CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

November 27, 2006

Those present at 7:30 p.m.:

Presiding:	Vance A. Funk III, Mayor District 1, Paul J. Pomeroy District 2, Jerry Clifton District 3, Douglas F. Tuttle District 4, David J. Athey District 5, Frank J. Osborne District 6, A. Stuart Markham
Staff Members:	City Manager Carl F. Luft Acting City Secretary Patricia M. Fogg Assistant to the City Manager Carol S. Houck Assistant to the City Manager Charles M. Zusag City Solicitor Roger A. Akin Planning Director Roy H. Lopata Chief of Police William Nefosky Planner Michael Fortner Code Inspection Supervisor Steve Wilson

---

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. OSBORNE: THAT THE AGENDA BE AMENDED BY ADDING 10-A-2, RATIFICATION OF FOP LABOR CONTRACT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

3. **<u>1-B. CANCELLATION OF DECEMBER 25, 2006 COUNCIL MEETING</u>**

MOTION BY MR. ATHEY, SECONDED BY MR. OSBORNE: THAT THE DECEMBER 25, 2006 MEETING BE CANCELLED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

4. **<u>2-B. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL</u>**

1. Regular Council Meeting of November 13, 2006

Mr. Markham corrected page 20, third paragraph from the bottom of the page, the word "changed" should read "the same."

MOTION BY MR. TUTTLE, SECONDED BY MR. OSBORNE: THAT THE MINUTES OF NOVEMBER 13, 2006 BE APPROVED AS AMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

5. **3. ITEMS NOT ON PUBLISHED AGENDA**:
A. Public

There were no comments forthcoming.

6. **3-B. UNIVERSITY**
1. Administration

There were no comments forthcoming.

7. **3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

8. **3-C. COUNCIL MEMBERS**

Mr. Clifton had nothing to bring up at this time.

9. Mr. Tuttle advised that he attended the graduation of the Citizens Police Academy. He thought it was a great program and encouraged the Police Department to continue offering it.

10. Mr. Tuttle said that he, Councilman Pomeroy, and Mayor Funk attended on November 21st a presentation by a leadership class at the University dealing with the creation of a safer alternative for crossing the CSX tracks at N. College Avenue. He thought the class did a good job.

11. Mr. Markham reminded everyone of Winterfest scheduled for Friday, December 1st.

12. Mr. Markham said he attended the ribbon cutting ceremony for a new business involving food preparation in the Shoppes at Louvier. Messrs. Funk and Osborne also attended.

13. Mr. Athey advised that the runoff problem at Kells Park during recent construction was resolved.

14. Mr. Osborne advised that on November 18th the state prepared a plaque that was presented to the St. John's Church. He and Mayor Funk attended the dedication and he was happy to help celebrate their 158th anniversary at that location.

15. Mr. Pomeroy said today was his seven-year anniversary with his wife and he wanted to say on record "I love you, honey, and happy anniversary."

16. Mr. Funk advised that an application was received for the Deputy Alderman position and asked whether Judge Forcina had met with the applicant. Mr. Akin said one very qualified candidate had applied and applications were being taken through November 30th. He reminded Council that the Senate would have to confirm the appointment. Mr. Funk asked Ms. Fogg to give the application to the Alderman for his review.

17. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

18. **5. RECOMMENDATIONS ON CONTRACTS & BIDS:** None

19. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**
A. Bill 06-32 - An Ordinance Amending Ch. 2, Administration, Article III, Alderman, By Bringing the City Code Into Conformance with the State Code as it Pertains to the Probation Before Judgment Statute

Mr. Luft read Bill 06-32 by title only.

MOTION BY MR. CLIFTON SECONDED BY MR. OSBORNE: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 06-32.

Mr. Luft referred to Bruce Herron's memorandum to the Mayor and Council, dated October 16, 2006, wherein he explained that the purpose of the amendments was to bring the City's ordinance into conformance with recent additions to the State Probation Before Judgment (PBJ) statute. The State statute now provided that a person on PBJ be required to provide the Court with immediate notice of a change in address, and also required the defendant to appear if summoned for the purpose of determining whether he/she had violated or fulfilled the conditions of the Probation. It also excluded persons holding a commercial driver's license from eligibility for PBJ for motor vehicle offenses.

The chair opened the discussion to the table. No comments were forthcoming and the discussion was returned to the table.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(ORDINANCE NO. 06-31)

20. 6-B. BILL 06-33 - AN ORDINANCE AMENDING CH. 20, MV&T, BY BRINGING THE PENALTIES FOR DRIVING WHILE SUSPENDED OR REVOKED INTO CONFORMITY WITH STATE LAW & BY INCREASING THE MINIMUM FINE

Mr. Luft read Bill 06-33 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 06-33.

Mr. Luft referred to Bruce Herron's memorandum to the Mayor and Council, dated October 23, 2006, wherein he explained that the current ordinance for driving while suspended or revoked provided that a subsequent offense required a mandatory term of imprisonment but "subsequent offense" was not defined. The State Code specifically defined a subsequent offense was one occurring within three years of a former offense. The first amendment defined "subsequent offense" to make it consistent with the State Code. The second amendment corrected an inconsistency regarding the minimum fine.

Mr. Funk said he understood it used to be that $1000 was the cutoff between a misdemeanor and a felony and asked if that had changed. Mr. Akin said he would look into that because he did not have an answer at that time.

Mr. Osborne asked how the City would handle the situation if someone was fined with imprisonment. Mr. Luft said the City was only permitted to keep someone in jail for three days maximum and then they were moved to the state facility.

