

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

January 12, 2009

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
Deputy City Solicitor Bruce C. Herron
Assistant to the City Manager Carol S. Houck
Assistant to the City Manager Charles Zusag
Building Director Tom Sciulli
Finance Director Dennis McFarland
Planning Director Roy H. Lopata
Assistant P&D Director Maureen Feeney Roser

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

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

A. Regular Council Meeting of December 8, 2008

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

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

A. Public – There were no comments forthcoming.

4. **3-B. UNIVERSITY**

1. Administration – There were no comments forthcoming.

5. **3-B-2. STUDENT BODY REPRESENTATIVE**

Colin Craft, Student Government Association, reported that the Student Government Association was out for winter session, but would resume activities on February 9th.

6. **3-C. COUNCIL MEMBERS**

Messrs. Athey, Pomeroy, Temko, Tuttle, Markham, Clifton, and Funk joined in wishing a Happy New Year to all and looked forward to a challenging and successful year ahead.

7. Mr. Athey attended the WILMAPCO meeting on 1/8 where he learned they were fully funding the relocation of the Newark Train Station. Council and the University shared the opinion that the train station should not be moved, and considering the tight budget year, Mr. Athey questioned the logic of pursuing that option. Mr. Athey also reported that DelDOT eliminated the funding for the second phase of Elkton Road improvements from Casho Mill Road to the

Maryland State line. A public meeting was tentatively scheduled by WILMAPCO on February 23rd which coincides with a Council meeting. Mr. Athey suggested that Messrs. Lopata and Sonnenberg touch base with WILMAPCO for additional details as to why these decisions were made. He also urged lobbying to get the second phase repair work restored.

8. Mr. Athey felt the audible crosswalk installed at Apple and Elkton Roads was a good step forward.

9. Mr. Temko noted the Traffic Committee meeting would be held on 1/20 at 3:30 p.m. Country Club Drive traffic calming would be discussed, and Corbit Street was on next month's agenda.

10. Mr. Temko reported there would be a discussion on speed cameras at the February 9th meeting because of concerns about speeding on Routes 896 and 273.

11. Mr. Temko thanked Mr. Pomeroy for working on the open government resolution which will be discussed at a future Council meeting.

12. Mr. Temko learned at a DeIDOT workshop that there were potential historic districts in District 1 (Terry Manor) and District 5 (West Main Street/Quality Hill.) Messrs. Temko and Pomeroy asked Mr. Sonnenberg to investigate this further.

13. Mr. Temko issued a reminder that Restaurant Week began on January 19th with additional information available at www.eatdowntownnewark.com.

14. Mr. Tuttle acknowledged this would be a challenging and interesting year as the City worked through resolving its budget woes.

15. Mr. Tuttle extended special commendations to the Police Department for arrests in the street robbery of two students on Haines Street.

16. In light of Restaurant Week, Mr. Markham added that two new restaurants opened recently – Buffalo Wild Wings on Elkton Road and Pinang in the Shoppes of Louviers on Paper Mill Road.

17. Mr. Markham noted with pride that Governor-elect Markell chose the City of Newark for the site of his inauguration on January 20th.

18. Mr. Pomeroy thanked Mr. Temko for bringing up the issue on the historic district and thanked Mr. Sonnenberg for looking into the issue.

19. Messrs. Pomeroy, Clifton and Funk welcomed Robin Brown from the News Journal back to Newark.

20. Mr. Pomeroy thanked the Newark Post for covering the audible crosswalk signal and acknowledging Jack Billingsley for bringing the first such signal in New Castle County to Newark.

21. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING:**

- A. Bill 08-15 – An Ordinance Amending Ch. 2, Administration, Article XIV, Town and Gown Committee, By Changing the Membership of the Committee

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT BILL 08-15 BE LIFTED FROM THE TABLE.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Mr. Temko reported that he met with former Town and Gown Chair Ron Smith to discuss proposed changes to the Committee. Mr. Temko hoped the committee would be action-oriented and that members would be designated by position rather than by specific individuals with an even balance between City, University, resident, and student members.

