

**CITY OF NEWARK  
DELAWARE  
COUNCIL MEETING MINUTES**

**April 13, 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  
Assistant to the City Manager Charles Zusag  
Building Director Tom Sciulli  
Finance Director Dennis McFarland  
Planning & Development Director Roy H. Lopata  
Police Chief Paul Tiernan

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

2. MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE AGENDA BE AMENDED BY ADDING ITEMS 8-C AND ITEM 10-A-3.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

3. **1-B. PROCLAMATION RECOGNIZING NATIONAL PUBLIC SAFETY COMMUNICATORS WEEK**

The proclamation, unanimously endorsed by Council, was read in its entirety by Mr. Clifton. Mr. Funk said the City was very fortunate to have such an outstanding group of dispatchers and appreciated all their efforts for the citizens of Newark.

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

A. Regular Council Meeting of March 23, 2009

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

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

A. Public

Amy Roe, 19 Sunset Road, expressed concern about the current misuse of the purchase power cost adjustment (PPCA) to conceal the City's profits from electricity sales. By looking at her utility bill, she could see that the PPCA was presently half a cent per KWH. She learned, however, that this item on her bill was not being used to adjust for the cost of purchased power. Instead, it was concealing higher profits disguised as the fluctuating wholesale power rate. She

said in January, 2007, six Council members voted to modify the Code, enabling the PPCA to be used to conceal changes in the budgeted operating margin. By making this decision, she said Council acted to remove discourse on electric rates from the public sphere and placed it behind closed doors. In addition, she said Council institutionalized a procedure to mislead customers by mislabeling electricity profits on utility bills. She provided a break down of what a half cent per KWH increase actually meant. With the current wholesale price of electricity at 9.21 cents per KWH, Newark made a profit of 4.29 cents on every KWH of electricity used by the residents. Ms. Roe noted that by increasing the profit margin by half a cent through the PPCA, this amount increased by 11.6% for residential customers. For a household whose annual electricity usage mirrored the national average of 10,656 KWH a year, the half cent per KWH increase amounted to \$53.28 in non-tax deductible City profit that customers were misled to believe was being charged for high wholesale energy costs. If the PPCA was unchanged for the entire year, this number would add up to \$467,000. She said that one third of electricity bills were non-tax deductible City profits used to supplement the general fund. For the average household electricity consumption, this translated to \$510 a year. The percentage of profit that the City made on non-residential customers, however, was increased by higher margin. For example, if left unchanged at a half cent per KWH, the PPCA would increase the City's profits by \$491,000, or 14%, for industrial customers, and \$378,000, or 13%, for commercial customers in 2009. Mr. Roe said these were the businesses that the City was trying to attract and retain for economic development. The University of Delaware, who paid the lowest electricity rates in the City and contributed the smallest amount of profit per KWH sold, would be charged an additional \$668,000 in 2009, a 42% increase in their contribution to the City's profit. Ms. Roe explained that these calculations showed a different scenario than the modest 1.8% margin increase to revenues passed in the 2009 budget. Left unchanged, the PPCA would collect over \$2 million in 2009, or 5% of the City's total budget. Ms. Roe also reminded Council that the addition of the electricity profit margin to the 2009 budget was not advertised and was introduced in last minute budget talks after the public comment period on the budget had ended. Therefore, the public was not only misled by the City in the billing of this expense, but had also been excluded from appropriate public discourse. Ms. Roe continued that without Council's January 2007 decision to modify the Code, they would be required to engage in a public process to change the City's electricity rate. She was disappointed that Newark orchestrated this mechanism for manipulating the profit margin for electricity rates outside of the public eye and disguised by fluctuating wholesale prices. She felt as a resident of a town with a municipally-owned utility, she was not provided with the same rights of energy choice or public process afforded to other Delaware residents. She further stated that electricity in Newark was a monopoly, and this type of change to electric rates was illegal in Delaware outside of Newark City limits. Ms. Roe concluded by saying if Council believed that transparency was the foundation of good government, then the use of the PPCA to conceal an increase in the electricity profit margin on utility bills posed a substantial problem. She encouraged Council to open the process to public discourse and modify the Code to revoke the ability of the PPCA to conceal profits. Ms. Roe stated the managers of a municipally-owned utility should guide the City and policies that earn the public trust rather than mislead them.