The chair opened the discussion to the table. No comments were forthcoming and the discussion was returned to the table.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(ORDINANCE NO. 06-32)

21. 6-C. BILL 06-34 - AN ORDINANCE AMENDING CH. 20, MV&T, BY REMOVING PARKING RESTRICTIONS FROM MANNS AVENUE, BETWEEN APPLE & BEVERLY ROADS & BY PROVIDING FOR STOP SIGNS ON EDJIL DRIVE AT ANITA DRIVE

Mr. Luft read Bill 06-34 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. OSBORNE: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 06-34.

This item was reviewed and recommended by the Traffic Committee after being brought to their attention by residents. Mr. Athey questioned whether the residents on Manns Avenue were notified and Ms. Fogg said they were notified.

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

Mr. Clifton advised that there were other traffic measures discussed at the Traffic Committee regarding the request for stop signs on Edjil Drive at Anita Drive. One suggestion, in addition to the stop signs, was a delineated crosswalk. Edjil Drive was a wide road and had no stop signs. He believed at a minimum the stop signs were needed, and asked Council to think outside of the box and agree to delineate a crosswalk at that intersection. He understood the Committee's concern that it could give a false sense of security to some, but because the road was so wide, he thought it warranted a visual as well as the stop signs that aided traffic calming.

AMENDMENT BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT A DELINEATED CROSSWALK BE INCLUDED AT THE INTERSECTION OF EDJIL DRIVE AND ANITA DRIVE.

Mr. Athey asked Mr. Clifton if he would consider letting the Traffic Adhoc Committee look at his suggestion rather than making the change at this time. He thought there might be other intersections that warranted crosswalks and it would help to have certain criteria to follow when making future decisions.

Mr. Clifton was concerned about waiting because he strongly believed this intersection needed the crosswalks now. He also pointed out if that crosswalks created an issue that nobody anticipated, they could always change it at a later time.

Mr. Funk pointed out that the delineated crosswalks were turned down 8 to 0 by the Traffic Committee. Mr. Clifton commented that the vote was based on Rich Lapointe's comments on criteria taken from the Manual of Uniformed Traffic Control Devices. Mr. Clifton agreed that was a standard the City had to adhere to but it could be modified much like the City modified the National Building Code to fit the Newark community.

Mr. Funk thought it might be better for Mr. Clifton to go back to the Traffic Committee and explain his position on the crosswalks because he thought for Council to pass something that was defeated 8 to 0 by the Traffic Committee was not a good precedent to set.

Chief Nefosky, chair of the Traffic Committee, advised that the Committee believed there were standards or perimeters for them to follow when they made

their recommendations. That being said he pointed out that Council had the right to overrule the recommendation and approve the crosswalks.

Mr. Markham pointed out that Council did not always follow the Planning Commission's recommendation. Mr. Funk interjected that his fear was that every neighborhood association in the City would ask for crosswalks in their community. Mr. Clifton thought if his suggestion worked at this intersection, why not do it in other communities.

Mr. Athey suggested that speed data be taken before and after the crosswalks were installed and provide that data to Council so they would know whether it worked and if should be done in other areas.

Question on the Amendment was called.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Question on the Motion as Amended was called.

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

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

(ORDINANCE NO. 06-33)

(Secretary's Note: Section 20-29 authorizes the City Manager to designate crosswalks at an intersection. Therefore, Council's motion will require Mr. Luft to move forward with the crosswalk delineation at the intersection.)

22. 6-D. BILL 06-35 - AN ORDINANCE AMENDING CH. 7, HOUSING & PROPERTY MAINTENANCE & CH. 22, POLICE OFFENSES, BY ADOPTING NEW GRAFFITI REGULATIONS

Mr. Luft read Bill 06-35 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 06-35.

Mr. Athey questioned page 6, 302.9.8(a) that made reference to Section 302.9.D. It was determined that it should have read Section 302.9.

Mr. Luft asked Mr. Zusag to review an amendment staff would like made to the bill. First, he corrected a typo on page 3, (a) Definitions, the numbering following that paragraph was incorrect.

On page 4, (a) Distribution, he suggested removing the language following the word "minor" because upon further reflection, they thought any 12-year old could get a friend to write a note for him/her.

AMENDMENT BY MR. OSBORNE, SECONDED BY MR. CLIFTON: THAT THE LANGUAGE FOLLOWING THE WORD "MINOR" IN THE PARAGRAPH DESCRIBED BE ELIMINATED.

Mr. Akin concurred with Mr. Zusag and said it was a minor change to the ordinance.

Mr. Funk asked what the definition of a graffiti stick was and was told it was defined as any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth of an inch in width. It was also noted that this proposal was modeled after the County ordinance.

Mr. Pomeroy asked if there were typical type of implements that were mostly used and was told that was spray paint. He then asked if the felt tip markers were a big deal because he didn't want a situation where a group of students were getting ready for homecoming and wanted to make signs for the football team but could not buy magic markers. Chief Nefosky comments were inaudible.

The chair opened the discussion to the public.

Catherine Ciferni, 334 E. Main Street, did not feel the ordinance would be effective because violators would purchase their supplies elsewhere.

Daniel Siders, 503 Paisley Place, said he had a problem with Sec.302.9.1 (a)(b) because it was dangerous profiling and age basis discrimination. He asked if he read correctly that there would be a $200 penalty for a first time offense for, as an example, a 7-year old who had in his/her possession sidewalk chalk at their neighbor's house. He understood the problem graffiti posed to community members, private property owners, and the City, as well as financial problems caused by property damage. He believed there had to be a way to go about this with slightly less restrictions. For example, magic markers and chalk could have slightly less sinister uses.

