From: Carol Houck
Sent: Sunday, November 20, 2016 2:15 PM
To: 'Bob S' <rjstoz@verizon.net>
Cc: Todd Ruckle (ruckled2@gmail.com) <ruckled2@gmail.com>; 'Jen Wallace' <jen@jenwallacefornewark.org>; Polly Sierer <pasierer@comcast.net>; 'haddenmargrit@gmail.com' <haddenmargrit@gmail.com>; 'luke@chapmanfornewark.com' <luke@chapmanfornewark.com>; 'marknewarkfirst@aol.com' <marknewarkfirst@aol.com>; Stu Markham (stu.markham@gmail.com) <stu.markham@gmail.com>; David Del Grande <DDelGrande@newark.de.us>; Andrew Haines <AHaines@Newark.de.us>; Rick Vitelli <RVitelli@Newark.de.us>; 'Bruce C Herron' <bherron@delaw.org>; Maureen Feeney Roser <MFeeneyRoser@Newark.de.us>
Subject: FW: Response and Information Sharing - Bob Stozek email to Council re: Budget etc

Mr. Stozek,
In response to your email as shared by Council you will find attached Council minutes that cover the results of the last Electric Rate Study Newark completed. There is commentary that may help you to understand the decisions made in relationship to the University of Delaware, our largest customer. Likewise, the second attachment, includes the council minutes associated with their approval of a 15-year successor Electric Service agreement with the University of Delaware. Again, this may provide additional background detail or clarity in response to some of your questions and assumptions.

The link below has the Electric Rate Study Summary, Ordinance changes and the Final Report.

http://cityofnewarkde.us/documentcenter/view/1851

I have scanned your questions and provided comment to some right on the document where able. Below you will find my response to questions 5 and 6.

Question 5 – I believe the Cap you are referring to is in relationship with a MOU signed with the Governor to limit the level of General Fund Transfer from the Electric Utility. Given Newark's high transfer to the general fund and many would suggest overreliance on it to fund non-utility services the limit serves as prudent measure.

Question 6 – Our consultant Black and Veatch is recommending 60 days (from 51 days) of water utility operating cash which is approximately $700,000.

I hope you will find this information helpful. Carol

------ Original Message ------

From: Bob S
To: Polly Sierer, jen@jenwallacefornewark.org, Mark Morehead, Luke Chapman, Stu Markham, Marge Hadden, Todd Ruckle
Sent: November 15, 2016 at 6:31 PM

Subject: Budget Concerns

Mayor and City Council,

I had planned to speak before council about my concerns on the budget but try as I may, I could not come close to getting my statement down to 3-5 minutes. I am therefore sending you this memo in the hopes you will read and consider it.

Bob Stozek
District 1

Attachment 1:

Electric Rate Study CC Meeting Minutes

MOTION PASSED: VOTE: 6 to 1.

Aye – Clifton, Funk, Markham, Morehead, Temko, Tuttle.
Nay – Athey.

(RESOLUTION NO. 11-F)

21. 6-B. BILL 11-07 – AN ORDINANCE AMENDING CHAPTER 11, ELECTRICITY, CODE OF THE CITY OF NEWARK, DELAWARE, BY REVISING THE ELECTRIC RATES EFFECTIVE JUNE 1, 2011

31:34

Mr. McFarland introduced the ordinance which he said would restructure the electric rates for all the customer classes for the City's electric utility and would afford a $2.8 million rate reduction for the larger customer classes. The genesis of the proposal dated back to 2009 when Council asked staff to re-evaluate the City's current rate design for electric rates. There were six policy objectives the rate redesign was intended to address. Three of those policy objectives were fairly common to all rate studies, and three objectives were particular to the direction provided by Council to staff at that time. The three traditional rate objectives were that the rates should recover all the costs of the electric utility, the rates should be fair and reasonable to all classes of customers and the rate should be competitive with utilities in the surrounding geographic area. Beyond those objectives the three additional policy objectives set were that the new rates should encourage energy conservation, the rates should support economic development within the City and the proposed rates should decrease the City's sensitivity to fluctuations in consumption levels.

In late 2009 staff sent an RFP requesting consulting services. Over 15 responses were received, and the bid was awarded to Black and Veatch, a nationally known consulting firm from Kansas City, MO. They began their analysis in the early part of 2010, and in late summer and early fall, staff together with Black and Veatch assembled a group of stakeholders who were used as a sounding board for various rate design mechanisms being considered. The stakeholder group was comprised of representatives of various customer classes including the City's three largest customers, the local development community, small businesses, a residential class representative and a representative from the Conservation Advisory Commission.

In August 2010 a Council workshop was held presenting the rate mechanisms that were being evaluated and how they related to policy goals. The workshop was followed up in September 2010 with a staff report to Council which laid out some of the specifics that would be incorporated into the proposal.

Mr. McFarland reported the rates were proposed to go into effect June 1. The City's intent was to provide at least thirty days notice to customers before the rates became effective.

Craig Brown of Black and Veatch reviewed the specifics of the rate redesign proposal with a PowerPoint presentation. (Secretary's note: The Electric Rate Study final report dated March 2011 is attached to the minutes.)

