

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING MINUTES**

December 5, 2017

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: Jeremy Firestone

Commissioners Present: Bob Cronin
Will Hurd
Stacy McNatt
Alan Silverman
Bob Stozek

Commissioners Absent: Frank McIntosh

Staff Present: Mary Ellen Gray, Planning and Development Director
Mike Fortner, Planner
Tom Fruehstorfer, Planner
Bruce Herron, City Solicitor

Mr. Jeremy Firestone called the Planning Commission meeting to order at 7:13 p.m.

1. CHAIR'S REMARKS.

Mr. Firestone: Good evening. Welcome. The Planning Commission meeting for Tuesday, December 5 is called to order. I don't really have any remarks so we'll move right on to Item 2, and I'll ask Commissioner Hurd about the minutes of our last meeting.

2. THE MINUTES OF THE NOVEMBER 7, 2017 PLANNING COMMISSION MEETING.

Mr. Will Hurd: Certainly. I had one minor correction. Michelle, have we had any other submitted corrections?

Ms. Michelle Vispi: No.

Mr. Hurd: Okay, then the minutes stand submitted as they are.

Mr. Firestone: Do we have a motion?

Mr. Alan Silverman: Motion to accept the minutes with the corrections and as submitted.

Mr. Firestone: Do we have a second?

Mr. Bob Cronin: Second.

Mr. Firestone: Any discussion? All in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY SILVERMAN, SECONDED BY CRONIN THAT THE MINUTES OF THE NOVEMBER 7, 2017 PLANNING COMMISSION MEETING BE APPROVED.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

3. ACTION ITEM FOR CITY SOLICITOR.

Mr. Firestone: Item 3, action item for City Solicitor. What would that be? Well, we are reaching a milestone here in the City of Newark and we wanted to acknowledge it, as well. And that's that City Solicitor Bruce Herron, I don't know if he's going to fully retire or just retire from the City of Newark, but he's provided able service to us and kept us on the straight and narrow. You know, I'm a lawyer by training so I've really appreciated his wise counsel to help us get through the meetings and some side conversations that we've had, as well. So we have a certificate of appreciation and I'll just read it into the record.

This certificate is proudly presented to Bruce Herron, Esquire in grateful recognition of 22 years of meritorious service rendered in support of the City of Newark Planning Commission. Presented this 5th day of December, 2017 by the members of the Planning Commission of Newark, Delaware. So we thank you.

Mr. Bruce Herron: Thank you.

Ms. Mary Ellen Gray: Do we want to do a picture?

Mr. Firestone: And we want to do a picture.

Mr. Herron: Do we have to? Alright.

Mr. Firestone: It beats a motion.

Ms. Gray: Do we want to get up and . . . do you want us to get up and come down there? What do you want to do?

Ms. Firestone: We can be behind the dais, or do you want us down there? Is that better?

Ms. Gray: I don't know. Mike, you're taking the picture.

Mr. Mike Fortner: You can all group up there.

Ms. McNatt: We have to stand?

Mr. Firestone: Well Bruce doesn't have a chair down here so I don't want him to stand by himself.

Mr. Fortner: That chair still has somebody's coat on it. Alright. I'm going to take three on three. One, two, three. One, two, three. One, two, three. One, two, three, one more.

Mr. Herron: Thank you.

Mr. Firestone: Thank you.

Mr. Herron: I was concerned that it said action item. I thought I had to take some action.

Mr. Firestone: You had to have your photo taken.

Ms. Gray: Yes, that was the action.

4. RODNEY STORMWATER PROJECT PRESENTATION.

Mr. Firestone: Okay, that concludes Item 3 and we'll move to the Rodney Stormwater Project presentation, which is Item 4. If you could please identify yourself for the record.

Mr. Tim Filasky: Good evening, Planning Commissioners, I'm Tim Filasky, Acting Public Works and Water Resources Director here in the City of Newark. We appreciate your time tonight and we will keep it brief. Many of you have, at least I know Bob [Stozek] has attended several of the meetings, and I've discussed this with Alan [Silverman], and I know Stacy [McNatt] will be interested in the stormwater part. So I certainly appreciate everybody's time tonight. We'll keep it brief and open up for questions when we're done. I'll just give a brief introduction and then hand it over to our consultant.