Mr. Funk said he spoke with Mr. Smith who was comfortable with the membership's composition. Mr. Funk also met with former UD Trustee and T&G member Jim Neal who agreed to chair the Committee. Mr. Funk wanted to pass the ordinance as proposed and let the new Committee come back to Council with their recommendations for any changes. He felt they had to feel comfortable with their role in order to be effective.

Mr. Temko did not see how a University of Delaware Board of Trustees designee fit into the new Committee. He thought the Committee's purpose should be updated and proposed new language toward that end.

Mr. Pomeroy felt the Committee was important to the fabric of Newark and agreed they should be empowered to take ownership of their destiny. Further, he felt the proposed group would be able to take the committee in the right direction and agreed that Mr. Temko's changes should be passed on for their consideration.

Mr. Athey asked by what avenue Jim Neal was being named Chair, and Mr. Funk said under the by-laws he would serve until the Committee held its election. Mr. Athey previously served on Town and Gown, and there was often an issue with getting enough people at the meetings. He therefore felt 13 people would constitute a good working group.

Mr. Temko said having served on the Committee, he thought it would be better to have fewer people and the Committee could easily be pared down to eight members.

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

David Robertson, 15 Center Street, said he was honored to be chosen to serve on the new Town and Gown Committee. Regarding the mix of people, he felt 13 was a much more workable number than the past Committee. He thought it was a good range of people and said what was important was whether people were committed to the process of building a consensus about what needed to be done. He felt it was important for Council to provide direction to the Committee and thought they should get started as soon as possible.

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

Mr. Clifton asked what constituted a quorum for the Committee, and Ms. Fogg said with 13 members, 7 had to be present. Mr. Clifton agreed with Mr. Athey that the chances of getting a quorum were better with 13 members than with 8. He felt opening an avenue of communication was more important than micro managing and it was incumbent to move forward as soon as possible.

Mr. Pomeroy felt the Committee's mission should be open rather than being too specific to allow them the freedom to target initiatives chosen by the group.

Mr. Temko proposed language he developed regarding the Town and Gown's function and agreed to pass the information on to the Committee for their consideration.

Mr. Athey felt the language was too specific and suggested making this an agenda item for a future meeting.

Mr. Clifton felt there was no need to make any changes to the existing function of the Committee in the Code (Chapter 2, Administration, Article XIV, Section 2-165 to 2-167) which he read in its entirety. He thought the Committee should be empowered to do more, not less.

Mr. Temko said when he served on the Committee, there were many times they discussed whether an item they planned to work on was under their purview.

Mr. Markham said after the group had met several times, he would like to find out what they think of the balance of the people on the Committee and whether they have the right mix of people between the University and the City.

Mr. Temko recommended adding a graduate student to the Committee since the University was interested in growing in that field.

Question on the Motion was called.

MOTION PASSED. VOTE: 6 to 1.

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

(ORDINANCE 09-01)

22. 4-B. APPOINTMENTS TO TOWN AND GOWN COMMITTEE

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: TO ACCEPT THE LIST OF APPOINTEES IN MR. FUNK'S MEMO OF OCTOBER 23, 2008 TO SERVE ON THE TOWN AND GOWN COMMITTEE.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

23. 5. RECOMMENDATIONS ON CONTRACTS & BIDS

A. Recommendation to Purchase Two Vehicles from a State of Delaware Awarded Contract

Ms. Houck summarized her memo to Council dated December 16, 2008 wherein it was recommended to purchase two Ford Focus vehicles through the State of Delaware awarded contract from Winner Ford of Cherry Hill, New Jersey, at a total cost of \$24,738. The vehicles were utilized by the Building and Finance Departments. Funds to cover the replacement vehicles were available from the Capital Improvement Program. Mr. Markham asked if a long-term price comparison was done between hybrids and the Focus. Ms. Houck said that could be done in the future. Mr. Clifton said maintenance costs were astronomical for some of the repairs on hybrids, and Ms. Houck agreed that a lot of that information had not yet emerged.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO AUTHORIZE THE PURCHASE OF TWO 2009 FORD FOCUS VEHICLES FROM WINNER FORD OF CHERRY HILL, NEW JERSEY, AT THE TOTAL COST OF \$24,738.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