Mr. Morehead questioned the residential rate. He said meters were currently read once every three months, and he wanted to arrange for his meter to be read in the wintertime. Mr. McFarland said they worked feverishly over the last two months to increase the frequency of electric meter readings as it was realized there had to be more frequent reads to effectuate this rate design. At this time, more than 90+% of meters were being read monthly, and consumption would be prorated if the meter read fell within a month. Mr. Morehead referenced the heat wave last year when, based on the cycle of the actual read, a number of customers got hit with two low months and then a very high month because of the rotating read schedule. Mr. McFarland said that problem will not re-occur based on the monthly reads.

Mr. Clifton asked Mr. McFarland when the change to monthly meter readings occurred. Mr. McFarland said a vendor was found who provided a mobile meter reader that picked up signals from those meters already in place with technology capable of sending a signal to the handheld. One meter reader will do the mobile reads (about 60% of the City), and the other meter readers will handle the remaining 40%. Mr. Clifton questioned how the City's rates compared with Delmarva under the proposed rate structure. Mr. McFarland said within the residential class the City would be about 7% over Delmarva on the typical monthly bill which resulted from the City's wholesale cost of power vs. Delmarva's wholesale cost of power and the City's distribution-specific cost vs. Delmarva's distribution-specific cost. Newark's wholesale power costs were currently higher than Delmarva, but he anticipated that situation would be rectified within the next two years and would become much closer. In the long run the City's distribution costs would be a bit higher than Delmarva's because they get an economy of scale with their system that the City does not have. Up until a year and a half ago, the City was typically four to five percent below Delmarva and was trying to get back to that differential.

Mr. Athey clarified that the City would be 7% over Delmarva with the new rates. Mr. McFarland reported the new rates would not change the revenues collected from the residential class, so the typical customer's bill would not change under this proposal. Mr. Athey noted that residents were pleased with the conservation pricing but questioned why it only applied in the summertime. Mr. McFarland explained there was the generic good of energy conservation, and there was also a specific good for the City and conservation in terms of reducing summer peak. To the extent that peak could be held down, there were real cost savings to the City. Thus, there was a greater benefit to shave the peak in the summer than in the winter. The general feeling was that customers had greater capability to conserve in the summer than in the winter because they can change the temperature on their air conditioner while most of the City's customers had natural gas heat. Therefore, that option was not available to them in the winter. Further, in the base rate there was an advantage to the all-electric customers because they would save more money in the winter than any other customer.

Mr. Markham commented that three funds were alluded to earlier in the rate study – the budget balance reserve, the contingency reserve and the rate stabilization reserve. If these were funded by the City, revenues should be more stable and less likely to show rate changes, especially the revenue stabilization fund. Mr. McFarland said those three reserve funds were adopted as part of the financial policies about two years ago and currently were not funded at all. This rate structure change proposed to begin doing that. He added that the only way to stabilize the City's financial results would be if Council acted to draw upon those reserves for a particular time period. That was an option for Council to utilize although it would not be an automatic action. Mr. Markham clarified that Council would have the option to use that fund rather than changing the RSA/PPCA.

Mr. Markham questioned the range of the months chosen for summer and winter and how that was read. He noted April would have some March usage, so winter would bleed over into April. Mr. McFarland said the winter/summer break was in the tariff for a long period of time. He did not think there would be a material difference whether the period started in April or May. Mr. Tuttle added the most significant usage in terms of the summer peak would kick in during the true summer.

Mr. Temko thanked Mr. McFarland for his efforts during the past three years. He questioned the over and under-recovery percentages and asked if these were surprising or were predicted. Mr. McFarland said they were not surprising to him. However, it had been a long time since the City did a fullblown cost of services study, and it was the first time anyone currently at the City became aware of how those cost of service results came out. He would have expected that the larger customers were paying more and the residential customers were paying less because traditionally, that was the way utilities were handled. He said the best run utilities tended not to do that anymore because of the pressure for economic development and competitiveness.

Regarding the RSA process, Mr. Temko noted when this was discussed at the Council workshop, Council talked about the potential for having more standardization such as an automatic adjustment once a quarter to eliminate large fluctuations. Mr. McFarland said that decision would be at Council's discretion. The proposed ordinance attempted to more accurately put a label on that clause to reflect both tracked changes in wholesale power costs and to track the budgeted margin.

Mr. Temko also remarked on Mr. Athey's comment about lowering the seasonal peak demand in the summer. He said not only would that save the City money, but the idea from an environmental perspective was if the peak demand was lowered, then an extra power plant was not required, thereby providing environmental benefits.

Mr. Tuttle expressed his appreciation for the amount of time and the thorough examination devoted to the study because there was a time when rates were set arbitrarily and adjusted to attempt to insulate customers from the market. This process cost the City a lot of money.

Amy Roe, a Newark resident, said the City was a government utility serving the customers of Newark. If the City was going to be an investor in utilities, she wanted oversight from the Public Service Commission. She also wanted to have energy choice so she could choose her own provider. According to Ms. Roe, the City had a monopoly and a responsibility to act for the benefit of its citizens. She felt the cost of service study did not take into account the purpose of the electric utility but instead assumed the reason the utility existed was to provide energy services to the citizens of the town. She stated that the purpose of the City's utility was to collect revenue and keep property taxes down. Thus she said the cost of service study was the wrong methodology for designing the electric rates and privileged the large industrial customers such as the University of Delaware. Further, the residents' tax dollars provided all the evidence the University needed to say they were overpaying for their electric.

