

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES
July 27, 2015**

Those present at 6:00 p.m.:

Presiding: Mayor Polly Sierer (arrived 6:05 p.m.)
District 1, Mark Morehead
District 2, Todd Ruckle
District 3, Rob Gifford (arrived 6:05 p.m.)
District 4, Margrit Hadden
District 6, A. Stuart Markham

Absent: District 5, Luke Chapman

Staff Members: City Manager Carol Houck
City Secretary Renee Bensley
City Solicitor Bruce Herron
Deputy City Manager Andrew Haines
Finance Director Lou Vitola
Planning & Development Director Maureen Feeney Roser
Communications Affairs Officer Ricky Nietubicz

EXECUTIVE SESSION

A. Executive Session pursuant to 29 *Del. C.* §10004 (b)(6) for the purpose of a discussion of the content of documents, excluded from the definition of “public record” in §10002 of this title where such discussion may disclose the contents of such documents.

Council entered into Executive Session at 6:00 p.m. and returned to the table at 7:00 p.m. Ms. Sierer advised that Council concluded the Executive Session.

MOTION BY MR. RUCKLE, SECONDED BY MR. MOREHEAD: THAT THE CITY MANAGER BE AUTHORIZED TO RETAIN JOHN PARADEE, ESQ. TO ACT, IF NECESSARY, AS SPECIAL COUNCIL TO THE BOARD OF ADJUSTMENT IN THE EVENT OF A CONFLICT WHICH WOULD PRECLUDE REPRESENTATION OF THE BOARD BY THE CITY SOLICITOR.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

1. The regular Council meeting began at 7:00 p.m. with a moment of silent meditation and the Pledge of Allegiance.

2. PUBLIC PRESENTATIONS

A. Resolution No. 15-__: Retirement of Elwood Williams, Captain

03:26

Captain Williams was recognized for his service to the Newark Police Department since August 1984.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT RESOLUTION NO. 15-__: RETIREMENT OF ELWOOD WILLIAMS, CAPTAIN, BE ACCEPTED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.
Absent: Chapman.

(RESOLUTION NO. 15-P)

3. 1-B. RESOLUTION NO. 15-___: RETIREMENT OF GEORGE STANKO, LIEUTENANT

07:51

Lieutenant Stanko was recognized for his service to the Newark Police Department since May 1986.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT RESOLUTION NO. 15-___: RETIREMENT OF GEORGE STANKO, LIEUTENANT, BE ACCEPTED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.
Nay: 0.
Absent: Chapman.

(RESOLUTION NO. 15-Q)

4. 1-C. PROCLAMATION HONORING SGT. TOM BUGLIO AND CPL. ROB SHARPE FOR RESCUING A DRIVER FROM THE TRAIN TRACKS

10:36

Sergeant Buglio and Corporal Sharpe were recognized for their heroic rescue of an individual whose vehicle became stuck on the railroad tracks at the intersection of West and South Main and New London Road.

5. MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT ITEM 8-A, AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, SCHEDULE IV, CODE OF THE CITY OF NEWARK, DELAWARE, BY REQUIRING A STOP SIGN ON ODESSA WAY AT THE INTERSECTION OF ASHLAND WAY, BE REMOVED FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.
Nay: 0.
Absent: Chapman.

6. MOTION BY MR. GIFFORD, SECONDED BY MR. MOREHEAD: THAT ITEM 8-B, BILL 15-18 – AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, SCHEDULE VI, CODE OF THE CITY OF NEWARK, DELAWARE, BY DESIGNATING A PORTION OF THE SERVICE ROAD PARALLEL TO ELKTON ROAD AS “NO PARKING ANYTIME”, BE REMOVED FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.
Nay: 0.
Absent: Chapman.

7. 1-D. COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) PRESENTATION FOR FY2014 – CLIFTONLARSENALLEN

15:48

Mr. Vitola reported that the City's independent financial audit was conducted by CliftonLarsonAllen. They prepared the materials that accompanied the CAFR (Comprehensive Annual Financial Report) published on June 30th. Principal William Early and Senior Manager Greg Bara were present to review their process and findings.

Mr. Early credited the Finance Department staff for working diligently to meet the June 30th deadline of filing with the Government Finance Officers Association (GFOA). Last year they received a certificate of award from the GFOA.

The financial statement for the year ended December 31, 2014 was the City's annual report. The auditor's report this year was a clean opinion which was a good accomplishment by the City.

The audit approach was risk based including risk assessments of standard requirements. The auditor's opinion of the financial statement was unmodified. In addition there was a short report on terms of disclosure of financial reporting as required by government audit standards. There were no material weaknesses or significant deficiencies noted (included in the package as Exhibit A).

There were two unrecorded (passed) audit adjustments in FY 2014. Management agreed with both of the passed adjustments. The grant revenue was passed on every year, and was not really relevant.

Classification of the Insurance Fund – there was a new GASB introduced a few years back that talks about the change of classification of funds. While it has no impact on the actual numbers within the financial report, it was a presentation issue and thus was included. Work was being done with the Finance staff to go through each fund over the next several years. Special revenue funds – sometimes the definition or how they were funded changed which could mean they fall as a different type of fund. That was looked at routinely and was a projects for the next coming year with Finance staff.

The form of communication was included as Exhibit D.

The financial statements were the responsibility of the City and management. The audit was performed to form an opinion as to whether the financial statements were prepared in accordance with GAAP, and there were no material misstatements. There were no significant issues discussed with management prior to retention.

Management reported no consultations with other accountants on the application of GAAP and GAAS. Management was responsible for the selection and use of the appropriate accounting policies. They were disclosed in Note 1 of the financial statements. A new accounting standard (GASB 67) was implemented this year and would be discussed during the presentation. Estimates were included in areas of depreciation of capital assets, the pension benefit assumptions, the pension liability calculations and benefits other than the pension. The auditor ensures there was a reasonable basis for significant judgments in estimate within industry standards. They did not note any outside of the norm. There were no sensitive financial statement disclosures and no difficulties encountered during the audit. There were no audit adjustments – the uncorrected ones were discussed previously. There were no other ones that were made. They did obtain representation from management as to what they thought was true and accurate.

There were no disagreements with management during the audit. A separate management letter was issued (included as Exhibit C) addressing two points that were in last year's letter regarding IT user access and change management. It was the auditor's understanding that those two items were addressed this year. There were several included in last year's management letter that were corrected during the year showing that everybody was concerned with internal controls and were making an effort to correct any recommendations brought forth.

GASB 67 went into effect and was a change in how information regarding the pension plan was disclosed – part of it was the calculation of the pension liability. That would be in GASB 68 and would impact the City's position going forward when implementing GASB 68 for the 12/31/15 financial statements.

Messrs. Markham and Ruckle complimented the Finance team on their efforts over the past several years on the financials. Mr. Vitola credited Wilma Garriz for getting the accounting department into shape.

8. 2. **ITEMS NOT ON PUBLISHED AGENDA:**

A. Public

27:04

John Morgan, District 1, discussed the parking waiver program and requested Council to direct the Planning Commission to review how it is functioning and whether there should be changes to the costs. Mr. Morehead asked if it would be Council's will for the Planning Commission to begin the process of looking into the fees.

Mr. Gifford noted this fee and other permit fees had not been updated in a number of years and it could be beneficial to review them. He suggested this be discussed at the Comp Plan meeting. Mr. Markham asked how long it would take the Planning Department to prepare this information based on their current schedule. Ms. Feeney Roser said there were several pressing projects they were working on and the Comp Plan but thought they could begin a fee and parking waiver review in October.

Steven Gugerty, an 18 year resident of the Woods of Louviers, was present for the stop sign issue which was removed from the agenda. He thanked Mr. Markham and Ms. Houck for their assistance and communication with constituents.

9. 2-B. **ELECTED OFFICIALS:** None

10. 2-C. **UNIVERSITY**
(1) Administration

34:59

Rick Deadwyler, UD Government Relations, provided highlights of recent campus events.

The Mandela Washington Fellowship was a flagship program of the Obama Administration bringing young leaders from Africa to spend 6 weeks in the US. The fellows were attending institutes at 20 college campuses across the US. Including the University of Delaware.

The University also hosted 25 students between the ages of 8 and 15 from the Madison Drive area. The focus was on the agricultural area of the farm but they also got to see the educational value of the campus, meet with the faculty members and staff, see a number of the athletic fields and arenas and spend time with the coaches and students. Mr. Deadwyler acknowledged Sharon Bruen from the Parks and Recreation Department and Sgt. Aniunas from the Police Department for their assistance with the event.

Mr. Deadwyler reported on August 1st Duffy's Hope, a program working with underprivileged and at-risk youth, would host a celebrity basketball game at the Bob. This event would be a big draw bringing people from throughout the region.

Mr. Markham asked for an update on the presidential search. Mr. Deadwyler reported they were still in the process of engaging key stakeholders and getting input as to what the next president should be including the characteristics and the priorities of the community. He said they were still compiling interested parties. He shared the information around the website that allowed folks to highlight or nominate folks themselves or to share their interests of what they believe the next president of the university should be and the qualities they should bring along with them. They did not have a solid timeline on the presidential search process, but believed it should be an 8-9 month process. Mr. Markham again stressed his interest in participating in the search process as a member of City Council and a UD alumnus.

11. 2-C-2. **STUDENT BODY REPRESENTATIVE:** None

12. 2-D. **LOBBYIST**

44:09

Mr. Armitage presented the Legislative Session year-end wrap-up.

Municipal Street Aid was budgeted at \$5 million. The Legislature did not alter the realty transfer tax formula. Increases in motor vehicle fees did pass and the prevailing

wage project level increase that was very positive for Newark did pass because it exempted the Community Transportation Funds as well as the Municipal Street Aid from the prevailing wage restrictions. That should have a positive impact on how far the money would go in the coming year. He had not updated the legislation table since the morning of July 1st but went through and checked on where the Governor was on signing the different pieces of legislation that were of interest to the Council.