**6.** Sylvester Woolford, 71 New London Road, said he was born in Newark and attended the New London Avenue School, now the George Wilson Center. He appreciated the plaque which State Representative Schooley and the City were instrumental in getting for the school. He said the plaque mentioned a second school (the Cleveland Avenue School) which was built in 1867 next to the Elks Lodge on Cleveland Avenue and was torn down after 100 years in 1967. Mr. Woolford reported that his grandmother taught at the Cleveland Avenue School after coming to Newark in 1890 at the age of 19 and taught there for many years. He presented a teaching certificate she received in 1901 and suggested some acknowledgement of the school and teachers at the school. Mr.

Temko offered to work with Mr. Woolford on pursuing a historical marker through the Delaware Public Archives program.

**7. 3-B. UNIVERSITY**

**1. Administration**

Mr. Armitage responded to a question from Mr. Athey posed by a constituent regarding noise from University buses. He said the University purchased two new transit buses which were much louder than the buses they had in use for the last twenty years. He explained they were checking with the manufacturer of DART's buses which had a different diffuser for the exhaust pipe coming out of the roof to see if the University's buses could be retrofitted to make them quieter. He said the University will replace the existing fleet with the transit buses over time because of lower maintenance costs. In response to a question about adjusting the bus schedule, he said it was not a good time to make changes during the middle of the semester, but the routes would be studied over the summer in an effort to minimize the impact on neighborhoods.

**8. 3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

**9. 3-C. COUNCIL MEMBERS**

Mr. Athey commented on the speed sign on South College Avenue near the bridge which he thought was a very effective location. Although the sign was since moved, he hoped to see it back in the area again.

**10.** Messrs. Athey, Pomeroy and Tuttle complimented Chief Tiernan for the Newark safety alert program and the timely relay of information.

**11.** Mr. Athey reported he attended the Delaware League of Local Governments with Messrs. Tuttle and Pomeroy and said the biggest issue facing Newark was the proposed Alderman's Court legislation. Although he felt the issue was well publicized, he suggested continued contact with local legislators to let them know the importance of the court to Newark.

Mr. Pomeroy said he was pleased with the sense of camaraderie and show of support from other municipalities to the Alderman's Court issue. He agreed there should be an organized plan in place for dealing with the issue at this point in time.

**12.** Messrs. Athey, Markham and Pomeroy congratulated the Police Department for top notch work in closing some very difficult cases lately, including the graffiti arrests. Mr. Athey mentioned a number of recent areas that were targeted and discussed the possibility of additional murals with Mr. Lopata who suggested working with the Parks Department to develop a plan for the James Hall Trail. Mr. Lopata added that paying an artist for murals was expensive and time consuming, and fund raising was difficult. Mr. Funk learned that in Philadelphia – known as the City of Murals - art teachers in the schools and community involvement were utilized. Mr. Temko added that his father helped with a mural in Philadelphia, where members of the community were brought in to complete a type of "paint by number" mural.

Mr. Clifton was confused as to the responsibility for graffiti clean up on state roads. Mr. Athey said he learned that DelDOT would address graffiti only if it was profane in nature. Mr. Funk said a number of perpetrators had been charged in the recent arrests, and part of their sentencing was to make restitution for damages. He added the restitution money went into a City fund which could only be accessed when business or property owners submitted bills for the graffiti removal. Chief Tiernan said this was a very serious problem throughout the state, and a graffiti task force was formed with Delaware State and New Castle

County Police and several towns. Mr. Lopata explained that the Code limited the funds to property owners. Mr. McFarland offered to report how much money was in the fund. Mr. Markham learned that the County had a graffiti cleaning machine and wondered if the City could have access to the equipment. Mr. Funk reported the equipment was donated by a company in Delaware County.

