

**CITY OF NEWARK  
DELAWARE  
COUNCIL MEETING MINUTES**

**November 24, 2008**

Those present at 7:30 pm:

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

Staff Members: City Manager Kyle Sonnenberg  
City Secretary Patricia M. Fogg  
City Solicitor Roger A. Akin  
Chief Paul Tiernan  
Assistant to the City Manager Carol S. Houck  
Assistant to the City Manager Charles Zusag  
Finance Director Dennis McFarland  
Planning & Development Director Roy H. Lopata  
Assistant P&D Director Maureen Feeney Roser  
Public Works Director Richard M. Lapointe  
Water & Waste Water Director Roy A. Simonson

---

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

2. MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT THE AGENDA BE AMENDED BY MOVING ITEM 1-B, CANCELLATION OF DECEMBER 22, 2008 REGULAR COUNCIL MEETING, TO BE HEARD AFTER ITEM 4-A, 2009 GENERAL OPERATING BUDGET DISCUSSION.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL**  
A. Regular Council Meeting of November 10, 2008

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

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

Carla Grygiel, Executive Director of the Newark Senior Center, explained that it was the first and only accredited senior center in Delaware, and only 146 accredited centers existed in the country. She felt the center was a valuable resource to the Newark community and detailed the services provided to its 4,000 members. She noted that it had always been a priority for the Senior Center to maintain a diverse funding stream, and their mission was fulfilled with a combination of funding from grants, fund-raising efforts, service fees, donations, and support from individuals. Historically they received support from the City in

the form of a subvention, and she hoped that assistance would continue. She reported that in the 1960's the City made up approximately 20% of the center's budget. When they moved to their new facility about 12 years ago, the amount of the subvention was about \$46,000. As of the last fiscal year, it was about \$50,000, or approximately 2% of the budget. As a comparison, the state funding for the Senior Center had been about 60% of their budget, and was currently 16%. In the past, the center had to come up with about 20% of their budget independently and this percentage was now more in the range of 80%. According to Ms. Grygiel, the programs and services at the center have grown dramatically, and their budget rose from about \$1 million to \$2 million. Mr. Funk approached Ms. Grygiel about the possibility of having the center administer the energy assistance program being considered by the City. Ms. Grygiel said the center currently assisted with a number of programs, and Social Services Director, Lee Perkins, had prior experience with the Delaware Energy Assistance Programs and with many other energy assistance programs as a former Delmarva employee. The center was willing to provide this service to the community if it would benefit the City. Ms. Grygiel said she was very grateful for the support and funding received from the City, and on behalf of the members and Board of Directors, she asked Council to consider increasing the funding appropriated to the center in the future.

Mr. Funk said in his experience as a member of the Board for over 23 years, he felt the Newark Senior Center was the best in the country and was amazed at what they did with the small amount of money they had to work with.

Mr. Clifton agreed the citizens of Newark got a huge return for the level of funding provided by the City. He noted that the services the City received from organizations such as the Senior Center and Aetna Fire Company would cost a great deal more if they had to be administered by the City.

Mr. Pomeroy noted that in this year's budget, Aetna would receive a small increase and agreed the City reaped many benefits from the programs of both organizations.

**5. 3-B. UNIVERSITY**

1. Administration - None

**6. 3-B-2. STUDENT BODY REPRESENTATIVE**

Colin Craft, Student Government Association member, reported that in the spirit of Thanksgiving, food drives were tremendously successful at the University.

**7. 3-C. COUNCIL MEMBERS**

Mr. Clifton thanked Ms. Houck and Mr. McFarland for their participation in a meeting with Fountainview residents to discuss water billing. After considering the available options, it was voted to continue having the management company do the billing.

8. Mr. Clifton asked Mr. Sonnenberg to explore adding a notice to utility bills providing contact information for a non-profit helpline to assist property owners who might be in danger of losing their home to foreclosure.

9. In regard to the budget, Mr. Clifton felt the City was trying to work on a budget without having a vision or long-term strategic planning. He suggested having a workshop before mid-year with a visioning strategy session to explore long-term needs such as replacements to the City's infrastructure. Mr. Athey and Mr. Pomeroy suggested having such workshops earlier, perhaps in a mid-February/March time frame.