Another area of concern for Ms. Roe was changing the PPCA to the Revenue Stabilization Adjustment. With no PPCA, she said rates could not be changed when wholesale prices increased. She advised that was the problem in the summer of 2009 when the PPCA suddenly went up 2.7 cents per Kwh and customers were impacted with higher electric rates at the end of August which were then applied retroactively. Ms. Roe also pointed out that Council never approved the PPCA as this was at the sole discretion of the Finance Director. She noted in the February Financial Statement that customers overpaid last year in the PPCA, and she was still waiting for her refund.

Ms. Roe also felt there had not been adequate community involvement in the process and felt citizens were left out of the decision making about their own utilities. She filed a request with the Attorney General's office to determine whether the City violated the Freedom of Information Act when it held its public stakeholder meetings in private. While she was told the City did not violate FOIA, she did not believe adequate outreach had been done by the City to engage the public.

Nancy Willing, a Newark resident, remarked that the University of Delaware already received a favorable rate for their electric. While the University was an economic engine, she said they did not pay property taxes and occupied more than 33% of the land mass. If the University was not in the City, perhaps someone else would be paying taxes, and there would be less reliance on the electric rate for the City's viability. She felt the public was left out of the process and thought the rate revision should be tabled to provide more opportunity for public participation.

John Kowalko, State representative and Newark resident, distributed a chart comparing utility rates across the State of Delaware as of February 1, 2011, which showed Newark with the highest rates. He requested that Council table the bill and schedule a town hall-type public discussion to allow back and forth dialogue with rate payers and other stakeholders. He had several concerns with the proposal and urged caution in moving to a decoupling mechanism. He said decoupling mechanisms were being considered throughout the country, but none had been adequately tested or proven to accomplish the goals of proponents. He also disagreed with the oversimplification that high-usage customers were subsidizing low-usage customers. He said the theory that this new policy will encourage energy conservation was flawed and would instead penalize necessary usage by lower income and lower usage customers. Mr. Kowalko added that the Black and Veatch study found the revenue being collected was higher than the revenue needed, fueling speculation that utility revenue was being used to balance the City's budget. To return the majority of the overage to Rohm & Haas and UD ignored the reality that to a large extent the University provided very little tax revenue to the City and was being given an inordinate additional subsidy at the expense of the residential users. He said solutions to retrieve necessary expenditures with alternative revenue devices should be a priority of the City's financial management plan. The necessary revenue for a balanced and stable budget should come from a legitimate tax increase that would not exclude new plans to recover revenue from the University and would not be dependent on utility fee increases. None of the fee impositions were deductible as a property tax would be, and utility fee increases were regarded as the most aggressive form of taxation. Thus he believed the City reached the tipping point where the utility revenue and legitimate revenue needed to balance the budget were interwoven and tipped the imbalance toward regressive taxation of the users of the utilities.

Bruce Harvey, a Newark resident, said the people paying residential rates were subsidizing Newark City government. As of January 1, 2007, the PPCA was zero and from that time to the proposed rates, the PPCA was adjusted up to 22%. He asked what to expect over the next four years through simple Revenue Stabilization Adjustment increases and suggested control on that adjustment.

Rick Armitage spoke on behalf of the University of Delaware and thanked the City for completing the cost of service study. From the University's point of view, this was an important first step in addressing the structure of Newark's electric rates. Results of the study confirmed that significant inequities existed in the current rate structure. He said it was important to note the study determined that users like UD, Rohm & Haas and large light and power rate classes were being overcharged by nearly $5 million per year while other classes were not paying for the actual amount it cost to provide power and being undercharged or subsidized by nearly $2.5 million per year. Although the proposed ordinance will decrease electric rates for users who were overpaying, Mr. Armitage stated that large electric consumers will still continue to pay more than it costs to serve them, and the residential and the general service customers will still be paying less than it costs to provide that service.

Given these findings, the University supported the City's efforts to adjust the electric rates of classes who were overpaying. However, the University remained concerned about the cost of electric power and the City's dependency on electric revenue and the application of the PPCA which will now be referred to as the RSA in the proposed ordinance.

Mr. Armitage added that as a major economic engine in the City, the University will continue to contribute directly to the City as well as provide significant economic benefits to the local and regional economy. Beyond its economic contributions, the University remained committed to partnering with the City and its neighbors in programs like the neighborhood mortgage assistance program, maintaining a robust police department, maintaining a leadership role in community events and working with groups such as the Downtown Newark Partnership to continually revitalize the City. Further, the University was committed to fulfilling its mission in the most cost effective manner and will continue to work collaboratively with the community with respect to energy issues.