[Secretary's Note: During the course of the presentation, Mr. Filasky and representatives from JMT referred to a presentation being displayed for the benefit of the Commission and public.]

JMT has been handling most of the design and project management for this site. So if you're not familiar with the Rodney dormitory site, it is very close to here, down right around Amstel Avenue, but it's on the north side of the railroad tracks along Hillside Road. And just to the top of the page there you see Forest Lane . . . and I believe I have a pointer, there it is. Forest Lane, Hillside, this is South Main Street. This used to be the Crab Trap and now it's the Amstel Shopping Center there.

So what we'll go over is a little bit of project background. I know that I was before the Planning Commission in May 2015, so that just shows you how quick these things move. Over 2.5 years later and we're finally getting somewhere. And I really appreciate everyone's patience and time that we put into these things because, at the end of the day, we really want a quality project here if we're going to move forward with that. We'll go over how we got to the preferred concept from the humble beginnings of a paper draft, and it was really just with some marker and a straight edge. And then we'll get to the next steps, which involve how to fund this thing should we move forward.

So we have three folks here tonight – myself . . . and I don't know if you noticed but I have the same shirt on there that I have on tonight, so I wear it quite often . . . and Chris Brendza on the bottom left will be here to represent JMT. The other folks there have worked on the project and have been part of the other presentations, but this evening we're going to have a skeleton crew on.

So I'm not going to go too far into this but the way that we anticipate funding the Rodney project would be through an adjustment to the recently passed stormwater utility fee, which currently is between \$1.77 and \$5.31 per residential home per month. Basically what we would do is we would go to referendum to ask to fund, or to move forward with the Rodney project, borrow the money from the state revolving loan fund in order to construct it, and then pay for that debt service on that loan through the stormwater utility.

So, again, that's just the project site with a couple of the labels on it, and I'll just go through a very short project history. It opened in 1966. In 2015 we, obviously, came to you guys and talked about what we had planned for this location. And then we've moved along relatively consistently to get where we are today, which is to be able to present a concept that has been vetted through numerous groups and numerous folks within the City of Newark, and even some outside of the City, just so we can make sure that we hit everybody that may have some sort of benefit from this project, or interest in the project.

So everything in gray here it looks like we've already completed. Basically we went through three public workshops and we selected the conceptual design that we're going to present to

both you and to City Council. We're actually on next Monday's Council meeting agenda for December 11 to discuss this same project.

Here I'm actually going to turn it over to Chris now to talk a little bit about the environmental remediation. Obviously it's an old site and was built in the 60s and built pretty sturdily, but has lots of asbestos in it. So I'll let Chris take over and give us a little background on that, and then we'll move into some stormwater management and a little bit of the park side of it. Thank you.

Mr. Chris Brendza: Thank you, Tim. My name is Chris Brendza. I'm the project manager and I work for JMT. So I'm going to go through as many slides as I can, and we do have extra that I'll probably just skip over, so if you have questions we can always go back. But we will try our best to stick to that, no more than 15 minutes.

So the City is leveraging a lot of state funding for this project and one of the state funds that is available is the Brownfield Redevelopment Program. So this program will help the City with the cost associated with taking out the asbestos materials that are within the building, clearing the site, getting rid of some of the underground storage containers that are down there, underground storage tanks. So that's what this slide represents is all the testing and environmental work that's gone into clean this site. So all the [inaudible] will be removed and then the site will be demolished before the park and stormwater improvements are completed.

We have a few slides on stormwater. This is a stormwater driven project. The main goal here . . . I'll just go through a few more . . . is really to help with one of the areas in the City that is prone to flooding. So the picture we see here is looking up to the underpass. This is now South Main Street. This flooding happened on August 13 with 3.1 inches of rainfall. The way that the stormwater pond will work and function is that it will work and is designed to manage up to 6 inches of rainfall in the stormwater management pond. And then there are emergency spillways should a rain event come in that is larger than 6 inches.