**10.** Mr. Pomeroy commented that he saw a newspaper ad offering a rental unit at the Washington House, and he questioned how this was being monitored by the City. Mr. Lopata recalled that 10% of the units could be rental units, and there was a rental restriction on the number of tenants. He said the hope was this would be self-enforcing as owner occupants would not want an over-abundance of renters, and the Building Department was also following the situation. Mr. Akin added there was a provision in the subdivision agreement requiring the developers to provide regular reports to the City.

**11.** Mr. Pomeroy visited Columbia, South Carolina, home of the University of South Carolina, where the Inavista project was implemented. Mr. Pomeroy said Inavista was one of the most innovative projects he had seen and combined municipal and University involvement as it related to revitalization and planning beyond the traditional economic development framework. He reported that the Greater Newark Network hoped to bring a group to Newark to discuss the program as it related to the City.

**12.** Mr. Pomeroy was pleased to learn that a group of UD students acted as first responders in providing assistance to a person in distress. He thought their involvement was noteworthy and demonstrated the strong character of students and their contribution to the community.

**13.** Mr. Markham thanked Ms. Houck for publicizing information about digital television conversion and suggested the Senior Center provide information on the changeover as well.

**14.** Mr. Markham received requests that the City practice austerity measures during the holiday season and turn off the holiday lights earlier this year.

**15.** Mr. Markham mentioned the student safety walk-thru on campus and said outages could be reported to the Electric Department by providing the number on a pole light.

**16.** Mr. Tuttle said foreclosures were a major topic discussed at the National League of Cities in the University Communities Council Steering Committee meeting. There was a consensus that university communities may find themselves better positioned to resist market effects regarding foreclosures and abandoned properties. He said when discussing the costs of having a university in the community, he felt it was helpful to remember there were also benefits which were sometimes hard to quantify.

**17.** Mr. Tuttle applauded the work of the Newark Police Department in apprehending a group of burglars from Maryland.

**18.** Mr. Temko thanked Mr. McFarland for his participation in the West Newark Civic League budget meeting.

**19.** Mr. Temko referenced the conservation report compiled by Ms. Houck and requested Council to provide their comments by the next meeting for future discussion.

**20.** Mr. Temko thanked Ms. Grygiel for attending the meeting and felt the City should support non-profits in the community. He hoped Council could discuss ways to partner with them since they provided vital services and often worked with inadequate funding.

**21.** Mr. Athey felt quarterly meetings might be needed for the foreseeable future for budget discussions. Messrs. Funk and Athey suggested effective in the next calendar year moving the Financial Statement (Item 10-C) up on the agenda since it was an important item to be left to later discussion.

22. Mr. Athey attended the Downtown Newark Partnership's 10<sup>th</sup> Anniversary celebration and congratulated Ms. Roser on the great work being done by the organization.

23. Messrs. Athey and Clifton attended the Delaware League of Local Government meeting. Mr. Athey noted that one of the small towns said 50% of their revenue resulted from the rise in transfer taxes.

24. Mr. Athey thanked Mr. Lopata and Ms. Roser for their efforts on the Comprehensive Plan and noted that the plan has officially been accepted by the Governor.

25. Mr. Athey complimented Mr. McFarland on his efforts in the budget process.

26. Mr. Funk recognized the Parks & Recreation Department for the success of the Turkey Trot which was very well attended in spite of very cold and windy weather.

27. **ITEMS NOT FINISHED AT PREVIOUS MEETING**

A. 2009 General Operating Budget Discussion

Mr. McFarland reported that staff recommended a decrease in the transfer tax revenue estimate by \$270,000.

Chief Tiernan was asked to comment on the need for five additional police officers. He said when he arrived in Newark in September, 2007, there was a significant street crime problem with a number of home invasions. At that time, staffing options were limited, and special enforcement officers for alcohol were pulled to work on street crime. The Traffic Division was upgraded over the year. Another crime problem was anticipated with the return of the University students in the fall, and a crime suppression plan was put in place with all available personnel assigned to work downtown. They were successful with solving street robberies, and then the home invasion robberies occurred. Chief Tiernan said the scope of the drug problem was not realized, and they had to pull detectives in to assist. He noted that the department had the same number of detectives since 1968, which was a very small unit, and they often worked 36-40 hours straight solving crimes. Chief Tiernan was concerned that the department was forced to play the "shell" game due to limited resources, with available personnel having to cover the downtown area. This worked out well prior to the Hamm burglars who saw there was a lack of daytime police presence in the neighborhoods, and in that instance, he felt the students were kept safe at the expense of the residents.