HB 140 regarding motor vehicle fees and Bill 145 regarding prevailing wage were signed by the Governor. Regarding the pole tax bill (House Bill 171), there was a lot of discussion whether the League and other groups would ask the Governor to veto that bill and there were some discussions with the Governor's legal counsel. Wilmington and some other jurisdictions that were much more dependent upon property taxes than Newark were worried that there now was a cap in the State law on what they might be able to do in the property taxes.

The Governor had not yet signed Bill 177 which required utilities to maintain the third party notice of termination. He had not had direct discussion with the Governor's legal staff about that bill, but did not see that it would be a problem. The Governor was very judicious in how he goes through signing the bills that have been passed by the Legislature with some bills not being signed last year until October.

House Bill 192 eliminated open carry in municipal jurisdictions, Mr. Armitage talked to the Governor's legal staff this afternoon. They probably would look at this bill as well as 201 next week and would keep him informed as to whether or not they will sign it. The City of Lewes at their last council meeting passed an ordinance anticipating that the Governor would sign this bill. It would be up to Council to decide if they wanted to do that. Ms. Sierer asked if they mirrored the draft that was sent around to all municipalities by Max Walton. Mr. Armitage said it looked very similar to him but deferred to Mr. Herron. Mr. Herron said it looked very similar. Mr. Gifford also thought it looked similar.

Bill 201 was introduced to allow the County jurisdictions to do the same thing the municipalities could do regarding restricting open carry in County buildings.

Senate Bill 118 regarding water meter requirements was signed by the Governor and made changes in the Landlord-Tenant Code. Newark was in agreement with the bill.

Senate Bill 130 went through several iterations, but it died on the agenda as a substitute bill. He expected Senator McDowell would continue to try and do something about the idea of special districts related to economic impact or economic enterprise.

Senate Bill 144 impacted background checks and affected the City's parks and volunteers. The amendment to extend the enactment date passed. The bill has not been signed by the Governor.

Mr. Armitage thought the budget would be more of a problem next year. The early numbers showed at least \$170 million-\$200 million dollars short before the Governor crafts the budget for next year. He said the City may want to work with the League to begin talking to the Governor's staff so as not to end up in the same position at the end of session next year. He noted the various political issues impacting the discussion.

The long term thing to think about is where the City wants to be with PILOT – that the City speaks to its delegation and see if they would be willing to sponsor legislation including Newark as the City is the only jurisdiction with 46% of its property tax exempt not participating in the program. He thought it made sense to have those discussions but would like direction from Council. Ms. Houck said the problem with the PILOT and why it was not pursued this year was because of the budget problems. Another issue was that taking away funds from the county seats might be problematic next year. Ms. Sierer said in her conversations with some legislators was this would not happen next year either, but the City needs to keep it in the forefront. Mr. Armitage agreed and suspected there would be no funding for PILOT in the Governor's suggested budget next year. However, with Harris McDowell as the Joint Finance Chair, that put him in position where he would try to find the money to fund that.

Mr. Markham said at the very least PILOT should be a bargaining chip for the City because if the legislature planned to take away money like the transfer tax, they had to understand that they were passing the burden of what would have to be made up to only half of the City property owners. Mr. Armitage said his sense was that became an issue because one county had a surplus and the Legislature thought there should not be a surplus, particularly when State government was struggling. Mr. Markham felt that was an interesting argument. The City has a slight surplus, but cut a lot of different costs and expenses and did not do that just to give it to the State government. He thought that should at least be a bargaining chip and for the long term the City should be heavily involved with the League because the municipalities need to band together.

Mr. Armitage said with Council's approval he would like to continue to interact with the League and also go to their subcommittee on legislative affairs. Council agreed with that. Mr. Morehead added that he would like to know what Mr. Armitage is doing when he goes there and if he was going to speak for them, that was something Council needed to vote on as far as direction. Mr. Armitage mentioned that the involvement in the League was the City's interest in PILOT and holding on to existing funds allocated to the City. Ms. Sierer felt it was important that Mr. Armitage comes back and reports on what is discussed at that meeting and what ideas are brought forward by other municipalities.

Mr. Morehead wanted to discuss whether or not the City should pursue PILOT funds at some point in the future and take a vote of Council. He would like to preserve the transfer tax and the road funding but he was not sure if the City wanted to make its finances dependent on the will of the State. Mr. Armitage said the other positive part of this is if the League is doing this rather than Newark leading the charge, there was more political coverage. Ms. Sierer felt that was proven this year.

Ms. Sierer asked if there were any signed bills or bills that were going to be signed that the City needed to work on. Mr. Armitage did not think so other than Council deciding if they wanted to do an ordinance around the municipal gun bill. Mr. Armitage's sense was that the bill would be signed from conversations he had with the Governor's legal staff and the Attorney General's office. He did not think it would be inappropriate to give Mr. Herron direction to begin to put something together.

Ms. Sierer wanted to give Mr. Herron direction and opened discussion to Council.

Mr. Gifford was not interested in moving forward with an ordinance as he was not interested in the bill. He felt it was a surface bill, that there would still be guns in the Council Chamber that would just be concealed carry which would not solve the problem. Almost everybody carrying into the meetings most likely would have a concealed permit. If the City was looking for security, it needed to do something different.

Ms. Hadden supported moving forward on it. It was not a question of whether somebody was vetted to where they could conceal carry – the open carry was intimidating to many people in the audience.

Ms. Sierer received numerous complaints that people felt uncomfortable coming to the meetings with somebody sitting in the room with an open carry weapon. Her concern was that it was causing citizens of this community to not want to come to our meetings and felt that was unacceptable.

Mr. Morehead noted that current State law says that the City does not have any right to change this right now and felt the issue should be raised if State law changed.

Mr. Ruckle was concerned as to whether it was constitutional for Newark to limit open carry.

Mr. Markham thought the place to have this conversation was at the table but would wait until the Governor signed the bill to avoid a pointless conversation. He knew quite a few who were not happy about seeing guns in Council, but would poll his district to query as many people as possible. Ms. Sierer was in agreement.

13. 2-E. CITY MANAGER

01:02:06

Ms. Houck reported on receiving a recommendation for a life saving award nomination as well as a letter of appreciation from the Delaware State Police Aviation Unit for Master Corporal Difrancesco and Corporal Wolfrom who both assisted yesterday in an emergency response at the Newark Country Club where a City resident went into cardiac arrest suddenly on one of the greens. They, along with one of the bystanders, were able to perform CPR and administer the AED machine to the individual prior to Aetna and the New Castle County Paramedics arriving and taking over. The patient was flown by helicopter to Christiana Hospital, was breathing and had a pulse at the time that he left and was in fair condition at this time. She commended the officers for their work yesterday and shared some comments that were made that it was a great example of teamwork and textbook use of CPR and the AED.

14. 2-F. COUNCIL MEMBERS

01:03:56

Mr. Ruckle

- Reported on the terminated animal control contract affecting much of the state of Delaware except for the City of Newark and other municipalities with staff working in that capacity. He thought this was a travesty and planned to work with State representatives to ensure protection of people from vicious animals.
- Reported that the real estate market was exploding right now and that the City would be receiving a lot of transfer tax revenue.
- Wilmington City Council voted unanimously to remove breed-specific language from the city's dog laws which he said was against the will of the Police Department. He thought this should be a statewide issue and not just a local issue.

Mr. Morehead

- Attended the ceremony marking the opening of the Community Garden.
- Participated in the bike lane mock up on Delaware Avenue.
- Attended the feral cat initiative where the concept was to catch, spay, neuter, return and manage the feral cat population to extinction.
- August 4 was National Night Out 2015, an annual nationwide event designed to strengthen relationships in neighborhoods, raise crime prevention awareness, and continue relationships with public safety.
- On August 21, there would be a Newark Arts Alliance family event with art projects, face painting and music and Rolling Revolution, Food and Specialty Trucks would be on site offering a variety of food and drinks.

Mr. Markham

- Enjoyed Food & Brew and would like free parking to be promoted for future events.
- For next year's Liberty Day fireworks was asked by constituents if the car dealers could turn their lights out for better viewing from the reservoir.
- For traffic calming recommended that Mr. Coleman look into using removable speed bumps that could be used nine months of the year so snow removal would not be a problem. He also suggested looking into more creative ways of controlling traffic in order to help people stay safe other than stop signs and enforcement.
- Referred to a memo sent by the CAC several months ago about spending half of their allotment to finish McKees Park. He believed some investigation was need for expanding or putting out the bid and requested that staff move that forward. Ms. Houck said staff would be bringing something back.

Mr. Gifford

- Thanked Parks & Recreation for painting the animals in Phillips Park.
- August 8 there would be a back yard habitat tour with tours available in 10 gardens.
- Was still in communication with Twin Lakes residents and will be working with Mr. Coleman until items including the sidewalks and concrete were finished.

Ms. Hadden

- Met with staff and CSX representatives after the last Council meeting at the CSX crossing of the recent crash site to discuss safety concerns and brainstorm what could

be done to improve safety at that crossing. Some changes will be implemented to make the crossing safer.

- Met with Ms. Sierer and Messrs. Begleiter, Grim and Schwartz to discuss the feasibility of municipal broadband and was pleased that it was on the agenda.
- Met with the head of UD's presidential search committee to discuss thoughts communicated by constituents. It was a positive meeting and she reiterated Mr. Deadwyler's comments that people should take advantage of the website to share their ideas. The search committee wants to hear from people and it was early in the process.
- Met with a new constituent who expressed concerns about the impact of noise enforcement on him and his roommates. She will be reaching out to the Police Department to discuss this situation.
- Attended the second Greater Newark Interagency Council to discuss working together to alleviate homelessness in the area. A number of ideas were shared as to how to proceed and she was touched that so many people care about the City of Newark and the surrounding area.
- Hosting a Meet and greet at Pat's Pizza at on August 6 at 5:00 p.m. Constituents were invited as well as Council members and City staff.
- Madison Drive Camp Real – kudos to Parks and Recreation Supervisor Sharon Bruen and NPD Sergeant Dennis Aniunas for making this event such a positive experience. She also extended special thanks to Mr. Deadwyler for his involvement and said this was a great example of UD/community collaboration.

