

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

March 9, 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
City Solicitor Roger A. Akin
Finance Director Dennis McFarland
Planning Director Roy H. Lopata
Water & Wastewater Director Roy Simonson
System Support Specialist John Herring

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 February 23, 2009

Mr. Athey asked that State Representative Kowalko's comments on page 6 in the last paragraph be amended to read, "Mr. Kowalko thanked City Council for reconsidering the action. He believed that a 50% differential in another city would not justify a 50% difference in Newark's rates. His impression was that the proposed 30% out-of-City increase shifted some of the burden of responsibility to non-residents who had no voting rights in the City. In his comments regarding the lower property tax rate increase that was adopted (which was much lower than was originally proposed), Mr. Kowalko did not mean to imply that Council was trying to supplant income in other areas, and he apologized for any misunderstanding that he conveyed."

Mr. Athey noted a word was omitted from the third sentence in the first paragraph on page 7 which was amended to read, "He felt all anyone **wanted** was fairness, and said not one person he spoke to disagreed with an increase in the water rates."

The minutes were unanimously approved as amended.

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

A. Public

Robert Brunner, 382 South College Avenue, suggested the City maintain a spreadsheet with names of volunteers who offered to clear snow from

sidewalks for residents who are unable to do so. He thought a good incentive would be to provide a tax write-off to the volunteers.

4. Robin Brown, *News Journal* reporter, apologized for the error in the March 9th edition that incorrectly represented the 15% across-the-board water rate increase being voted on by Council as a 20% increase.

5. **3-B. UNIVERSITY**

1. Administration – There were no comments forthcoming.

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

There were no comments forthcoming.

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

Mr. Athey recognized Maureen Feeney Roser for being named a certified Main Street Manager by the National Trust for Historic Preservation.

8. Mr. Athey commended Officer Pagnotti for a significant graffiti arrest, and he encouraged the Police Department to stay vigilant as graffiti appeared to be getting out of hand in New Castle County.

9. Mr. Athey reported that Officer Bryda presented a very informative program on crime prevention tips to residents in the Orchard Road area.

10. Mr. Athey commended the crews for a great response to the snow removal.

11. Mr. Temko thanked the staff for improvements to the sound system.

12. Mr. Temko congratulated the Newark teams that competed in the Odyssey of the Mind competition on March 7th in Newark.

13. Mr. Temko said the Traffic Committee would meet on March 17th at 5:00 p.m. to discuss Corbit Street traffic calming and the request to allow parking in the turn arounds on Renee Court at North Gate Commons.

14. Mr. Temko reported that Representative Kowalko and other Newark legislators helped to convene a fiscal crisis meeting on March 11th at 7:00 p.m. at the Newark Senior Center with a presentation by Governor Markell about the current budget situation. The meeting would be a Town Hall format and was open to the public. Mr. Tuttle joined in urging those who could make it to attend the meeting and said a similar presentation at the University put the state's fiscal position in clear perspective.

15. Mr. Temko advised the Conservation Energy Report for the City would be on the agenda for the March 23rd meeting.

16. Mr. Tuttle was concerned that a letter to the editor in the *News Journal* took the University to task for not alerting the community about a sexual assault. He said the letter was incorrect as the alert was issued in a very timely manner with details including a map of the crime location. He recommended that anyone who wanted to track crime in the City should subscribe to the University's website which was a very good source of information.

17. Mr. Markham announced that Blackstone's restaurant in the Shoppes at Louviers was coordinating with Bank of America to have a fundraiser for Easter Seals.

18. Mr. Markham reported that Newark's Wine and Dine Downtown was scheduled for March 28th.

19. Mr. Markham issued a reminder of the Nefosky run next month at the Newark Reservoir.

20. Mr. Pomeroy discussed with Town & Gown Chair Jim Neal the possibility of a public visioning session for the Committee with some additional stakeholders to discuss key directions for the Committee to go in. Mr. Neal said if they were to go in that direction, the Committee needed to know there was support on Council for a step of that nature. Mr. Pomeroy brought this up to make Council aware of the discussion and said it was something that may or may not get talked about at an upcoming T&G meeting.