Mr. Siders said he realized that a 16-year old with spray paint in his backpack probably did not have plans to do anything terribly productive. That being said there were plenty of good uses for using permanent marking tools or less permanent ones as well and he urged Council to reconsider particularly the age provision.

Mr. Akin pointed out that graffiti was defined as an "unauthorized inscription." Presumably if children were making drawings on a sidewalk outside a store with the owner's consent, that would be considered an authorized inscription.

Ezra Tempko, 58 Woodhill Court, agreed with Mr. Siders. He pointed out a typo on page 4 where the word "illegal" was misspelled. He found it "silly" that a 17-year old could not go into a Happy Harry's and buy a magic marker. In his opinion this ordinance would penalize good kids. Even if New Castle County had this rule, he believed people would still be able to obtain the tools. He did not believe it was just people under 18 who were committing a graffiti act. He also did not believe the graffiti implements were contraband items and stores should be forced to keep them right next to the register. He thought it was naïve to assume if you attempted to stop minors from having things such as broad based markers that it would eliminate the problem of graffiti.

Jean White, 103 Radcliffe Drive, said she did not like graffiti, wished such behavior would cease, and any graffiti that did occur should be removed in a timely manner and the perpetrator held accountable and be appropriately punished. She believed they should no longer talk about "graffiti artists" because graffiti was vandalism and they should be called "graffiti vandals."

Ms. White questioned if stores that sold the kind of things listed in the ordinance were apprised of the pending changes. She visited two stores who were unaware of the proposal and thought stores who would be affected should have the opportunity to comment on the proposal. She asked what percent of graffiti vandals were caught and prosecuted. In her opinion it was less than 5% because it was a hard violation to track down. She applauded the detectives who identified some graffiti vandals and for bringing them to accountability. She questioned what percent were minors. She also questioned if it was a correct assumption that all

graffiti was done by minors. She believed that most people, in general, and most minors who purchased chalk, markers, etc. were not out to vandalize. She would prefer that the ordinance emphasized the act of doing graffiti rather than the possession of certain items. She might feel differently about spray paint because it was so much harder to remove. She adamantly disagreed with including chalk.

Page 5, 302.9.4, Exceptions to Property Owner Responsibility, stated if the property owner or responsible party could demonstrate they had an active program for the removal of graffiti, they got 20 days to remove the graffiti where normally the property owner had to remove the graffiti within ten days. Ms. White questioned the fact that there was no definition that defined an active program for the removal of graffiti.

Ms. White said she assumed the fines were for each incident and if that was not included in the ordinance, it should be defined. She believed that $300.00 was too much for the first offense and because it was a mandatory fine it did not give flexibility for the amount of graffiti or the age of the person committing the offense. For instance, if a 10-year old drew a line 6" or a 17 or 24-year old covered a whole wall, in either case she did not feel the $300 should apply for the first offense. Ms. White gave several examples of fines for other violations such as: improper use of lasers (first offense was $100, not more than $200); underage entry into a liquor store (first offense not less than $200); minor possession/consumption of alcohol (not less than $200); reckless driving (first offense was $100); discharging a handgun/pellet gun (not les than $25). drag racing and speed contests (first offense not less than $200). She said her point was the offenses she listed were serious and people could get hurt. Graffiti was also serious, but she felt $300 for the first offense was way out of line. She concluded by saying the ordinance had a lot of good things, but chalk should be removed, some things about minors should be removed, and the amount for the first offense should have more flexibility for the size of the graffiti and the age of the defendant.

Paul Rocco, 274 Elkton Road, owner of Scott True Value, said for the past ten years they made a policy not to sell spray paint to kids under 18, and that was unfortunate because there were a lot of young people who do a lot of school projects. He did not like asking a 16-year old doing a normal art project or school rally function, his age. He did not like being the mean retailer when they could buy the products outside the City limits. That being said, he advised that he was involved with the community and aware of how the community felt about these products. He questioned the personal responsibility of the people perpetrating these crimes and what it was for the rest of the community. He suggested reducing the implements to spray paint and maybe markers—both were used behind his shopping center and all over the City. He agreed that graffiti was a problem and could be recognized, but how much could be controlled by passing this ordinance was the question. He felt kids could find the materials anywhere if they got creative enough. If the ordinance passed, he would abide by it and assured Council his store was vigilant, but it would create more of a problem for him as a retailer in that he now had to become the enforcer. He really questioned the effectiveness of the proposal to the real problem. He thought the parents or guardians of the kids who committed the crimes should also be held responsible. Mr. Rocco asked if etching equipment meant chisels, saws, drill bits, etc. and was he supposed to just turn kids under 18 away.

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

Mr. Funk asked what the age group was of the people who were arrested recently for graffiti. Mr. Pomeroy interjected that the police have really stepped up enforcement and made several arrests and he was grateful for that.

Chief Nefosky said within the past year they made several hundred arrests. He would have to break down those arrests to determine the age groups to get an accurate picture. Mr. Funk asked when the arrests were made, did the defendants

confess where they bought their products. Chief Nefosky said he thought some did but he could not say for sure.

Mr. Luft interjected that this issue came up about a year ago when there was a severe problem with graffiti and staff was asked to look at the ordinance. Chief Nefosky said he thought these changes would be a helpful resource they could use during investigations. The ordinance was a hybrid of New Castle County and the City of Philadelphia ordinances. Many of the definitions were the same as New Castle County. Mr. Pomeroy felt the crackdown on these offenses was very effective and that was a real credit to the Police Department. He thought a lot of good suggestions have been made and would support tabling the proposal in order to fine-tune the recommendations.