24. 5-B. RECOMMENDATION FOR CONTRACT NO. 08-09 – PURCHASE OF ONE NEW 55' AERIAL LIFT, UTILITY BODY AND CHASSIS

Ms. Houck summarized her memo to Council dated December 16, 2008 wherein it was recommended to award the contract to Brian Hoskins Ford for a total bid of \$138,600 which included the trade-in. She explained that five sealed bids were received and funds were available from the Capital Program.

MOTION BY MR. TUTTLE, SECONDED BY MR. POMEROY: TO AWARD CONTRACT NO. 08-09 FOR THE PURCHASE OF ONE NEW 55' AERIAL LIFT, UTILITY BODY AND CHASSIS TO BRIAN HOSKINS FORD AT THE TOTAL COST OF \$138,600 INCLUDING THE TRADE-IN.

Mr. Markham asked if all booms were equal. Ms. Houck said the Electric Department was satisfied with this type of Versalift Boom.

Mr. Clifton noted a trade-in was taken on this versus other options such as auctions that could possibly yield additional money. Ms. Houck said the City has typically done better with trade-ins on this type of vehicle where other vehicles might do better at auction. She will explore the possibility of doing on-line auctions in the future.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

25. 5-C. RECOMMENDATION ON RFP NO. 08-02, ENGINEERING SERVICES AND PROJECT MANAGEMENT FOR WATER AND WASTEWATER UTILITIES

Ms. Houck summarized her memo to Council dated December 22, 2008 wherein she noted that twelve sealed proposals were received and reviewed separately by an in-house committee. The committee rankings were combined for each firm in order to arrive at the overall ranking of proposals. She noted the hourly fees for the key personnel categories fell within a common range. Funds to cover the costs associated with the necessary engineering services were included in the Capital Improvement Program. It was recommended that RFP 08-02 be awarded to Pennoni Associates.

Mr. Pomeroy found it curious that the four committee members had a different pick with no consensus on any one firm.

Ms. Houck said the actual number meant less than the fact that the firm was determined to be the highest. Further, each person had their own set of beliefs and understandings, and their rankings were based on the criteria set forth in the RFP. As long as they approached every proposal in the same way, ultimately every firm was given a fair evaluation in deciding the top-ranked firm. This procedure strictly followed the state's RFP guidelines.

Mr. Temko was comfortable that in looking at the Water Department's response, Pennoni was very close to their top selected firm. Mr. Athey agreed.

Mr. Athey said even though his employer (URS) did not submit a proposal, he had a contractual relationship with several of the firms in the past and would thus abstain from voting.

Mr. Markham said it seemed the City was doing a lot with Pennoni, and he would not want the City to become dependent on them. Ms. Houck said it was a large firm with a number of different divisions.

MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT RFP NO. 08-02, ENGINEERING SERVICES AND PROJECT MANAGEMENT FOR WATER AND WASTEWATER UTILITIES, BE AWARDED TO PENNONI ASSOCIATES FOR A TWO-YEAR PERIOD WITH THE OPTION TO RENEW ANNUALLY FOR A PERIOD OF NO MORE THAN FOUR YEARS.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Abstain – Athey.