21. Mr. Clifton thanked Mr. Sonnenberg for helping bring some clarity to an issue for his neighbor.

22. Mr. Clifton reported that Marrows Court Apartments, who provided affordable, quality, housing for senior citizens and handicapped individuals, applied for low-income housing tax credits related to a \$5.2 million renovation. He commended Leon N. Weiner & Associates for taking the lead on making substantial improvements to the property.

State Representative John Kowalko echoed Mr. Clifton's comments and reported that Arbor Management provided a detailed explanation of their plans in a well thought-out presentation to residents. He applauded Arbor Management for the manner in which they worked with the elderly and disabled residents.

Mr. Funk added that Mr. Weiner's vision for the under-served and the handicapped had never been equaled by anyone in the state.

23. Mr. Clifton explained that during the City Manager interview process, Mr. Lopata recommended instituting a program titled, "The Eyes Have It". With this program, City employees would report issues/problems noticed throughout the City that would not normally come under their domain. He felt such an effort could raise the quality of life in the City, and hoped to see such a program put in place. Mr. Clifton thanked Mr. Lopata for the idea.

24. Mr. Clifton talked to a business owner on Elkton Road who suggested the possibility of an event showcasing businesses on Elkton Road similar to Newark Nite to increase public awareness of revitalization efforts in the area. Mr. Clifton felt it was a good suggestion.

25. Mr. Clifton received a letter from a retired employee concerning the pension increase. Mr. Clifton said in August, 2005, the Personnel Director sent a letter to the pensioners that they would receive an increase in their pensions unless he heard objections from Council. At the next meeting, Mr. Clifton mentioned that he thought the process had been violated since, by Code, the trustees of the Pension Fund should determine increases. He felt the burden fell on Council to publicly declare their intentions towards the City's retirees. Mr. Clifton's point in bringing this up was not to discuss whether the City could afford an increase, but, in light of the City and the state's budget issues, he felt such a decision should come before Council. He did not think the Personnel Director should send the letter without Council knowing about it and without them having the benefit of publicly voting on the increase with the related public exposure. Mr. Clifton would like to see a change in the procedure where the Pension Fund Trustees discussed and determined changes to the fund for the City's retirees.

26. Mr. Funk said a letter was received from the Newark Postmaster refusing to allow parking in the lot behind the Main Street Post Office. He said this would be referred to Sally Miller, Chair of the Parking Committee to see if they would consider changing their position.

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

28. **4-B. FINANCIAL STATEMENT**

Mr. McFarland summarized the Financial Report for the period ended 1/31/09. He said it was difficult to detect trends based on one month's data. The results were under budget for the month by about \$342,000 which could be accounted for by several major items. Utility revenues were up about \$313,000 due primarily to an over-collection in the electric utility. The reduction in the electric rate was delayed about 30 days to give customers better notice of the rate change. By tariff, that money would flow back to the customers by year end.

Water margins were under budget due to the changes made to the water rate proposal at the 2/23/09 Council meeting. For the entire year, the change in the amount of the rate increase and timing of the implementation would negatively impact the budget by about \$336,000.

Non-utility revenues were \$22,000 under budget. In the 2009 reports, the major revenue streams were seasonalized based on a three-year average to improve budget comparisons. Most revenue streams were close to budget with the major exception being property tax revenues. A renewed set of assessments from the County went into effect, and the budget for January was about \$34,000 over budget. Mr. McFarland anticipated that change would continue through the balance of the year and could improve the budget by about \$400,000. The last quarterly report showed a noticeable bump in property assessments in the City which resulted from some of the large commercial properties that went on the tax roles late last year.

Parks and Recreation fees were a little under budget, which could be a result of people feeling the economy. There was also about a \$6,000 budget under-run for transfer taxes and some weakness in the permit fees.

Operating expenses were \$633,000 over budget which was not a concern at this point in the year. In January, expenses were encumbered to reflect annual contractual services, so a review indicated there was nothing to suggest the expense budget would be materially different from what was projected.

On the cash balance, there was a nominal decrease of \$2.7 million for the month. That was due to the \$3.3 million in collateral calls paid to DEMEC. However, these funds were returned to the City in February. Adjusting for that one item, there was an increase in the cash position of about \$600,000 in January, largely attributable to the electric over-collection.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THE FINANCIAL STATEMENT ENDING JANUARY 31, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

29. **5. RECOMMENDATIONS ON CONTRACTS & BIDS**
None

30. **6. ORDINANCES FOR SECOND READING & PUBLIC HEARING**

A. Bill 09-03 An Ordinance Amending Ch. 30, Water, By Establishing a Water Rate Schedule Effective 4/1/09

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

MOTION BY MR. CLIFTON, SECONDED BY MR MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-03.