Mr. Clifton agreed and thought Ms. White made a good point about not calling the defendants "graffiti artists. It was counterproductive to people who were credible artists. He further commented on the so-called drag racing on Elkton Road that resulted in the death of a Newark resident. He claimed drag racing could not occur on Elkton Road and the State/City wrongly defined it as drag racing because drag racing could only occur on a sanctioned racetrack. What occurred on Elkton Road was street racing. With regard to the proposed fine, Mr. Clifton was happy with it and thought the City was probably too low in other areas.

Mr. Clifton thought the changes gave the Police Department an additional tool, but agreed that chalk was overkill. Chief Nefosky pointed out that chalk was added at the suggestion of Tom Zaleski from the Parks Department.

Mr. Pomeroy added that he did not have a problem with the fine structure and would like staff to review the current fee structure in light of what Ms. White brought to their attention.

Mr. Athey said he would like the definitions clarified. For instance, page three provided a definition of "graffiti implement" under Section 302.9 and there was a different definition on page eight, Section 22-41.1 With regard to the fine structure for the act of causing graffiti, he asked if it applied to the storeowner or just to the person who committed the act. Chief Nefosky said it was for the person who committed the act.

Mr. Markham said he would like to see some leniency for minors because his daughter could be "busted" for what she carried in her backpack going back and forth to school.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT 06-35 BE TABLED UNTIL THE LANGUAGE COULD BE REVIEWED AND REWORKED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Mr. Akin commented on Mr. Funk's question whether a $1,000 fine triggered a felony offense. Upon doing some research, that did not occur. For instance, in Title 11, 4206 under State law, a Class A misdemeanor fine could range up to $2,300 and a Class B misdemeanor fine could range up to $1,150.

23. <u>7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS:</u>

A. Request for Extension of Grandfathering Regarding Alcohol Sales at Stone Balloon Site (Washington House Condos)

James Baeurle, 1509 Highway I, Dewey Beach, DE, owner of Washington House, said he was also the owner of the Newark Taproom, a liquor license located at 115 E. Main Street. He would like to use his license in the new Washington

House project that was now underway. He requested the ability to extend that grandfathered use past December 16th. He approached the state and they approved a two-year extension a few months ago to use that license at the 115 E. Main Street location. In essence, he was asking for Council to make a similar extension. His plan for the license was a wine shop—to buy wine and taste wine. This concept was very popular out west. It would be an upscale shop for adults.

The present liquor license was for a taproom on/off and you had to be 21 to enter the building. Mr. Baeurle was confident it would fit with the overall concept of Washington House. He thought it would not only enhance his project but Main Street as well. He claimed there were no plans to resurrect the Stone Balloon use. The wine shop would be an amenity to the building and everyone who has purchased a unit saw this concept as an amenity. He noted that he was close to signing a contract with an upscale gourmet grocery store that would be located next to the wine shop and would be a perfect compliment. He concluded by asking Council to extend his ability to use the license at that location for one more year.

Mr. Clifton asked for an explanation of the taproom on/off license. Mr. Baeurle said he was allowed to have a taproom, serve no food, and have a carryout for packaged goods as well. It was one license that could not be separated and the uniqueness of the license was the fact that they were no longer issued by the state. He claimed that this type of license was the only license that allowed for the kind of use he proposed. Mr. Clifton asked if only wines would be on tap. Mr. Baeurle answered that the feature would be wine but he thought he had to offer a variety of products to service the off part of the license.

Mr. Clifton said he was in various liquor stores over the last six months that featured wines and the distributor conducted wine tasting. Mr. Baeurle explained that in those situations special permission from the state was required and usually put on by the distributor. His wine shop would be an everyday use, and its uniqueness would be a draw not only to his building but to Main Street. Mr. Clifton asked what type of license would be needed to do this kind of thing if Mr. Baeurle did not have the taproom on/off license. Mr. Baeurle said he would first have to extinguish his current taproom on/off license and reapply to the state for an off license, which was the standard for any package store. However, he claimed it would not create the kind of concept and uniqueness that he hoped to be able to use at this location. He hoped since Council previously gave an extension, they would allow him to pursue this concept.

Mr. Clifton acknowledged Council gave Shaggy's an extension but that was a liquor license with restaurant, not a taproom license. Mr. Baeurle agreed but thought if you looked at what they were trying to achieve with the building, and the fact that you had to be 21 to be in the building, it would only enhance what he was trying to do. He added that he would not want to own a restaurant license in the City because of the policing effort once people were inside the building. It was much easier for him to police the taproom license. Mr. Baeurle said the uniqueness and the value of the license was something he wanted to preserve and he wanted the ability to pursue the concept he proposed that would be unique to the site. He claimed there was a hardship created by the fact that he could possibly move across the street something other than a taproom on/off. But if he would move it, because it was specific to the property, he would lose those grandfathered rights as well.

Mr. Clifton noted that Council just approved the sale of alcohol for a restaurant in the Shoppes at Louviers and it was a very restricted license for hours of operations. He asked Mr. Baeurle if he would consider hours of operation restrictions, keg restrictions, etc. Mr. Baeurle said because of the nature of what he was presenting, he did not know what the hours of operation would be and he would not want to give anything up in terms of the value of the license itself. He did not have an issue with the keg restriction.