26. 5-D. PURCHASE OF NEW REFUSE TRUCK

Ms. Houck summarized her memo to Council dated December 31, 2008 wherein it was recommended to replace refuse truck No. 423 based on a 2007 awarded contract. North East International agreed to provide a 2009 model with the same vehicle specifications as outlined in the previous contract. Ms. Houck noted there was a price increase of \$2,700 associated with steel surcharges, and funds were available from the Equipment Replacement Program

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO PURCHASE A 25-CUBIC YARD REAR LOADER REFUSE TRUCK FROM NORTH EAST INTERNATIONAL FOR A TOTAL COST OF \$119,775 BASED ON CONTRACT NO. 07-18.

Mr. Markham asked the age of the current truck, and Ms. Houck replied it was at least 8-10 years old. Mr. Funk said steel was less expensive now than it was in 2007, and he was surprised about the surcharge. Ms. Houck was instructed to ask North East International if they would waive the steel surcharge.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Nay – 0.

27. 5-E. PURCHASE OF REPLACEMENT ELECTRIC METERS

Ms. Houck summarized her memo to Council dated December 31, 2008 wherein it was recommended to authorize the acceptance of 2005 contract pricing for network meters and April, 2008 pricing for residential meters from Rumsey Electric. In 2005 the lowest price bid for network meters was \$90 by Rumsey Electric. Rumsey agreed they would extend the 2005 pricing contingent upon the City purchasing 700 residential radio read meters. Funds were available from the capital project totaling \$70,000. Based on an evaluation of the new price quotes, the cost savings from Rumsey was \$3,998.50.

MOTION BY MR. TEMKO, SECONDED BY MR. MARKHAM: TO PURCHASE REPLACEMENT ELECTRIC METERS FROM RUMSEY ELECTRIC IN ACCORDANCE WITH PREVIOUSLY AWARDED CONTRACT NO. 05-20 AND NEW PRICE QUOTES AT A TOTAL COST OF \$56,440.

Mr. Pomeroy said he would feel more comfortable if Ms. Houck asked Rumsey to match the low bid price. Ms. Houck indicated that she and the Electric Director already reached out to Rumsey in that area. Mr. Markham was more concerned about the manner in which the bid was bundled. Ms. Houck said the other companies were given the same opportunity on their bid. Mr. Tuttle noted the company that was low bid by \$1 on the radio read meters was higher by 50% on the network meters with Rumsey lower by \$4,000 overall. He felt there was no harm in further negotiation and commended Ms. Houck on her efforts.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

28. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING

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. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-30.

Mr. Tuttle explained the changes were recommended by constituents in his district. The Apple Road parking restriction curtailed activity in the area that the neighbors found unacceptable, and the stop signs dealt with a sight-line issue. Mr. Tuttle said it was pointed out that there have been several close calls at the Devon and Shull intersection. This change was consistent with all other stop signs in the vicinity which were four way.

The Chair opened the discussion to the public.

Robert Bruner, S. College Avenue, was concerned that the Apple Road “No Parking” regulation might drive people over to Bradford Lane which ended about 50 feet from the start of the James F. Hall Trail. Mr. Bruner had a house on Bradford and Devon and did not want crowds there. This matter will be forwarded to the Traffic Committee.

There being no further 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.

(ORDINANCE 09-02)

29. 6-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. Ms. Fogg noted that she received emails or telephone calls from Allen Smith, 420 Townsend Road, Gerald Cavall, 4 Bent Lane, Andrew Johnston, 100 West Mill Station Drive, Nancy Eastburn, Country Club Drive and Ruth Callahan, 114 Meriden Drive, in support of the rezoning and subdivision request.

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 08-31.

(Note: The public hearing was held on Item 6-B and 7-A at this time.)

Kevin Mayhew, 103 Elmwood Drive, was the owner of CampusSide and represented the Congo's, who would be the owners of Emily Bell Place. Two additional units were being added to the back four pack and four more would be added on the new Emily Bell Lane on the left-side. These units would become part of CampusSide. The other tax parcel would contain ten units that would become Emily Bell Place.