Mr. Funk said at the February 23rd meeting the City Solicitor explained the ordinance had to be re-advertised and a new public hearing held due to the significant change in reducing the out-of-town water rate from 30% to 15%.

The Chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned 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 NO. 09-09)

31. **6-B. BILL 09-06 AN ORDINANCE ANNEXING AND ZONING TO PL (PARKLAND) 1.69 ACRES, TO MI (GENERAL INDUSTRIAL) 2.39 ACRES AND TO OFD (OPEN FLOODWAY DISTRICT) 8.51 ACRES, SAID PROPERTY SITUATED ALONG THE CHRISTINA CREEK ON THE STINE HASKELL SITE LOCATED ON ELKTON ROAD**

Ms. Fogg read Bill 09-06 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. CLIFTON: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-06.

Mr. Funk said the property had been deeded over to the City by DuPont, and the annexation would bring it inside the City limits.

The Chair opened the discussion to the public.

Bruce Harvey, 5 Phillips Avenue, believed this donation qualified for matching federal land and water conservation trust funds. His understanding was the value of the land donated would generate matching funds, and it would be a shame to lose it. Mr. Sonnenberg said he would check with the Parks & Recreation Director to determine if that was a possibility.

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

Mr. Athey saw that CSX land was also involved and confirmed through Mr. Lopata that they were notified of the annexation.

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. 09-10)

32. 6-B. BILL 09-08 AN ORDINANCE AMENDING CH. 32, ZONING, BY REGULATING THE SIZE OF “FOR RENT” SIGNS IN RESIDENTIAL DISTRICTS

Ms. Fogg read Bill 09-08 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-08.

Mr. Lopata explained that Council had requested the ordinance to tighten up the regulations regarding the size of rental signs. After researching the regulations and comparing size restrictions in other communities, the change proposed was to reduce the size of “For Rent” signs from 6 to 4 sq. ft. in the City’s existing regulations. Currently, residential, commercial and industrial real estate signs were regulated in different categories and different sizes. A residential real estate sign was limited to 6 sq. ft., commercial districts to 50 sq. ft., and industrial to 100 sq. ft. The proposal was to break out “For Rent” signs in the residential category as a separate category defined somewhat differently and reduce the maximum size to 4 sq. ft. Otherwise, the ordinance was identical to what was in place for years.

Mr. Clifton asked if the current ordinance stated that the minimum setback was 15 feet. He questioned this because a “For Rent” sign at the townhouses in White Chapel would not meet the setback requirements. Mr. Lopata said the existing ordinance had not been rigorously enforced. Mr. Clifton noted the setback could, however, be enforced in the future.

Mr. Lopata said “For Rent” signs at the hardware store measured 3.3 sq. ft. for the largest; thus, 4 sq. ft. appeared to be very flexible.

The Chair opened the discussion to the public.

Robert Brunner, 382 S. College Avenue, said he could not find the penalty for violating the ordinance, and Mr. Akin responded the general penalty provision in the Newark Code was \$500.

Mr. Pomeroy thought \$500 seemed excessive for a violation of that nature, but if there was some due process and the person then willfully defied the request, that was a different story. Mr. Sonnenberg said he believed the Building Department would send a notice of violation and provide the opportunity to remove the sign before imposing a penalty.

Mr. Lopata said it was rare for Zoning Code violations to be prosecuted all the way through the Alderman’s Court as typically there was compliance in most cases.

Mr. Akin clarified under the general penalty provision in the Code, the fine was not to exceed \$500 for a particular violation, so the Alderman had the discretion to issue no fine or a fine up to a \$500 maximum.