Robert Davis, a Newark resident, said electric bills were a joke in his neighborhood since they were constantly increasing. Some residents in his community were living paycheck to paycheck and did not know how they were going to pay their next electric bill. He commented that the revenue was overdone by $2.8 million and looked forward to getting a rebate. Regarding the continuing increases in the PPCA, he did not understand how his bill could go up while he used fewer kilowatts a day. When Mr. Davis compared last year's bill to this year's bill, he said it was $22 compared to $77. He felt the City should take care of its residents and not give money away to the University.

Martin Bolte, a Newark resident, tried to reduce his electric bills by installing energy saving bulbs inside and out. He did not feel he should have to subsidize anyone else's electric bill.

Connie Merlet, a Newark resident, said one thing she learned was never to argue with a statistician because you will never win. While she had great respect for the study, she felt depending on how the study was set up and the answers you wanted, the results would come out differently. Since the UD was shut down in the summer, she noted it will look like they were conserving during the warm months as compared to residents occupying their homes for twelve months. She asked if there was anybody in the room who thought the University was overpaying for anything.

Willett Kempton, a Newark resident, conducts research at UD on electric vehicles. His comments were on electric vehicles in relation to a new block rate structure. By substituting electricity for gasoline, he pointed out that money was kept in the local community and pollution was reduced immediately. He reported there was an electric vehicle manufacturer in New Castle doing retrofits, and there will be one at the Boxwood Road plant, so he thought encouraging residents to buy electric vehicles was consistent with the goals of promoting energy conservation and economic development. However, purchasing an electric vehicle will mean increasing usage into the higher inclining block rate category based on the electricity required to operate the vehicle. As a way to deal with that he suggested an RSEV rate. To qualify for the rate an owner would have to certify that they owned an electric vehicle which was registered at the same address as the meter address. He estimated that it took about 250 Kwh to operate an electric vehicle per month, so the initial rate tier could be set at 500 rather than 250 Kwh per month to compensate for the use of the electric vehicle without pushing a customer into higher rate classes. He recommended a staff analysis of how that might be done in the simplest way and suggested an amendment to add an RSEV rate in the future.

There being no further comments forthcoming, the discussion was returned to the table.

Mr. Clifton said he was not pleased with some components of the rate redesign but felt whatever rate was enacted, there would always be an aggrieved party (unless costs went down). He saw this as an ethical issue and if any party was being overcharged, he felt the City had a responsibility to bring this back in balance. He thought that was accomplished. He said a key component of the revised rate structure was that it aided energy conservation although he recognized there would be stakeholders who could not necessarily reduce their consumption. In looking at the rate structure and the format provided, to a great extent he thought it would be revenue neutral for the majority of the City's stakeholders. Mr. Clifton believed this was a matter of fairness and a matter of equity that the City needed to address, so he planned to support the proposal.

Mr. Athey wanted to dispel the notion that this was the first time the electric rate study was reviewed in public as it was the focus of a Council workshop held in September 2010. He asked Mr. McFarland the plans for refunding the over-collection to customers. Mr. McFarland said the over-collection from calendar 2010 was about $300,000, and it was cleaner to refund the money once Council approved the rate revision and the Revenue Stabilization Adjustment was set to zero.

Mr. Athey's perspective was anytime you deal with public policy there will be conflicting goals. The word decoupling had come up a number of times, and he thought it was very important for the City to decouple to get away from being a consumption based utility. He referenced the cool wet summer in 2009 where utility revenues plummeted and the year finished in the red. He said the City cannot be weather dependent, and the only way to accomplish that was to adopt a fixed structure as proposed. He noted the Black and Veatch study justified a $33 customer charge which Council reduced to $10 while understanding this charge would disproportionately affect the low usage customers.

Regarding the University, Mr. Athey said while the report had assumptions, Black and Veatch came in with an unbiased opinion. He would not call this a pre-determined outcome and did not buy the argument that the University was being given a major break, certainly not on the back of residents. He also stated there was a fixed and a variable component, and the fixed component included the margin which was the cost to operate the City services, not the electricity actually flowing through the lines. There were complaints about the size of the bills and the rising PPCA, and Council was painfully aware of those bills since they paid them as well. Council understood the escalating costs and made several attempts in the past few years to cut services, but residents were not complaining about services they received. Although Mr. Athey supported the proposal, he would not have a problem tabling it to another meeting. However, he was not sure a significantly different outcome would be reached.

Mr. Morehead echoed Mr. Clifton's comments. He stated that the City faced many challenges, and he found it disappointing that the public was not more involved in this process. He pointed out that the Black and Veatch study was on the City's website where it was available to the public. The various meetings held before his time on Council had been open to the public, and he encouraged members of the public with an opinion to discuss it with Council. His email was on the City's website, and he urged residents to feel free to contact him as well. Mr. Morehead planned to support the rate revision as he thought it was the right thing to do to position the City's finances to move forward reliably for the future.

Mr. Markham said it was apparent to him that some type of rate study was called for in late 2006 when it was realized that the electric utility lost $6.5 million in 2005-06 and the City subsidized the rates to all its customers. He felt the electric rates were an important piece of the City's financial puzzle. Mr. Markham said he was a heavy all electric user. When he looked at how he would fare under the new residential rates, he calculated he would pay an additional $60 in the summer and would pay $100 less in the winter. He wanted to see the budget balance reserve, the contingency reserve and the rate stabilization reserve funds adequately funded to avoid increases in the revenue stabilization amount. A requirement for him was the monthly reads; otherwise, costs would be shifted into the wrong months. Mr. Markham did not know what the outcome of the study would be but thought Mr. McFarland knew the outcome based on his background in utilities. Mr. Markham said he would support the rate revision but if Council wanted to table it, he would not have a problem with that decision.