Here is some more information on stormwater management. This project fits into a larger piece of the City's goals and objectives to help mitigate the stormwater flooding, as well as helping meet their impending NPDES and MS4 requirements set forth by the state and DNREC.

Some of these slides here are just to show you that the pond will help both with nutrient reduction and flooding. Throughout the park and the pond area, there will be a lot of signs and educational opportunities to inform Newark and inform the people at the park what they're looking at, why is it here, and what are the benefits from a stormwater management perspective.

Here are some more slides on BMPs, or Best Management Practices, to help reduce some of nitrogen and phosphorous that comes into the system.

And here are some more rain gardens and other BMPs that are in the area. Some rain barrels.

Safety was a big concern that came up, so this stormwater pond . . . it will be an open pond . . . but we do include safety benches which are shown throughout here. So the pond will have a normal pool which is three feet of normal water elevation, and when it rains it will fluctuate throughout the rain event and up to 48 hours after, and that's what this lighter blue area signifies back through here. So the way that the pond benching works is that you have one foot of vertical drop and then you have ten foot safeties. The reason I wanted to include this slide is just to make note of the safety that goes into this. This is all per the pond code, per state and federal regulations for safety requirements.

As Tim mentioned earlier, this project had a huge public involvement component to it. So we met to hold public workshop 1, and the main goal for public workshop 1 was to hear what people wanted from the site, and what did they want to see there. So we took all those ideas and thoughts and developed three concepts, which Mark will start to talk about right now, the

three concepts, and then, eventually, our preferred concept. Mark is a landscape architect with JMT who has been working on the project from the beginning.

Mr. Mark Shrift: Thanks, Chris. I'm going to present to you tonight the three concepts, and I'll go through them rather quickly. From the initial workshop we went to, we heard what people had to say, we performed interactive exercises, and two primary things that came out of the meetings were flood control and trails. So each of the three concepts are unique and offer a different level of investment.

The first concept, low investment, minimum recreation facilities, and basically shows the pond for the flood control. It maintains the grove of trees in the upper left-hand corner, provides some parking and, again, provides some minimum trail facilities.

Concept 2 is a little more robust. It includes a natural playground area. Again, the pond is the major focal element of this project. It includes parking, trails, overlooks, a fishing pier, open lawn area, and, again, maintains the grove of trees.

Concept 3 is a little more developed, a little more unique. Although the pond looks different in all three options, the pond serves the same purpose for flood control. It just takes on a little different look in this option. Again, a little more significant investment and includes a destination playground, meadows, pavilions, overlooks and a multi-tiered pond.

Workshop 2, essentially at this meeting we presented the concepts and hoped to gain consensus from the group for one option out of the three. And out of workshop 2, the participants preferred concept 2. So concept 2 is the . . . we went back and started to develop, and we really wanted to create an entry and an arrival sequence to the park. So we have nine convenient controlled access points. Those are from public sidewalks, existing crosswalks, new drop-off areas, and parking areas.

The diversity of play opportunities, we're looking at a natural playground here. It accommodates two different age groups – a younger age group of 2-5 year olds, and a secondary age group of 6-12 year olds. The trail is about a 1/3 of a mile. A loop trail. It passes through varied landscapes and native areas. There is a hierarchy to the trails and materials used from bituminous paths to concrete walks, to more of an earthen trail. And there are a mix of views throughout the site as you progress through it.

This is an example of a natural playground. A little different than the traditional playgrounds that we're used to seeing, where we're going to try to use some natural materials to create some really fun and interactive play areas.

This is some concepts of edge treatments around the pond. The use of rock boulders, the use of plant materials to help define the edge, if you will.

This is a notion of what some shelters could look like. This particular concept shows a leaf pod, so something, again, a little unique. The smaller shelters would provide shade and areas for parental supervision of the play area. The larger gazebo, if you will, the shelter you see on the lower right, would serve the main open lawn area.