Mr. Mayhew explained that the resolution contained a deed restriction of one student per bedroom, although the first phase of CampusSide had no such restriction. He said the reason he built the bedrooms so large was for the future possibility of converting the units into condos, and the square footage was large enough to support a family and have a nice master bedroom in the units. He requested that this restriction be removed from the resolution

Mr. Mayhew said Item i of the resolution also contained a stipulation requiring a signal agreement with DeIDOT. He felt the provision was no longer applicable since he reached an agreement with Aston Development Group to pay for Emily Bell Lane and sign a signal agreement with DeIDOT. DeIDOT had commented that Emily Bell Place did not warrant a traffic signal, and a traffic light would not be warranted until Country Club Estates was built. Mr. Lopata felt it was reasonable to eliminate Item i in light of the requirement for Country Club Estates to provide a back exit.

Mr. Temko noted that some residents were concerned about the creep of rentals on New London Road and asked if the developer had any future plans to go past this project in either direction. Mr. Mayhew said he did not plan to go any farther. Another concern raised was about street parking. Mr. Funk said by ordinance no parking was permitted in front of CampusSide. Mr. Temko was concerned about density from a traffic standpoint but did not see any issue with six tenants per unit. He proposed limiting the parking to four spaces per unit, regardless of the number of people occupying a unit. Mr. Mayhew felt the tenants would bring their cars regardless. Mr. Tuttle liked the idea of the five spaces per unit which gave flexibility for guest parking.

Mr. Temko asked Mr. Mayhew to address the impact on sewer capacity since that was a concern for some residents on New London Road. Matt Longo, Engineer with Hillcrest Associates, said his firm did an analysis of the existing pipe runs for the main that ran along Route 896 and monitored the manholes along the property frontage. The analysis showed the pipes flowed free and clear with adequate capacity for the additional units. He thought any problems were localized and perhaps there was not enough pipe slope or there were older pipes with blockage issues. He emphasized nothing in the development would be detrimental to sewer capacity in an uphill or downhill direction.

Mr. Temko asked Mr. Mayhew why he chose the BLR zoning. Mr. Mayhew explained that originally they wanted RM zoning which was the same as CampusSide. However, when the Emily Bell Lane agreement was reached with Aston Development Group, the RM setback requirements were no longer met. Further, CampusSide 1 was now non-conforming because DeIDOT took ten feet along Route 896 which left a 20-foot setback off the road (RM required 30 feet.)

Mr. Markham preferred to have adequate parking at the development rather than forcing tenants to compete for parking elsewhere in the City.

The Chair opened the discussion to the public.

Eugene Trivits, 114 Sypherd Drive, lived several hundred yards from CampusSide, and said he supported the development, which he felt was a definite improvement to the area.

Jean White, 103 Radcliffe Drive, wanted the agreement to specify that real bricks would be used in the project which she felt would give credit to the developer. Although she thought there were many positive features in the new development, she was disappointed it would not take advantage of being stepped up into the hill. She was concerned that BLR zoning was not appropriate and that 16 new units were too many. She pointed out that the Comprehensive Plan for the area called for four to ten units per acre. With the additional units, she calculated the density to be 12.3 per acre. Mr. Athey said it did not appear that the Emily Bell right-of-way was included in Mrs. White's calculation which would change the density to approximately ten units per acre. Regarding the number of unrelated occupants per unit, she thought the limit should be four per unit and that granting more would create a dangerous precedent. Mrs. White also noted that since the development was not providing open space for recreation, they were required to provide \$450 per unit to the City. Although this was stated on the plan, she recommended that it be included in the agreement as well.

Mrs. White said she found it interesting that Mr. Congo was born in the area being developed and that Emily Bell Lane was named after his grandmother. She suggested a historic plaque be put on the lane explaining the history of the name.

Brandon Baffone, 353 New London Road, was in favor of Emily Bell Lane which he felt would be helpful in alleviating traffic concerns. He felt the project had good curb appeal and was a benefit to the community.