Mr. Markham asked if he would agree to restricting it to wine sales only. Mr. Baeurle claimed the nature of the license he currently had permitted him to serve a variety of things and he would like to keep that. He reiterated that he was asking Council to do what the state did and that was to give him a two-year extension on his license. He pointed out that the process of the project has taken longer than anticipated and he planned to be in the retail space well before the December anniversary date.

Mr. Clifton said the "upscale" proposal was an attempt to appeal to people that were of the age of those present at the meeting and he thought it was unlikely that he would attend a wine tasting event at 11:00 pm on a Thursday night. He thought the hours should fit the market if this were to go forward.

Mr. Baeurle said he was seeking to extend the current taproom license he now had, and he would not want to devalue the license. He thought that was asking a lot, but he would do what he had to do to work with the community. However, he thought the 13 years he operated the Stone Balloon demonstrated that he operated it in a legal manner. He would like to receive some capital for that. He would not want to devalue the license just because he needed time to get the wine shop opened.

Mr. Athey thought it sounded like Mr. Baeurle's concern was the devalue of the license. He asked if he understood the license could be for any establishment as long as it was operated at the same location regardless of the owner. Mr. Clifton asked if a restriction on the hours of operation would devalue the license, to which Mr. Baeurle said it would devalue any license. He added that had he known 2-1/2 years ago when this process first started that he would be facing this deadline, he would have come before Council sooner. He hoped the City would concur with the state and grant the extension.

Mr. Clifton said he was well aware that the Stone Balloon was run very well under Mr. Baeurle. That being said, he gave a few examples of people telling Council they were going to have an upscale restaurant that would appeal to the 25 to 45 year crowd—told by Timothy's who lost their liquor license for 45 days after selling liquor to minors. Shaggy's claimed to be an upscale restaurant and there have been policing issues in the parking lot from patrons at Shaggy's. In many cases, what Council was told they would get, they don't get. He hoped Mr. Baeurle understood why he was gun shy at moving forward with this request without something from Mr. Baeurle that perhaps addressed the hours of operation to the crowd he claimed he was appealing to.

Mr. Baeurle said his 13 years was proof of his reputation and capability of running a business in Newark. He claimed the nature of a wine bar and how it would be priced and done was different than anything else in the state of Delaware, let alone in Newark. He said he could agree to a sunset provision and once he proved what it was he wanted to do, he would then be able to come back to Council and ask to be open to 1 am. He could not just give up two hours of operation forever.

Mr. Pomeroy thought the proposal was very unique and it would not be out of the realm of possibility that friends of his would go there after dinner at 11 pm. He thought the concept was needed and would diversify options on Main Street. He would have liked to have had this conversation when there was a concrete plan, and he did not want to penalize Mr. Baeurle arbitrarily for a concept because he did not have an agreement with an occupant. He respected Mr. Clifton's concern about what has happened in the past and asked if there was some way they could meet half way.

Mr. Baeurle pointed out that the space was 3,000 sq. ft. and the Stone Balloon was in excess of 10,000 ft. in terms of the number of people the wine bar would be accommodating. He reiterated that it would not be fair to ask him to restrict his hours.

The chair opened the discussion to the public.

Jean White, 103 Radcliffe Drive, opposed the grandfathering of the license. She gave a brief presentation on the Mayor's Alcohol Commission that was established about five years ago, made up of different constituencies that came up with a number of recommendations. One was that taprooms be eliminated in the City of Newark. At that time the Stone Balloon was the only establishment that held such a license. It was clear to her that Council was not interested in perpetuating taprooms at that time. She questioned why Council would now want to continue with the grandfathering of the taproom license. She would prefer that it not be continued and that Mr. Baeurle be required to apply for a special use permit to sell alcohol and then conditions could be put on the permit, if approved by Council.

Ms. White thought the wine tasting concept sounded very high class but she questioned how much wine was given per tasting and would there also be beer, cognac and other products to taste. She reminded Council that there would probably be no food to go along with the alcohol. She also pointed out that beer only had 4% alcohol but wine had 12%. Her other concern was what would happen if the taproom license was transferred to someone else who wasn't as conscientious as Mr. Baeurle. The next person could have a bar that served no food or they could add a liquor store. She thought the Shaggy's situation was different because it was a restaurant serving alcohol and restaurants were permitted. In this case, taprooms were no longer allowed in the City.

Francis Hart, 257 W. Main Street, stated that Mr. Baeurle has come once again to Council to ask for a change to the City Code. He has asked twice before asking for a change so he could have 54 condominium units, not the 27 units recommended by the Planning Department. He came again because the underground parking garage would have been flooded; however, he did not offer to cut back on the number of units and now the building was more bulky than originally planned. Now he wanted the City to allow him to have a taproom on/off license with the possibility of acoustical music. She thought if Council approved his request his next step might be a nightclub. She believed Mr. Baeurle continues to push. She concluded by saying Mr. Baeurle did not live in Newark and only wanted to make money. She asked Council to please stop him.

Patrick Hart, 257 W. Main Street, said he visited a lot of wine bars in London, Madrid, and Paris and they were very popular, but they very much a drinking thing. When he thought of wine testing, he thought of the Chadds Ford Winery where you taste some wine and then buy a bottle of wine during very limited hours. He thought to call Mr. Baeurle's project wine tasting raised a big red flag and "did not meet the smell test." He noted that wine had a tremendous mark up and understood why Mr. Baeurle would want a wine bar in Newark. The wine bars in Europe were usually small, about 500 sq. ft. He stressed that alcohol contributed to crime and Newark was having a crime wave. He would personally like to see the City solve the crime problem before continuing on the road to making Newark Dewey Beach 12 months of the year. Mr. Hart, said some of the worse crimes were committed by people over 21.