Ms. Sierer

- Camp Real – recognized Mr. Deadwyler's participation from a University and personal standpoint. She also recognized staff's commitment with the camp.
- Tennis with the Mayor met in July and had five adults and one child participate. There was also a full slate in August with the adults.
- Participated in a library reading at the Newark Library who hosted the event for the County. Children had the opportunity to write and submit books. The winners were announced and the books read to the children.
- Worked with the Parks and Recreation Department for a day. It was right after a storm and the work was really difficult. She appreciated what they go through to take care of fallen trees in areas that are not easily accessible
- Did a ride along with Donna Vickers to learn more about the City's animal control program and got to meet some residents who had concerns as well.
- Will be part of the back yard habitat tour on August 8 at Phillips Park. The proceeds from last year's tour provided a native plant garden there and she would share that information and possible plans for the use of this year's proceeds.
- Recognized Public Works for a very quick response on several pothole problems.

15. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

16. 4. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS**

- A. Appointment of Lester Stein to the Board of Building Appeals to Complete the Vacant At-Large Term to Expire at the Organizational Meeting, 2020.

01:21:14

Mr. Stein was being nominated to the Board of Building Appeals and was a resident of District 2 for over six years.

There was no public comment.

MOTION MS. SIERER, SECONDED BY MR. GIFFORD: THAT LESTER STEIN BE APPOINTED TO THE BOARD OF BUILDING APPEALS TO COMPLETE THE VACANT AT-LARGE TERM TO EXPIRE AT THE ORGANIZATIONAL MEETING IN 2020.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

17. 4-B. REAPPOINTMENT OF JOHN KALMER TO THE PROPERTY MAINTENANCE APPEALS BOARD FOR AN AT-LARGE TERM TO EXPIRE DECEMBER 15, 2019

01:22:49

Mr. Kalmer, a resident of District 4 and a 40 year resident of the City, was nominated to be reappointed to the Property and Maintenance Appeals Board.

There was no public comment.

MOTION BY MS. SIERER, SECONDED BY MR. RUCKLE: THAT JOHN KALMER BE REAPPOINTED TO THE PROPERTY MAINTENANCE APPEALS BOARD FOR AN AT-LARGE TERM TO EXPIRE DECEMBER 15, 2019.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

18. 4-C. REAPPOINTMENT OF PRISCILLA ONIZUK TO THE ELECTION BOARD FOR THE DISTRICT 2 TERM TO EXPIRE JANUARY 15, 2018

01:24:24

Mr. Ruckle recommended the reappointment of Ms. Onizuk, District 2 and a 54 year resident of Newark, to the Election Board, term to expire January 15, 2018.

There was no public comment.

MOTION BY MR. RUCKLE, SECONDED BY MR. MOREHEAD: THAT PRISCILLA ONIZUK BE REAPPOINTED TO THE ELECTION BOARD FOR THE DISTRICT 2 TERM TO EXPIRE JANUARY 15, 2018.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

19. 4-D. APPOINTMENT OF CHRIS ROGERS TO THE BOARD OF SIDEWALK APPEALS TO COMPLETE THE VACANT AT-LARGE TERM TO EXPIRE AT THE ORGANIZATIONAL MEETING, 2016

01:25:29

Mr. Rogers was a Newark resident for five years and resided in District 3.

There was no public comment.

MOTION BY MR. GIFFORD, SECONDED BY MR. MOREHEAD: THAT CHRIS ROGERS BE APPOINTED TO THE BOARD OF SIDEWALK APPEALS TO COMPLETE THE VACANT AT-LARGE TERM TO EXPIRE AT THE ORGANIZATIONAL MEETING, 2016.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

20. 5. SPECIAL DEPARTMENTAL REPORTS:

A. Special Reports from Manager & Staff:

1. Pension Plan Actuarial Valuation for FY2015 – Deputy City Manager/Finance Director

01:26:33

Mr. Haines presented the Pension Plan actuarial valuation for 2015. As mentioned at the last meeting the Plan moved 4.5% up from 66.7% funded status up to 71.2% funded status. The 4.5% gain, as outlined in the report, was a mix of good returns and realized returns from the previous year. This exceeded the actuary's conservative approach of what they expected the market to do. This was good for anyone in a similar devised plan.

Under professional standards the ARC (annual retirement contribution) is not ADC which mirrors what it has always been. That is the actuarial determined contribution because it was not set in stone or obligated as the required contribution. To maintain the funded status, it would be required. It is the actuary's opinion on their calculation. With that adjustment, ARC and ADC would become synonymous and interchangeable.

Mr. Haines said staff tried to make sure they faced funding issues as discussed at past finance meetings and past pension obligations and also the commitment at Council to overfund the ADC. Mr. Vitola provided a good visualization of where we could have been, where we are and why for returns and the over-funded status of approximately \$1.66 million and where we are in that ARC that was obviously going up. Our pension plan changes, and design going to defined contribution plans with three out of four employee sectors was definitely a huge help with the over-funded status.

The City was facing and was committed to real funding scenarios. The City could take the lower ADC and leave the 30 year rate and assumed the returns at 7.5%. As highlighted, the City was moving it down to 27 years at this time. Currently at 7%, the actuary wanted to push it to 6.5% and so staff keeps looking at what expectations are reasonable to find that spot. The City was off by .03 basis points the last time this was discussed, so it is right at that scenario. These things will be discussed with the Pension Committee in the future.

Mr. Haines thought this was on the right track and real dollars were being forced into the pension fund. The attitude was not to sit back and say, "We're going to live on returns. Returns are going to fund our pension." The City is looking for good returns and looking to put real money in there, so the goal and long term plan is for a funded status.

The long term goal and what the actuary would like to see is a reduction down to a twenty year amortization schedule. Their goal would be to reach a 6.5% assumption on return. This would require further real money, and we want to see as we reduce that amortization schedule with the further demographic change in the defined benefit group to the defined contribution group, where we see that ADC, and what is a marriage of good fiscal obligation and policy as well as realistic annual budget ability. The Funded status was 71.2% and was usually the highlight of "What is our number?"

Mr. Markham referenced the ADC numbers and saw a couple different numbers, including \$3.15 million. He asked if this number would be decided after the Pension Committee met or whether there was a number that was going to be presented to the Pension Committee that should be the over-funded amount.

Mr. Haines said the over-funded status the last couple of years was a product of ability. The City was trying to at least commit over \$100,000, but would like to commit \$200,000 or \$300,000 on top of the City's ADC in line with previously stated preferences of Council. Staff would present a recommendation to the committee. In response to Mr. Markham, Mr. Haines said he did not have that number at this time as staff was still in the mid process of all the operating budget recommendations.

Mr. Markham noted that most of the new employees were not in the plan so that liability was coming down. He asked what happened once the City reaches a 100% funding status and if that money available to fund other pension plans. Mr. Haines replied it was an annual decision and if the City attained 100% funded status, then there was an opportunity to slightly over-fund to stay protected, reduce it and have a marginal contribution, or there was the flexibility of other funding that could be leveraged in other ways. Mr. Markham did not want money to be locked away above and beyond what was needed. Mr. Haines said the annual general fund revenues could be allocated by Council.

Mr. Morehead asked for the funded goal. Mr. Haines replied our goal was a 100% funded status. Mr. Vitola added that even though the City gained ground over the last several years, especially the 4.5% this year, the actuarially accrued liability actually increased from \$73 million to \$76 million. That was even more of a testament to the fact that the City gained ground, but after the union negotiations were finished, he mentioned that this was something we would look back on in 10 or 15 years from now and say, "Great job 15 years ago." His opinion was that the City should try to continue to overfund.

Mr. Markham asked how Newark's funding compares to other local municipalities. He thought the State was well funded. Mr. Haines said he could find comparisons.

There was no public comment.

21. 5-A-2. MUNICIPAL BROADBAND UPDATE

01:38:52

Mr. Brechbuehl acknowledged some of the experts he met with including the Global City Teams Challenge group, members from US Ignite, FiberTech, Gig-U, Deb Socia, Executive Director of Next Century Cities, Christopher Mitchell of ILSR, Blair Levin formerly of the Federal Communications Commission and Dan Grim, CTO from University of Delaware. Mr. Grim expressed interest in potential benefits to the University if Newark were to do something, whether it would be a sharing opportunity or the City produced something ourselves and then shared it with UD.

Mr. Brechbuehl discussed current infrastructure. He thought there were some misnomers about what the City currently has, which he wanted to clear up as it was important to know what the City has to understand where the City can go. The City's primary internet connection is on loan from UD and runs off of a separate network from them. They have provided that service to the City at no cost for many years.

There is a secondary connection, currently through Comcast Small Business, which serves as a fail-over in case the worst happens. The City is also using Comcast Small Business network in all of its remote sites – municipal yard, George Wilson Center, parking office, etc. Through that WAN-wide area network connection, the City is connected to all of its buildings so departments are able to share information, share files, get everybody on one platform, and make sure everybody is able to work productively.

The biggest misnomer was regarding the wireless metro mesh used for the City's smart meters. The City has a Wi-Fi network, but it is slow by design. It was not designed to handle active devices such as smart phones, tablets, desktop or laptop computers. It was designed to carry tiny bits of information (data from the City's smart meters) a few times a day back to the City's intelligence system which leads to a bill being generated. While the infrastructure was there, it was approximately 250 wireless nodes throughout the City and is a very slow network. To utilize that network for a project like a municipal broadband would require a lot of money to improve that network to make it viable. In its current state, it would require a major upgrade.

Mr. Ruckle asked what is a lot of money. Mr. Brechbuehl responded that studies would be needed, but they would review not network coverage but injecting bandwidth. There were a very few number of points (he believed the total number was eight points) where fiber actually touched that network. That would have to be increased by about ten times. His ballpark guess would be \$2 to \$3 million for a viable solution for Newark.