Again, a different view of an edge treatment, with the rock edge and this shows an accessible fishing pier, slanted rails to rest the fishing rods on. The decking material and the railing material would be aluminum for durability and low maintenance.

We really . . . education is an important part of this project, and so we want to take advantage of that with a lot of the elements that we do. One of the educational notions we had is the use of something like the granite piers you see at the bottom of the slide, with various marks on. You might be able to identify the 2 year storm, the 10 year storm, the 25 year storm, and see how the area fluctuates in those different storm events. In the top area we have [inaudible],

different size holes and what water pressure can do, and how we can measure that. So we really, again, want to take opportunities for education throughout the project.

Interpretive signage is going to be important. Again, they need to be relevant to the site and project. We have not determined what the story is that we're going to tell yet for this particular site. It could be, you know, the pond ecosystem, rain garden, stormwater run-off, and we really want to educate the public about what this project is for. The interpretive signs have to be interactive. They have to be relevant. And, again, they have to tell the story of what we're doing for everybody to understand and appreciate the overall design concept.

So with that, Chris, I'll let you finish up.

Mr. Brendza: I'll finish up briefly with the costs. So we provided costs for all the different concepts. There are fixed costs and variable costs with the project, and the City has entered into a purchase agreement with the University to buy the property, and that will be fully executed if the project goes through referendum. Basically, this summarizes all the costs, both stormwater components, park components based on that preferred concept that Mark just spoke on, and has a total project cost. We listed some operational maintenance. The bottom number there, the \$1.10 per month, that's the average adjustment in the stormwater utility rate for a tier 2 home, which is the basis of the rate structure for the stormwater utility. So Tim mentioned earlier this project would be an additional increase to the monthly homeowner's or business's bill for the stormwater utility. That's how the project would be funded, if positive through referendum.

I'll go through the last couple of slides. We did have workshop 3 where we presented the concept and had some comments, and we've incorporated those into the preferred concept. That workshop was in November.

We wanted to include this for the Planning Commission. This is something that was put into a slide, I believe, when Tim and Tom presented at a special Council meeting in March of this year. And this basically outlines what Public Works would have to do in order to get the same benefit from a stormwater perspective, should the City not purchase the Rodney complex. So this is just related to stormwater. This is what would have to happen, and it goes into the number of homes that would need to be purchased and the land area to equal the size of the Rodney project.

Just real briefly with next steps, Tim mentioned we'll be presenting to Council and asking for their approval to secure funding for the project. That will happen in early 2018 and then a referendum date will be set following the securing of the funds to work on the project, should the referendum vote come back favorable to proceed with everything.

The City will embark on a stormwater management and Rodney education campaign to go along with the referendum vote. These are some of the things that they're working on – the outreach to residents and some of the videos. Kelly Bachman and her group have already worked on them and been instrumental in helping with running the public outreach meetings, and helping with just getting the word out about the project from the beginning.

Everything is on the City's website, all the information from all the previous workshops, tonight's presentation, everything that gets completed and looked at and worked on or presented eventually gets uploaded to this website, which is hosted by the City. So at this time I will take any questions. I do appreciate your time and apologize if we . . . oh sure.

Mr. Filasky: Sorry, real quick, I just wanted to bring up, it may not be clear here that we realize the fact that we can do the bare bones option on this and that would just be for stormwater purposes. That was what we looked at when we first thought this would be a great project to get started on. So we certainly could look at this as just a stormwater project and go with the bare bones option, but we sincerely think that the residents of the City would much rather have

a useable, functional park relatively close to downtown. If you look at our park locations around the City, there is a donut hole around downtown. There is very little green space, which make sense, but when you have an opportunity to have a project like this that could add a park relatively close to downtown, we think it's an opportunity that should at least be given proper vetting. So, with that, we can answer any questions you may have.

Mr. Firestone: Thank you. Could you explain what the \$30,000 in operations and maintenance costs are?