**13.** Mr. Athey felt the draft resident survey prepared by Mr. Fortner was good but suggested the section pertaining to the City's website and Channel 22 usage should pose a more open-ended question.

**14.** Mr. Athey congratulated Mr. Pomeroy for his appointment to the Delaware Humane Society Board.

**15.** Mr. Temko said a citizen requested a copy of the City Solicitor's memo to Council detailing FOIA regulations. He said the City Solicitor did not object to honoring the request, provided Council chose to release the memo which was a lawyer-client document. It was the consensus of Council to obtain the City Solicitor's written approval before releasing the document.

**16.** Mr. Temko provided dates on three upcoming events. On April 15<sup>th</sup> at 6:30 p.m. there would be a Terry Manor community meeting. At 9:00 a.m. on April 18<sup>th</sup> the community clean up started at the Municipal Building. A speed management public workshop was scheduled on April 20<sup>th</sup> at 6:30 p.m. at the Municipal Building. The second half of the two-hour workshop would focus on Country Club Drive changes and would provide an opportunity to learn about different strategies and techniques that could be used in Newark.

**17.** Mr. Tuttle acknowledged a successful first Green Wednesday for yard waste pick up. In relation to that, he advised of notice received from Representative Schooley of a public meeting on April 16<sup>th</sup> at 7:00 p.m. at the Judge Morris Estate on Polly Drummond Hill Road regarding the future of the community yard waste site maintained by the County.

**18.** Mr. Tuttle referenced the article in the *Newark Post* by Amy Roe and presented to Council about the Purchased Power Cost Adjustment. He said he was questioned about the issue which he felt was a bit complex and thought some of the terminology used, particularly the word "profit," might raise some additional questions. He therefore asked Mr. McFarland to clarify what the margin was intended to do and explain how that might be different from profit.

Mr. McFarland said as he understood the article in the *Newark Post*, the references to profit included everything other than wholesale power costs. He said in fact, the commodity rate charged by the City – the 13.5 cents plus the PPCA – recovered a good number of operating and capital costs in the electric utility. Further, only a portion of the 13.5 cents was profit. The margin in the proposed budget of a little less than \$12 million and the change made in resolving the budget increased it by about \$800,000. Beyond that, he said the operating margin was used to reinvest back into the electric utility on the capital side and also supported operating transfers to the general fund.

**19.** Mr. Funk welcomed Doug Rainey from the *Newark Post*.

**20.** Mr. Markham thought it was important to recognize Lambda Chi Alpha fraternity for rescuing a woman from her car on the railroad tracks. They also organized a fundraiser to help replace the car she lost.

**21.** Mr. Markham referenced the availability of stimulus funds for alternate energy at the Municipal Building. Mr. Sonnenberg said several other options being considered included utilizing the reservoir to run a hydro generator facility as well as looking at establishing solar in the same area.

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

23. **4-B. FINANCIAL STATEMENT**

None

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

None

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

A. Bill 09-12 An Ordinance Amending Ch. 17, Property Maintenance Code, By Further Amending the 2006 Edition of the International Property Maintenance Code

Ms. Fogg read Bill 09-12 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR TEMKO: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-12.

Mr. Sciulli said the bill amended the existing International Property Maintenance Code (IPMC). When the 2006 IPMC was adopted, the room area requirements were deleted. He said it currently was very arbitrary, allowing the Code official to decide if there were too many people residing in a unit. One amendment spelled out the exact square footage needed for a particular room based on the number of people residing in the property.