Catherine Ciferni, 334 E. Main Street, did not have a problem with the concept, but she did not see a market for that type of business on Main Street. She was also concerned that there were no guarantees from Mr. Baeurle that it would be wine tasting.

Mr. Baeurle said he had no intention of having another nightclub. He hoped that his 13 years experience would be enough for Council to approve his request. The thought that he would have a nightclub never entered his mind and the future tenants of the complex would have a real problem with it.

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

Mr. Markham asked if anything else had changed other than time that required Mr. Baeurle to come before Council. He was told nothing had changed.

Mr. Lopata interjected that it was well within Council's power to add conditions if Council was so inclined to approve the request. One of his concerns was the open-ended nature of the existing license. Mr. Baeurle has an unusual license that gives him the right to have a package store and to sell and serve all different types of alcohol, not just wine. Council may want to consider since his proposal was for wine tasting, to restrict the license to wine and beer. He realized that would devalue the license but Mr. Baeurle was asking for an extension of a license that was about to run out if Council did not approve his request. He thought that restriction would keep the site from being a bar with a package store. He noted that he has been in a wine bar in Baltimore and thought it was a fantastic concept if managed correctly. He thought it would appeal to adults and would fit in nicely with the proposed project. The wine bar he visited had cheeses and hors d'oeuvres and all sorts of wine that you could purchase and take home with you. He thought Council needed to address the hard liquor issue to keep this from becoming a taproom.

Mr. Tuttle said his concern was more with the nature of the establishment and not with the hours. He liked the concept and thought it would be unique on Main Street and hoped to find a way to do it within the constraints that Council and the citizens felt was workable. He asked Mr. Baeurle if he would be amenable to coming back to Council at the December meeting with a proposed set of conditions that might frame the proposal the way it was described so that a subsequent buyer would have the same thing.

Mr. Baeurle suggested coming back in January since December looked like a very busy meeting. He had plenty of time in terms of the facility being up and running (8 months to a year). He asked if Council could extend the license for 60 days or until a Council meeting in January. Mr. Baeurle thought he may run into a state issue if the products were restricted with respect to the off-premise part of the license. Mr. Funk did not think Mr. Baeurle was correct. Mr. Baeurle agreed to come back with concrete plans and reminded Council they put no restrictions on the extension of Shaggy's license. Mr. Funk pointed out that they have a different license.

Mr. Athey advised that he had very little problems with the proposal. His concern was getting burned in the future and therefore looked forward to what restrictions might be proposed.

Mr. Clifton acknowledged that Mr. Baeurle was a responsible business owner with the Stone Balloon and he hoped the public understood that. He reminded everyone that anything Council did, they could undo. He gave as examples, Pat's and Home Grown who were grandfathered to only serve alcohol to 12 pm. Council lifted that restriction and now allowed them to serve alcohol to 1 am. They were two business owners that gave the City exactly what it was looking for and they control their businesses. He thought Iron Hill Brewery was another good example of a nice restaurant where people don't hang out and get drunk because patrons were buying a quality specialty beer, which was what he thought Mr. Baeurle was wanting to get into. Caffe Gelato was another good example of an upscale restaurant with an upscale crowd.

Mr. Clifton thought this was a tough one for him because the City controlled zoning, not alcohol. He agreed with Mr. Lopata and some of the speakers that it was important to know that what Mr. Baeurle was saying was what the City would get, but get in perpetuity until it was sold. At that point the new owner could come back to Council and ask for restrictions to be lifted.

Mr. Pomeroy said he endorsed extending the license 60 days so they could review it again in January. He asked if Council would have more information in January to be able to make a good decision at that time. Mr. Baeurle said he

apologized for coming to Council less prepared than he should have been and based on what Council did for Shaggy's he assumed his request would not be an issue. He was more than willing to come back in January and outline his plan in much greater detail.

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT COUNCIL AUTHORIZE A 60-DAY EXTENSION.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(This will be reconsidered at the January 22, 2007 meeting.)

24. <u>8. ORDINANCES FOR FIRST READING</u>:

A. Bill 06-36- An Ordinance Amending Ch. 16, Garbage, Refuse & Weeds, By Banning Yard Waste from the Refuse Collection Program in the City of Newark

Mr. Luft read Bill 06-36 by title only.

Mr. Funk noted that the ordinance contained no fines and asked what the fine would be if someone violated the restriction. Mr. Luft explained that there was a section in Ch. 16 that included the fines.

MOTION BY MR. OSBORNE, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 06-36.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 12/11/06)

Mr. Pomeroy asked if the state lifted their ban, would the City proceed to which Mr. Funk said yes.

25. 8-B. BILL 06-37 - AN ORDINANCE AMENDING CH. 2, ADMINISTRATION, BY REVISING THE PAY PLAN FOR MANAGEMENT EMPLOYEES, EFFECTIVE APRIL 1, 2006

Mr. Luft read Bill 06-37 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON THAT THIS BE THE FIRST READING OF BILL 06-37.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 12/11/06)

26. 8-C. BILL 06-38 - AN ORDINANCE AMENDING CH. 32, BY REVISING THE NOTIFICATION REQUIREMENTS FOR SPECIAL USE PERMITS

Mr. Luft read Bill 06-38 by title only.

