front of the property. Mr. Flathers felt the comments received from the public and the Planning Commission had been addressed.

Jeff Lindeke, of H. Gibbons Young/J. Jeffery Lindeke Properties was the owner/developer. Mr. Temko asked if Mr. Lindeke thought the current property was an asset to the community, and Mr. Lindeke said he did. When the property was purchased, the original building was in desperate need of renovations, and the interior had since been totally renovated. Mr. Temko referred to the Planning Commission minutes which referenced the CampusSide building next door and asked if Mr. Lindeke had considered building something similar to that property. Mr. Lindeke said he had been requested to keep the same general theme of the original building which was over 100 years old. Mr. Temko cited a number of problems the City had experienced with the site including: violations for trash and painting, roof, gutter and downspout repair, sanitary condition of vent and duct work, rodent infestation, plumbing fixture issues, repairs of a cabinet and refrigerator, paint and patch of a hole above the electrical box, and a cover plate over a hole in the bedroom with wires and cables running through it. Mr. Lindeke said all the issues cited were addressed. Mr. Temko said the proposed building would probably have fewer issues because it would be new, but hoped there were plans to eliminate similar violations there. Mr. Lindeke replied that student rentals were more prone to damage and violations by the tenants. Mr. Temko talked to residents who lived in the community, including North Bay Commons and Terry Manor, and not one person favored the project, but instead were concerned about student noise and partying. Mr. Temko claimed in the last ten months the Police Department received five calls for loud music, disorderly conduct, a loud party last May, and another loud music call a week later. Mr. Temko expressed concern that if the density was increased, the same types of issues might increase. Mr. Lindeke said it was the landlord's practice to discuss ground rules with all the tenants.

Mr. Temko asked how many spaces were currently in the gravel parking lot, and was told about 12-13 cars could be parked in that area. Mr. Temko questioned the plan for additional parking. Mr. Lindeke said the recommendation from the Planning Commission was to keep all the parking in one area, pave the parking lot, line it, and have the required parking spaces in that area. Mr. Temko noted there were concerns from residents of Terry Manor regarding traffic and adding more students to the area. Mr. Lindeke said no new driveways would be added, and they did not expect any more cars or drivers. Only two cars would be permitted per apartment.

Mr. Temko referred to the Planning Commission minutes where the owner stated the reason for requesting the rezoning was that for a number of years the property had been zoned improperly because it did not conform to the one acre minimum. Mr. Lindeke said it was incorrectly zoned because the requirement for RM was a minimum of one acre. Mr. Temko's understanding was that the minimum for RM was one acre for this type apartment building, but there could potentially be a different use (such as two single-family detached homes), and RM would still be appropriate with less than one acre. Mr. Temko thought it was important to clarify the rezoning issue, and when the City chose to zone the parcel RM, it did not mean it was incorrectly zoned but rather that the current building was a non-conforming use. Mr. Temko pointed out there were no adjacent or nearby properties zoned BLR and asked why the owner thought BLR zoning would be appropriate for the property. Mr. Flathers said it was the density they were looking for which was not any different than the density of the adjacent parcels. Mr. Temko said if the project was approved, the density would be 12.5, slightly larger than the 10.29 at CampusSide. Mr. Flathers said the rezoning request was to try to keep the property under the same use and allow for the expansion. Density-wise they could come under the old zoning, but the proposed building would not fit, and he believed they would have to go to a garden apartment type of use. Mr. Flathers explained they were trying to maintain the somewhat historical building on the site and not have to tear it down and completely rebuild.

Mr. Temko said in evaluating land uses, his concern was for the community's health, safety, and welfare. He saw several issues with the soil type which had a lot of wetness and would need certain designs. He noted that Terry Manor had significant flooding over the years and creating new runoff with more impervious surface might add to that problem. Mr. Flathers advised that part of the stormwater management design was to meet peak runoff rates back to the pre-development conditions. In trying to maintain the volume of runoff leaving the site, he proposed to use infiltration-type practices to help minimize runoff that would reach the creek, and they were working with Public Works on the issues.