Mr. Sciulli said the second amendment to Section 404.8 addressed the rental permits for non-owner occupied and owner-occupied properties in the City. He believed the current language made it difficult to explain and enforce and used contradictory and/or not defined terminology in the Property Maintenance Code. For example, a multi-family dwelling was defined in the Code as any building with three or more dwelling units housed in a particular structure with common areas. In the second sentence it defined the same term as dwelling units of any number in a structure with commercial usage. Mr. Sciulli said he was trying to make this section easier to understand, to enforce, and most importantly, to defend in the event of a challenge. He claimed the information in the old section was carried over to the database used in everyday Code enforcement, and this resulted in a number of buildings being incorrectly classified. Over the last several years, a number of inconsistencies were found between the database and the physical inspection of the property.

Mr. Clifton said he was contacted by someone about a conflict in the ordinance and talked to staff about the issue of single-family homes vs. apartment units (multi-family dwellings). In this particular case, the units were clearly built as town homes, and the conflict was in the fee increasing from \$75 to \$300/year based on the classification. Mr. Clifton understood there was disparity between the two Codes – the zoning was garden apartment but the units were clearly built as town homes under the Building Code. Mr. Sciulli said that was a separate issue. The language he proposed would accomplish the exact same thing as was written today in a more specific, succinct form.

Mr. Clifton asked if every rental unit in the City currently charged \$75 or \$300/year would continue to be charged the same fee. Mr. Sciulli said that was correct. Mr. Clifton acknowledged there was a difference in the Building and Zoning Codes. Mr. Sciulli said RM was a zoning classification, not a building classification. Mr. Sonnenberg asked Mr. Sciulli if the two Codes did not correspond to each other. Mr. Sciulli said the authority for a rental permit and to categorize buildings came from the Building Code and the Property Maintenance Code. The authority to build on a plot of land came from the Zoning Code, and they did not necessarily use the same definitions. Mr. Sciulli said the important thing to remember was in Section 404.8, every non-owner occupied single-family dwelling type structure and every owner-occupied single-family dwelling type structure rented to more than two boarders or roomers and every multi-family

dwelling structure defined as residential units for a mixed use of any number got a rental permit. Further, the proposed language would not change the language in the Code today.

Mr. Temko asked for clarification that the inconsistencies found by the Building Department were based on the existing Code. Mr. Sciulli said the inconsistencies found were based on historic data, a database and a physical inspection of the property. Mr. Sciulli explained that properties were not being reclassified but instead were being correctly classified.

Mr. Clifton said he thought the disparity between the Building Code and the Zoning Code was that Council decided to allow garden apartments to be built as RM. Mr. Sciulli said garden apartments were allowed to be built in RM zoning. Mr. Clifton agreed, and asked if the question was whether they were garden apartments or townhouses. He believed a clear argument could be made that they were operating as apartments. Ms. Sciulli thought this was a discussion for a later date. However, he assured Council that single-family dwellings being charged \$300 for a rental permit would get charged \$300 tomorrow if this ordinance passed. Duplexes would continue to be charged \$600 and multi-family dwellings would continue to be charged \$70 per unit.

Mr. Clifton questioned if the fees that have been charged for a rental property would be consistent across the board, property by property, this year. Ms. Sciulli replied they would not be charged the same if they were improperly classified.

Mr. Markham believed there were two different discussions taking place – one was the law, which was being changed to remove ambiguity and would not reclassify any properties; and two, was a change in the database which was an administrative function to reclassify properties when the Building Department found them to be misclassified.

Mr. Pomeroy asked what percentage of fees would change based on reclassification. Mr. Sciulli said approximately 20 out of 3,000 rental properties were incorrectly classified as multi-family dwellings and being charged \$70 per dwelling unit when they were two structures with three dwelling units. There were also some duplexes being charged \$300 that should be charged \$600. Mr. Sciulli said some properties would see a reduction in their rental fees. One in particular was being charged \$600 for a duplex where there were four dwelling units in one building – a multi-family dwelling by definition that should have been charged \$280. Mr. Markham asked if there was an appeals process, and Mr. Sciulli confirmed that option was available.