Chief Tiernan said the department was at the point of being unable to perform adequate alcohol or traffic enforcement. He felt response times were lacking, and the drug trade investigation needed to be stepped up. They had no investigations being conducted into gang intelligence although a few known gang members with guns have been arrested. In May/June there was a two to three day period where about half of the Police Department was stationed outside Newark High School because of assaults and rumored gang activity. Chief Tiernan was concerned about the fatigue factor with the officers and noted that the detective who worked on the student robbery at the Newark Shopping Center worked 24 hours straight before making that arrest. The home invasion robbery also involved many manpower hours. The Traffic Division worked nights and weekends all summer long. Special Ops, who would normally be out every night, had to fill in for shifts being trained or other personnel shortages.

Chief Tiernan hoped to add one person to the Detective Division where they worked complicated cases requiring long, hard hours. Two officers were requested in the Alcohol and Drug Division to work closely with the University. One officer was requested to enhance the Traffic Division where most requests

from Council were for traffic-related issues. One officer was requested to work on Main Street with the businesses, residents, and the University, to make sure the downtown area would stay safe.

Mr. Clifton asked Chief Tiernan to address the report on calls for service and the fact that there were 1,000 fewer calls than last year. Chief Tiernan said the numbers may have dropped, but the actual calls have remained consistent. He explained what was counted as one call for service could involve a number of officers, and there was no way to qualify how many officers were at the call. Also, an accurate overview as to the amount of work was not really provided as the behind-the-scenes manpower was not taken into account. Chief Tiernan said the Police Department was working towards a more accurate documentation of calls for service. Mr. Clifton added that when the street crime initiative works, at that point it becomes non-qualifiable that crime was down.

Mr. Pomeroy asked how the added manpower would empower the department to be more proactive as opposed to reactive on some of the more troubling crime trends. He felt it would be helpful to see the causal link between the increase in officers and their increased ability to be proactive. Chief Tiernan said a lot of the criminal activity resulted from the use of alcohol, and there was currently no one covering alcohol enforcement. He felt in order to be proactive, one or two officers should be dedicated to work with the University Police targeting off-campus underage drinking problems and finding out where drugs were coming from and who was selling them. He said the Criminal Investigation Division was swamped, and with the home invasions, everything else was on hold so they could work on that issue. Chief Tiernan reported it was fortunate that the clearance rate was higher than the national average, and thought the word was out that if a crime was committed in Newark, the responsible party would be arrested. He added that the fatigue factor of the officers was a big area of concern.

Mr. Pomeroy reported he was asked by constituents why the City needed to add officers since the University was adding officers. Chief Tiernan said while the University added a number of officers, they had many of their own issues to handle. For example, on a typical weekend night they provide off-campus escorts, and sometimes students wait an hour or two for an escort. He explained that the University Police were not experienced with handling residential burglaries and other types of crimes covered by the City's police force. Chief Tiernan felt there was a great partnership between the University and the City police and credited the University police with providing a great deal of assistance in their specific area.

Mr. Markham noted the University Police did not respond to calls in the outlying areas of the City. Mr. Funk said they would respond to emergency calls when asked to do so. He asked Chief Tiernan to comment on statistics. Chief Tiernan shared statistics from a website comparing Newark with New York City and comparing Newark with the national average. Newark was higher than New York City in rapes, burglaries, and theft and higher than the national average in assaults and burglaries.

Mr. Tuttle appreciated the comparisons with the crime rates nationally and in New York City but asked how the City compared to other towns more similar to Newark. Chief Tiernan had a list of University towns and the number of municipal police, but thought Council would also need to know University police staffing and population figures. Mr. Tuttle thought it would be interesting to see what Newark's citizens were getting in terms of protective services, and he thought that would prove to be a pretty good deal. Chief Tiernan noted when making comparisons, the location of a city had to be taken into account, and Newark was considered to be in a high-risk area with its proximity to New York City and Washington, D. C.

