

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**May 11, 2009**

Those present at 7:30 pm:

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

Absent: Mayor Vance A. Funk, III

Staff Members: City Manager Kyle Sonnenberg  
City Secretary Patricia M. Fogg  
City Solicitor Roger A. Akin  
Assistant to the City Manager Charles Zusag  
Finance Director Dennis McFarland  
Planning & Development Director Roy H. Lopata  
Police Chief Paul Tiernan  
Water & Waste Water Director Roy Simonson

---

**(Secretary's Note: As a result of a system malfunction, the recording of the meeting did not occur. The following minutes were compiled from notes taken by the Secretary.)**

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

2. MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT ITEMS 9-A-2 AND 9-C-1 BE MOVED TO ITEMS 1-A AND 1-B.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

3. **9-A-2. RESOLUTION 09-\_\_ : RETIREMENT OF DAN SCALONE, ASSISTANT WATER & WASTE WATER DIRECTOR**

Ms. Fogg read the resolution in its entirety.

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

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye – Athey, Clifton, Markham, Pomeroy, Temko, Tuttle.  
Nay – 0.  
Absent – Funk. **(RESOLUTION 09-J)**

Mr. Scalone thanked Council for the opportunity to work for the City for 30 years and expressed his sincere appreciation for Council's recognition. Mr. Clifton thanked Mr. Scalone for his dedication and said his knowledge and expertise in the field would be dearly missed and was irreplaceable.

**4. 9-C-1. LEGISLATIVE REPORT – BOB MAXWELL**

Mr. Maxwell, the City's lobbyist, presented a review of the recommended revenue packet prepared by Governor Markell that included increases in various taxes and fees. Also included in the packet was the Governor's agenda for economic recovery, government reform, improvements in education excellence and a balanced budget.

Mr. Maxwell advised that SB 42, concerning the Alderman's Court, sponsored by Senator DeLuca, was out of committee and on the ready list and could be introduced at any time. Senator DeLuca indicated that he would provide the City notice as to when the bill would be introduced. Letters have been sent to areas legislators from Roger Akin, Chief Tiernan and the University of Delaware requesting that SB 42 be defeated, if introduced. Mr. Maxwell explained that SB 42 could sit idle for up to two years, and he could not anticipate if and when it may be brought to the floor.

Acknowledgment was given to Mr. Akin and Mr. Rick Armitage (University of Delaware) for the work they have done in regard to SB 42. Mr. Akin is prepared to present the City's argument if and when SB 42 is introduced.

At the present time the General Assembly is devoting most of its time on efforts to balance a budget that must be approved by July 1. There was a discussion about whether the realty transfer tax would be impacted by any last minute decision making in Dover. Mr. Maxwell will be following this very closely and will advise the City if the realty transfer tax may be impacted by proposals by the General Assembly. Mr. Maxwell advised that the Governor would be creating an intergovernmental committee to examine state wide expenditures, and suggested that Council consider recommending a City of Newark representative. Mr. Maxwell will provide another report to Council in June.

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

- A. Regular Council Meeting of April 27, 2009

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

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

- A. Public

There were no comments forthcoming.

**7. 3-B. UNIVERSITY**

- 1. Administration

There were no comments forthcoming.

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

There were no comments forthcoming.

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

Mr. Tuttle encouraged participation in the U Don't Need It Program scheduled to begin May 22<sup>nd</sup>.

**10.** Messrs. Markham, Athey, Pomeroy, and Clifton recognized the Town & Gown volunteer ceremony held on May 4<sup>th</sup> where 25 University students were recognized for their numerous hours of volunteer work in the Newark community. One student received the Nikki Woolf Award as the outstanding volunteer of the year, a special recognition from the Nikki Wolfe family in honor of Nikki who died in a motor vehicle accident while attending the University of Delaware.

11. Mr. Markham noted that the City received the Tree City USA Recognition, Growth Award for the eighth year in a row, and congratulated Parks and Recreation for achieving this recognition.

12. Mr. Temko reminded everyone that on May 19<sup>th</sup> the Planning Design Committee was holding a visionary session for downtown Newark at 4 pm and 7 pm in the Council Chamber. On that same evening at 6:30 pm Messrs. Temko and Pomeroy will host a Western Newark Civic League meeting in the Mayor's Conference Room.

13. Mr. Temko discussed a City website community calendar and advised that staff did not recommend providing such a calendar online for several reasons, including security. Mr. Temko has several ideas on how the City's concerns may be handled.

14. Mr. Athey distributed to Council a pamphlet he received from Linda Stapleford on the White Clay Creek National Wild and Scenic River.

15. Mr. Athey requested the City Manager to ask DeIDOT to examine the intersection of Elkton Road and Christina Bypass, in particular, the two lanes exiting from Suburban Plaza and going north onto Elkton Road. He believed the lanes may not meet DeIDOT requirements.

16. Mr. Pomeroy thanked Bob Maxwell for his update on SB 42. He also expressed his appreciation to Messrs. Akin and Tiernan, as well as Rick Armitage from the University of Delaware, for their assistance in trying to get SB 42 defeated.