The Chair opened the discussion to the public.

Chris Cochran, 39 Ferncliff Road, said he owned 15 townhouse-style apartments on Chapel Street, and currently paid \$70 per unit. He also owned one tax parcel with six townhouses, another tax parcel with five townhouses and another with four. He said they looked like townhouses, which came under Mr. Sciulli's second amendment. Mr. Cochran conceded the second amendment as well as the first relating to occupancy based on square footage.

Matt Dutt, 54 McCormick Way, was in favor of the first amendment to use the IPMC's numbers to determine overcrowding. He was confused by the second amendment. His understanding was that if it was a townhouse, it was a townhouse and would be charged a \$300 fee. He had at least three of the 20 misclassified properties that would see a raise in the permit fee. He wanted the fees to be fair across the board but felt the permit fees of \$70 for an apartment, \$300 for a single-family townhome and \$600 for a duplex were excessive in comparison to other cities in the state.

Bruce Harvey, 5 Phillips Avenue, thanked Mr. Sciulli for his outreach to landlords. He felt the bill was good overall but had some concerns. One was it reinstated language that would set a minimum bedroom size of 70 square feet. He was aware of some properties on Madison Drive with only 68.8 square feet and felt the solution should be to grandfather those homes. He did not see the bill as enabling legislation that would solve the misunderstanding of which classification applied to certain properties.

Mr. Sciulli said grandfathering was a term frequently used in codes but was actually a misnomer. The correct terminology was legal non-conforming. Grandfathering implied that the occupancy, conditions, situation, height, etc. was legal at the time it was built, and a change in Code made it illegal today. He said that was not the intent of the bill.

Mr. Funk pointed out that the homes on Madison Drive were built prior to this Code and by requiring the rooms to be 70 square feet would not result in making the houses illegal. Rather, they would be non-conforming.

Robert Bruner, S. College Avenue, a landlord who was reclassified, said his rental permits decreased from \$600 to \$280 and asked if he would receive a \$320 refund. Mr. Temko asked Mr. Bruner if he would suggest that landlords whose classification increased retroactively would have to pay the City more money.

Mr. Lopata explained that many of the developments referenced by Mr. Sciulli were in the BLR or RM zone. He said the way the Code read, especially in BLR, the units with large lots described by Mr. Cochran could not have been permitted as townhouses. They were not built on individual lots, and they were reviewed and approved by Council as apartments. They have been incorrectly classified under the Building Code but correctly classified under the Zoning Code. That was the discussion between Mr. Clifton and Mr. Sciulli. Mr. Lopata stated that the Zoning and Building Codes did not quite align, and that would be corrected with the proposed bill. He gave a recent example – CampusSide, which was just approved as “townhouse apartments,” with groups of five and six dwellings on individual parcels. They were not considered separate townhouses from a zoning standpoint where each parcel had its own parcel number, and were classified as “townhouse apartments.” He said in the subdivision agreements that language was used repeatedly and deliberately, not for the rental permit fee but for the development to be in compliance with Zoning Code regulations. Mr. Lopata said in his opinion, the easiest way to resolve the situation was to take Mr. Harvey’s suggestion to grandfather all existing units and change the regulations going forward.

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

Mr. Temko thought there was a lot of discussion but not about the proposed ordinance. He suggested that the discussion about correct building classifications should occur at another time.

Question on the Motion was called.

Mr. Clifton said he would not support the bill because he thought there needed to be consistency on both sides of the Code. He felt it was not clear from the evidence presented that what was done in the past was a mistake. He said decisions were made on the zoning classification as to the fees charged and now that seemed to have morphed itself into something else. He wanted to support the room area change but thought the issue as it pertained to the fees and how the fee was assessed was lacking. Mr. Clifton noted in regard to the justification of the fees, the minutes from when Council originally discussed those fees indicated that Mr. Luft laid out an entire process as to how the fees were decided upon, and it was a very clear, precise accounting of cost for the rental permit fee.