Along with that there is a dark fiber connection in Newark. It was owned by PEG out of Pennsylvania. They were formerly the Gore fiber everyone referred to, and that is what was being used to connect some of the City safety cameras, the reservoir cameras, the electric SCADA system and soon to be the water SCADA system. Unfortunately that is not throughout Newark – there was basically one line running down through the middle and then over towards the municipal building. It was not currently a viable solution to offer the high speed bandwidth and network connectivity needed for the infrastructure.

He referred to current staffing expertise in the IT Department. There was one network technician, one server technician and two applications people. Other than some

desktop support technicians when talking about expertise in the department, they were very limited. So any discussion about ramping up a municipal broadband would have to have a staffing discussion along with it.

Mr. Brechbuehl discussed Wi-Fi versus fiber to the premises (FTTP) from four different aspects; convenience, performance, longevity, and building penetration. Building penetration with Wi-Fi was not good. In a brick or stone home, the likelihood of getting Wi-Fi in the house from a network outside is very low.

Longevity – Wi-Fi needed to be replaced more frequently than fiber which can last thirty to fifty years. Wi-Fi protocols needed to be updated every five to seven years at a maximum, or more likely every three to four years. So the cost of deploying a Wi-Fi mesh meeting our needs would be more expensive over the long haul.

Performance – every time a Wi-Fi signal jumps (connecting two Wi-Fi devices together), fifty percent of its bandwidth was lost which was the issue with the current smart meter mesh. With this situation, the City can go up to seven jumps to a Wi-Fi mesh node. Every time the signal jumps, there is a fifty percent loss of bandwidth to that node. There were many smart meter nodes running at speeds less than fourteen four modems.

Convenience – Wi-Fi is convenient and easy, as a person can walk outside, turn on a device, and connect to a network. That is simple and something to consider. Fiber requires a line to be pulled, put into a box and spliced to be utilized.

The last item was the wireless point to point. This was something utilized with the City's safety camera network. The City will have the Gore PEG fiber. From that fiber there would be a radio to bounce a signal across streets, avenues, around corners and such to connect devices. Unfortunately it is very slow. So, while a point to multi point may be the preferred method for a wireless network throughout the City, it currently was not a great option to provide reliable service because when the leaves grow in, the signal goes down.

Cities that have accomplished or were trying to do what Newark is considering:

Chattanooga, Tennessee, the gig city, is the most recognizable city that has done this. The press and media have inflated the success of this project. In reading reports from people who live there, it is not as big a success as advertised. Residents can get one gigabyte (GB) in speed connection there for \$70 a month. That is good pricing. With 57,000 households, the city was granted \$111 million by the Federal government in 2008 to start the project. The total cost is estimated at over \$550 million dollars, which is why the residents will not be the first ones to stand up and say they love the system.

Connecticut Municipal Fiber (CT Gig) is fairly new and led by the CT Commission on Education Technology. 46 counties were working to connect themselves by fiber. The same company on that project has large assets in Newark and could help with the City's.

Mr. Brechbuehl met with Comcast who was interested in assisting if the City moved forward. They received \$93 million dollars through the Recovery Act, which was a portion of the total cost (likely to be eight to nine times as much). They are looking at service of 100 megabits per second (MBPS).

Mr. Ruckle asked what the benefit would be of Comcast helping the City. Mr. Brechbuehl replied they have fiber assets in Newark. So if the City decided not to pull its own fiber optic cables and it was looking to lease fiber from another company such as PEG, FiberTech, or Comcast, they would be on the list of people to talk to about pricing.

Massachusetts Fiber Towns had 22 rural towns signed on, but 32 were needed to pass the vote. They likely were not going to achieve that number. Currently no high speed internet was available in that area and the Fiber Town initiative would provide that. However, people in that area were not fully invested in that solution. It would require 40% of the households to make a conditional commitment for service and a \$49 deposit, and only 22% have signed on at this point. The estimated cost for the initiative was \$79 million.

Tempe, Arizona began as a joint effort between Arizona State University and the City of Tempe in 2006 and was one of the first. They submitted their RFP to 113 potential vendors. Only 4 bid, including AOL. Mobile Pro won the bid but could not deliver. In 2006, about a year later, the city had to buy the assets from Mobile Pro at a large loss to try to recover the service after the failed implementation. It was no longer in service today.

Minneapolis, Minnesota signed a 10 year contract with USI Wireless. The city partnered with a private sector company to fill the void of 59 square miles. It currently runs at 6 MBPS (a very slow bandwidth) for \$36 a month. This seemed like a great investment 10 years ago but now they are losing money because the system was never upgraded to meet today's standards of high-speed broadband.

Sandynet is an initiative in Sandy, Oregon where there was available average bandwidth of five MBPS which is slow. They did not have strong competition and decided to employ their own. It has been 12 years in the making to get this done. When completed they hope for 100 MBPS at \$60 per month. They started with a per-neighborhood model so they would light up a neighborhood with high-speed fiber internet and then to the next neighborhood. That would be a model that Newark could consider.

San Francisco was the most in line with what Mr. Brechbuehl was thinking when he started this project which is to cherry-pick certain areas to provide free municipal Wi-Fi. They have focused on public parks and open plazas and also on Restaurant Row, similar to our Main Street. They started very small and do it as they have money. They did not go into a lot of debt to do this and provide it absolutely free.

Positive potential included:

- Notoriety as a progressive city – doing something like this would put Newark on a map with very few other cities nationwide.
- Improved internet performance for residents. The City might start at 100 MBPS and go as high as 1 GB, which would be a decision to make.
- Possible revenue generation through advertising. If the City were to be lit up with fiber, the advertising potential would be almost limitless.
- Provide a low-to-no cost service to low income communities.
- Partner with schools for educational opportunities by offering free Wi-Fi service to students through a tablet of some sort.
- Provide free Wi-Fi to visitors and guests.
- Leverage the Wi-Fi for City government vehicles and devices. This was something for which there was a strong desire but did not pan out.
- Providing an alternative to the status quo of the duopoly, Comcast and Verizon. It would be one of those things the City could hang its hat on and say, we are in competition with those companies and maybe can do it cheaper.

Negative concerns included:

- There were 16 competitors in this market for high speed internet. The average speed here is 25 MBPS, which was very high compared to the national average. 98.9% of current residents have broadband accessibility. Since there are a lot of options, the City needed to make sure that it not only made the smartest decision but understood that we have competition. There is a large up-front cost to implement. After discussing this with Gig.U, it was in the \$3 to \$4 million range for a city of Newark's size.
- Ongoing maintenance costs which is what affected Tempe, Arizona. They did not keep up to date on their maintenance, and the system is now defunct. For Wi-Fi, a full system replacement would be needed every 5 to 7 years and with a fiber option the switching and the routing equipment would need to be replaced every 5 to 7 years.
- The expense to provide technical and customer service would have to figure in 24 hour a day customer support similar to what is offered by Comcast and Verizon. The cost to the residents would be for off-contract pricing internet, and internet only, whether it is a monthly charge like a pay-for service, an upfront tax or some other type of fee structure to provide the initial implementation of the system. The price that Chattanooga has for 100 MBPS is between what Comcast and Verizon charge for 25 MBPS service. Massachusetts charges \$49 a month, for 429 MBPS service.

When meeting with CCI, there was a recommendation to utilize current fiber assets or another type of fiber, to deploy up to 10 smart advertising kiosks along Main Street. These would be 8' x 4' touch screen displays. They would be used to provide information to visitors, guests and residents such as menus, ordering tickets for a show at UD, or any number of things. On top of that, they factor in advertising costs, so when somebody is not actively touching the screen, it can be used for advertising. There are companies that manage this. Because they would be connected to fiber, these pedestal devices could be turned into a free Wi-Fi hot spot, lighting up Main Street with free Wi-Fi for visitors.

For the next step Mr. Brechbuehl proposed a workshop to discuss level of interest in a feasibility study for the City which would evaluate interest in and need for broadband by City residents, review the perceived project strengths and weaknesses from the City's perspective, review existing city infrastructure and assess synergies with other initiatives in the City. This would include SCADA since with a full city network, more SCADA devices could potentially be deployed to make intelligent decisions about water and electric use. He would like to explore likely network models, meaning free public access, paid public access and public safety access, identify all project requirements, evaluate potential funding and financing sources and assess the life cycle of the equipment.

Mr. Brechbuehl contacted CTC Technology and Energy. CTC was recommended Gig.U and helped Seattle with its recently concluded municipal broadband feasibility study. They were currently assisting Huntsville, Alabama, and worked with companies like Netflix, Google and the National Association of Telecommunication Officers and Advisors. They have offered us the opportunity to host them for a full day workshop.

Ms. Sierer thanked Mr. Brechbuehl for an excellent presentation and Messrs. Grim, Begleiter and Schwartz.

Mr. Ruckle noted the Federal Government wanted national broadband and asked if there was any way to tap into that or look into it. Mr. Brechbuehl was aware of the initiative and did not know that Newark would tap into it so much as the City would need to be asked to join it. They have certain cities being reviewed right now, and the same question would be true for anything like Google Fiber, which he knew was a topic. AT&T, with their merger with DirecTV, also were looking to deploy massive amounts of fiber. As far as Newark specifically, he thought they wanted to cover under-served areas.

Mr. Brechbuehl recommended the City start with a workshop that would be open to the public and interested stakeholders. They would come in and present some options, discuss what other cities are doing and how they were paying for this, grants and funding that might be available and get feedback as far as what the City wants, needs and expects. From that meeting, staff would request approval or denial of a feasibility study.

Mr. Markham was looking at the cities mentioned and was trying to find a college town much with the same demographics as Newark. Mr. Brechbuehl was unable to find any that successfully deployed a broadband network in partnership with a University.

Mr. Markham asked if the University offered to make their network available to tie in. Mr. Brechbuehl had not had that discussion. Mr. Markham thought it could be another opportunity as they had a great network throughout the campus.