17. Mr. Pomeroy advised that the Abbotsford community came up with a plan to assist the townhouses with the new recycling program scheduled to begin in June. They are purchasing small recycling bins for participating townhouse residents who do not want the larger cans provided by the City. He encouraged Council members who have similar subdivisions in their districts to contact the Abbotsford Homeowners Association if they were interested in piggy backing on the purchase of the smaller bins.

18. Mr. Clifton noted that two University of Delaware students well known to the City of Newark were recently recognized by the University. Teagan Gregory and Casey Patriarco were active members of the Town & Gown Committee.

19. Mr. Clifton reminded everyone that the Memorial Day parade and ceremonies would be held Sunday with the ceremony beginning at 1:00 pm on The Green.

20. Mr. Clifton questioned whether the City would be receiving any stimulus money and was advised that there would be funds provided to the City that may be used on the municipal building's heating system and lighting as well as on the water treatment plant. Mr. Sonnenberg reported that the City had submitted a long list of projects but was told they did not warrant stimulus money.

21. Mr. Clifton requested (and Council members agreed) to place on the next agenda a discussion regarding the requirement of speakers to provide their name and address. He suggested that a policy should be endorsed by Council.

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

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

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

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

None

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

None

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

- A. Bill 09-15 – An Ordinance Amending Ch. 20, Motor Vehicles & Traffic, Code of the City of Newark, Delaware, by Creating a New Article XXIX, Idling of Motor Vehicles

Ms. Fogg read Bill 09-15 by title only.

MOTION BY MR. POMEROY, SECONDED BY MR. ATHEY: THAT THIS BE THE FIRST READING OF BILL 09-15.

Mr. Clifton suggested that item (I) be amended to address idling in hot summer months when air conditioning was needed in vehicles. Mr. Akin said that wording could be added at second reading without changing the intent of the proposed bill.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Funk.

**(2<sup>ND</sup> READING 5/26/09)**

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

- A. Council Members:  
1. Discussion re Speed Cameras - Temko

Mr. Temko referred to the memorandum provided by the Police Department in regard to speed cameras. At the present time the state does not have a speed camera program, and there does not appear to be any interest at the state level in establishing such a program. The Police Department conducted a review of various automated speed enforcement systems and did not recommend implementing a program at this time.

29. **9-B. COMMITTEES, BOARDS & COMMISSIONS**

1. Planning Commission Minutes of April 7, 2009

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT THE PLANNING COMMISSION MINUTES OF APRIL 7, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

Nay – 0.

Absent – Funk.

30. **9-C. OTHERS**

**(See Item #4)**

31. **10. SPECIAL DEPARTMENTAL REPORTS**

- A. Special Reports from Manager & Staff  
1. Report on Domestic Partner Benefits

Mr. Zusag provided a memorandum, dated March 4, 2009, regarding domestic partner benefits for City employees that was prepared at the request of Councilman Temko. Mr. Zusag advised that Council could consider taking action on four items:

- (1) Request the City Manager to provide a definition of 'domestic partner'.
- (2) Grant dependent life insurance, funeral leave and emergency leave for domestic partners.
- (3) Direct the City Manager to draft a bill to amend the pension plan to include surviving spousal benefits for domestic partners.
- (4) Direct Assistant to the City Manager to review domestic partner benefits for employees with the Labor/Management Health and Dental Committee and provide Council with their recommendation.

There was a discussion regarding Mr. Akin's confidential memorandum to Council on this subject. Mr. Akin was asked to provide an edited memorandum on this subject that could be shared with the general public. A discussion ensued as to whether or not Council should move forward on this issue at this time. Mr. Markham believed it needed to be addressed at the federal and state levels first. Except for Messrs. Temko and Pomeroy, Council agreed it would be appropriate to wait until after July 1 to make any decision regarding domestic partner benefits.

It was agreed that Mr. Zusag will have this issue reviewed by the Labor/Management Health and Dental Committee at their meeting scheduled for June 24<sup>th</sup>. Also, the City Manager will provide Council a definition of domestic partner. It was agreed that a public discussion would be held at a future Council meeting and the date of that discussion would depend on the length of the upcoming agendas. It was noted that a major subdivision and special use permit request for 108 East Main Street was scheduled for the May 26<sup>th</sup> meeting. It was the general consensus that Council would like to hear the public comments prior to the June 24<sup>th</sup> meeting of the Labor/Management Health and Dental Committee.

**32. 10-A-2. SETTING DATE FOR COURT OF ASSESMENT APPEALS**

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE COURT OF ASSESSMENT APPEALS BE HELD JUNE 8, 2009.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

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

**33. 10-B. ALDERMAN'S REPORT**

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THE ALDERMAN'S REPORT DATED MAY 5, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 6 to 0.

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

**34. Meeting adjourned at 9:33 pm.**

Patricia M. Fogg, CMC  
City Secretary

/pmf