Mr. Temko asked if the developer would be willing to complete the LEED checklist. Mr. Lindeke said they would meet with the Building Department to determine whether they had any recommendations that could be incorporated into the site or the building. Mr. Temko said the idea was for transparency so the City knew where buildings fit on the scale for energy and environmental design.

Mr. Markham asked whether the applicant met to discuss the project with their Council representative. Mr. Lindeke replied they had not but would be willing to do so. Mr. Funk said it was unusual for an applicant not to meet with their Council member.

Mr. Flathers commented that it would have been helpful to have Mr. Temko's questions earlier on during the Planning Commission process. Mr. Temko said it was not Council's practice to interject with the Planning Commission process. He thought more creative things could be done with the property in order to reduce the negative impact on the health and safety of the community. Mr. Flathers asked Mr. Temko how he thought the project negatively impacted the health and safety of the public. Mr. Temko replied that neighbors would be impacted by student partying in an area where students were already

encroaching on family neighborhoods like Terry Manor, plus the effects of sprawl on air quality and traffic, and he wanted to make sure issues with the current building did not continue with another building. Also, he heard from multiple people who were not supportive of the project based on traffic, growth and development, and noise issues. Mr. Temko added that New London Road was one of the gateways of Newark, and it should have a project that everyone could be proud of.

Mr. Flathers agreed to meet with Mr. Temko to try to alleviate some of his concerns and stated they had already done a lot to help address public concerns that were raised earlier on in the process.

MOTION BY MR. TEMKO: THAT ITEMS 6-A AND 7-A BE TABLED.

Mr. Pomeroy felt a lot of important issues had been brought up, and hopefully, many of those could be worked out in discussions with Councilman Temko and the developer. He felt the City was trying to raise the bar with the look and feel of recent projects such as CampusSide, which was adjacent to the site and noted there was a dramatic difference between the two projects. He said that fact should be taken into consideration as the project was re-reviewed, and perhaps the quality of the workmanship could be a little better. He was not sure the proposed design raised the bar.

Mr. Athey said he was not as concerned about the density issue as much as Mr. Temko was, but there were other issues that he thought needed to be addressed. He encouraged the owner to meet with Councilman Temko to try to work out the issues and come back with a better project.

Mr. Markham understood Mr. Temko's concern about the property's location as an entrance to the City. He noted an important change resulting from the plan was the paving of the gravel parking area which would increase the site's impervious area. Mr. Flathers said they have given full consideration to that issue, and it would be addressed in the stormwater management design.

Mr. Tuttle acknowledged that the owners appeared to be responsive to past input they received about redesign, and he trusted they would continue to do so. He was concerned about the adequacy of parking, which met Code, but added population without adding parking. Further, there was no on-street parking for visitors. Mr. Flathers explained by providing a structured parking area, they were providing a safer parking lot.

The chair opened the discussion to the public.

Lisa Lucas, 156 W. Main Street, said she appreciated some of the issues raised by Council and appreciated the aesthetic considerations being made. She felt the lack of ample parking was a concern, particularly in the New London Road area which was a very busy location. She felt it was important for the development process to be a fully-engaged process between the developers and the community.

Steve Purvis, 9 E. Mill Station Drive, felt the existing building, although renovated, was somewhat of an eyesore, particularly in light of the area being a gateway to Newark. Mr. Purvis said the proposed property did not appeal to him, especially when compared to CampusSide.

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

MOTION SECONDED BY MR. ATHEY TO TABLE ITEMS 6-A AND 7-A.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham, Temko.

Nay – 0.

Absent – Clifton.

31. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS

A. Request of H. G. Young & Jeff Lindeke for the Minor Subdivision of 203 New London Road In Order to Add a Three-Unit Apartment Building & An Upgraded Parking Area (RESOLUTION & AGREEMENT PRESENTED)

(NOTE: This item was tabled under agenda item 6-A.)