Victoria Owen, 719 Lehigh Road, was disappointed with the development. She was protective about the two houses that would have to come down and encouraged the developer to utilize some of the elements from the yellow house in the design. She endorsed naming the development for people who lived in the neighborhood and hoped to see interest taken in preserving the history of the remaining buildings.

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

Mr. Clifton agreed that the property had a fascinating history and that it was important to preserve this integral part of Newark's history. He hoped to see recognition by the City or the State for the very appropriately named street. He thought the project was well-designed, was consistent with CampusSide 1, and raised the bar for other projects. He had no problem with the number of tenants proposed and would support the project.

Mr. Pomeroy also supported the idea of preserving the history. He thought the location warranted a traffic signal, although he knew this would not happen anytime soon. He thanked Mr. Mayhew for providing the road which

would have a positive impact for the City over the long haul and would be a significant enhancement to future transportation needs in the City. He applauded the quality of the project and the quality of tenants which he felt was a testament to the way the project was managed. He found it interesting that this was a different type of housing project which offered a lot of room and thereby the potential for easy conversion to an owner-occupied project. With the many positives coming out of the project, Mr. Pomeroy would support it.

Mr. Markham felt the buildings were attractive and was pleased with the potential for future owner occupancy. Regarding the number of tenants, he had no problem with Mr. Mayhew's request but felt there should be some type of standardized across-the-board formula developed. For parking, he would rather see it be available on site. He appreciated Mr. Mayhew's fix to the road situation with Country Club Estates and thought the project was an improvement to the area, and would support it.

Mr. Funk supported the proposal as he felt it set the standard for future projects. He said the University had previously requested and offered to pay for a traffic signal at this location but had been turned down by DelDOT. He felt the new road and future signal were a bonus that would help to alleviate some problems in this dangerous stretch of roadway.

Mr. Tuttle stated this was a win-win proposition and that it was a pleasure to see a project of this quality come before Council. He planned to support the project.

Mr. Temko felt the project was a good fit with the area. Regarding density, he felt limited parking would be helpful, although he did not have a problem with the cap of six tenants per unit. He was very pleased that Emily Bell Lane would eliminate having an outlet for Country Club Estates on Country Club Drive and would vote in favor of the project.

Mr. Athey supported the project. He had initial concerns about the BLR zoning but recognized that the developer was providing the City a huge bonus with Emily Bell Lane. He noted when that acreage was included in the density calculations, it became within close range to the Comprehensive Plan. He asked Mr. Mayhew whether Emily Bell Lane could be renamed where it extended across the creek to Country Club Estates. Mr. Mayhew advised that his agreement with Aston Development Group required that the Emily Bell Lane name would not be changed. In regard to restrictions on the number of tenants, Mr. Athey expressed concern about giving benefits to some developers and not to others. Mr. Lopata said in the past, restrictions were typically made due to inadequate parking or adverse neighborhood impact. In this instance he felt the City should weigh the benefits to the community, and there was such an important gain from the road that more flexibility with tenants merited consideration. Further, there was language in the Comprehensive Plan that stated the City looked at downtown owner occupancy in relation to additional tenancy to see if there was any community benefit.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(ORDINANCE NO. 09-03)

30. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS

- A. Request of North Campus, LLC, Terry Lane, LLC, and Ernest M. Congo for the Major Subdivision of the 2.111 Acre Properties At 281-295 New London Road In Order to Add Six New Units To

the CampusSide Subdivision and for Ten Units for a New Subdivision to be Known as Emily Bell Place

(Note: The public hearing was held under Item #29.)

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: THAT THE RESOLUTION BE APPROVED AS PRESENTED.