Mr. Temko asked Mr. Akin to comment on the legality of the ordinance, particularly the question of whether it was legal to specify residential rental signs as opposed to all residential signs. Mr. Akin said the research and information he provided to Council clearly indicated that the courts almost universally deferred to municipalities in regard to establishing the physical aspects of signs such as size, height, location, and other issues. Secondly, under Section 32-60 of the Code, the City historically regulated sign size, regardless of the district and regardless of the nature of the signs. The City regulated signs not only by size but by the number of signs located on a property, the height of the sign, the illumination of the sign, and other physical aspects of signs which the courts said the City had the authority to grant. Further, under the sign code in the Zoning Code, the City historically permitted many different kinds of signs, even in

residential districts. According to Mr. Lopata, another example of a university city, Chapel Hill, NC, had a 4 sq. ft. rental sign maximum size.

Mr. Pomeroy thought when you got past the legality of the issue, the core of the intent (a 4 sq. ft. size limit) made sense. He was not sure whether there was an issue with the ordinance itself or whether there was an issue with the size of the sign. He asked if anyone from the public could speak to whether the 4 sq. ft. size was reasonable.

Bruce Harvey, 5 Phillips Avenue, represented the Newark Landlord Association. He said landlords were sensitive to the idea of having another regulation. Personally, he was not a fan of "For Rent" signs and believed a good-looking sign was a smart marketing decision. He learned that the signs he used which were posted in doors or windows have apparently been in violation for many years. He said while the size change might be constitutional, other regulations were not. He was surprised to hear from Mr. Akin that almost universally the courts permitted municipalities to regulate signs like this. He found almost the opposite that the courts were very strong on this point under free speech and equal treatment in the Constitution. He further stated that the signs had to be content neutral to enforce this. He hoped Council would not pass the ordinance which he felt came back to the issue of the "For Rent" sign made from a sheet of plywood or particleboard. He said if the Landlord Association came across a case that seemed particularly egregious and one of its members was called to task on this, they would endeavor to get a test case in court.

Ivan Nusic, 26 Wakefield Drive, thought the City should not try to further regulate or interfere with constitutional rights and thereby create possible problems with a court challenge.

Mr. Athey said the plywood/particleboard sign was more of an aesthetic issue than a size issue and two sq. ft. was the sum total of what was being discussed.

Mr. Pomeroy explained the point the ordinance was to find a way to reasonably prevent huge signs such as the one on New London Road.

Mr. Funk referenced the small 1½ sq. ft. signs permitted at Bethany Beach and said their Council felt the large number of signs posted year round tended to depreciate the value of houses in the area. Mr. Lopata said Newark also had a significant number of rental properties and had that in common with the beach properties. He added that comments were requested from the real estate community on suggestions for a sign regulation, and rather than providing feedback, the landlords replied that what the City proposed was unconstitutional. Mr. Lopata noted the response was not helpful in reaching a reasonable standard that both parties would find acceptable, and he felt the City came up with a reasonable regulation.

Mr. Athey asked Mr. Harvey what advertising method attracted the largest number of prospective tenants. Mr. Harvey said of the last two units he rented, one was from a sign on the property read by a resident who sent it to an out-of-town friend. He noted that virtually every rental was a drive-by property at least once, and the person who rented the property generally found it by going up and down the street and looking for the "For Rent" signs.

Mr. Markham said political signs were pretty much out of the picture, as the restrictions were not there. Mr. Temko added they were regulated by the state, so the City had no authority there. Mr. Harvey said they could be restricted on public property but not on private property. Mr. Markham did not see anything that said the City was regulating content. Mr. Harvey said the Supreme Court has held that signs had to be content neutral with the same standards for all signs. The City's proposal was content specific, as the definition "For Rent" advertised the house on the property where the sign was placed. Mr. Harvey

said in order for the sign to pass constitutional muster, it must be content neutral, and the test was if you had to read it to figure out whether it passed constitutional muster, then it would not.

Mr. Athey paraphrased what he thought he heard Mr. Harvey saying. Clearly, he questioned the constitutionality of the proposed ordinance, and Mr. Athey said the City had to rely on Mr. Akin who differed in opinion. Mr. Athey thought Mr. Harvey had a philosophical problem with dropping from 6 to 4 sq. ft., not so much with the actual numbers, but whether the City was on firm ground. Mr. Harvey said a sign was pretty concrete. He felt Mr. Lopata hit it right on the head, that the ordinance was rarely enforced and was never challenged because no one had been hit with enforcement that upset them. He believed an attempt to enforce the ordinance would raise a reaction and a challenge. The danger was not the 4 or 6 sq. ft. but the entire underlying zoning law specifying what could and could not be on signs and enforcing them differently depending on their content.