Mr. Tuttle disclosed that he was employed by the University of Delaware as a faculty member in the School of Public Policy and Administration. He did not see a need to recuse himself as he did not think the University's electric power costs had any particular impact on him. He was pleased the issue was addressed as the City's reliance on electric revenues was a concern to him for quite some time, and the change in the rate structure would reduce the City's overall revenue from electric services. He thought that was a step in the right direction but added he did not think this was the last conversation on this topic. He did not see a reason to table the item because it was a conversation that started months ago. However, he felt there were still inequities in the new rate structure and said the City remained dependent on an overhead charge tacked onto electric revenue to fund the operation of the City. He thought those two items should be revisited in the future but believed this was a step in the right direction.

Mr. Temko received a number of emails on this topic. Some were in support from an environmental perspective and some were from electric heat users. He believed the 10% of the City's residential population who were electric heat users would be pleased that the City was taking a step in the right direction. The main opposition he heard regarded the change in the University's rates. He felt due diligence was done on the study and that it was done very responsibly, and he rejected the idea that the City used residents' tax dollars to benefit UD. He was surprised by the scale of the over-recovery of costs from UD and the large users. While the proposal had a reduction for those large customers, that would not stop Council from addressing a policy regarding subsidies between customer classes, and he continued to support a differential in that subsidy. He also rejected the University's use of the term "over-charged" rather than over-recovery. Mr. Temko remarked that the University was an asset to the community, and he looked forward to a continued partnership and hoped they would collaborate as they said they wanted to which involved working with the community and Council on a variety of issues and negotiating a new contract in good faith.

Regarding the PPCA/RSA, Mr. Temko thought there were some good questions on it and some allegations that were slightly misconstrued. While there were issues with the process that could be discussed in the future, he offered to discuss in more detail the concept behind the RSA and defend it from an environmental and a financial perspective. He believed that was a separate issue from the rate design.

Mr. Temko agreed there were many opportunities for public involvement. He felt this issue would not have been raised if the rate revision was voted on in December during the budget process. However the process was postponed while Council awaited the conclusion of UD contract negotiations. He believed scheduling a community meeting at this point would be a disservice because of the amount of work and due diligence put into the study, and he said it was unclear whether anything would be accomplished from another meeting.

Mr. Temko said the City was already decoupled through the RSA/PPCA and thought the fixed charge of $10 had a similar goal of decoupling. He felt it was unfortunate to look at the financial statement and say it was a really hot summer (meaning the City made money because people used more electricity) or people conserved (meaning the City was not making as much money.) The more that can be separated from the equation so the City recovers its fixed costs, the less important it will be if customers use less energy, and the City will be better equipped to promote energy conservation.

Mr. Temko thought an RSEV customer rate should be explored in the future so the City could be on the forefront of attracting exciting opportunities.

Overall he though the electric rate represented a lot of hard work and some exciting steps forward. He thought having inclining block rates, seasonal rates and returning to where we were five years ago so electric heat customers no longer had $500-$600 electric bills in the winter was a positive step forward, and he would support this revision.

Mr. Funk was glad the study recognized the problem with the University's charges. He said in 2015 the University did not have to buy electricity from the City if they felt they were not being treated fairly which would require the City to increase property taxes by 40% to 50%. Clearly it was in the City's best interest to work together to come to a reasonable goal. Mr. Funk believed the City should use property taxes to pay expenses rather than raising utility rates and this would make for a wiser and thriftier government. He thought Council members did a good job enumerating all the issues, and felt the consultant's findings should be supported because they were independent and unbiased.

Mr. Athey supported the idea of investigating an RSEV rate.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

(ORDINANCE NO. 11-07)

22. 6-C. BILL 11-08 – AN ORDINANCE AMENDING CHAPTER 7, BUILDING, CODE OF THE CITY OF NEWARK, DELAWARE, WITH REGARD TO CONTRACTOR'S BONDING REQUIREMENTS

2:14

Ms. Fogg read Bill 11-08 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR. TUTTLE: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 11-08.

The Chair opened the discussion to the public. There being no comments forthcoming, the discussion was returned to the table.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

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

(ORDINANCE NO. 11-06)

23. 6-D. BILL 11-05 - AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BL (BUSINESS LIMITED) TO BB (CENTRAL BUSINESS DISTRICT) .85 ACRES LOCATED AT 206, 208, 220 AND 224 EAST DELAWARE AVENUE

(RESCHEDULED TO MAY 23, 2011 COUNCIL MEETING)

Attachment 2:

Electric Service Agreement CC Meeting Minutes corporations. Ms. Candioto explained the proposed change did not affect the percentage of the City's portfolio that was in non-U.S. securities. Global for the City involved a fund developed ex-US which included the entire developed world minus the US for which there were domestic funds and some exposure to emerging markets which would be from economies such as China, Brazil, etc. None of the allocations to those asset classes would change with the benchmark changes. The third world allocation was less than 15% according to Mr. Zusag.