Mr. Morehead clarified that the University system had a backbone fiber so it was regional and was not all across Newark. Mr. Brechbuehl said he did not know enough about their network to know exactly how far it extended. He knew they had at least three fiber connections, he assumed to different parts of the University serving different purposes but did not know to what extent they had fiber assets within the City.

Mr. Morehead was curious about their system for the students that live in dorms – his understanding was they have guaranteed speed, but given that so many students live out in the community he wondered how they distinguished between them.

Mr. Morehead asked whether plans were to include phone, internet and TV. Mr. Brechbuehl had not researched television and phone as part of this project. He said there

were cities including Chattanooga that had all three as part of their network, so it was possible. Mr. Morehead understood educating folks but did not think entertainment was the City's responsibility. There were various other infrastructure needs for the City and felt the City could not do it all as there was not that kind of money. When talking about this going forward, he was fine understanding what some of the paths would be. However, he felt priority decisions had to be made about what the City would do and not do unless there was a prudent payback. He asked if the City provided information to the visitors on Main Street, how visitors and permanent residents in the apartments who would load up our bandwidth would be differentiated. Mr. Brechbuehl said likely the City would not be able to. Mr. Morehead would support further understanding the options.

Ms. Sierer thought moving forward with a workshop would be beneficial to Council and staff and to the citizens in the community as well.

The Chair opened the discussion to the public.

Ralph Begleiter, District 6, felt the idea of having a workshop was the right way to go. He addressed Mr. Morehead's comments on the City's responsibilities. He suggested looking into creating a two-tiered system, one system under which the City would provide basic service at a reasonable price and another level of service available at a higher cost.

Related to that is the question of revenue generation possibilities. He felt that the City could run an internet utility with a revenue structure similar to what the City of Newark did with electricity. The model presented noted the primary concern of cost to citizens but made no mention of cost to businesses which would be a consideration. Upfront costs need to be determined as well as the potential for recovering revenue down the road. It was also understood that personnel, replacement parts, etc. all had to be built in and considered from the beginning.

Mr. Begleiter echoed Mr. Markham's question about other university towns and cities and asking whether UD would be willing to pitch in on this. Regarding Mr. Ruckle's point about Federal grant support he said there might be State support also. He added that while the Vice President of the United States was from Delaware this might be a time to ask whether his office could facilitate potential support.

Len Schwartz, District 3, reported that he spoke several months ago to Mr. Blair Levin who supervised the broadband initiative for the country. Mr. Schwartz believed Mr. Levin would be a wonderful resource for Newark. Mr. Levin sent Mr. Schwartz a 50 page draft document which went through 37 university towns that are partnering with their universities. It also listed different options that have been followed including partnering with private industry, lighting up one neighborhood at a time and other possibilities. It also takes cost into account – what can be done for free or with minimal cost? Mr. Levin offered, at the time, to come to Newark at his own expense.

Mr. Schwartz felt access to the internet was at least as important as a telephone and that it was as important as flood remediation. He believed the UD administration would favor inviting Mr. Levin here to hear what he had to say about the City's options.

Mr. Schwartz referenced the sale of Gore's network to PEG, and saw a map showing what the Gore network encompassed. It goes down Paper Mill Road from Gore's main building, runs on Elkton Road, goes on Barksdale, Otts Chapel and into Cecil County. It was built to serve the various core sites.

Mr. Schwartz referred to dark optical fiber and said about 15 years ago it was thought there was huge money to be made by laying optical fiber, so there was too much of it installed and a lot of it was abandoned. It may very well be that this fiber already exists. Mr. Brechbuehl was aware of the huge amount of fiber assets within Newark. He said it was all currently owned, so utilizing any of that fiber would require us to pay for that use. The City was grandfathered into a 10 year contract with Gore for one particular stretch of it, but we would have to lease other assets throughout the City.

Ms. Sierer asked Mr. Brechbuehl to reach out to Mr. Levin to invite him to Newark.

Carol McKelvey, District 4, asked for more detail about the proposed workshop. Mr. Brechbuehl reported that CTC Technology was recommended by Gig-U as being someone that could come and speak to us about more information than he just provided as he did not have the firsthand knowledge and experience of going through the process of starting up a utility. The purpose of the workshop would be to be answer questions about how does the City pay for this, how was it done before and what were other cities doing. They would be taking feedback given to them as a kick-start to a feasibility study if the City chose to do one. They would be collecting as much information from the City as the City would collect from them, which would create a discussion of what is important to the City, the goals and the infrastructure needs and capabilities in order to have a real discussion and decide whether to move forward with the feasibility study. Mr. Brechbuehl noted that the cost associated with the workshop was approximately \$4,500 for them to come to Newark for a full day. The estimate to do a feasibility study was about \$45,000.

Ms. Sierer asked Mr. Grim, Chief Technology Officer in Information Technologies for UD if he agreed the correct path to take would be to move ahead with the workshop and get the public input and the knowledge. Mr. Grim said he thought that the City should investigate this. He was asked to participate by the Vice President of the University.

He reported there was fiber on the University of Delaware campus. They had been installing it since the early 80's. Unfortunately, the fiber of the day was not the kind you used today, so much of it was unusable, but they had a little bit of forethought and when they put in that fiber in those days, they put in a little bit of the fiber that nobody knew anything about at the time but which has proven to be the fiber needed today. He did not know the answer to the question of how much fiber they have. He thought the answer would be thousands of miles of fiber on campus if not more than that. He knew they installed a cable last year that runs from the computing center down to the agricultural campus across the Library Avenue Bridge – that cable has 144 strands in it, is well over a mile long, so it has 144 plus miles there, and there were many such cables on campus.

He believed UD was anxious to partner if there was reasonable opportunity to do so. They have a lot of fiber put in for future considerations and this is certainly the kind of thing they had in mind when extra fiber that was more than needed at the time was added. They were in a project today working with Verizon Wireless and AT&T Mobility to improve coverage in and around the campus for customers of those companies and were sharing some fiber assets with them as part of that project. So the University was certainly willing to talk about how they could help and could participate. They have provided internet access for the City for many years. In fact, the municipal building was on the University's fiber network. He thought the City should have a workshop and at least look into it.

Ms. Hadden added that when she reached out to the Vice President regarding the City's study, he referred her to Mr. Grim. She said UD seemed quite excited about this.

Ms. Sierer asked if we had the \$4,500 to do the workshop and if it was determined that a feasibility study was the next step, could it be budgeted next year. Mr. Brechbuehl noted it could be found across a few different budgets and said they were aware that it would be a 2016 initiative. Mr. Markham reminded Council they had the opportunity to make budget modifications and said they did that the last time with the water project.

MOTION BY MS. SIERER, SECONDED BY MR. MOREHEAD: THAT STAFF PUT TOGETHER A WORKSHOP (HER RECOMMENDATION WAS TO SCHEDULE IT ON A SATURDAY) AND ALLOW STAFF TO FIND \$4,500 TO PAY FOR THE WORKSHOP.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Sierer.

Nay: 0.

Absent: Chapman, Ruckle.

Mr. Markham added that a large enough venue would be needed to accommodate the audience. Dates will be considered at a later time.

22. 6. **RECOMMENDATIONS ON CONTRACTS & BIDS**

A. Recommendation to Award Contract No. 15-10 – Street Park Tree Inventory

02:42:44

Mr. Emerson reported that the contract was for an inventory of street trees that were either on City or City-maintained property and trees in high-use areas in parks. The information would be specific to each tree, and there were 10 specific items that would be looked for in the inventory. Two bids were received – one from Davey Resource Group of Kent, Ohio for up to 8,000 trees in the amount of \$46,725 with a cost for every tree over 8,000 of \$5.77. The second bid was received from Arbor Pro Inc. of Yorba Linda, California for up to 8,000 trees at \$38,000 with a cost per tree over 8,000 of \$4.75. Three firms did not submit bids and their reasons for not bidding were on the recommendation.

Arbor Pro Inc. did not submit the required bid security, so their bid was rejected. References for the Davey Group were contacted, were extremely favorable regarding Davey's performance and indicated they would work with them again for a tree inventory.

Funding for the project was in this year's capital budget, project number K1503 in the amount of \$52,000. It was recommended that this contract be awarded to Davey Resource Group in the amount of \$46,725 for the inventory of up to 8,000 trees and \$5.77 per tree over 8,000 trees not to exceed 8,900 trees. The total cost for the 8,900 tree inventory would be \$51,918.

Mr. Markham asked how many trees were there and was it over 8,000. Mr. Emerson thought not but had to come up with some number. He and Mr. Zaleski took a broad look at the street trees managed and also the trees in high-use areas and parks for the rough estimate provided in the contract. The additional 900 trees gives a little flexibility if the City needed to do a few more, but Mr. Emerson felt safe in that number.

Mr. Markham asked what would happen if this went above the \$52,000 budget. Mr. Emerson said they may do that or may feel they are satisfied or be able to augment that with their own inside abilities. He said 12 years ago the City did an inventory, but it is suggested to do a tree inventory every 5 to 7 years. It was very beneficial to know the City's infrastructure in regards to Newark's tree canopy.

Mr. Markham asked if this would help with the ash tree borer. Mr. Emerson said this will identify the trees in the high-use areas – it would not identify trees that are in the middle of Redd Park, for example, that are not close to an active use area. The emerald ash borer is a second part of this. There is some new information about that issue that they were looking at possibly changing how they will approach that issue. This will identify ash trees in the areas that will be inventoried, but not Citywide.

Mr. Emerson explained the benefits of doing this was that it was important for the City to know what it has out there for budgetary purposes because it would identify the trees with problems in high use areas. He has two certified arborists on staff, but they do not have time to look at every tree. The other reason is when the City reforests areas and works with developers on subdivisions, it allows the ability to diversify the tree population.

Mr. Markham noted that Newark has received awards for being a Tree City. He asked if this would help towards that, or would it help toward any type of grant funding. Mr. Emerson said the City has worked closely with the State Forest Service for years and would continue to do that. They were excited and would like to see every community do this and share the information with them so they can have a broader picture of what Delaware is all about. It may help lead to some other grant funding if it is available.