Mr. Filasky: Sure, that's essentially mowing, weed-whacking, snow removal, electricity for lighting, and we anticipate a small recirculating pump in the pond in order to move some of the water so it doesn't become . . . basically so it can create a waterfall type of effect. We may actually look at solar options for that.

Mr. Firestone: So, I mean, there's going to be some structures you're proposing to have that have some sort of cover that you could put solar panels on top to be a self-contained . . .

Mr. Filasky: Yeah, absolutely. We're going to look into every opportunity. We actually have a meeting set up for this Friday to review some solar options for the park.

Mr. Firestone: And just on the way this is proposed to be paid, maybe 30% of the costs are park amenities, but you're proposing that it all come out of stormwater payments.

Mr. Filasky: It actually can because of the way . . . it depends on how we fund it through the state revolving loan fund. The state revolving loan fund can be utilized as long as the educational purposes . . . as long as whatever is built is built with an educational component that revolves around stormwater. So that's where the interpretive signs come from, and things like that. The play area would be, in some fashion . . . and there would also be stormwater amenities built into the rain gardens and things like that. As long as they are part of the park area, then that funding can be used . . . the funding can be used so therefore in order to pay back the state revolving loan fund, we can . . .

Mr. Firestone: So the park amenities which you're estimating of \$2.5 million, how much additional money do you think you get from this revolving fund as a result of putting those in, as if you didn't put them in?

Mr. Filasky: We can get as much as we ask for from the state revolving loan fund. They want to lend you as much money as possible.

Mr. Firestone: Okay, but ultimately the people who use . . . you are proposing that this all be recovered by the stormwater utility rate?

Mr. Filasky: That is our . . .

Mr. Firestone: Versus other ways in the budget.

Mr. Filasky: That is our upfront way to look at it. It depends on if we go to the state revolving loan fund and they say you can't pay for this with . . . then, yes, we would have to look at a different way to pay the . . . but all indications are that we can pay for it with the state revolving loan fund.

Mr. Firestone: Thank you.

Mr. Bob Stozek: Yeah, I have a couple of questions. On page 9 you talked about the stormwater management impacts, or chart 9 I guess it is, and the last item is downstream indirect impact area of 535 acres. What exactly do you mean by that term?

Mr. Filasky: So the downstream indirect impact, that's the orange-ish, I guess, on this area.

Mr. Stozek: Right.

Mr. Filasky: So the direct drainage area actually comes down to the circle in the green area. And so the total drainage area, if you looked at the drainage area down in Rittenhouse Park, that total drainage area is about 640 acres, and that . . . so anything that you do in that watershed will affect the downstream community. However, we realize that putting a pond this far up in the drainage area does not have a direct benefit to those folks. However, it takes some of the pressure off of the piping system that's currently there and allows you to do some other projects that may feed into that same drainage area. Eventually everything comes into one pipe that comes through the STAR Campus, so anything we can reduce upstream helps us with what we can do downstream.

Mr. Stozek: Right. And one of the reasons I asked the question is because the primary owner of that land is the University. And I realize they're going to be paying stormwater fees as well as everybody else in the town. I was just curious if you can translate . . . I don't know if it's easy or not . . . if there is an impact on them, should they somehow be upping the ante a little bit because this project is benefiting them more than its benefiting the western and eastern side of the City. It's just something to think about. I don't expect you to have the answer to that.

The other thing is I was glad to see that you added what if the City does not purchase the Rodney tract. This looks like the total impact here is, how could we do something to duplicate what the Rodney is, you know, create another stormwater pond. Aren't there other costs, though, if the Rodney doesn't happen, aren't there going to have to be improvements to the drainage systems that are existing now?

Mr. Filasky: Correct. We believe that there will likely be improvements to the system even with the Rodney project. But if the Rodney project does not move forward, we believe that the cost, we won't lose that cost. It's an \$8 million project. Without doing it, there's still \$8 million worth of work that we would need to do to make up for not doing this project.

Mr. Stozek: I think that's an important point to make because I've sent you notes about the PR campaign you're going to have to do . . .

Mr. Filasky: Sure.