Mr. Athey expressed reservations about having Russell manage the portfolio while using their index and it seemed preferable to him to use a third party index.

Ms. Candioto explained the model by which Russell invests the City's money. The foundation of their investment business was based on doing research of other money managers. When constructing a fund for the City (whether a U.S. fund or a global equity or non-U.S. equity fund) they go out and hire a group of managers to manage the money for purposes of diversification and being able to hire and fire managers. The reason Russell went into the index business was back in the 1970's they were doing due diligence and manager research on U.S. equity managers, and the only benchmark available in that space was the S&P 500 which is a large cap U.S. index. Meanwhile, Russell was trying to do manager research with manager's that manage small and mid-cap money. The large cap benchmark was not a good measure of how those managers managed money, so Russell developed a better index (Russell 2000 and Russell 1000.) About 10 years ago as research continued to develop in the global space Russell started running into similar problems. They decided to launch global indexes to take the best snapshot of the market and end up with 98% of the investible space as a result.

Ms. Candioto reported that Russell currently had 70% of U.S. institutional assets benchmarked to their U.S. indexes. Considerably less was benchmarked to their global indexes due to the fact that they had only been available for five years. Similarly, when they first launched the Russell 2000 no one used that; everyone used the S&P 500 but about 40 plans in the U.S. alone this year changed their policy benchmarks to the Russell global. In addition, a number of money managers were now managing their global money against the Russell global indexes as opposed to the other large competitors.

MOTION BY MR. ATHEY, SECONDED BY MR. TUTTLE: THAT THE RECOMMENDATION TO AMEND THE INVESTMENT POLICY STATEMENT FOR THE CITY'S PENSION PLAN BE APPROVED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.
Nay – 0.

13. **4. FINANCIAL STATEMENT:** *None*

14. **5. RECOMMENDATIONS ON CONTRACTS & BIDS:**
A. Request for Approval to Execute University of Delaware Electric Contract
43:18

Ms. Houck presented the Electric Service Agreement which she said represented many years of effort and negotiation on the part of the University and the City. During the process City staff had the support of Black and Veatch, DEMEC and attorney Dave Swayze.

In the recommendation Ms. Houck pointed out key aspects of the Agreement.

City of Newark

- Certainty of a 15-year agreement and stable and growing revenue stream
- Retained the ability to raise rates if required in the future
- Additional $300,000 was added to the current subvention payment from the University which goes directly to the General Fund

- Control over the size and the location of the meters – not all University meters qualified for Electric Service Agreement pricing – only the ones listed on Appendix B (or those qualifying after the fact) were included
- Minimum delivery charge was built in guaranteeing revenue of $2.6 million annually
- A likelihood of increased demand based on current and future development

University of Delaware

- Rate stability with reductions in line with the rate study conducted in 2011
- Flexibility on how energy was procured and priced
- Approved up to 5 megawatts of self generation over the 15-year term
- Subvention increase credited to the delivery charge
- Margin increase constraints would not increase above 20%
- Rate increases capped at average system increase

It was therefore recommended that Council authorize the City Manager to enter into the agreement with the University effective February 1, 2013 in accordance with the Electric Service Agreement and Appendices A, B and C.

In regard to the subvention, it was Mr. Athey's understanding this was being taken off the electric side and put back into the General Fund. Ms. Houck said this was an additional $300,000 going into the General Fund where it was needed.

Mr. Chapman asked for several clarifications. Ms. Houck explained the initial term of the agreement was 15 years, and there were opportunities for changes at the five year point. The 15-year period would allow the City to evaluate the impact of the changes and determine if there were better opportunities for UD and other electric customers while providing stability and revenue to run our operations.

Mr. Chapman questioned the resale of self-generated electricity from UD back to the City. Mr. McCullar advised the contract specifically limited the sale or use of energy from self generation to UD's own use or sale to the City of Newark Electric utility. State law allowed anybody with self generation to sell their excess power from that generation to the local utility, and that law was mirrored in the contract. Mr. McCullar said the University had the flexibility to decide when and what type of generation they would install but were limited to no more than 5 megawatts total over the 15-year period to make sure they do not self generate completely and become a customer of the City with zero consumption. The University currently used between 17-20 megawatts for the meters that qualify under this contract, That usage will probably increase up to another 13 megawatts over the next few years as the new facilities come on line. Mr. McCullar noted it was fair for the City to get a return because it made the infrastructure investments to serve the University.

Mr. Clifton believed the State required the servicing utility to purchase the over generation. Mr. McCullar said the State statute did require the local utility to buy excess generation not used by the customer.

Mr. Morehead asked if the cogeneration plant was running at this point. Mr. McCullar confirmed it was in early planning stages. The contract provided they had to present their design to the City at least 12 months prior to construction to assure that it would connect safely to our system and not adversely affect any other customers.