Ms. Sierer asked if this would include trees on University of Delaware property. Mr. Emerson said it was for City owned property and only in high use areas. She asked whether UD had a tree inventory. Mr. Emerson did not know that they did.

Mr. Ruckle asked if they were going to map out where the trees were in the inventory. Mr. Emerson replied it was going to be GPS and it would be part of our ESRI mapping system. They will be able to keep track of maintenance on specific trees and which trees were taken down so they can be reforested in the future.

Mr. Morehead was under the impression the City would inventory every tree. Mr. Emerson said there was no need to do that and it would raise the price significantly. This was just for the high use areas and the trees along the street areas.

Mr. Emerson said the second phase, the emerald ash borer study, would be an aerial imagery that would only identify ash and oak trees. There is serious trouble with bacterial leaf scorch and it is affecting trees in Newark very badly. The emerald ash borer is maybe two years out. This one is strictly for City-owned land and the other one would be for the entire city and would only identify certain species with serious concerns.

Mr. Gifford asked if the last tree inventory was in electronic form. Mr. Emerson replied it was not. The biggest way it was valuable to the City was to raise issues in the parks and in working with subdivision developers to diversify Newark's tree canopy.

Mr. Gifford asked for an estimate of how many trees there were in the city. Mr. Emerson said the State Forest Service did an aerial inventory in 2009 or 2010 and noted at the time that Newark's urban forest canopy was at about 25%. A goal was set to hit 30%, which has already been exceeded through what the City's efforts and in dealing with developers very closely in trying to enhance Newark's forest canopy.

Mr. Gifford asked what could be done for oak trees with bacterial scorch, to which Mr. Emerson replied nothing. There were some applications but that only extended the life a little. There were serious problems in City parks with oak trees right now. Several have already had to be addressed and more would need to be addressed in coming years.

Ms. Houck added the aerial imagery was in the budget for next year at \$75,000. However Mr. Emerson and his team have found some opportunities to partner with UD and things they are doing and what people are learning about the ash borer that staff anticipated returning with a different capital project that cost less but was more dynamic and did more for trees. The City would be getting to the problem quicker. She said it was a good opportunity and the City would actually be doing more good.

There was no public comment.

MOTION BY MS. HADDEN, SECONDED BY MR. GIFFORD: THAT CONTRACT NO. 15-10 BE AWARDED TO DAVEY RESOURCE GROUP, KENT, OHIO, IN THE AMOUNT OF \$46,725 FOR AN INVENTORY OF UP TO 8,000 TREES AND \$5.77 PER TREE OVER 8,000 TREES, NOT TO EXCEED 8,900 TREES.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

23. 6-B. RECOMMENDATION ON THE PURCHASE OF A REPLACEMENT POLICE VEHICLE FROM STATE OF DELAWARE CONTRACT NO. GSS14013 – POLICE PURSUIT VEHICLES

02:57:28

Ms. Wright presented the recommendation for the purchase of a replacement police vehicle from the State of Delaware contract number GSS14013. In May, a police officer was involved in a vehicle collision at S. Chapel St. and E. Chestnut Hill Rd. The vehicle was a 2012 Chevrolet Tahoe deemed a total loss by the City's insurance. The recommended replacement was a 2015 Chevrolet Tahoe 4 x 4 police package (black and white) from a State awarded vendor in accordance with the State of Delaware contract.

Funds were available for this purchase from a payment of the insurance company for the total loss of the vehicle in the amount of \$23,725. The remaining funds would come from the 2015 capital program equipment replacement fund. It was recommended to authorize the purchase from IG Burton of Milford, Delaware at a total cost of \$33,834.

There was no public comment.

MOTION BY MR. RUCKLE, SECONDED BY MS. HADDEN: THAT THE CITY MANAGER BE AUTHORIZED TO PURCHASE REPLACEMENT VEHICLE 931 FROM STATE CONTRACTED VENDOR IG BURTON OF MILFORD, DE AT THE TOTAL COST OF \$33,834.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

24. 6-C. RECOMMENDATION TO AUTHORIZE PHASE II, ENVIRONMENTAL SITE ASSESSMENT: UD CAESAR RODNEY DORMITORY COMPLEX

02:59:42

Mr. Coleman presented the recommendation for a Phase II Environmental Site Assessment (ESA) for the Rodney dorm complex. Staff was working on demolition cost estimates to use in the negotiations with UD for the purchase of the Rodney complex. There was one demolition estimate put together by a consultant and a large portion of the cost was unknown based on whether or not there were hazardous materials on site.

The recommendation from the consultant was have a Phase I ESA done. Based on the results of the Phase I ESA which is a nondestructive look at the building to see if there is potential for hazardous materials, lead, asbestos, soil and water contamination, underground storage tanks, etc., they would re-evaluate their demolition estimate. If there are then the City needed to go to Phase II to go in and do destructive testing to get an estimate of quantities of hazardous materials that need abatement prior to demolition.

The results of the Phase I were in and showed asbestos. There were underground storage tanks that were removed in 1990 prior to the utility plant being converted from heating oil to natural gas two years later. There was a two-year period where there were temporary above ground storage tanks. There was reason to believe there was potential for hydrocarbon contamination in the soil. There were some PCB transformer discharges inside a few of the buildings that were professionally cleaned up. Again since there was a discharge we need to do our due diligence for PCBs inside some of the buildings.

The potential lead paint and radon in the buildings were less of a concern since the buildings would be demolished and did not need to be addressed in Phase II. There was asbestos insulation on pipes and possibly on buried pipes. They will be doing up to 200 destructive tests on potential asbestos containing materials inside and outside the building. For additional ground testing, City crews will be assisting with digging equipment to save some money to test buried pipes for asbestos. There would be some soil and groundwater sampling where the underground storage tanks went around the utility plant.

The cost was not insignificant – it was \$43,925 for Phase II. Mr. Coleman checked with another consultant to see what they would have charged. Their thoughts were the costs were generally in line with what they would have charged for a similar scope project.

Mr. Markham confirmed that Phase II was due to the unknowns in Phase I was really where you started this conversation. Mr. Coleman said Phase I identified problems or potentials where there may be hazardous materials. Mr. Markham asked if Phase II could be used by the City to apply for DNREC or other funds for cleanup. Mr. Coleman would need to look into whether or not there were DNREC funds. Mr. Markham noted that the City used brownfield funds for Curtis Paper Mill and if this could lead into other funding sources that would be beneficial. Mr. Coleman said he could talk to Val De Rocili of Compliance Environmental, Inc. about that and he would be aware of the funding sources.

Mr. Markham questioned why the funding would be taken from the Legislative Department's budget rather than from public works. Ms. Houck responded that the City had special legal counsel working on the negotiation and this information would funnel into negotiation to purchase the property assuming the City continued to move in that direction. He was hired out of that and staff was keeping all of the aspects of the negotiation in one area. Ms. Sierer guessed it was consulting and Mr. Markham said it

was environmental consulting. Ms. Houck said it was all general fund – that is where it was identified. This was not something the City knew is was going to do this year. Mr. Coleman has been involved because what staff hoped to do with the facility was storm water in nature and because of access to the facility and some of the Phase I involvement that his group was able to help with for compliance. Mr. Markham said it may just be a bookkeeping exercise where Council could transfer the funds to Public Works. To him it was a Public Works project and should be under that. He read several times that the Legislative budget was over budget due to legal fees.

There was no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MR. RUCKLE: THAT THE CITY MANAGER BE AUTHORIZED TO ENTER INTO AN AGREEMENT WITH COMPLIANCE ENVIRONMENTAL, INC. FOR THE COMPLETION OF A PHASE II ENVIRONMENTAL SITE ASSESSMENT OF THE RODNEY PARCEL AT THE COST OF \$43,925.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

25. 7. FINANCIAL STATEMENT: (Ending May 31, 2015 and June 30, 2015)

03:08:04

Mr. Vitola presented the unaudited financial statements for the year to date periods ended May 31 and June 30, 2015. The Citywide consolidated statements showed an operating surplus that was about \$689,000 better than expected midway through the year. The governmental funds showed lower receipts than expected which were more than offset by lower expenses. The revenue shortfall remains spread between fine receipts and permit revenue while other areas were tracking closely with the budget.

Fine revenue was the largest part of the variance and would continue to be down. Part of it was attributable to police staffing. There were four recruits graduating from the State Academy who would go into the three month field training process. There were four more recruits in the County Academy that began in June and would run through the end of the year. Recruitment was underway for three more candidates for the September 2015 State Academy. That combination of 11 open positions and recruits represented about 15% of the budgeted workforce. There were several retirements which contributed to the openings. Another part of the fine revenue decrease was related to red light cameras that continued to undergo changes in 2015. Red light camera revenue dipped in 2014 when the State changed vendors and issues with camera upgrades at South College. In 2015 the Elkton Road cameras were being upgraded and endured an outage in the first quarter.

Governmental fund expenses were tracking under budget which helped mitigate the impact of lower revenue. Lower than expected personnel costs drove that positive expense variance which was a function of some open general fund positions and the related healthcare and other personnel cost savings there. The enterprise fund's total revenue was positive compared to the budget through both May and June which continued to be driven by the electric utility. The water and sewer revenues were tracking close to budget. Water volume dipped from May into June presumably due to rain in June.

Expenditures in the enterprise fund were 3.3% under budget. Sewer expenditures were particularly below budget. Those were related to one open sewer position, low overtime due to fewer sewer backups than normal through half a year, lower manhole frames and covers and no major emergency repairs so far this year.

Other funds continued to benefit from low vehicle maintenance and fuel costs. Fuel was tracking up from the start of the year, but the variance to budget was still strong through half a year. The cash position was \$28.1 million at the end of June which consisted of \$6.9 million in operating cash and \$21.2 million in the City's cash reserves.