Mr. Temko asked Chief Tiernan to address what impact the additional police officers would have on neighborhood crimes. Chief Tiernan said most of the street crime occurred in the downtown area. The CID officers were trying to get more intelligence on burglars, and were seeing more gang activity. He hoped to get more counter intelligence and said people with drug problems needed money for drugs and that was why they committed the burglaries. Mr. Temko said prior to the meeting, he was not prepared to support any additional police officers. However, he appreciated the Chief's comments and requested written background information for his reference.

Mr. Tuttle commented that with the revision in the estimate for the transfer tax, the funding that would have supported the police staff was largely eaten up.

Mr. Temko's impression was that the alcohol problem with Main Street businesses was less significant now than it was several years ago. Mr. Temko asked for comments on the victims support officer and his/her workload. Chief Tiernan said the position was paid for by a grant. Mr. Athey understood that the federal funds for victim support would soon dry up, and cities needed to demonstrate their own funding mechanism to keep that position. Mr. Temko thought a transition plan was needed for the City to fund the position, or it would not be approved in the future. Chief Tiernan said it was almost guaranteed through next year.

MOTION BY MR. ATHEY, SECONDED BY MR. TEMKO: TO SUSPEND THE RULES TO OPEN THE DISCUSSION TO THE PUBLIC.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

The Chair opened the discussion to the public.

Donna Means, 40 Fremont Road, said an increase in taxes and water rates would be difficult for people to handle in current times. While she understood the alcohol problem, she felt binge drinking among students would continue regardless of how many police officers were added. Based on the economy, she objected to developing Curtis Paper Mill into a park as she felt the City had an adequate number of parks. Mr. Markham replied that the Paper Mill site was a brownfield site and the plan involved capping and enclosing a contaminated area. Further, the expense would be a one-time charge and it did that was reimbursable from the state. Mrs. Means said if funding was provided, she did not have a problem with the plan.

David Stockman, 227 Orchard Road, noticed the change in the nature and location of crimes in the City and said the public safety issue should be a priority. He felt Chief Tiernan was extremely competent and trusted his recommendation on adding five new police officers. Although he was sympathetic to the bad economy, Mr. Stockman thought safety was not negotiable and that the requested property tax increase was reasonable.

Tim Spaulding, 329 Orchard Road, supported an increase of five new police officers and thought crime prevention should be the City's top priority. He experienced a mugging and said crime of that type changed the tenor of a neighborhood. He urged the City to take the increase in violent crimes seriously and was concerned to hear about the Police Department playing the "shell" game due to inadequate staffing. He felt that created a dangerous situation which criminals would use to their advantage.

J. P. Laurenceau, 216 Orchard Road, believed that Chief Tiernan's recommendations should be taken seriously. He stated that serious crimes involving guns were up 3% which was very disturbing to him. He was concerned

with the increase in gang presence, and said that situation would be hard to control once it took root. He felt the City should not expect the Police Department to continue working long hours and taking time from their personal lives to protect the residents, as this practice would eventually have a negative impact. He felt living in Newark was a bargain and that a property tax increase would be cheaper than vandalism costs were to his home and property in the past year.

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

Mr. Athey said from his perspective and comments from his constituents, other cities were proposing drastic cuts, but he did not feel the City was in that situation. He thought certain areas needed to be looked at, perhaps increasing Parks & Recreation activity fees, and felt Council needed to visibly demonstrate an attempt to get things on the table and make a decision to cut or not cut, to show they have evaluated and broadened all alternatives.

Mr. Temko thought there were a number of options to make sure adequate funding was provided while working towards fiscal health. His proposal was on his website at [www.ezratemko.com](http://www.ezratemko.com). For example instituting a fee for yard waste and grass clippings would raise \$81,000. A one cent property tax increase and a 28% utility rate increase combined with several fees would pay for everything except for the five new proposed police officers. He thought there were ways to make sure tax payers were not impacted. He also thought items including crime and safety needed to be discussed in a more intentional programmatic way.

