

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

September 14, 2009

Those present at 7:25 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: Assistant to the City Manager Carol Houck
Assistant to the City Manager Charles Zusag
City Solicitor Roger Akin
Deputy City Secretary Alice Van Veen
Finance Director Dennis McFarland
Planning & Development Planner Mike Fortner

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

2. **1-B. RESOLUTION 09-__ : IN RECOGNITION OF THE HONORABLE STEVEN H. AMICK**

7:25

Mr. Pomeroy read the resolution recognizing the Honorable Steven H. Amick for his long-time commitment to the City of Newark and naming the trail at the Newark reservoir the "Steven H. Amick Trail."

Mr. Amick said it had been a great privilege to represent the City of Newark over a span of 22 years.

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

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

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

7:28

A. Regular Council Meeting of August 24, 2009

There being no additions or corrections to the minutes, they were approved as received. Mr. Athey pointed out that with the abbreviated minutes approved at the 8/24/09 Council meeting, it was important that decision points not be lost in striving for brevity. In regard to item 10, page 2, he believed decisions were made (not just considered), particularly about the employee holiday luncheon. Mr. Athey felt the new format was easier to review and applauded the efforts of the City Secretary's office.

4. 3. ITEMS NOT ON PUBLISHED AGENDA

7:30 A. Public

Amy Roe, Newark resident, questioned whether the Purchased Power Cost Adjustment increase effective in September would be used to adjust for the cost of purchased power. Mr. McFarland explained the adjustment reflected under-collection of costs for the first part of the year due to consumption changes and noted costs included administrative overhead and was needed to maintain the 20% operating margin. Ms. Roe also questioned the wholesale power rate and cost. She requested more transparency in billing, and Mr. Funk agreed to discuss this with Mr. Sonnenberg.

5. Jean White, Newark resident, was disturbed about Council's decision to truncate City Council minutes as she felt the minutes constituted an important historical record of decisions made and what led to those decisions. Ms. Houck reported that as a supplement to the condensed minutes, the recording of the complete meeting would be available in audio format on the City's website on the day following the Council meeting, and recordings would be available in perpetuity. Although the capability to bookmark the audio does not currently exist, discussion times of individual agenda items will be provided by the City Secretary's office.

6. Catherine Ciferni, Newark resident, felt a verbatim transcript of the Council minutes should be available in print form for deaf persons if requested. Ms. Houck said although it would be possible to provide a transcript, it would be time consuming. She will ask the IT Department if any alternatives (such as voice transcription software) were available.

7. State Representative John Kowalko recognized Senator Amick and said his ability to perform in the legislature was enhanced because of Senator Amick's mentorship.

8. Representative Kowalko reported on an administrative directive establishing a foreclosure mediation program. Effective September 15, qualified home owners at the foreclosure (sheriff sale) stage will be entitled to a mandatory mediation period. He felt this would help people stay in their homes and asked Council members to publicize the information in their districts.

9. **3-B. UNIVERSITY**

1. Administration – There were no comments forthcoming.

10. **3-B-2. STUDENT BODY REPRESENTATIVE**

There were no comments forthcoming.

11. **3-C. COUNCIL MEMBERS**

7:56

Mr. Pomeroy – congratulated Senator Amick and thanked him for his service and advocacy on behalf of the City; recognized Messrs. Kowalko and Grant; noted UD move-in day was very well organized; issued a reminder for Community Day on 9/20; announced that the developer of the Valley and Barksdale Road project in Maryland voluntarily withdrew the plan; reported on another towing complaint at the Newark Shopping Center – Ms. Houck reported staff was checking into both sides of the issue and would provide further information to Council on 9/15.

12. **Mr. Clifton** – commended Senator Amick for being a friend to the City and thanked him for his service; asked how handicapped curb cuts were funded which Ms. Houck explained was a regular capital budget project; requested information on the Beasley Power Plant and how it controlled energy costs for the City – Ms. Houck and Mr. McFarland will prepare a report identifying how the plant has benefited the City and what the returns have been.

13. Mr. Athey – remarked that Senator Amick would be missed in the General Assembly; said the Newark Film Festival on 9/10-9/17 was a popular event; attended the WILMAPCO Council meeting where he learned of a study on what would be involved to keep the Newark train station at its current location; mentioned the death of Officer Chad Spicer in Georgetown which made him appreciate the work of police officers who put their lives on the line every day.

14. Mr. Temko – thanked Senator Amick for his hard work and his accomplishments; noted closure on the recent drug store robberies; will provide materials to Council for the 9/24 workshop; asked Council's interest in pursuing a cell phone ban for the City – Council members preferred to wait to see if action will be taken by the General Assembly; suggested having the Conservation Advisory Commission report to Council establishing criteria for renewable energy purchased by the City – Ms. Houck said staff will communicate with the CAC on this item; discussed UD's goals for self-generation – Messrs. Armitage and McFarland confirmed good cooperation between the City and the University at this point; questioned Council's interest in stepped up enforcement for cigarette butts under the littering ordinance – Ms. Houck said staff would look into the matter and report to Council in the spring.