Mr. Stozek: Because there are areas of the City that say why should I pay for something that's a neighborhood park on the west side of town?

Mr. Filasky: Sure.

Mr. Stozek: And I think people need to know all the impacts. That it's not just the Oaklands and Nottingham Green area that is going to benefit by this. And if you don't do this, you're going to be spending money on [inaudible] anyway.

Mr. Filasky: And we appreciate that aspect. We've been looking at it as this is a project that's primarily in Districts 1, 3, and 4. But we certainly do a lot of projects in 2, 5, and 6. So that's the way we've been looking at it, the angle that we've been trying to look at it from. But we appreciate the different perspective, so thank you.

Mr. Stozek: Yeah, okay. Thank you.

Ms. Stacy McNatt: Hi, I have lots of probably more technical or little questions, but some big questions too. Is this site currently considered a brownfield based upon your testing that's been completed?

Mr. Filasky: Yes, we've already entered into the brownfield developers . . .

Ms. McNatt: Perfect.

Mr. Filasky: We have a brownfield development agreement, so we are technically brownfield developers currently.

Ms. McNatt: And are you getting . . . what slide that was, I don't know . . . but I did see, where the cost slide that talks about the benefit. Is that the UD credit of \$700,000 or is that a different . . .

Mr. Filasky: So as part of the contract, the University of Delaware agreed to basically lower the cost by what we have to pay for . . .

Ms. McNatt: The clean-up.

Mr. Filasky: The clean-up, correct.

Ms. McNatt: But that's not the UD credit less the \$700,000? That's on page 31, or slide 31.

Mr. Filasky: Okay.

Ms. McNatt: Sorry, I found it.

Mr. Filasky: Yes, sorry, the purchase price is \$2.1 million, but they reduced that by \$700,000 based on how much we pay to actually clean it up because it's going to cost more than what brownfields gives us to actually clean it up.

Ms. McNatt: Oh, you're not getting the full . . .

Mr. Filasky: So the brownfield . . . it's basically asbestos is the major contaminant.

Ms. McNatt: So the site remediation of \$800,000 is brownfield . . . is your cost to clean up?

Mr. Filasky: Correct.

Ms. McNatt: But it's going to cost more than that?

Mr. Filasky: Correct.

Ms. McNatt: And you're only getting how much from the brownfield?

Mr. Brendza: Okay, so let me just try to walk you through it and then maybe I can answer any questions.

Ms. McNatt: Okay.

Mr. Brendza: So the City negotiated with the University to buy the property for \$2.1 million. The UD credit is for demolition and remediation costs. So the next line item is site demolition. That's to take out the buildings, disconnect all the utilities, level everything and get rid of it. That's the estimate of \$2 million, and that's really based off of all the brick and concrete that makes up these buildings' foundations. What we have here, the site remediation, that's to remove all the asbestos, to get rid of some of the PCBs and some of the oil that is in some of the transformers. That's where that \$800,000 cost comes from. So the University is going to credit up to \$700,000 for whether it be environmental remediation or site demolition. So obviously in a project this large, that \$700,000 is going to be met. There's just too much brick and too much concrete for a bid to come in from a demolition contractor below that amount.

Ms. McNatt: And how much of the brownfield programs are you getting of that?

Mr. Brendza: Okay, so all of the [inaudible] to do the [inaudible] remediation, so all of their fees and costs to do all the testing, to get all the documents through DNREC, to get all the developer agreements and to get everything through, that's being covered at 100%. Some of the environmental remediation costs . . . so the oil in the transformers, the PCBs, removing the underground storage tanks, that will be covered at 100%, and that's per the brownfield developer's agreement. I can get back to the Commission with it, but I believe that's about \$80,000 for those costs. The asbestos is capped at 10% of your costs. So the asbestos costs, we believe, will be around \$500-600 thousand for an asbestos contractor to remove everything. So the brownfields agreement will only cover 10% of that cost, for whatever that comes in based on the bids. It won't cover the full benefit.

Ms. McNatt: Okay.

Mr. Firestone: Okay.