Mr. Tuttle said the budget needed to be looked at as the beginning of a longer-term process, particularly on the revenue enhancement side. It was essential to find a way to position the City to have a broader stream of revenue options in the future and not just cut expenses. In regard to services, he agreed with Mr. Temko on a fee for collecting grass clippings. He said the City's services were very much appreciated by residents, and the majority of the feedback he received was that, on balance, Newark was a bargain and the character of the community should not be altered in a short-sighted way.

Mr. Markham said the budget process definitely needed to be spread out, although he did not see how a consensus would work even at the next meeting. Residents he heard from said the City was a bargain and preferred a property tax increase rather than increased charges for services. He was leaning toward some combination of service and property tax increase and was concerned about relying so much on the electricity, especially in the current volatile market. He said somehow Council had to determine priorities and how to fund them. Mr. Markham stated that funding the pension fund and the sewer line repair were non-negotiable items.

Mr. Pomeroy felt what annoyed residents the most was a tax increase coming out of the blue and the fact that there was no reversibility once the tax increase went into effect. He thought there was an inherent lack of equity with the tax plan as it was currently proposed and that the residents disproportionately bear the brunt of the pain as opposed to trying to spread this more equitably among all the stakeholders in the community. He added that the budget was not part of a long-term strategy, and it was crucial to strategize in the context of a five-year plan. He felt electric rates as proposed in 2009 would drop. When the 17.5% rate increase became effective in the fall, the plan was to drop it beginning in January, 2009. He suggested that the increase be lowered but not dropped to the floor and that the extra income be used to pay for the obligations currently in the budget. While he did not feel this was a perfect fix, he did feel it was more equitable among all stakeholders. As a cost savings measure, he recommended three officers instead of five. He stressed the importance of planning in the scope of a long-term vision for contingencies as opposed to making eleventh

hour cuts that could substantially impact Newark. With his plan residents would realize a drop in electric rates and the tax increase would be removed, and he thought it would be irresponsible to do otherwise.

Mr. Clifton said he mentioned on a number of occasions that the City was building a house of cards with past budgets that were so bare-boned, they were managed by attrition and other cut backs. As a result, there were services no longer provided by the City, for example the street sweeper used in the neighborhoods. Coupled with current economic issues, he felt the City was now facing the perfect storm.

Mr. Clifton supported the police and was willing to agree to three new officers this year with two added in the future. He was extremely concerned about the appearance of gang activity and the drug issue. As far as crime issues, he said it was time to recognize that Newark was not exempt from serious problems and was located in the worst corridor in the nation. He felt increased police staffing was about maintaining the safety of the community, and the security issues at the City's doorstep needed to be addressed. He noted there were other issues at hand such as the sewer line that were disasters waiting to happen. Mr. Clifton said in the 12 years he has been in the City, no one ever defined for him when there was a good time for a tax increase, and at some point, the City had to move forward. Mr. Clifton fully supported combing through the budget trying to do the best thing for the citizens. He supported Mr. Pomeroy's suggestion about the electric rate but said taxes were deductible, while electric was not. In summation, Mr. Clifton said in this year's budget he wanted at least three new police officers, repairs made to the sewer pipe, and mitigation at the Curtis Paper Mill. Most importantly on the financial side, he said now was probably an ideal time to start putting some money in the pension fund so it would be above 76% funded when the market turned around and in order to maintain the City's bond rating.

Mr. Funk said he was still quite concerned about the revenue figures.

**28. 1-B. CANCELLATION OF DECEMBER 22, 2008 REGULAR COUNCIL MEETING**

---

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: TO RESCHEDULE THE DECEMBER 22, 2008 MEETING TO DECEMBER 15, 2008.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

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

A. Recommendation to Waive the Bidding Requirement and Extend Electric Line Tree Trimming Contract for an Additional Year

Ms. Houck summarized her memo to Council dated November 14, 2008 wherein it was recommended to extend the electric line tree trimming for an additional year. In December, 2007, Council approved a one-year extension at 2006 pricing. The City was again offered the same pricing and a reduction of \$.80 in the fuel escalator charge. In 2006 only one bid was received and that was typical for this contract in the past. She believed only one bid was received since it required a crew and a truck to be in Newark the entire year. Funds will be available from the 2009 Operating Budget in the amount of \$175,000. Ms. Houck advised that fewer electric outages were experienced as a result of the tree trimming and asked that Council authorize an extension with Asplundh Tree Expert Company for an additional year.