AMENMENT BY MR. CLIFTON, SECONDED BY MR. TUTTLE: TO AMEND THE AMENDMENT/RESOLUTION BY ADDING THE FOLLOWING LANGUAGE, "THE DEVELOPERS ALSO AGREE TO USE FULL BRICK SIDING ON THE PROPOSED FACADES", ELIMINATING ITEM "I" FROM THE RESOLUTION AND ITEM 13 FROM THE AGREEMENT, AND INCLUDE LANGUAGE TO ALLOW SIX UNRELATED OCCUPANTS PER UNIT.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

AMENDMENT BY MR. TEMKO: TO AMEND THE AGREEMENT/RESOLUTION TO LIMIT PARKING TO FOUR SPACES PER UNIT.

AMENDMENT FAILED FOR LACK OF A SECOND.

AMENDMENT BY MR. TEMKO, SECONDED BY MR. POMEROY: TO ADD THE REQUIREMENT TO THE AGREEMENT/RESOLUTION THAT THE DEVELOPER CONTRIBUTE \$450 PER UNIT IN LIEU OF PROVIDING OPEN SPACE.

AMENDMENT PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Question on the Motion as Amended was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(RESOLUTION 09–A)

31. 8. ORDINANCES FOR FIRST READING

A. Bill 09-01 An Ordinance Amending Ch. 2, Administration, Article IV, Downtown Newark Partnership, Composition, By Allowing Permanent Members to Send a Designee As a Voting Member to Meetings

Ms. Fogg read Bill 09-01 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 09-01.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 1/26/09)

32. 8-B. BILL 09-02 AN ORDINANCE AMENDING CH. 30, WATER, ARTICLE VII, WATER RESOURCE PROTECTION REGULATIONS & PROVIDING FOR SURFACE WATER PROTECTION AREAS

Ms. Fogg read Bill 09-02 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT THIS BE THE FIRST READING OF BILL 09-02.

Mr. Athey asked if the ordinance came through the Conservation Advisory Commission, and Mr. Lopata responded that it came from DNREC who suggested changes when they reviewed the Comprehensive Plan. Mr. Lopata strongly urged Council to move ahead with the suggested changes.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 1/26/09)

33. 8-C. BILL 09-03 AN ORDINANCE AMENDING CH. 30, WATER, BY ESTABLISHING A WATER RATE SCHEDULE EFFECTIVE 2/1/09

Ms. Fogg read Bill 09-03 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THIS BE THE FIRST READING OF BILL 09-03.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 1/26/09)

34. 8-D. BILL 09-04 AN ORDINANCE AMENDING CH. 20, MOTOR VEHICLES AND TRAFFIC, ARTICLE XVII, PARKING METERS AND SCHEDULE X, PARKING METER ZONES

Ms. Fogg read Bill 09-04 by title only.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THIS BE THE FIRST READING OF BILL 09-04.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 1/26/09)

35. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA

- A. Council Members:
1. Resolution 09__: Rules of Procedure

Ms. Fogg noted that this change would move the Financial Report up on the agenda to Item 4-B. This request was generated by Council.

MOTION BY MR. POMEROY, SECONDED BY MR. TUTTLE: THAT THE RESOLUTION BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(RESOLUTION 09-B)

36. 9-A-2. RESOLUTION NO. 09-__ : AMENDING THE ALL HAZARD MITIGATION PLAN FOR THE CITY OF NEWARK, DE

Ms. Fogg read the resolution by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. TEMKO: THAT THE RESOLUTION BE APPROVED AS PRESENTED.

Ms. Houck explained the amendment to the mitigation plan was needed for the City to take advantage of available funding.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(RESOLUTION 09-C)

37. 9-B. COMMITTEES, BOARDS & COMMISSIONS

1. Resignation from Newark Election Board

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE RESIGNATION OF BETTY LEE McHALE, 411 ARBOUR DRIVE, BE ACCEPTED FROM THE NEWARK ELECTION BOARD.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

38. 9-B-2. APPOINTMENTS TO NEWARK ELECTION BOARD

MOTION BY MR. POMEROY, SECONDED BY MR TUTTLE: THAT JANET YODER, 102 CHELTENHAM ROAD, BE REAPPOINTED TO THE NEWARK ELECTION BOARD; SAID TERM TO EXPIRE JANUARY 14, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT PRISCILLA ONIZUK, 104 TYRE AVENUE, BE REAPPOINTED TO THE NEWARK ELECTION BOARD; SAID TERM TO EXPIRE JANUARY 14, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