MOTION PASSED. VOTE: 6 to 1.

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

**(ORDINANCE NO. 09-14)**

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

None

**27. 8. ORDINANCES FOR FIRST READING**

A. Bill 09-16 – An Ordinance Amending Ch. 20, Motor Vehicles & Traffic, By Amending Schedule VI, So As To Permit Parking in Turnarounds on Renee Court

Ms. Fogg read Bill 09-16 by title only.

MOTION BY MR. TEMKO, SECONDED BY MR. POMEROY: THAT THIS BE THE FIRST READING OF BILL 09-16.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(2<sup>ND</sup> READING 4/27/09)**

**28. 8-B. BILL 09-17 AN ORDINANCE AMENDING CH. 22, POLICE OFFENSES, BY WAIVING THE ALARM REGISTRATION FEE FOR ANY RESIDENTIAL USER OVER THE AGE OF 65**

Ms. Fogg read Bill 09-17 by title only.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THIS BE THE FIRST READING OF BILL 09-17.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(2<sup>ND</sup> READING 4/27/09)**

**29. 8-C. BILL 09-18 AN ORDINANCE AMENDING CH. 22, POLICE OFFENSES, BY AMENDING THE PENALTIES FOR THE ACT OF GRAFFITI, AND SPECIFYING PENALTIES FOR THE ACT OF POSSESSION OF GRAFFITI INSTRUMENTS**

Ms. Fogg read Bill 09-18 by title only.

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THIS BE THE FIRST READING OF BILL 09-18.

AMENDMENT BY MR. TUTTLE, SECONDED BY MR. POMEROY: TO ADD THE FOLLOWING LANGUAGE TO AMENDMENT 1, SECTION (2) “**UNDER CIRCUMSTANCES EVIDENCING AN INTENT TO USE THE SAME IN ORDER TO COMMIT AN ACT OF GRAFFITI OR DAMAGE SUCH PROPERTY.**”

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 AS AMENDED PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**(2<sup>ND</sup> READING 4/27/09)**

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

A. Council Members:

1. Discussion of Victims of Crime Assistance Program

Mr. Athey said Carol Post discussed this program with him and explained how it was an integral part of the City's anti-crime effort. He noted that the grant funding was becoming more difficult to obtain, and the state was looking for a commitment from municipalities that they will take on the funding at some point in the future. He hoped Council would adopt a resolution that could be attached to the next grant which would provide one last year of federal funding. In 2010 funding would become the City's responsibility.

Carol Post, 69 Kells Avenue, the Executive Director of the Delaware Coalition Against Domestic Violence who also served on the Victim's Advisory Committee of the Criminal Justice Council gave a short presentation. The Committee was charged with making funding recommendations with regard to the federal Victims of Crime Act (VOCA) dollars that come to the state. She reported that Lt. Governor Matt Denn and Governor Jack Markell signed a proclamation officially designating this week as Victims of Crime week in Delaware.

Ms. Post detailed the importance of victim services and said until mid-1980, victims were left to their own devices when navigating the criminal justice system. Both here in Delaware and across the nation, police officers were limited in the time they could give victims of crime, and victim services were non-existent. She reported there were now victim services staff at all the major police departments in the state and said Newark was the last to add a victim services position. According to Ms. Post, victim services staff were an amazing resource to both victims and police officers. They helped to insure that the provisions of the Delaware Victims Bill of Rights were followed, offered information, support, referral and court accompaniment and assisted victims in completing victim impact statements and violent crime compensation applications. Victim services staff also assist victims in understanding Delaware's Victim Notification System so they would be notified when an offender was released back into the community.