Mr. Gifford reviewed the CAFR and did not understand the overlapping debt from counties and asked for an explanation. Mr. Vitola said overlapping debt said the City has its own debt. The City of Newark was only authorized to issue City of Newark bonded indebtedness but residents of Newark are also residents of the County and the State so the statistics attempt to show what debt overlaps Newark from other jurisdictions. It is nothing the City can control and is informational. Mr. Gifford said it is not imposed upon the City, it is what the residents have to pay in addition to the City's responsibility.

Mr. Markham said he did not see anything in the notes about the red light cameras and asked Mr. Vitola to include it in the narrative.

Mr. Markham noted there was no mention of the RSA with the cash balance and thought 21.2 on the June 30 report should really be 20.5 taking out the RSA. Mr. Vitola referred to page 13 and agreed to mention the RSA in the cover memo in future reports. Discussion between Messrs. Morehead, Markham and Vitola continued on the calculation of the cash balance.

Mr. Markham referred to McKees on page 14 which was a positive number because the CAC funding was taken out. He said until a new formula was adopted for the green energy funding, he thought the green energy funding would be taken and applied to those people who have been waiting, which Mr. Vitola confirmed. Once the new formula came it would become the new direction and be tracked. Mr. Markham remembered about \$45,000 in backlog so that could be three months of payoff before a new process.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: TO ACCEPT THE FINANCIAL REPORTS ENDING MAY 31, 2015 AND JUNE 30, 2015.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman.

26. 8-C. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

Bill 15-19 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Deleting the Position of Code Enforcement Manager and Adding the Position of Deputy Director of Planning & Development

03:17:01

Ms. Bensley read Bill 15-19 by title only.

MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 15-19.

Mr. Haines said the bill would change the title of Code Enforcement Manager to Deputy Director of Planning and Development and change the pay grade from a 22 to a 26. Mr. Haines note an error on the memo itself which goes back to Councilman Clifton's recommendation that the cover memos show the dollar amounts the pay grades represent. He did not include it on the memo. A pay grade 26 in 2015's was a minimum of \$73,976 to a maximum of \$93,603.

During last year's budget season there was discussion about adding an additional staff member, a Deputy Director of Planning and Development. It was proposed for mid-year this year not only for depth in operations but from a succession planning perspective. Through the budget process that was removed and staff said it would be reevaluated as the year progressed and as the City goes into next year's budget season.

With the retirement of the Code Enforcement Manager staff had an opportunity to do a personnel assessment of where the department was. What staff proposed was the reclassification of the existing position. This was not a +1, but a reclassification of that

existing full-time unit. Staff wanted to be able to provide the opportunity to recruit a higher position with the intent that the position would take on more management of the department operations as well as have potential that he or she be that succession plan.

Often with code enforcement there are great technicians and tacticians and at times the management piece is not there. Sometimes there is a great manager of people who may not know the technical side. Often organizations adapt operations to the people they have. That will go towards recruitment for the type of person desired in the position.

In the Planning and Development Department there are multiple managers across the board – development, parking, code enforcement. However, there was never officially a number two under Ms. Feeney Roser as the director. This would provide that structure from a management standpoint. He or she would have more of a focus on the field operations, the code enforcement, the parking, and the maintenance team.

One of the key things was taking a step back and looking at workflow and looking at the City operations is looking at the emergency management of our organization. In 2009 under the previous city manager, emergency management moved to the police department due to need at the time. Looking at peers and benchmarking within the state and region, code enforcement or public works typically manage emergency operations. It is not common that the Police Department manages that. Often floodplains and certain other scenarios are not in the purview of the Police, but are in line with technical operations, training and certifications involved in code enforcement. Once the City brought on a new deputy director, that recruitment would also move over the Citywide operations so the City could be more proactive in training and tabletop exercises. These were things viewed as the scope and the perspective of this position and, as the City adjusts moving forward, why the amendment was proposed to this position.

Ms. Hadden asked if additional funds were needed for this position and if so where would those funds come from – were they already budgeted in some way. Mr. Haines said with the retirement and then the time frame of when that payment stops and the continued vacancy during the recruitment process, there was no additional funding or budget amendment needed in 2015. She asked if the police wanted the emergency management moved. Mr. Haines said they were endorsing that perspective. Ms. Hadden noted the position would have a relationship with the police department. Mr. Haines said the emergency management coordinator was integrated with all departments.

Ms. Sierer asked if this person also was the code enforcement manager or whether that would be eliminated. Mr. Haines noted the role would be this person despite the title.

Mr. Morehead asked if parking would be under this person. Mr. Haines said from a direct report standpoint it was possible. The parking division is still in the planning development team. They had talked with Ms. Feeney Roser about the planning and other elements versus the field items with that. Mr. Morehead said he did not see that in the memo so he was not entirely sure what Council was being asked to vote on. Mr. Haines said the textual edit was just a title and pay grade. He was explaining some of the details of the position's tasks within the department as being the official number two in charge.

Mr. Morehead thought code enforcement was a very different skill set from City planning so he was concerned this person would be number 2 in charge. He had no problem as a solid senior management backup when Ms. Feeney Roser was out of the building but as far as succession planning he did not see those as similar skill sets.

Mr. Haines said he or she may have the opportunity to be that future succession planning but it gives us a strong organizational structure. There may be individuals that have certification with ICC and are certified AICP planners. There are professional engineers that were project managers, which often were involved with planners. He agreed that a lot of times it becomes person specific. He thinks a lot of time there are some that are very code focused and can really do the evaluation of projects but have fewer interpersonal skills. It ultimately came down to recruitment of a person that can be someone that could evolve in the future. Just because someone is a second in command is not an automatic path to be director in the future but the City would work toward that.

Mr. Morehead's expectation was that someone who does planning full time thinks about treescapes, cultural issues etc. and felt code enforcement was a different skill.

Mr. Haines said the manager of code enforcement needs to have the nuts and bolts experience but staff thought the City should expand its customer service piece. The City needed someone who could has experience so when that person talked to the code enforcement team he or she was not being snowballed and someone who also had the ability to say here is a better way to approach the community.

Mr. Morehead was with Mr. Haines on customer service – the City had challenges there but he was thinking more of a comprehensive plan piece where he would expect a code enforcement person to be thinking citywide comprehensive plan concepts as their major focus. He had no problem with a senior management person in code enforcement. It made perfect sense to say that person was the second in command when Ms. Feeney Roser was gone. To say that person was the succession did not make sense to him.

Ms. Sierer equated it to the deputy city manager scenario where he had multiple skill sets and responsibilities as would the deputy planning director. Mr. Morehead said Council created that position specifically for succession. Ms. Sierer said they were creating one here too. Mr. Morehead said the deputy city manager position was created to be a step directly into the city manager's chair after time as the deputy. That is what he was thinking from a succession perspective. Ms. Sierer did not think this was doing that. Mr. Morehead said this would be the only deputy director position he was aware of where it basically said we are not doing that. Ms. Sierer felt just because somebody was deputy director in anything did not mean to her that they were in the next spot.

Ms. Houck said management did want to attempt to get the right person and not settle because it has been a challenging role to fill over the years to get the balance expressed by Mr. Haines. She thought it was also about exposure and what they were willing to do with Ms. Feeney Roser's leadership and what that person would be exposed to and what priorities were made. There may have been times where the person in the previous position was involved more in things that they would not be involved in because they did not need to be. There would be opportunity to have better exposure of the comp plan and that does not mean they have to live and breathe it because are other staff dedicated to the issue but management would have the opportunity to have a succession plan. That would be the goal – whether that will be achieved they do not know. They do not know that with any of the deputies. Certainly when the deputy city manager position was created the city manager's office was totally revamped. That was their goal. They were not committing to it to anybody that is hired but thought they had a different mindset going into filling this position and what it is going to do for the organization.

Mr. Morehead clarified that the position would be posted.

Mr. Markham noted the previous code enforcement manager was very hands on. One of his concerns was who would fill that position. If there was a deputy director for planning would they be hands-on and be able to step in to the code enforcement side. Mr. Haines did not think the city organization had those limitations. He thought the previous staff member had a personal interest and desire to do that. He knew the City had a highly skilled workforce and that is where in emergency management situations there is inter-coordination within public works and other groups in the field. He or she would be responsible and if you go into the NIMs training the emergency management coordinator in many scenarios should not be the person doing that, but be stepping back and ensure the other facets of an event are managed.

Ms. Houck added that the City has a new position in codes for maintenance which did not exist previously. That role was created to get the former person out of doing those things in our facilities. Now the City has a person doing that, was always intended to do it and is in a more appropriate role to do those type of things. Mr. Markham stated that his point was that this position should have the background experience of the hands-on and what it takes to get the job done. He should be stronger toward code enforcement and less towards planning and development. Mr. Haines did not think there was any disagreement from the director that they were looking for balance within the department.

Mr. Gifford felt the City had a vision for the department and the vision was mixed up now. There was the whole proposal on economic development then we had the deputy director which they took away and now they were replacing code enforcement manager with the deputy director. He thought he had some of the same problems Mr. Morehead had that maybe it was the first time a deputy position was replacing a position that had a totally different title and a different focus. To him, a code enforcement officer was what we are looking for and he was not sure a deputy was the right position.

Mr. Haines responded that a workflow analysis was done of the department. Mr. Gifford said he would like to see the details of that analysis. Mr. Haines said from a personnel structure standpoint there were ways to reallocate some of the day to day tasks currently going to the code enforcement manager that were not the most efficient or effective and there could be additional automation. Those were reviewed with Ms. Feeney Roser and put this person more on that strong number two person position that is also a strong leader. The City has had that role where the previous manager was also a day to day in the field doer. Staff need that person to step back and be more of a manager and senior leadership. It was an opportunity to look at when the retirement happened as done in every department. Three weeks were spent on a workflow analysis reviewing what every code enforcement officer does, where they feel they need support, what the property maintenance staff does, where they feel they need support from administrative staff. There is a constant interface with the code enforcement and finance teams as to the permit process and where things can be done differently. That is also what staff wants to try to do. They are looking for not just now but also in the immediate future how to keep things flowing better that maybe do not have to land on the same person's desk. Maybe it is not the most effective that he or she has to be the gatekeeper of certain information.