MOTION BY MR. OSBORNE, SECONDED BY MR. POMEROY: THAT THIS BE THE FIRST READING OF BILL 06-38.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 1/08/07)

27. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members: None

28. 9-B. COMMITTEES, BOARDS & COMMISSIONS:

1. Planning Commission Minutes of November 8, 2006

MOTION BY MR. OSBORNE, SECONDED BY MR. CLIFTON: THAT THE PLANNING COMMISSION MINUTES OF NOVEMBER 8, 2006 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

29. 9-B-2. COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE RECOMMENDATION TO AMEND THE 32ND YEAR CDBG BUDGET

Mr. Luft referred to Mr. Fortner's memorandum to the City Manager, dated November 9, 2006, wherein the CDRS Advisory Committee recommended the 32nd year budget be amended to allocate additional funds from program income generated by loan repayments. Specifically, the County notified the Planning Department that Newark's allocation for the 32rd CDBG budget was $431,003.24. Last year the Committee used $344,053 as its planning figure to develop its recommendation to Council. As a result, there was a surplus of $86,950.24.

The Committee recommended funding proposals submitted for the 33rd CDBG program year that have an urgent need for funding. The projects included:

1. Pool Filtration Systems at Dickey and Wilson Parks	$ 24,000.00
2. Rehabilitation at Independence Circle	$ 30,000.00
3. Newark's Relocation Program	$ 29,565.20
4. Façade Improvement Program	$ 3,385.04
TOTAL	**$86,950.24**

In addition to the above recommendation, because the Wilson Center wall rehabilitation was completed with $1,180.01 remaining in the allocation, the Committee recommended transferring the remaining balance to the Wilson Center sidewalk improvement project.

Mr. Markham asked if the façade improvement program had any relationship to the workshop and discussion about improving abandoned buildings on Main Street.. Mr. Fortner explained that the program was for downtown for very small projects such as a sign, awning, etc.

Mr. Clifton commented on the Newark Housing Authority's request for $151,500 for the rehabilitation at Independence Circle. The Committee recommended $30,000 bringing the total allocation of the project to $50,000. He

questioned if HUD was paying the remaining part of their request. Mr. Fortner said there was no plan but they could apply for money elsewhere and apply again next year for additional money. Mr. Clifton was glad the City was a partner in maintaining the homes on Independence Circle and hoped the City would take a stronger role in that.

Mr. Osborne asked if the City had any obligation to use CDBG funds for the Newark Housing Authority. Mr. Fortner explained that the funds were to be used to help low and moderate income families and since people who lived in housing authorities tended to be the poorest residents, it was appropriate to give them the funds. Mr. Osborne said he questioned that because he knew that type of housing was needed and the City relied mostly on the Newark Housing Authority to provide that, but the City has very little control over what they did to provide low income housing for the residents. He advised he received a notice in the mail that the YWCA was opening a project just outside the City for the same kind of thing as the YWCA Micro-enterprise in the College Square Shopping Center. He asked if that would be a conflict of interest since the two locations would be so close together.

Mr. Fortner noted that they also had a store in Wilmington. He emphasized that the funding was helping the people who were getting training at the facility. Mr. Fortner said he would look into it further to find out exactly what they would be doing at the Robscott Building.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE CDRS ADVISORY COMMITTEE RECOMMENDATION TO AMEND THE 32ND YEAR CDBG BUDGET BE APPROVED AS RECOMMENDED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

30. 9-B-3. REQUEST & RECOMMENDATION ON 33RD YEAR COMMUNITY DEVELOPMENT BLOCK GRANT & 2007 REVENUE SHARING PROGRAM

Mr. Luft referred to Mr. Fortner's memorandum to the City Manager, dated November 10, 2006, which included the recommendations for the 33rd year (July 1, 2007 – June 30, 2008) Community Development Block Grant and 2007 (January 1, 2007 – December 31, 2007) Revenue Sharing Programs.

The 33rd year Community Development Block Grant included 13 programs totaling $344,053.00. The Revenue Sharing Program recommended contained 12 programs totally $56,330.00.

Mr. Funk noted that he has stopped in the YWCA Micro-enterprise and has yet to find anybody running a business who lived in Newark, yet the committee recommended giving them $30,000.00.

Mr. Pomeroy pointed out that Homeward Bound requested $5,000.00 and only got a small portion of their request. Mr. Fortner explained that they had a 50% cap on public services and this was the most competitive bracket. Mr. Pomeroy thought the Homeward Bound (Emmaus House) program was a uniquely Newark avenue for people to go to for support. He felt their request was relatively minor and questioned if there just wasn't enough money to go around or did they have to compete with other organizations that served the same needs in Newark that he might not be aware of.

Mr. Fortner agreed that it was a great organization and they were the only homeless shelter in Newark and served a great need but they did not serve a broader population. He assured Council that the Committee looked at each request thoroughly.

Mr. Clifton said he was glad Mr. Pomeroy brought this up because he wasn't going to bring it up because he was on the Board of the Emmaus House. He questioned what Mr. Fortner meant by a broader population because they not only took in women with children but also men with children. The Emmaus House expanded their program to also include eight and nine months for length of stay. They also just got done with their capital expansion program which was $915,000. He did not know how much more broad base they could possibly be. He claimed the amount the City gave them each year was brought up to him from time to time especially when you compare it to what other agencies received. The Emmaus House brings people in to assist their clients in life skills such as balancing a checkbook, how to do a resume, how to conduct themselves in an interview, etc. Its purpose was not just to give them a temporary place to live, but to give them the tools to live their life by.

Mr. Pomeroy said he was not pointing fault at anybody at the City, but because the service provided by Homeward Bound was not provided in the city structure, they were the first best option that the City would refer people towards. He really felt it was a small amount of money for what they do. He also thought the Emmaus House had a primarily Newark audience to which Mr. Clifton said it was definitely not exclusive to Newark. Mr. Pomeroy said he did not want to rock the boat and appreciated the committee's recommendation but wondered if there was anyway to add to that program.

