CITY OF NEWARK
DELAWARE

RESOLUTION NO. 24-

A RESOLUTION TO REQUEST 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 NO MORE THAN 5% ON THE GROSS RENTS OR LEASE PAYMENTS GENERATED FROM LEASED PREMISES WITH A MINIMUM OF 15% OF THE TAX REVENUE GENERATED RESERVED FOR AFFORDABLE HOUSING INITIATIVES.

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, the City Council is cognizant that other municipalities within the State of Delaware levy and collect a tax on lease payments; and

WHEREAS, more than 42% of real estate within the City of Newark is tax exempt, the City believes it is imperative that it have access to stable revenue sources in addition to property tax; and

WHEREAS, the City Council is committed to addressing housing affordability and recognizes the need for a stable funding source that can be used to finance affordable housing initiatives; 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
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 no more than 5% on the gross rents or lease payments from all residential and commercial leased premises. Every person or owner receiving any rent on which this tax is imposed shall be obligated to file, or have filed by a designated agent, a rental tax report form with the City Manager or designee and for each year to pay the City Manager or designee, for the use of the City, the amount of tax due the City for the period from January 1 to December 31, commencing with rents received January 1, 2025 and thereafter. This tax shall, inter alia, be applicable to rental properties within the City owned by the University of Delaware.
and/or its subsidiaries. This tax shall not be applicable to: a) “Room” payments for student lodging within on-campus dormitories located on property owned by the University of Delaware; b) those rental properties that are directly subsidized via Federal, State, or City of Newark rental assistance funding; and c) those rentals for which the above lodging tax is levied and collected. No less than fifteen percent (15%) of the tax revenue collected by the gross rents or lease payments tax shall be set aside to be used to fund housing affordability initiatives, either directly by the City or through partnerships with third parties.

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 tax on rents paid on properties, commencing January 1, 2025. No less than 15% of the tax revenue generated by the tax shall be used by the City directly or through partnerships with third parties to fund housing affordability initiatives.
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 3/4ths 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.”