Mr. Markham asked the actual expenditure for the service in 2008, and Ms. Houck replied it would be close to \$175,000.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO WAIVE THE BID REQUIREMENT AND EXTEND CONTRACT NO. 06-01 FOR ONE YEAR TO JANUARY, 2010 FOR ASPLUNDH TREE EXPERT COMPANY.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**30. 5-B. RECOMMENDATION TO WAIVE THE BIDDING REQUIREMENT TO RETROFIT REFUSE TRUCK**

Ms. Houck summarized her memo to Council dated November 12, 2008 wherein she explained the request was to retrofit another one-man packer/side loader to make it fully automated. The work was considered proprietary by Labrie and would allow all of the City's automated trucks to be similarly equipped. The cost for the retrofit was \$55,987, and funds were available from two capital projects. She recommended that Council waive the bid process and enter into the agreement with Gran Turk Equipment Company.

Mr. Tuttle asked the projected life of a 2006 truck. Ms. Houck reported the vehicles were normally kept past ten years.

MOTION BY MR. TEMKO, SECONDED BY MR. TUTTLE: TO WAIVE THE BID PROCESS AND AUTHORIZE THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH GRAN TURK EQUIPMENT COMPANY, AN AUTHORIZED LABRIE DEALER, FOR THE RETROFIT OF VEHICLE NO. 409 AT THE TOTAL COST OF \$55,987.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**31. 5-C. RECOMMENDATION ON PHASE III – FINAL DESIGN SERVICES AS ASSOCIATED WITH RFP NO. 06-05 – REPAIR ALTERNATIVES FOR TWO SANITARY SEWER CREEK CROSSINGS**

Ms. Houck summarized her memo to Council dated November 17, 2008 wherein she recommended extending Phase III final design work for the sanitary sewer creek crossings and noted the project had been underway since November, 2006. Phase II services were almost completed and funds remained to use towards Phase III. Funds were available in the capital project totaling \$155,487, and it was recommended to extend Phase III services to Whitman, Requardt and Associates who completed Phase I and II. Mr. Funk asked when the project would go to construction. Mr. Tuttle said the final design was projected for completion in March and construction would begin within four months after the permits were received.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: TO EXTEND PHASE III FINAL DESIGN SERVICES ASSOCIATED WITH RFP NO. 06-05 TO WHITMAN, REQUARDT & ASSOCIATES AT THE TOTAL COST OF \$139,121.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

32. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING**  
None

33. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS**

- A. Request of Hilton Head Investments, LLC, for the Minor Subdivision of 402 South College Avenue in Order to Convert the Existing Single-Family House into Two Semi-Detached Dwellings

MOTION BY MR. TEMKO, SECONDED BY MR. TUTTLE: THAT THE RESOLUTION AND AGREEMENT BE APPROVED AS PRESENTED.

Todd Ladutko, managing member of Frogtown LLC, 1101 Millstone Drive, said when he acquired the property it was a 7-8 bedroom, 4 bath single-family residence in poor condition. The property was zoned RD, and the lot was large enough to be subdivided into two units. The house was not perfectly centered on the lot, and required a variance from the Board of Adjustment in order to preserve the building. The variance was granted, and the project was approved by the Planning Commission. Mr. Ladutko thought it would be more appropriate to convert the existing structure into two units and thereby save the landfill costs.

Each building will have three bedrooms, two bathrooms, off-street parking at the rear of the building and will conform to the Code in terms of size and density. The lot coverage will be 72% open space on Lot 1 and 62% open space on Lot 2.

Mr. Clifton asked Mr. Ladutko what the basis was for the hardship in his appeal to the Board of Adjustment. Mr. Ladutko said the hardship was that the building would have needed to be razed and saving the structure would be a savings of resources and materials.

Mr. Markham asked if there was a restriction on student rentals, and Mr. Ladutko responded there was a restriction of three per unit.