39. 9-B-3. APPOINTMENT TO DOWNTOWN NEWARK PARTNERSHIP

MOTION BY MR. FUNK, SECONDED BY MR. CLIFTON: THAT ROY H. LOPATA, PLANNING AND ECONOMIC DEVELOPMENT DIRECTOR, BE APPOINTED TO THE DOWNTOWN NEWARK PARTNERSHIP; SAID TERM TO EXPIRE JULY, 2011.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

40. 9-B-4. RESIGNATION FROM NEWARK HOUSING AUTHORITY

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE RESIGNATION OF AMY ROE, 19 SUNSET ROAD, BE ACCEPTED FROM THE NEWARK HOUSING AUTHORITY.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

41. 9-B-5. PLANNING COMMISSION MINUTES OF DECEMBER 2, 2008

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THE PLANNING COMMISSION MINUTES OF DECEMBER 2, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

42. 9-C. OTHERS

1. Request from Mark D. Sisk, Representing Chris Cochran and Lisa Bartolozzi, Owners of Holly Woods To Discuss Amending Subdivision Agreement to Allow Five Tenants Per Unit

Mark Sisk, Esquire, represented the owners of Holly Woods, 162 South Chapel Street LLC. Their request was for consideration of an amendment to a deed restriction on their property, known as Holly Woods, from four to five tenants. Mr. Sisk said that Mr. Cochran and Ms. Bartolozzi agreed to a deed restriction several years ago based on what they thought were appropriate circumstances at the time. He said that parking at the project was adequate with three spaces per unit. He noted that the owners run a first-class project and were the first small business to receive Bonistall certification of their property. The individual units had five bedrooms and would comfortably accommodate additional tenants.

Mr. Clifton thought this was a reasonable request as he felt it was a well-managed quality project that would support the additional tenants. Mr. Clifton noted the owners wanted to do some energy improvements on the property. He believed when it came to student housing, it was preferable for it to be clustered for the City to attain the revitalization of neighborhoods with single-family homes.

Messrs. Markham and Athey were concerned about setting a precedent and wanted to minimize any ambiguity. Mr. Athey thought staff input would be

helpful on this subject, and it was the consensus of Council to ask for the Planning Department's review.

The Chair opened the discussion to the public.

Jean White, 103 Radcliffe Drive said the project was approved with four unrelated occupants and felt it should remain that way.

The Chair returned the discussion to the table and directed Mr. Lopata to proceed with a Planning Department review.

43. 10. SPECIAL DEPARTMENTAL REPORTS

A. Special Reports from Manager & Staff: None

44. 10-B. ALDERMAN'S REPORT

MOTION BY MR POMEROY, SECONDED BY MR. ATHEY: THAT THE ALDERMAN'S REPORT DATED DECEMBER 22, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

45. 10-C. FINANCIAL STATEMENT

Mr. McFarland said the November, 2008 report showed results about \$600,000 behind budget. Utility revenues were under-running the budgeted margins. He felt the electric utility was on track and should come very close to the budgeted electric margin by year end. The sewer margins were under-running all year long, and his concern was that it could be a bad budget which would be a concern with the 2009 budget.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE FINANCIAL REPORT DATED NOVEMBER 30, 2008 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

46. 10-D. REQUEST FOR EXECUTIVE SESSION RE PERSONNEL

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: TO ENTER INTO EXECUTIVE SESSION WITHOUT THE PRESS TO DISCUSS PERSONNEL.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

Council entered into Executive Session at 10:05 p.m. and returned to the table at 10:42 p.m. Mr. Funk said no further action was required.

47. Meeting adjourned at 10:43 p.m.

Patricia M. Fogg, CMC
City Secretary

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