Ms. McNatt: Oh, I have a whole bunch more.

Mr. Silverman: She's not done.

Ms. McNatt: I'm sorry, would you . . .

Mr. Firestone: We can go back to you.

Ms. McNatt: Okay.

Mr. Firestone: Is it a continuation of that question?

Ms. McNatt: Yes. I have about ten more, but you decide.

Mr. Firestone: Let's move around a bit.

Mr. Cronin: Alright. Thank you. On slide 32 project costs, at the bottom you say \$1.10 a month stormwater utility rate adjustment for tier 2 home. And then on slide 4, you say starting January 1, the range of these fees is between \$1.77 and \$5.31. So \$1.10 is below the \$1.77 . . .

Mr. Filasky: It's in addition to.

Mr. Cronin: So I'm confused.

Mr. Filasky: It's in addition to that.

Mr. Cronin: Okay, because at the bottom of page 4, that's my next question, it says the Rodney project will be funded by an increase in the base monthly amount. Is that the \$1.10?

Mr. Filasky: No, the base monthly amount is the \$1.77.

Mr. Cronin: Do you project increases every year after 2018?

Mr. Filasky: No, it is each . . . so . . .

Mr. Cronin: On slide 4, what's the last bullet on slide 4?

Mr. Filasky: So the base monthly . . . so the stormwater utility was passed. It's separate from the Rodney project. We passed a stormwater utility and each resident will get a bill somewhere between \$1.77 and \$5.31 on their monthly bill in January. If the Rodney project is passed, we will add approximately \$1.10 each month to each one of those bills . . .

Mr. Cronin: Each one of those tiers.

Mr. Filasky: Each one of those tiers. So the tiers go from \$1.77 to \$2.95 to, I believe, \$3.40 something, to \$5.31.

Mr. Cronin: Okay, that clarifies that. Thank you.

Mr. Filasky: And I actually got that question ahead of the meeting, so I appreciate that we're going to need to make that more clear moving forward. Thank you.

Ms. McNatt: You mentioned one of the number one issues was flood control, and on slide 10 you said the flood control goals are designed to manage a 6 inch storm event. A 6 inch storm event is only a 25 year storm event, and the 100 year storm event, which is the flood control event associated with the sediment storm regulations is an 8 inch rainfall event. Can you explain why you would do less than what the regulations require and not capture and manage . . .

Mr. Filasky: Because it's not . . . let me clarify, it's not really required. This is above and beyond anything that . . . you know, there's no pond there now. So we're making an improvement and flood control, meaning not necessarily the 100 year event, but flood control meaning preventing what happened here. Obviously this is a 3 inch rainfall that was able to come out through the underpass there. So in traditional, what you and I think of as flood control, this is not what . . . but because the downstream conveyance system was likely designed, if it was designed at all, as a 10 year storm, the fact that we plan to manage up to the 25 year storm will take some of the pressure off of the pipes on the downstream end, and we can either do more things downstream or would not have to increase the size of the pipes downstream to make sure that, in case we do want to do something, we don't actually make it worse downstream. Because everything we do up here, you know, we can just put giant pipes in . . . you know this . . . we can put giant pipes in but that then just pushes the problem further downstream, which is not what we want to do.

Ms. McNatt: And I completely understand because it's not new development, but why would you not attempt to find ways to manage the potential of more flooding and manage it in this pond? Was that evaluated for any reason specifically?

Mr. Filasky: It was, and basically if we wanted to try to manage the 100 year event, we would likely need to make a pond that leaves no room for anything else. So we did evaluate the sizing and what I didn't mention here tonight is that there's about a 14 foot elevation drop from Hillside Road to this underpass, so you're dealing with grades there, and we also didn't want to put a 10 foot berm in to make this work. It is close to downtown, you know, if this were in the middle of a farm field, we're fine making the biggest pond that we can make.

Ms. McNatt: You were limited by the size and the construction of the area also?

Mr. Filasky: Exactly.