Mr. Clifton questioned a statement in the report to Council where the Planning Commission recommendation approving the subdivision was based on the current zoning and did not imply any support for increased density beyond the two units proposed. Ms. Roser replied that a discussion at the Planning Commission related to plans to re-subdivide, and the Commission wanted to be on the record that they agreed with this subdivision in order to create two lots but would not want to see Mr. Ladutko come back with any further requests.

The Chair opened the discussion to the public.

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

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(RESOLUTION 08-AA)**

34. **7-B. REQUEST OF LOUVIERS FEDERAL CREDIT UNION, FOR THE MINOR SUBDIVISION OF THE 1.0592 ACRE PROPERTY LOCATED AT THE INTERSECTION OF ELKTON AND APPLE ROADS IN ORDER TO CONSTRUCT A TWO-STORY BANK BUILDING WITH A DRIVE-THROUGH SERVICE FACILITY**

(NOTE: The public hearing was held for the minor subdivision and special use permit requested for this property.)

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THE RESOLUTION AND AGREEMENT BE APPROVED AS PRESENTED.

James Everhart, Louviers Federal Credit Union, stated that he was pleased the Credit Union would become part of the Newark business district with the proposed building on Elkton Road.

Com DeAscanis, Civil Engineer from CDA Engineering, made the presentation for the minor subdivision plan to combine three parcels for a 10,900 square foot building and for the special use permit associated with the credit union drive-through facility. They were granted two variances by the Board of Adjustment and worked closely with DeIDOT who was doing a road improvement project along Elkton and Apple Roads. DeIDOT requested a right-of-way and established a five foot permanent easement. As part of their initial planning, they worked with DeIDOT and granted them the land first and then tried to shoehorn things in an already tight site. There were four existing entrances off Elkton Road, and the Credit Union agreed to abandon three of the four entrances along Elkton Road to make it safer. That was why they needed the exit off of Apple Road. They obtained Planning Commission approval and worked closely with Public Works and DeIDOT.

Mr. Temko said while he supported the project, since it was in the Central Business District, he felt it was non-compatible to have a drive-through facility and wondered if that was negotiable for the applicant. Mr. Everhart said it was important for the business to offer drive-through service in order to be competitive and it provided a convenience for the handicapped and for people going to and from work. Mr. Everhart pointed out that the drive through was placed in the back of the building so it was less visible.

In the interest of disclosure, Mr. Markham reported he was a member of Louviers Credit Union. Mr. Markham understood the Credit Union drew customers from a large area around Newark and that was one reason the drive through would be beneficial. Mr. Everhart said they draw from the DuPont Stine Haskell site and also from the Maryland area and welcomed customers who lived, worked, worshipped or went to school in the City of Newark proper. Mr. Markham asked if the Kirkwood Highway location would be closed, and Mr. Everhart responded it would be kept open as a branch. Mr. Everhart reported they were in the bid process and would be hiring all local contractors. Mr. Markham suggested the installation of a bike rack, and Mr. Everhart said one was planned at the front door alongside the handicapped parking area.

Mr. Clifton addressed the Apple Road egress and said he preferred that it be more angled to deter left turns. He was pleased to see that it was an exit only because he could see issues on Apple Road with people wanting to make left turns. Mr. DeAscanis said they will continue working with DeIDOT to make sure the design worked for the Credit Union and also worked to prevent unsafe movements.

Mr. Pomeroy was pleased the project continued the reinvestment in the downtown areas and in Elkton Road which the City was trying to make a priority. He was concerned that the exit coming out on Apple Road was a short distance between the exit and the traffic light. Mr. DeAscanis said at the request of DeIDOT it was a full exit, not solely a right-out exit. Mr. Pomeroy thought a left turn out might present line of site issues and asked if having a right out only was investigated. Mr. DeAscanis said ease of access was important for the Credit Union and their preference was to have a right in and right out. Mr. Pomeroy preferred that option as well. Mr. Lopata said DeIDOT could be advised that the

City preferred a right turn in and out at that location, and he did not anticipate this being a problem with DeIDOT.

The Chair opened the discussion to the public.

Jean White, 103 Radcliffe Drive, said she voiced her disapproval of drive through facilities at the Planning Commission. She preferred to have no entrance or exit on Apple Road and felt the sole exit and entrance should be on Elkton Road. She was particularly concerned that people could make left turns across traffic thereby creating a dangerous situation.