Mr. Lopata interjected that it might be helpful if Council was given a summary of all the funds that have been given to the Emmaus House over the years. He added that the City has always been a strong supporter of their program.

Mr. Fortner said that money could be taken from the agencies listed on page two of Attachment 2 or on page nine of Attachment 4 if Council wanted to make a change to the committee's recommendation. He also reiterated that Federal regulations required that only 15% of Community Development funds could be used for activities defined by HUD as public service programs. Therefore, $51,607 was allocated and Homeward Bound fell into that category.

Mr. Tuttle said he appreciated the work done by the Committee and he believed a lot of thought was given to the recommendation. He pointed out that the Newark Day Nursery (which was greatly needed) received 100% of what they asked for. He thought they could move a small amount (i.e. $1,000) from them to the Homeward Bound and asked if any thought was given to that.

Mr. Fortner said the Committee really supported the Newark Day Nursery and felt they spent their money well. They believed daycare was important in the community. He reminded Council that the committee offered their recommendation but Council could change it anyway they wanted to.

Mr. Pomeroy said he could not endorse taking money away from the Newark Day Nursery or UD-Early Learning. He thought the only program he would consider taking money from was the Parks Department Youth Beautification Corps. Mr. Fortner felt there was more flexibility with the revenue sharing programs if Council wanted to move any money around to give Homeward Bound a higher or full funding.

Mr. Pomeroy felt that every organization listed literally needed every dollar the committee recommended to give to them so he really had a problem taking money away from anyone other than one of the programs associated with the City. He questioned whether the fee assistance program in the Parks Department has been used in the past ($1,000.00 was recommended for this program). Mr. Fortner said it has been used and was considered a good program. Mr. Pomeroy said he would only support taking money from the two City programs and would not agree to taking money away from another organization.

Mr. Clifton reiterated that the Emmaus House appreciated the City's support, and every couple of years they have spirited conversations much like the current conversation. He acknowledged that the Newark Day Nursery was just as important as the other services and that was what made it so difficult. He had a lot of respect for the members on the committee that truly understood the Newark community when they make their recommendations.

Mr. Markham referred to the Newark Area Welfare Emergency Cash and Food Assistance program and the reference made to their concern that the Hudson State Service Center may not be doing an efficient job in referring Newarkers for service. He asked if the City was initiating any action with the Hudson Center to make sure they were making sure the money was used. Mr. Fortner advised that on December 4th he would be meeting with the Newark Area Welfare to discuss this further.

Mr. Markham made note that the Lutheran Community Services was mentioned a few times in the report, and asked if they were receiving any funds. Mr. Fortner explained that they were an umbrella program for the Main Towers Groceries for seniors.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

31. <u>9-B-4. APPOINTMENT TO DOWNTOWN NEWARK PARTNERSHIP</u>

MOTION BY MR. FUNK, SECONDED BY MR. CLIFTON: THAT DR. FRED J. DEMICCO BE APPOINTED AS THE REPRESENTATIVE OF THE UNIVERSITY'S DEPARTMENT OF HOTEL, RESTAURANT & INSTITUTIONAL MANAGEMENT ON THE DOWNTOWN NEWARK PARTNERSHIP; SAID TERM TO EXPIRE SEPTEMBER JULY, 2009.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

32. <u>9-C. OTHERS</u>: None

33. <u>10. SPECIAL DEPARTMENTAL REPORTS</u>:

A. Special Reports from Manager & Staff:

1. Pension Plan Performance Report – 1st, 2nd, 3rd Quarter, 2006

Mr. Funk asked why was 43% invested in bonds. Mr. Zusag explained that up until 1993 there was 100% invested in bonds. In 1993 the pension plan became diversified to 30% stocks and 70% bonds and gradually went to the 43% bonds and 57% stocks.

Mr. Pomeroy asked how often the performances were reviewed of those responsible for administrative expenses. Mr. Zusag said the administrative expenses were less than 15 and their performance was reviewed on a constant basis.

MOTION BY MR. OSBORNE, SECONDED BY MR. MARKHAM: THAT THE PENSION PLAN PERFORMANCE REPORT – 1ST, 2ND AND 3RD QUARTERS, 2006 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

34. 10-A-2. RATIFICATION OF FOP LABOR CONTRACT

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT COUNCIL APPROVE THE RATIFICATION OF THE FOP LABOR CONTRACT AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

35. 10-B. ALDERMAN'S REPORT

MOTION BY MR. OSBORNE, SECONDED BY MR. ATHEY: THAT THE ALDERMAN'S REPORT DATED NOVEMBER 21, 2006 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

36. 10-C. FINANCIAL STATEMENT

Mr. Funk said he was still confused as to why the City was over budget for the Legislative Department under contractual services. Mr. Luft said he advised that the amount that was over was actually over the allotment for the nine-month period but not over the budget. However, that was the case for the last financial statement. Ms. Garriz advised that the contractual services went over budget at the end of October due to legal fees.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE FINANCIAL STATEMENT ENDING OCTOBER 31, 2006 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

37. 10-D. REQUEST FOR EXECUTIVE SESSION RE PENDING LITIGATION (DURKIN V. NEWARK)

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Council entered into Executive Session at 10:01 pm and returned to the table at 10:51 pm. Mr. Funk announced that there was no action required as a result of the Executive Session.

38. Meeting adjourned at 10:53 pm.

Susan A. Lamblack, MMC
City Secretary

/pmf