CITY OF NEWARK
DELAWARE

RESOLUTION NO. 24-

A RESOLUTION TO REQUEST AN AMENDMENT TO THE NEWARK CITY CHARTER, BEING CHAPTER 152 OF VOLUME 48, LAWS OF DELAWARE, BY AUTHORIZING THE CITY OF NEWARK TO LEVY AND COLLECT A TAX OF UP TO $50 PER FULL OR PART TIME UNDERGRADUATE OR POSTGRADUATE STUDENT, PER SEMESTER, AT ANY COLLEGE OR UNIVERSITY THAT HOSTS IN PERSON CLASSES WITHIN THE CITY OF NEWARK. THIS TAX APPLIES TO ALL COLLEGES AND UNIVERSITIES INCLUDING ANY ORGANIZATIONS THAT ARE CONSIDERED SUBDIVISIONS OF THE STATE OF DELAWARE OR ARE OTHERWISE TAX EXEMPT.

WHEREAS, the City Council is committed to ensuring the Charter of the City of Newark remains up-to-date and is responsive to the needs of the residents of the City; and

WHEREAS, more than 42% of real estate within the City of Newark is tax exempt, largely due to the presence of the University of Delaware; and

WHEREAS, the University of Delaware and the students that attend the University of Delaware rely on the City to provide services that are financially supported by property tax revenue like police services and road maintenance; and

WHEREAS, the University of Delaware first began providing a payment in lieu of taxes (PILOT) to the City in the amount of $120,000 in 1965 to help address the financial demands placed on the City due to the presence of the University; and

WHEREAS, The University of Delaware added a separate annual police support subvention payment of $60,000 in 2001, which has remained at that level for the last 23 years; and

WHEREAS, outside of specific projects, the University of Delaware has not adjusted the baseline PILOT made to the City of Newark since it was first enacted, 59 years ago, despite enrollment quadrupling since 1950, significantly diluting the financial aid provided to the City of Newark per student; and

WHEREAS, if the original PILOT payment had been increased equal to the change in the consumer price index published by the US Bureau of Labor Statistics, it would be $1,179,792, ignoring the parallel increase in student enrollment and expansion of University owned, tax exempt property; and

WHEREAS, the City believes it is imperative that it have access to stable revenue sources in addition to property tax so it can continue to provide essential services to its residents, the University of Delaware, University students, and the City’s business community; and
WHEREAS, through discussion at a Council meeting, members of the City Council have agreed that the following changes should be requested for the consideration of the State Legislature.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newark, at least three quarters of all members elected thereto concurring, that the General Assembly is hereby respectfully requested to amend the following section of the municipal Charter of the City of Newark, Chapter 152, Volume 48, Laws of Delaware, as amended, by adding text as shown by underlining as follows:

404 POWER TO RAISE REVENUE.

The council shall have the power to levy and collect taxes on real property within the city, except that which is not assessable and taxable by virtue of any law of the State of Delaware, which shall not be more than two (2) per cent of the assessed valuation of the assessable and taxable real estate within the city in any year clear of all delinquencies and expenses of collection; provided, however, in addition thereto, the council shall have the power to levy the taxes necessary to service the bonded indebtedness of the city.

The council shall have the right to grant or refuse, and to charge fees for licenses or permits for traveling shows and other businesses of any description within the city and to control their use of any property within the city.

The council shall have the power to levy and collect franchise fees and to impose sewer rentals on sanitary sewers.

The council shall have the power by ordinance to allow discounts for early payment of taxes, to impose reasonable penalties and forfeitures for tax delinquencies, and to review and determine proper and appropriate properties to be exempt from taxation. The council shall have the power by ordinance to exempt from taxation not more than five thousand dollars ($5,000.00) of assessed value of real property of persons over sixty-five (65) years of age whose income does not exceed three thousand dollars ($3,000.00) per annum, as defined by ordinance.

The council shall have the power to fix the rates for utilities operated by the city and to collect and utilize revenues from such utilities for the benefit of the city.

The council shall have the right to levy and collect taxes upon all gas mains, water lines and telephone power poles or other erections of like character erected within the limits of the City of Newark, together with the wires, cables and appliances thereto or thereon attached, as well as such wires, cables and appliances which may be installed underground, and to this end may, at any time, direct the same to be included in or added to the city assessment. In case the
owner or lessee of such poles or erections and such wires, cables and appliances shall refuse or neglect to pay the taxes that may be levied thereon, the said taxes may be collected as in the case of other taxes.

The council shall have the right to impose a lodging tax of no more than 3 percent of the rent, in addition to the amount imposed by the State, for any room or rooms in a hotel, motel or tourist home, as defined in §6101 of Title 30, which is located within the boundaries of the City of Newark.

The council shall have the right to levy and collect a tax of up to $50 per semester, per full or part time undergraduate or postgraduate student, at any college or university that hosts in person classes which are located within the boundaries of the City of Newark. This tax applies to all colleges and universities including any organizations that are considered subdivisions of the State of Delaware or are otherwise tax exempt, including but not limited to the University of Delaware.

The $50 cap set forth above will be adjusted annually using the previous twelve (12) month Consumer Price Index ("CPI"), beginning on January 1, 2026 as defined by the all Urban Consumers (Philadelphia-Camden-Wilmington, not seasonally adjusted), U.S. Department of Labor (or any successor index).

RESOLVED at a Regular Meeting of Council on _________________, 2024.

VOTE: __ to __.

____________________________
Mayor

Attest:

____________________________
City Secretary

SYNOPSIS

The resolution requests that the General Assembly amend the Charter of the City of Newark by authorizing the City of Newark to levy and collect a per student, per semester tax on Colleges and Universities that host in person classes which are located within the boundaries of the City of Newark. This tax applies to all colleges and universities including any organizations that are considered subdivisions of the State of Delaware or are otherwise tax exempt, including but not limited to the University of Delaware.
February 5, 2024

TO: Honorable Mayor and Council

FROM: Tom Coleman, City Manager

RE: Proposed Charter Amendment Resolutions

Background

As part of the 2024 budget process, Council gave direction to proceed with efforts to diversify our revenue sources. Due to state law, our Charter must expressly give us the authority to charge a tax which means it must be amended to give us the authority to charge any new taxes. Over the last couple of years, there have been a few new taxes discussed at council, specifically a tax on the gross receipts of lease revenue and a per student tax on the university. Both require a charter amendment prior to adoption of a local ordinance to implement the new tax.

If we hope to implement either tax early enough for it to be budget relevant for the 2025 budget year, we will need the state legislature to pass a charter amendment this legislative session. Based on the remaining legislative calendar, that means we must act fast.

Charter Amendment Process

Title 22, Chapter 8, Section 811 of State code outlines the process by which we can amend the City Charter. The general process is outlined below:

1. City Council adopts a resolution requesting a specific amendment. This resolution must pass with a 3/4th majority which in our case is at least 6 of 7 votes in favor.
2. Staff work with a State legislator, normally in the house, to turn the contents of the resolution into a bill, which then must pass both chambers with the concurrence of 2/3rds of all the respective members.

Accordingly, we have prepared two draft charter amendment resolutions for council consideration. The City Solicitor has previously opined that floor amendments to ordinances that increase tax percentages requires us to readvertise, due to FOIA. Therefore, we set the levels included in both resolutions high, so Council can amend downward as they see fit during discussion without fear of having to readvertise and lose time in the legislative session.

Recommended Motion

“I move that Council adopt the resolution as presented/amended.”