Dominic Gallo, 307 Dawnwood Drive, Landenberg, PA, owned rental properties in the City. He read about the constitutionality of the signs, and agreed with Mr. Harvey that the size could be regulated but not the content. He did not think it was worth going through the whole exercise for 2 sq. ft. and felt Council was throwing common sense out the window. He pointed out that an ordinance was already in place to stop the use of overly large particleboard/plywood signs. What struck him was learning from the ordinance that he had been in violation of the maximum sign height and noted if this was a precursor to strict enforcement, he would come back later to challenge some other parts of the ordinance.

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

Mr. Pomeroy said occasionally issues came to the table that highlighted the beauty of democracy in action. The proposed changes involved only size, and the other issues raised were about an existing law. He noted that perhaps there were other issues in the ordinance that needed to be addressed. He asked Mr. Lopata to comment on whether any changes were in order for the ordinance to be more in line with what was reasonably accepted in other communities.

Mr. Lopata said the discussion involved 2 sq. ft. His sense was there was an interest from the Council of beginning to be more rigorous in regard to enforcement which he did not think would be a problem going forward.

Mr. Pomeroy asked Mr. Harvey if his point was that there would be a problem once the City chose to enforce the ordinance more rigorously. Mr. Harvey said that was correct, that in his opinion there was no real constitutional change going from 6 to 4 sq. ft. What happened was that it came to light there were other restrictions in the sign code. Mr. Harvey said he thought the perfect solution would be if the City continued sign enforcement for the next 20 years as it had for the last 20 years, no one would have a problem.

Mr. Clifton felt the City should not govern based on opinions of constitutionality and felt Council should rely on the advice of the City Solicitor. He said the whole issue stemmed from a problem based on size and aesthetics. He believed the Alderman would exercise due diligence and logic in issuing fines for sign violations but was troubled that a \$500 fine could be imposed. He noted there were bigger issues being faced by the City. He would not support the ordinance in light of the ambiguity in regard to enforcement and the \$500 fine attached to it .

Mr. Temko did not have a problem with the \$500 fine based on the violation notice and refusal to comply with the ordinance. He did not see a need for the ordinance in terms of the size change and felt the current ordinance would

address problems if properly enforced. He deferred to the City Solicitor on the constitutionality of the issue.

Mr. Tuttle recalled one of the precipitating instances being enforcement of a prohibition against rental signs in single-family zones. Mr. Lopata said that was the comment referred to by Mr. Harvey, as the Code currently prohibited “For Rent” signs in single-family zones. Mr. Tuttle clarified that since that issue had not been spoken to, the only change proposed was in the square footage. Mr. Lopata confirmed that part of the Code was moot because the City Solicitor correctly ruled the total ban on such signs was clearly unconstitutional.

Mr. Lopata said to answer Mr. Pomeroy’s questions, regardless of whether Council approved the bill, they might want to ask the City Manager to make sure the Building Department takes action to enforce the Code against signs that were clearly in violation.

Mr. Athey said it seemed that Council expressed the sentiment to increase the enforcement aspect. He discussed the option of tabling the bill to let it ride for a while and see what happened, although he felt it was bad public policy to table things indefinitely. He thought Council should give clearer direction by voting it up or down, and if it was voted down, it could be brought back again in the future.

Mr. Clifton felt the bill should come to a vote.

Mr. Temko said it appeared the Planning Department was willing to meet with the Newark Landlord Association to discuss whether the different setback or height requirements were appropriate for rental signs. He felt with that offer on the table, if that was not being answered because of questions of constitutionality, then Council should proceed to vote the bill up or down. He thought everyone was in agreement in wanting the City to enforce against egregious signs, and if more specific changes were desired, the ordinance could come back to Council at a future time. Mr. Temko said he did not hear anything that led him to believe there would be a problem if the “For Rent” sign was 4 sq. ft. as opposed to 5 or 6 sq. ft.

Mr. Markham thought he read in the memos where certain parts of the bill were less restrictive. Mr. Akin advised that currently there was a reference in the Code prohibiting rental signs in residential zones which was not being enforced because of constitutional issues. Mr. Markham asked if this was being removed, and Mr. Akin replied that he assumed in order to make the Code comply with practice, those terms would eventually be taken out.