Ms. Post commented that police officers benefited as well since victim services staff provide information on resources, consult or assist with cases, provide training to recruits, and help make sure the department was in compliance with the Delaware Victim Bill of Rights. Ms. Post reported that Susan Alfree of the Newark Police Department assisted 400 victims in 2008 and addressed 1,000 calls on a part-time basis. Ms. Post commended Ms. Alfree for her hard work and said the City was lucky to have her. She said the support and assistance of the victim service's staff made all the difference in terms of case follow through and positive outcomes for both the system and the victims.

In her capacity as a member of the Victims Advisory Committee, part of Ms. Post's job was to evaluate whether grant applicants were making a good faith effort to sustain programs once they received three years of VOCA funding.

The Newark Police Department was now in its fourth year of federal funding and presumably would be seeking funding to continue this position for another year.

As a citizen of Newark, Ms. Post wanted the City to invest in the program's invaluable services and take steps towards sustaining this program over the long term. She urged Council to pass a resolution and commended Mr. Athey for taking leadership on this issue.

It was the consensus of Council to have a resolution prepared by Ms. Fogg for their next meeting.

**31. 9-B. COMMITTEES, BOARDS & COMMISSIONS**

1. Planning Commission Minutes of March 3, 2009

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THE PLANNING COMMISSION MINUTES OF MARCH 3, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**32. 9-B-2. APPOINTMENT TO COMMUNITY DEVELOPMENT/REVENUE SHARING COMMITTEE**

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT CATHERINE HEGEDUS, 258 BEVERLY ROAD, BE APPOINTED TO THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A THREE-YEAR TERM; SAID TERM TO EXPIRE MARCH 31, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

**33. 9-C. OTHERS**

None

**34. 10. SPECIAL DEPARTMENTAL REPORTS**

- A. Special Reports from Manager & Staff
  1. Adoption of Financial Policies

Mr. McFarland explained the proposed resolution would adopt the set of financial policies that were discussed and revised at the Council workshop on March 30<sup>th</sup>. The rationale for the policies was to answer some of the questions posed in the 2009 operating budget message, to provide staff direction in the development of recommendations concerning financial matters, and to provide transparency to the public in the manner in which the City makes financial decisions. It would also respond to prior audit comments the City received in terms of the need for documented financial policies, and it was a recommended best practice from the government finance office association to have such policies. The policies were comprehensive in nature, covering revenues, expenditures, debt, reserve levels for each of the City's funds, an investment policy, capital expenditure programs and financial reporting.

Adoption of the policies had several major implications for the City on a going-forward basis. Among those implications was a need to manage the governmental and proprietary funds individually, the need to build up cash reserves in those funds, the need to budget transfers among those funds, and it would also highlight the need for transparency, consistency and predictability in

fiscal matters. Mr. McFarland reiterated the policies presented were essentially what were reviewed at the workshop with one edit on page 14 where the language was changed to say that financial reports would be presented to all relevant parties in a timely manner.

Mr. Markham asked if Council had a sticking point with item 8 on page 2, revenue policy. Mr. McFarland acknowledged there was discussion on item 8 but did not know if a consensus was reached, and it was staff's recommendation that the policy be to limit the designation of General Fund revenues for specified purposes.

Mr. Tuttle asked if it would be safe to say that limiting did not mean prohibiting. Mr. McFarland said that was correct, and he looked at the policy as a kind of brake to determine if there was sufficient evidence warranting a change in designation of revenue funds.

Mr. Temko felt the word "limit" meant there were specific occasional circumstances that might be worthwhile, and Mr. McFarland said some people would argue that point.

Mr. Markham asked if the word "limit" was included previously. Mr. McFarland said it was and thought it provided Council the opportunity to make deviations when there was sufficient justification to do so.