Amy Roe, 19 Sunset Road, was concerned about the drive through and about the exit on Apple Road. She said there had never been an exit on Apple Road from that side of the street and felt it would direct more traffic through her neighborhood.

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

Mr. Temko said he felt the project was one of the better plans brought before Council, but he would not support a drive through in the central downtown district.

Question on the Motion was called

MOTION PASSED. VOTE: 6 to 1.

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

**(RESOLUTION 08–BB)**

**35. 7-C. REQUEST OF LOUVIERS FEDERAL CREDIT UNION, FOR A SPECIAL USE PERMIT FOR A DRIVE-THROUGH FACILITY ASSOCIATED WITH A PROPOSED TWO-STORY BANK FACILITY LOCATED AT THE INTERSECTION OF ELKTON AND APPLE ROADS**

(NOTE: The public hearing was held for the minor subdivision and special use permit requested for this property under Item #34.)

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: THAT THE SPECIAL USE PERMIT BE GRANTED AS REQUESTED.

MOTION PASSED. VOTE: 6 to 1.

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

**36. 8. ORDINANCES FOR FIRST READING**

- A. Bill 08-30 - An Ordinance Amending Ch. 20, Motor Vehicles & Traffic, Schedule IV, By Providing Stop Signs in Both Directions at the Intersection of Devon and Shull Drives and Amending Schedule VI, By Prohibiting Parking During Certain Times at the Apple Road Cul-de-sac

Ms. Fogg read Bill 08-30 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 08-30.

MOTION AS PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(2<sup>ND</sup> READING 1/12/09)**

- 37. 8-B. BILL 08-31 - AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM RM (MULTI-FAMILY DWELLINGS-GARDEN APARTMENTS) AND RS (SINGLE-FAMILY, DETACHED) TO BLR (BUSINESS LIMITED RESIDENTIAL) THE 2.11 ACRE PROPERTIES AT 281-295 NEW LONDON ROAD KNOWN AS CAMPUSSIDE**
- 

Ms. Fogg read Bill 08-31 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. TEMKO: THAT THIS BE THE FIRST READING OF BILL 08-31.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(2<sup>ND</sup> READING 1/12/09)**

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

A. Council Members: None

- 39. 9-B. COMMITTEES, BOARDS & COMMISSIONS**

1. Appointment to Property Maintenance Appeals Board (Mayor's Appointment)

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT KEN FARRALL BE RE-APPOINTED TO THE PROPERTY MAINTENANCE APPEALS BOARD FOR ANOTHER FIVE-YEAR TERM; SAID TERM TO EXPIRE DECEMBER 13, 2013.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

- 40. 9-B-2. APPOINTMENT TO DOWNTOWN NEWARK PARTNERSHIP PARKING COMMITTEE**
- 

MOTION BY MR. POMEROY, SECONDED BY MR MARKHAM: THAT FRED DINGLE BE APPOINTED TO FILL THE VACANCY ON THE DOWNTOWN NEWARK PARTNERSHIP PARKING COMMITTEE; SAID TERM TO EXPIRE JANUARY 11, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

- 41. 9-C. OTHERS**

None

**42. 10. SPECIAL DEPARTMENTAL REPORTS**

A. Special Reports from Manager & Staff:

1. Real Estate Tax Assessment Quarterly Supplemental Roll

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE REAL ESTATE TAX ASSESSMENT QUARTERLY SUPPLEMENTAL ROLL DATED NOVEMBER 14, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**43. 10-B. ALDERMAN'S REPORT**

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**44. 10-C. FINANCIAL STATEMENT**

Mr. McFarland reported that the under-collection from earlier in the summer was being covered with utility revenues. He said if power prices remained where they were today, a little over \$1 million would be made up by year end. This would be a few hundred thousand dollars short of the electric budget, unless power prices dropped substantially over the next two months. That amount was offset by the non-utility revenues where the City experienced a good year from transfer taxes due to some large commercial transactions. It appeared that the expense budget should come in right on top of what was planned. Mr. Funk asked for the figures on the October transfer tax revenue but those figures were not yet available.

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

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**45. Meeting adjourned at 10:10 pm.**

Patricia M. Fogg, CMC  
City Secretary

/av