32. 7-B. REQUEST OF TSIONAS PROPERTIES, LLC, FOR THE MAJOR SUBDIVISION OF 137 E. MAIN STREET (KORNER DINER/JIMMY'S DINER) IN ORDER TO RAZE THE TWO-STORY MASONRY ADDITION BEHIND THE EXISTING DINER, TO CONSTRUCT A THREE-STORY BUILDING WITH A TOTAL OF SIX APARTMENTS TO THE REAR OF THE EXISTING DINER

(NOTE: The public hearing on this item was held at the same time as item 7-C but voted on separately.)

MOTION BY MR. TEMKO, SECONDED BY MR. POMEROY: TO APPROVE THE REQUEST OF TSIONAS PROPERTIES, LLC, FOR THE MAJOR SUBDIVISION OF 137 E. MAIN STREET IN ORDER TO RAZE THE TWO-STORY MASONRY ADDITION BEHIND THE EXISTING DINER, TO CONSTRUCT A THREE-STORY BUILDING WITH A TOTAL OF SIX APARTMENTS TO THE REAR OF THE EXISTING DINER.

Mr. Joe Charma represented Tsionas Properties who planned to renovate and improve the property at 137 E. Main Street known as the Korner Diner. According to Mr. Charma, the project involved the demolition of the masonry portion of the existing structure, which was distressed and an eyesore compared to the adjacent buildings to make way for a state-of-the-art building while renovating and preserving the art deco diner. The new construction would feature handicapped access and restroom facilities, which the existing diner lacks, and six apartments constructed in two levels above the ground level fourteen-space parking area. The three apartments on each level would have three bedrooms deed restricted to a maximum occupancy of four persons per apartment. Mr. Charma noted that in 1999 there was a subdivision proposal for the site, and Council recommended that ten apartments be reduced to six units. Council recognized then that six units would be a reasonable occupancy in terms of density and the project's economic viability. The size and occupancy of the proposed building was in step with other projects approved in the downtown area over the past ten years. This project did what the City's Comprehensive Plan recommended for the downtown core district, and provided for a balanced concentration of redeveloped first floor space with apartments or office space on the upper levels. With respect to densities in the downtown core area, Mr. Charma claimed a precedent had already been established with many sites having much higher densities. Newark Square proposed six units on .24 acres, a density of 24 units per acre, far less than the average density of 30.9 dwelling units per acre of other apartments. According to Mr. Charma, massing and concentration of population in the downtown areas followed one of the basic principles of neo-traditional planning: people work, shop, go to school and eat in many of the downtown businesses. They would not rely on driving their car, but would walk and use public transportation. He thought having a strong downtown population gave Main Street a sense of community and felt that Main Street was a vibrant place because of people living downtown, unlike Wilmington. He felt the new building would be an attractive addition to the community based on Tsionas Properties proven record of constructing other well-managed and

successful mixed-use projects, such as Astra Plaza and Continental Court. Because of their proper management and on-site security measures, they consistently had a lower number of calls for police service compared to other apartment complexes in the City. Mr. Charma added that as a part of the new construction, a portion of the existing overhead power lines on Haines Street would be placed underground to improve the overall streetscape of the area. This was pioneering action with significant capital expense that Tsionas Properties would bear, and hopefully would be continued throughout the City. The proposed building would preserve a landmark and be a jewel in the crown of downtown Newark. Mr. Charma reported the project received unanimous approval of the Planning Commission and the Downtown Partnership Design Committee. Toward the conclusion of the May 6th Planning Commission Meeting, the Interim Planning Director reversed her initial recommendation to table the project stating that she did not have any concerns about the design moving forward as presented. He felt the project also had the support of the City operating departments. Mr. Charma noted this project was a great opportunity to keep a positive social and economic momentum moving forward and shaped downtown Newark's future by preserving a bit of the past.

Mr. Temko said he spoke to Angela Tsionas about the LEED checklist, which she would be willing to have completed. He also appreciated her willingness to further investigate the brick color in terms of slate or something that would add a little more architectural diversity.

Mr. Markham asked about the parking waiver. Mr. Charma said it was a ten-space waiver, two spaces per unit for the five apartment units, and the tenants would be notified there was no on-site parking. He said in order to make mass transit work, a message had to be sent to downtown residents not to bring their cars to Newark, and that had been successful with other projects downtown.