It was the consensus of Council to re-open the discussion to the public.

Ron Smith, 130 Kells Avenue, was enraged by the sense that the City was being held hostage by threats of lawsuits and constitutional law by the Landlord Association when the community had so many other important issues to address. He added that a number of “For Rent” signs were not placed on the same properties they were advertising.

Jean White, 103 Radcliffe Drive, felt the proposed ordinance of 4 sq. ft. was fair and that Council should vote on it at this meeting.

The Chair returned the discussion to the table.

Question on the Motion was called.

MOTION FAILED. VOTE: 3 to 4.

Aye – Athey, Funk, Pomeroy

Nay – Clifton, Markham, Temko, Tuttle.

33. **7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS**
None

34. **8. ORDINANCES FOR FIRST READING**

- A. Bill 09-10 – An Ordinance Amending Ch. 25, Sewers, Article IV, Regulations on Nondomestic Waste Water Discharges Into the Public Sewer System, and Incorporating, By Reference, Ch. 38 of the New Castle County Code with Amendments Thereto

Ms. Fogg read Bill 09-10 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT THIS BE THE FIRST READING OF BILL 09-10.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 3/23/09)

35. **8-B. BILL 09-11 AN ORDINANCE AMENDING CH. 20, MOTOR VEHICLES AND TRAFFIC, BY AMENDING SCHEDULE VI, BY PROHIBITING PARKING DURING CERTAIN TIMES ON BRADFORD LANE FROM DEVON DRIVE TO THE EAST END OF THE STREET**

Ms. Fogg read Bill 09-11 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THIS BE THE FIRST READING OF BILL 09-11.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 3/23/09)

36. **8-C. BILL 09-13 AN ORDINANCE AMENDING CH. 21, PEDDLERS, VENDORS AND SOLICITORS, BY REPLACING THE EXISTING CHAPTER WITH REVISED AND UPDATED LANGUAGE**

Ms. Fogg read Bill 09-13 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THIS BE THE FIRST READING OF BILL 09-13.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

(2ND READING 3/23/09)

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

- A. Council Members:
1. Presentation on Newark's Civic Health

Mr. Temko presented an overview of the analytical paper he submitted to the Public Management Faculty of the School of Urban Affairs and Public Policy at the University of Delaware on Newark's civic health. A full copy of his paper

may be viewed on his website, www.ezratemko.com as well as in the City Secretary's office and in the office in Graham Hall.

38. 9-B. COMMITTEES, BOARDS & COMMISSIONS

1. Appointments to Conservation Advisory Commission

MOTION BY MR. TEMKO, SECONDED BY MR. ATHEY: THAT FRED STIEGLER, 20 COUNTRY CLUB DRIVE, BE REAPPOINTED TO THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM; SAID TERM TO EXPIRE MARCH, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT COUNCIL EXPRESS APPRECIATION TO ROBERT BENNETT WHO DID NOT WISH TO BE REAPPOINTED AND APPROVE THE APPOINTMENT OF BOB McDOWELL, 25 CORNWALL DRIVE, TO THE CONSERVATION ADVISORY COMMISSION; SAID TERM TO EXPIRE MARCH, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

MOTION BY MR. ATHEY, SECONDED BY MR. CLIFTON: THAT STEVE DENTEL, 69 KELLS AVENUE, BE REAPPOINTED TO THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM; SAID TERM TO EXPIRE MARCH, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

39. 9-B-2. PLANNING COMMISSION MINUTES OF FEBRUARY 3, 2009

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT THE PLANNING COMMISSION MINUTES OF FEBRUARY 3, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

40. 9-C. OTHERS: None

41. 10. SPECIAL DEPARTMENTAL REPORTS

A. Special Reports from Manager & Staff: None

42. 10-B. ALDERMAN'S REPORT

MOTION BY MR MARKHAM, SECONDED BY MR. TUTTLE: THAT THE ALDERMAN'S REPORT DATED FEBRUARY 26, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

43. Meeting adjourned at 9:45 p.m.

Patricia M. Fogg
Patricia M. Fogg, CMC
City Secretary

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