15. Mr. Markham – acknowledged Senator Amick for his efforts; commended UD band day as a positive outreach to the high schools; provided a brief update on the Choate/New/Linden Street efforts to encourage owner occupancy where he felt some kind of incentive process was needed – Mr. Lopata was following up with a survey of property owners; congratulated the Police Department for closure on burglaries.

16. Mr. Tuttle – commended Senator Amick on his contributions to the City; reported that in the UD's Municipal Clerks Training Program with about 15 municipalities represented, the direction was toward action minutes supplemented by audio files, and he felt Newark should continue in that same direction.

17. Mr. Funk – questioned if there was a problem at the Galleria parking lot where he saw gates up on Tuesday and Saturday and people driving out without paying – Ms. Houck will check into this and report back.

18. 4-A. ITEMS NOT FINISHED AT PREVIOUS MEETING
None

19. 4-B. FINANCIAL STATEMENT
None

20. 5. RECOMMENDATIONS ON CONTRACTS & BIDS
None

21. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING
None

22. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS
None

23. 8. ORDINANCES FOR FIRST READING
None

24. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA

8:35

A. Council Members:

1. Presentation – Debbie Puzzo, Executive Director – Joint Sunset Committee for Delaware

Ms. Puzzo of the Joint Sunset Committee was requested to clarify the process that would occur during the committee's review of the Newark Housing Authority. Ms. Puzzo explained the purpose of the sunset review which was to determine if there was a public need for an agency, board or commission and, if so, to determine if it was effectively performing to meet that need. She responded to questions regarding the selection and recommendation process and provided the timeline from the notification process through the recommendation period. Ms. Puzzo stressed that the review was a cooperative effort between the entity being reviewed and the committee.

25. 9-B. COMMITTEES, BOARDS & COMMISSIONS

9:01 1. Appointment to Board of Adjustment – Mayor Appointment

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT COUNCIL ACCEPT THE RESIGNATION OF LINDA SHOPLAND AND APPOINT GENE H. GRAHAM, 2 MEADOW WIND CIRCLE, TO THE BOARD OF ADJUSTMENT FOR A FOUR-YEAR TERM; SAID TERM TO EXPIRE SEPTEMBER 15, 2013.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

26. 9-B-2. APPOINTMENTS TO PLANNING COMMISSION – DISTRICTS 2 & 4

9:02

MOTION BY MR. CLIFTON, SECONDED BY MR. POMEROY: TO REAPPOINT JIM BOWMAN TO A THREE-YEAR TERM ON THE PLANNING COMMISSION; SAID TERM TO EXPIRE SEPTEMBER 15, 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: TO REAPPOINT KATHERINE SHEEDY TO A THREE-YEAR TERM ON THE PLANNING COMMISSION; SAID TERM TO EXPIRE SEPTEMBER 15, 2012.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

27. 9-B-3. PLANNING COMMISSION MINUTES AUGUST 4, 2009

9:02

MOTION BY MR. ATHEY, SECONDED BY MR. POMEROY: THAT THE PLANNING COMMISSION MINUTES OF AUGUST 4, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

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

28. 9-C. OTHERS

None

29. 10. SPECIAL DEPARTMENTAL REPORTS

- 9:08** A. Special Reports from Manager & Staff:
1. Pension Plan Performance Report

For the six month period ending June, Mr. McFarland reported the year-to-date return on assets was a positive 3.7%, a sharp turnaround from the first quarter where there was a loss of 8.4%. There was a gain of almost 14% for the quarter. Tracking from the beginning of the year, the assets have risen slightly to \$30 million, an increase of \$700,000. For the period, all the equity funds posted positive returns, and the fixed income fund return was exceptional. The domestic real estate investment fund was hard hit showing a loss of 25%. Administrative expenses remained fairly constant at .7%. The preliminary valuation for the Pension Plan was received from Mercer with a drop in the funded ratio to 72%.

Mr. Markham questioned if the commission percentage was automatically adjusted when the account dropped. Mr. McFarland explained the fee structure was adjusted nine months ago and has not been adjusted since that time.

MOTION BY MR. TUTTLE, SECONDED BY MR. ATHEY: THAT THE PENSION PLAN PERFORMANCE REPORT SECOND QUARTER 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

30. 10-B. ALDERMAN'S REPORT

- 9:08** MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT THE ALDERMAN'S REPORT DATED SEPTEMBER 4, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

31. 10-C. REQUEST FOR EXECUTIVE SESSION RE PERSONNEL

- 9:08** MOTION BY MR. CLIFTON, SECONDED BY MR. TUTTLE: THAT COUNCIL 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 9:08 p.m. and returned to the table at 9:50 p.m. Mr. Funk reported that no further action was required.

32. Meeting adjourned at 9:51 p.m.

Alice Van Veen
Deputy City Secretary