Mr. Temko clarified that the tenants would be told there was no secured parking, including leasing from the City's lots, because there was a backlog. However, if the City did build additional lots, people could apply for space, but there was no guarantee. Mr. Charma said Tsionas Properties had the best interest of their tenants at heart, and they would get them spaces if possible.

Mr. Tuttle commented this was a site where visitors could be accommodated with both on-street and off-street parking. Mr. Charma added that parking lot 3 was directly across the street, and there were other areas where people could find parking.

Mr. Pomeroy liked the project and asked where the receiving would be for the restaurant and where the dumpsters would be located. Mr. Charma said the dumpsters would be enclosed in the building on Haines Street and receiving would continue in the front on Main Street.

The chair opened the discussion to the public.

Lisa Lucas, 156 W. Main Street, was concerned about how parking and traffic issues on Main Street could impact the success of businesses located there. She said while people living in the City may know the ins and outs of where to park, if the goal was to draw more revenue into the town, it had to become more user friendly for the visitors. She was concerned about the judiciousness of having another two dozen apartments downtown, especially in today's economy. Mr. Funk said that in this instance, a big consideration for Council was the fact that the owner had the right to tear down the diner, and it was more important to him to save the diner. He thought Council overwhelmingly felt the diner was a part of the City although they were also concerned about student rentals. Ms. Lucas noted the resolution referenced preserving the façade of the diner and asked if the interior of the diner would be preserved as well. Mr. Funk said it would be modernized, and there would be a handicapped ramp and handicapped accessible bathrooms which would be a positive improvement.

Mr. Lopata added that the City tried to approve projects downtown that were an enhancement to the community. He noted that Mr. Tsionas could ask for and receive a demolition permit for the diner. As far as Mr. Lopata was concerned, any negatives were outweighed by the preservation of the diner, and from that standpoint, this was one of the best projects proposed thus far for the site.

Mr. Pomeroy thought Ms. Lucas touched on several important points. One was the issue relating to the need for adequate parking in the downtown district to make it easier for people to navigate Newark. He said parking would be addressed more proactively in the near future. He thought saving the diner, a Newark landmark, was important and the project would create density in the downtown district which was desirable in terms of planning. Mr. Pomeroy noted another issue that had not been discussed, but was on a parallel track, was the importance of diversification in the people living in the area. He said being able to draw on different constituencies in times of a troubled economy would help get vacant properties filled. He noted this Council and the City have been concerned with and were working on these types of issues.

Mr. Athey said an interesting point raised was tenants “robbing” parking spaces from the merchants. He asked the applicant how they would know if parking spaces were taken up by tenants rather than customers. Mr. Charma said Tsionas Properties would be vigilant at monitoring their parking, particularly since the spaces were at a premium. Mr. Charma said at the request of the Planning Department, Tsionas Properties reduced the parking at Traders Alley to one unit per tenant which freed up eight parking spaces for Iron Hill customers.

Steve Purvis, 9 E. Mill Station Drive, said he felt the proposal was a great plan, and he appreciated the diner being saved. In addition, the backdrop was attractive and the project would continue the uniqueness of Main Street.

Chris Locke, 604 Cambridge Drive and the owner of Formal Affairs, said he believed it was important to get as many residents as possible onto Main Street for a number of reasons. He referenced the direct impact of the new development plan at Christiana Mall where a Main Street-type façade was planned. Mr. Locke said developers have recognized that people like to walk in open areas, and this was the newest trend in shopping area designs. He felt the mall would have a direct impact on the vitality and the economic viability of Main Street, so it was important to draw as many residents as possible to live on Main Street, and patronize the downtown restaurants and stores. Mr. Locke noted Mr. Tsionas was a respectful citizen who handled his properties well. In regard to the parking issue, he said people coming to Main Street knew it was an urban environment and would find parking wherever it was available. He agreed with Mr. Pomeroy that the City was at a crossroads and needed to develop an organized parking strategy, and this would be an important element to future projects.