Mr. Athey said the issue he had was with the first sentence in the resolution which stated, "WHEREAS, the purpose of financial policies is to present a standardized set of principles that the City of Newark **will follow**..." He said to be candid, the City would not follow the principles at the end of this year's budget and it was evident at the workshop meeting that it would take many years to get to the point where all the policies would be followed. He felt there should be some conscious recognition, perhaps in the resolution itself, that the City would seek to adopt these policies over a given period of time as there was no way this could be done by the end of the fiscal year. Mr. Athey said he found the use of the word "will" in the first sentence very constraining, limiting the City's ability to do certain things.

Mr. Sonnenberg thought the third "WHEREAS" in the resolution addressed Mr. Athey's point. Mr. McFarland agreed it pointed the City in the right direction while recognizing constraints in the near term.

Mr. Pomeroy commended Messrs. McFarland and Sonnenberg and staff for the work that went into compiling the policies and procedures for the City to follow in the years ahead.

MOTION BY MR. TUTTLE, SECONDED BY MR. TEMKO: THAT THE RESOLUTION WITH ATTACHED FINANCIAL POLICIES AND PROCEDURES BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**(RESOLUTION NO. 09-G)**

**35. 10-A-2. TRIENNIAL PENSION BENEFIT REVIEW**

Mr. Zusag said the Pension Plan required evaluation by the plan trustees on a triennial basis to determine whether benefits paid to current retirees would be increased. He said the last time an increase was granted to the current retirees was January 1, 2006, so another review was due January 1, 2009.

Given the funding status of the plan, staff recommended the trustees not grant an increase to the retirees at this point in time.

Mr. Clifton thanked Mr. Zusag for putting this subject on the agenda to allow public discussion. He saw the additional annual cost would be about \$35,000 a year if a 0.5% increase was granted for each year the retiree received benefits since the last increase. The current total annual benefit for retirees was just over \$2.5 million a year.

Mr. Clifton said he appreciated the staff's due diligence in trying to control costs. One thing he hoped the retirement plan could do was to provide at least some additional compensation for those on a fixed income. He said because this was a triennial review if the retirees did not get an increase this year, they would not receive one for the subsequent two years and therefore would go three years without a cost of living increase. He asked Council to consider revisiting the subject at the same time next year to see if anything could be done to help the retirees.

Messrs. Athey and Pomeroy asked if there was any reason to wait three years for a review, and Mr. Funk responded that as the trustees, Council could set the rules. Mr. Zusag said he was not unsympathetic to the remarks made and would like to give increases to the retirees, but eventually, the City had to pay for the increases which was not always easy to do. With the annual report, Mr. Zusag offered to provide an update on the funding status of the plan showing the asset liability ratio and progress towards achieving the goal of 90% funding. Council felt the information would be helpful and agreed to revisit the subject this time next year.

Mr. Markham asked what the cost of living adjustment was in 2006. Mr. Zusag said it was half a percent a year for each retirement year since the previous COLA.

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: THAT THE TRIENNIAL PENSION BENEFIT REVIEW BE RECEIVED WITH THE STIPULATION THAT THE ISSUE BE REVISITED IN APRIL, 2010.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**36. 10-A-3. REQUEST AUTHORIZATION TO APPLY FOR FEDERAL GRANT TO FUND SIX VACANT POLICE OFFICER POSITIONS**

Chief Tiernan said the Police Department had an opportunity to apply for a grant from the Department of Justice Office of Community Oriented Policing Services. The grant would fully fund six police officers including salary and benefits for a period of three years with the stipulation that they be kept on by the City for a minimum of twelve months.

MOTION BY MR. POMEROY, SECONDED BY MR. MARKHAM: TO AUTHORIZE THE POLICE DEPARTMENT TO APPLY FOR A FEDERAL GRANT TO FUND SIX VACANT POLICE OFFICER POSITIONS.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**37. 10-B. ALDERMAN'S REPORT**

MOTION BY MR POMEROY, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORTS DATED MARCH 24, 2009 AND APRIL 7, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

**38. Meeting adjourned at 9:27 p.m.**

*Patricia M. Fogg*

Patricia M. Fogg, CMC  
City Secretary

/av