Craig Brown, Black and Veatch, was involved throughout the City's rate study and was brought back in to assist with the ESA in March. Mr. Brown described his role. The University was getting the ability to procure their own power for their own use. The way the rates work is that Newark's revenue comes from what is referred to as the delivery charges (currently the customer charge and the demand charge.) The rates were set for the most part as a pass through of the DEMEC rate, so B&V designed the delivery charge portion of this rate to where the City would be indifferent when UD goes out and procures their energy. His goal was to come up with a rate that was beneficial for the University to recognize their cost of service without sacrificing the revenue stability or cash flow for the City.

Mr. Chapman asked where in the agreement it indicated that the City retained the ability to raise rates if required in the future. Mr. McCullar explained Appendix A was the bones of the contract and ruled how the relationship between UD and the City would progress. There were provisions in Appendix A that said every five-year period of the contract the City had the right to do a cost of service study and adjust the rates in the delivery charge section to appropriately recover the investments and revenue requirement of the City. The University wanted fair certainty about what the rates would be over the long term because they had management decisions to make about running their business. The City wanted certainty of revenue recovery and certainty the University would be a customer over this period. An agreement was reached that said for the certainty they needed the City would lock the delivery charge for five years at a time and at the end of each five years that would be reopened.

Mr. Markham referred to fluctuations in the cost of electricity a few years ago which the City did not recoup very quickly and asked if large fluctuations in the wholesale rates could be passed through. Mr. McCullar said only the delivery rates were frozen for the five-year period. Under this agreement there were three components to the cost of electric service to UD: the energy rate that would be determined in accordance with purchasing requirements under Appendix A; a supply charge which essentially was a pass through of the capacity costs, transmission costs and other ancillary costs to deliver energy in our region; and the delivery charge.

Mr. Chapman referred to material provided by Black and Veatch and asked what could be expected of the three options in terms of annual growth. Mr. Brown said these numbers were solely based on what revenue could be expected from delivery charges and gave some assurance that the City would be able to depend on the minimum charge for the delivery in the agreement.

Mr. Markham noted the City's major risk would be if the University dropped their usage through some method other than self generation.

MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE CITY MANAGER BE AUTHORIZED TO ENTER INTO A SUCCESSOR ELECTRIC SERVICE AGREEMENT WITH THE UNIVERSITY OF DELAWARE COMMENCING FEBRUARY 1, 2013 IN ACCORDANCE WITH THE PROVISIONS OF THE ESA, APPENDIX A, B AND C AND PROVIDING THE ABOVE NOTED BENEFITS TO BOTH PARTIES OF THE AGREEMENT.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Chapman, Clifton, Funk, Markham, Morehead, Tuttle.
Nay – 0

15. **6. ORDINANCES FOR SECOND READING AND PUBLIC HEARING:**

A. Bill 13-01 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Increasing the Management Employee Long Term Disability Coverage and By Permitting a Retired Employee and/or Spouse to Re-Enroll in the City's Health Insurance Coverage

1:16

Ms. Fogg read Bill 13-01 by title only.

MOTION BY TUTTLE, SECONDED BY MR. CLIFTON: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 13-01.

Mr. Zusag explained the change would affect management employees only and would mirror changes already implemented with the City's three collective bargaining units. The LTD maximum benefit was increased for the first time since 1990 so it would cover the majority of employees and the retiree health insurance benefit. Several years ago it was recognized that some retired employees (police officers who retired at an early age) went onto other employment with health insurance benefits and asked if they could leave the City's plan since it would be more cost effective for them to do so and

Attachment 3:
B. Stozek Email to Council

I attended the Budget workshop, the Storm Water workshop, and the CIP review. There were a great number of things that disturbed me but I can only mention a few here without writing a book.

1. In the budget review there was discussion about meetings between the administration and DEMEC concerning electric rates and in at least one of these meetings a university representative was present. See Attachment-ESA
2. Why does your principle customer get to sit in on a price discussion with your supplier? It was said after "true ups" (whatever they are and never explained) the university apparently got an advanced notice of a "passthru" and no rate increase. This certainly lacks the appearance of transparency and propriety. See Attachment-ESA
   - I know that commercial and UD electrical billings are more complicated than residential, after all I used to pay UD's electric bill when I worked there, but the largest portion is the energy rate charge (cents per kwh) one consumes. Large consumers usually get somewhat cheaper rates; that makes sense. But why should residents' rates be <u>47%</u> higher than UD's (14.5 ¢/kwh vs. 9.85 ¢/kwh) and even higher in the summer demand season while UD's rate remains flat year round? Do they too not contribute to higher demand? Do we ever negotiate with UD or just roll over through previous "nebulous agreements"? Much negotiation took place.
   - Several years ago, for reasons never explained publicly, the City gave UD an approximate $2 million annual billing reduction. To compensate, my bill went up 16%. See Rate Study - Specifically Page 29 of B+V Report.
   - Two years ago through UD's magnanimity or some undisclosed side deal, the university increased its subvention payment from ~$200k to ~$500k per year, which had remained unchanged for more than a decade. Yet, by another unexplained twist, the City refunds the entire $300k increase to UD thereby further reducing its electric bill each year. WHY? See ESA - Public Approval and conversation
   - In a few years, City residents are going to be asked to foot the bill for providing infrastructure at the STAR campus to the tune of at least $1.3 million. Why isn't UD getting an annual surcharge to accumulate funds in a reserve for that improvement?