Mr. Gifford said he wanted to see a vision for the whole department because there have been different proposals over the last six months. He asked if the City just found out that it wanted to have someone take part in the emergency management coordinator job. Mr. Haines said that had been discussed for several years as the Police Department had not felt comfortable with that. Ms. Feeney Roser would say that piece is going to transfer over, not just be replaced, because someone is needed whether he or she is a full expert. In recent recruitments Chris Murtha replaced the previous fire marshal as a fire protection specialist and Mr. Murtha himself has a master's in emergency management.

Mr. Gifford asked if the former Code Enforcement official was not replaced with somebody in kind, were there enough other employees that could do code enforcement and property management because the position had been doing some of that work. Mr. Haines replied another employee would not have to be hired to handle those tasks.

Ms. Hadden noted her district had many code issues and Ms. Feeney Roser was her current contact. In her opinion this was just shifting part of those responsibilities away from Ms. Feeney Roser so she can focus on being the director. This was an opportunity to get someone who has a similar planning background and was willing to take over code enforcement. The City was getting along without the previous dedicated position right now and she saw it as a shift and a better use of Ms. Feeney Roser's time to hire someone who has planning in their background. These were obviously not the only duties the position would have. Ms. Hadden thought this was a good move at the current time.

Mr. Morehead noted the City talked previously about parking as a development issue and now it was discussed as a code enforcement issue. Mr. Haines said The parking division was an operational arm within the planning development team. Ultimately code enforcement and parking were out in the field and the maintenance team was in and out of all of the buildings. Those were the three items that were field operations that would be more aligned from a direct reports standpoint. Ms. Houck thought some of the confusion was when the new economic development division was proposed, parking was being pulled out and brought into that. When that did not get approved parking stayed in planning and development and now after a look at the whole organization and where people would report, it would be to this person as opposed to Ms. Feeney Roser which is the current situation with parking.

There was no public comment.

Question on the motion was called.

MOTION FAILED. VOTE: 3 to 3.

Aye: Hadden, Ruckle, Sierer.
Nay: Gifford, Markham, Morehead.
Absent: Chapman.

**27. 9. RECOMMENDATIONS FROM THE PLANNING COMMISSION
AND/OR PLANNING & DEVELOPMENT DEPARTMENT:**

- A.** Consideration of Revisions to the Approved Subdivision Plan for the Candlewood Suites Hotel Located at 1119 South College Avenue

03:26

Mr. John Tracey, Esq., Young Conaway Stargatt & Taylor represented the Candlewood Suites, property owner and developer. Mr. Tracey reported they were before Council with a minor subdivision adjustment with regard to dedications from DeIDOT. They subsequently got the plan extended and during the process at the same time the construction drawings were being finalized the permits inspector noticed some differences between the drawings he was reviewing in 2015 and the drawings that are based on the original renderings from 2009. He thought some of those may trigger substantial conformity issues. Thus they were asked to appear in front of Council.

Mr. Tracey thought of substantial conformity as site plan issues such as building height, number of parking space and rooms and the footprint of the building. None of those things were changing. The property was remaining the same. Basically these were architectural changes that were made to the building from the time it was first placed in front of Council in 2009 and now.

Shawn Crowley from Tevebaugh Associates was present to talk about the changes but Mr. Tracey would give a brief overview into what he considered three categories of those changes. Once this issue was first raised they tried to find every change in the design of the building, many of which would not need to come before Council.

The basic changes that Council would not need to review otherwise were adding a flag pole, putting a bike rack in the front of the building, taking roof leaders that were external to the building and placed them inside the building so they would not be visible from outside and adding a window where the employee break room was on the first floor.

Next were changes that were related to the international hotel group guidelines. A lot of franchises (not just in the hotel industry) were updating brand and appearance standards constantly. Because these were first done in 2009, those have changed.

The exterior colors were slightly modified but were largely the same earth tones. On the very top of the roof, there were some vertical cornice brackets that were removed. The window layout of the north side was revised having one larger window in the center of each floor as opposed to two windows in there. The mullions were removed from the windows. Some shutters were removed from first floor windows. The air conditioner vents were designed to match the color of where they are so they do not appear to be a different color than the wall itself.

The remaining changes did not fit into either category specifically. On the Welsh Tract Road side, considered the north view, they removed the awning and made it a solid door. It was for privacy reasons on the door, but also had a fire rating effect and because of the size of the building a solid steel door was better from a fire rating standpoint. There was originally a gazebo on the 896 side and through the changes over the years, this was a half-wall patio. For privacy, it was more of an amenity to the hotel.

Lastly Mr. Tracey showed the proposed signage which matched the brand. It was on two sides that face directly on 896 and that which you would see facing towards 95. They were not seeking any discretionary approvals for those, so those were planned to be within the code standards. The other two walls would not have any signage.

Ms. Sierer pointed out that she saw more trees. Mr. Tracey said they were matching the landscape plan - these were just schematic renderings. What would be there was the approved landscape plan – they were not looking to make any changes to that. Mr. Morehead asked for further details. Mr. Crowley reported the way they developed the rendering was by guiding from the original record plan drawing and landscape plan.

Mr. Markham commented that it was hard for him to see how this was a substantial change to come before Council. It looked very similar to the plans. He knew we wanted to be careful and keep things close, but he was not seeing it on this project. Mr. Crowley said this was just one of those instances – it was subjective when looking at artistic renderings, but it actually got brought up as they submitted for permit. The code official as he reviewed it had the original renderings from 2009 and noticed some slight differences that triggered this. Ms. Feeney Roser said from a staff perspective what the building looked like seemed to be very important to Council and the public. She had a lot of conversations with folks about minor changes that looked different than what was approved. When they saw these, and not so much that any one of them was a huge change, but the combination of them together, they thought it would be better to come back and talk to Council about what they were actually going to build instead of staff trying to explain why it looked different. That was the sole reason why they were here.

Ms. Hadden said the most striking difference she noticed was the single line of windows on the north view and asked the reason for that decision. Mr. Crowley explained part of what made this odd was the original architect in 2009 produced the renderings. When Mr. Crowley’s firm was brought into this project after the approval process started they were matching the 2013 Candlewood Suites brand prototype. That single row of windows is there because those are suite rooms and has to do with how the layout of the interior worked. Whether or not that was originally correct was hard to say but they just match exactly what they would build.

Mr. Morehead said from a visual perspective he thought the mullions in the windows looked nicer and looked more upscale. He echoed Mr. Markham’s comments that these changes do not merit coming back to Council in his mind considering the number of things they saw that changed that did not come back to Council.

There was no public comment.

MOTION BY MR. GIFFORD, SECONDED BY MR. MARKHAM: THAT THE REVISIONS TO THE APPROVED SUBDIVISION PLAN FOR THE CANDLEWOOD SUITES HOTEL AT 1119 SOUTH COLLEGE AVENUE BE APPROVED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

28. 10. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members:

03:55:58

MOTION BY MS. SIERER, SECONDED BY MR. MOREHEAD: TO OPEN ITEMS 10-A-1 THROUGH 10-A-5 FOR PUBLIC COMMENT AT THIS TIME.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

There was no public comment.

29. 10-A-1. RESOLUTION 15-__: RETIREMENT OF WILLIAM BARRETT, CORPORAL

03:56:27

MOTION BY MR. MARKHAM, SECONDED BY MR. RUCKLE: THAT RESOLUTION 15-__: RETIREMENT OF WILLIAM BARRETT, CORPORAL, BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

(RESOLUTION NO. 15-R)

30. 10-A-2. RESOLUTION 15-__: RETIREMENT OF GERALD DAWSON, CORPORAL

03:56:36

MOTION BY MR. MOREHEAD, SECONDED BY MS. HADDEN: THAT RESOLUTION 15-__: RETIREMENT OF GERALD DAWSON, CORPORAL, BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

(RESOLUTION NO. 15-S)

31. 10-A-3. RESOLUTION 15-__: RETIREMENT OF FRANK GILLESPIE, MASTER CORPORAL

03:56:45

MOTION BY MS. HADDEN, SECONDED BY MR. MARKHAM: THAT RESOLUTION 15-__: RETIREMENT OF FRANK GILLESPIE, MASTER CORPORAL, BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

(RESOLUTION NO. 15-T)

32. 10-A-4. RESOLUTION 15-__: RETIREMENT OF ROBERT LUFF, CORPORAL

03:56:54

MOTION BY MR. MARKHAM, SECONDED BY MS. HADDEN: THAT RESOLUTION 15-__: RETIREMENT OF ROBERT LUFF, CORPORAL, BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

(RESOLUTION NO. 15-U)

33. 10-A-5. RESOLUTION 15-__: RETIREMENT OF PHIL MAGORRY, MASTER CORPORAL

03:57:02

MOTION BY MR. MOREHEAD, SECONDED BY MR. RUCKLE: THAT RESOLUTION 15-___: RETIREMENT OF PHIL MAGORRY, MASTER CORPORAL, BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 6 to 0.

Aye: Gifford, Hadden, Markham, Morehead, Ruckle, Sierer.

Nay: 0.

Absent: Chapman

(RESOLUTION NO. 15-V)

34. B. Others: None

35. APPROVAL OF CONSENT AGENDA

03:57:13

- A. Approval of Council Meeting Minutes – June 22, 2015
- B. Receipt of Alderman’s Report – June 25, 2015
- C. Receipt of Planning Commission Minutes – June 2, 2015
- D. Receipt of Conservation Advisory Commission 2013 Annual Report
- E. Receipt of Conservation Advisory Commission 2014 Annual Report
- F. **First Reading – Bill 15-20** – An Ordinance Amending Chapter 13, Finance, Revenue and Taxation, Code of the City of Newark, Delaware, By Amending the Permitted Exemptions for the Charge of Realty Transfer Tax in Accordance with State Law – **Second Reading – August 10, 2015**

36. Meeting adjourned at 10:56 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary

/av