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

Mr. Markham asked the time frame on the start of the development if approval was granted by Council. Mr. Charma said they would have to go through the construction improvement plan process, and construction would possibly begin in the fall. Mr. Charma said Mr. Tsionas was trying to work with the current operator of the diner to minimize the restaurant’s downtime.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

(RESOLUTION 08-Q)

- 33. 7-C. REQUEST OF TSIONAS PROPERTIES, LLC FOR A SPECIAL USE PERMIT AT THE PROPERTY LOCATED AT 137 E. MAIN STREET (KORNER DINER/JIMMY’S DINER) IN ORDER TO CONSTRUCT APARTMENTS IN A BB ZONING DISTRICT**
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(NOTE: The public hearing on this item was held at the same time as item 7-B but voted on separately.)

MOTION BY MR. TEMKO, SECONDED BY MR. POMEROY: TO APPROVE THE REQUEST OF TSIONAS PROPERTIES, LLC FOR A SPECIAL USE PERMIT AT THE PROPERTY LOCATED AT 137 E. MAIN STREET IN ORDER TO CONSTRUCT APARTMENTS IN A BB ZONING DISTRICT

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

- 34. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA**

- A. Council Members:
1. Discussion re Elkton Road Project – Sidewalk Options

(NOTE: This item was discussed under item 27.)

- 35. 9-B-1. COMMITTEES, BOARDS & COMMISSIONS**

1. Appointment to Board of Business License Review (5 – Mayor’s Appointments)

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT THE FOLLOWING MEMBERS BE REAPPOINTED TO THE BOARD OF BUSINESS LICENSE REVIEW: URIE BOULDEN, JOHN COCHRAN, BILL DEWBERRY, HAZEL PAINTER AND GENE GRAHAM; SAID APPOINTMENTS FOR A THREE-YEAR TERM EXPIRING JULY 9, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

- 36. 9-B-2. APPOINTMENTS TO DOWNTOWN NEWARK PARTNERSHIP (6 – MAYOR’S APPOINTMENTS)**
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In regard to Ron Walker’s appointment, Mr. Athey noted that Mr. Walker was retired from the New Castle County Chamber of Commerce, and he was not sure if his re-appointment would be valid. Mr. Funk pointed out that Mr. Walker has continued working with the Chamber as a volunteer and assisted them in a variety of areas including lobbying.

Mr. Temko commented that his sister, Sasha Aber, was one of the members recommended for appointment, and while he understood that he did not have to recuse himself from the vote, he was going to do so.

MOTION BY MR. ATHEY, SECONDED BY POMEROY: THAT THE FOLLOWING MEMBERS BE REAPPOINTED TO THE DOWNTOWN NEWARK PARTNERSHIP: JOE CHARMA, SASHA ABER, MARILYN MINSTER, SALLY MILLER, TERRY FOREMAN AND RON WALKER; SAID APPOINTMENTS FOR A THREE-YEAR TERM EXPIRING JULY 27, 2011.

MOTION PASSED UNANIMOUSLY.

VOTE: 5 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham.

Nay – 0.

Absent – Clifton.

Abstain – Temko.

37. 9-B-3. PLANNING COMMISSION MINUTES OF JUNE 3, 2008

MOTION BY MR. MARKHAM, SECONDED MR. TUTTLE: THAT THE PLANNING COMMISSION MINUTES OF JUNE 3, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham, Temko.

Nay – 0.

Absent – Clifton.

38. 10. SPECIAL DEPARTMENTAL REPORTS

A. Special Reports from Manager & Staff: None

10-B. ALDERMAN'S REPORT

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT THE ALDERMAN'S REPORT DATED JULY 1, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham, Temko.

Nay – 0.

Absent – Clifton.

39. 10-C. REQUEST FOR EXECUTIVE SESSION RE LITIGATION

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

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Pomeroy, Athey, Funk, Tuttle, Markham, Temko.

Nay – 0.

Absent – Clifton.

Council entered into Executive Session at 9:10 pm and returned to the table at 9:18 pm. Mr. Funk said no further action was required.

40. Meeting adjourned at 9:20 pm.

Patricia M. Fogg, CMC
City Secretary

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