We already subsidize UD through state and federal taxes, why should City residents do so through our electric bill and City taxes? Is the university paying taxes on the properties that are not used for academic purposes (Rodney, Dickinson, and 60-70% of the STAR campus? If not, why not ?

3. I then heard, the current "$10 / month customer charge" on my electric bill is now being referred to as a "minimum electric charge" (whatever that means) and is recommended to go up perhaps incrementally to $20 per month. That will be a ~13% increase for me. Is UD's customer charge doubling? ESA Rules + UD has minimum charge
4. There was also discussion about possibly instituting a "customer charge" on the water bill. If that is also $10 / month my water bill goes up 100%. A customer charge usually infers administrative / overhead costs which I don't believe this is.
5. All of this is nothing but a back door way to increase revenue in the general fund since apparently there is a cap on how much electric revenue can be transferred there. Has anyone attempted to re-negotiate that cap? See email Response #5
6. At the storm water meeting, I learned that the City Water Dept. is supposed to have a reserve fund of 51 days (whatever that means) not a percentage of Dept. budget or actual dollars mind you, but 51 days. Who talks this way? Apparently that bucket is empty and will be refilled via spillover of the storm water fee. When I asked how much this was in dollars at the Planning Commission meeting, I was told they'd have to calculate it and get back to me. Of course, I've never heard another word. See email Response #6
7. **Can we please stop the word play and misdirection and make the collection of revenues transparent**. I'd rather stop being nickeled and dimed to death with fees and charges that are easily lost sight of; just put everything into taxes and be done with it. **TRANSPARENCY !** Council Direction has been otherwise
8. The city chooses to pay for capital work through pay as you go raised cash revenues. I agree with the storm water consultant, some of these projects should be funded by bonds or State low interest loans. It makes no sense for today's residents to have to raise millions of dollars over a short 2-3 year period for infrastructure that should last

We agree, and have recommended this course of action.

40-50-60 years. The burden should be spread out a reasonable time period and reduce the need for spasmodic tax increases. Agreed.

9. At the CIP meeting, I again heard the tale of the reserve buckets with revenues going in and expenditures going out. I have no clue what the total dollars of these funds should be and what their current state is. In my experience, reserves were meant to be either fixed "rainy day funds" for true emergencies or funds to be accumulated over time for a specific defined future expenditure, not buckets to be pilfered as needed or moved around. By the way, they want to raise reserves from 51 to 60 days.
10. Wherever I have worked, be it for-profit, not-for-profit or the university, senior management, that's you the council, sets the baseline budget plan to work toward for the year and then tells staff how much they can afford to spend on non-emergency capital items, rather than have City staff tell you how much they want to spend and ask you to go find more revenue, meaning raise taxes and fees on the unsuspecting public who don't see these capital programs. I don't think the current process allows enough time to seriously review and consider the capital budget in depth.
11. Let's be honest, the five year CIP is really a 1 year plan and 4 year guess. No responsible organization in the real world can afford to budget year to year. I encourage the staff to do a better job of due diligence, especially prioritization, and planning this work with a more steady state long term level of funding so large year to year gyrations are not necessary. Staff has shared this idea with Council.
12. Simplistically, if we will truly plan to spend $46 million in planned capital work over the next 5 years, you should manage toward a $9+ million annual capital budget, not $12M, then $11M, $9M, and later $7M because I know once taxes and fees go up, they never come down and you'll find ways to spend the money.
13. One last most important comment on raising revenue. A significant percentage of the City residents (~ 15% according to the City demographic web page) are retired or approaching retirement and many are on fixed income. Many other City residents are probably living paycheck to paycheck. To be honest, I'm not sure you appreciate what fixed income means. Social Security was just announced to be going up 0.3% next year,

that's $3.50 per month for the average recipient. That will not cover the increased cost of Medicare and other medical insurance. If they're lucky enough to have a pension, those payments never increase for the vast majority of retirees. If they have savings, today they are getting next to nothing in interest, most people don't have big stock portfolios, and if they have IRA's from which to withdraw, they will have to pay earned income federal and state tax on any additional money they must withdraw to send to you. That's a triple whammy. I have no idea what the total per capita revenue increase you intend to make. In the past I've heard members of council glibly say "X dollars a month isn't a lot of money". If we lived in a vacuum, I'd probably agree. But after recent city tax and fee increases and a significant district school tax increase last year, from where are the unsuspecting lower and middle income residents in your community supposed to find money for the increased City taxes and fees? Remember, last year's school tax increase was for operating funds, an even larger school capital program will be coming up for passage soon. Last night you heard that the State has unresolved financial problems so a State tax increase is possible as well.

I appreciate the City has inflationary expenses and infrastructure to invest in. But suddenly the City needs six new administrative positions filled, two of which are records technicians? During the budget meeting this was questioned and it was said they could do other things as well. Obviously they are not critical. Can we get real and fiscally responsible?

I just sincerely hope you give long hard thought to what you are doing and how you are effecting the people you serve over the long term. People need predictability and the ability to plan. They do not live in a vacuum.

And above all else, remember, it's not your money that you are spending, it belongs to the taxpayers.

Sincerely,

Bob Stozek