Ms. McNatt: And the next question was, the downstream conveyance system associated where this pond will discharge is what you're benefiting. It's clear what's going to benefit from the discharge. Do you have, or have you gotten to the point that you can clarify or provide what that benefit is. Is it a peak rate reduction or are you reducing flow to that conveyance system? And what benefit . . . how much of that is a benefit? Are you reducing it by 10 CFS in a 25 year storm, or are you reducing it by 100 CFS in a 25 year storm?

Mr. Filasky: So what we decided, and the reason we decided the 25 year storm is most storm sewer systems are designed to the 25 year event, and it's not necessarily 25 year . . . there's two 25 year events, you know that.

Ms. McNatt: Yes.

Mr. Filasky: I apologize. So there's the intensity of rainfall and then there's the 24 hour rainfall. So what we're doing here is we are attempting to keep everything at the crown of the pipe, or keep it from surcharging. So right now, things surcharge all the way downstream. So our intent here was to limit the amount that it would surcharge in this area and then, essentially, if we can lower the capacity . . . we have certain capacity in the pipe. If we can lower what we're sending to the pipe, we can actually send more to the pipe from areas downstream.

Ms. McNatt: And do you know how much that is? That benefit?

Mr. Filasky: The actual tangible number, no.

Ms. McNatt: And the depth of the pond was shown at three feet, and that's the minimum depth required. I know someone mentioned fish, or the slide showed a fishing pier. I don't know, is three feet the best depth if you're going to propose fishing?

Mr. Filasky: We actually have in mind to have some lower spots . . .

Ms. McNatt: Micro-pools?

Mr. Filasky: Micro-pools that, you know, allow the fish to hang out at the bottom and come up to eat, and then you catch them. Catch and release, though. You have to put them back.

Ms. McNatt: And my last question was you mentioned to get part of this grant, the loan, the funding to help pay, which is including the stormwater utility to help pay for these fees, you have to incorporate stormwater management into the park amenities areas to make sure that all jives, and in the slide you have bio-retention, I think, some rain gardens. Is it your intent, are you committing to doing other water quality features in those park amenity areas? Is that what you're proposing to do?

Mr. Filasky: So there's one major drainage area that comes through and that's where we're . . . basically there's a large pipe that comes through the site. So that's where we're intending to take offline [inaudible] pond treat there. And that's what we want to treat with the [inaudible], some floating wetlands and edge treatments and things . . . and actually recirculation helps with some aeration, too. But then other smaller areas . . . there actually are two or three other smaller drainage areas and that's where we intend to use the BMPs like the rain gardens. Rain barrels would be for underneath of any pavilions or anything that collects water. We would certainly look at pervious paving for the park area or the bench area or anything . . .

Ms. McNatt: And you're committing to those features?

Mr. Filasky: Those are features that are included in the cost estimate that we've put up. Essentially we want to get as much water quality benefit as we can because we don't have it yet, but we'll have a new permit shortly and we'll have to do these things to comply.

Ms. McNatt: Thank you.

Mr. Filasky: Thank you.

Mr. Silverman: I looked at this project from the scope of the Planning Commission's purview, and I see that the project as proposed, in general, conforms with the Comprehensive Plan, particularly the stormwater management and water quality standards. The design considerations take into account the impact on the local community, particularly with respect to maintaining the existing tree grove and probably the active recreations there, from what I recall . . .

Mr. Filasky: The preferred concept, we're actually going to remove the basketball facilities and the tennis courts.

Mr. Silverman: Okay.

Mr. Filasky: But it was more so because of what's in the vicinity and the maintenance costs of those facilities.

Mr. Silverman: And along with the Comprehensive Plan and plan concepts, your goal is to reduce flooding both locally and within the watershed. You've proposed this original program through the capital planning process, which we considered and we voted for. You'll be providing additional open space. That open space will take on some community park characteristics, so it's not only a Public Works feature, but it also is open space and an active recreation feature. The question I had with respect to parking on the site, I believe the University of Delaware has a parking garage not too distant from this site. Was that taken into account as potential auxiliary or a parking supplement to access and use this site?

Mr. Filasky: So there is some debate as to how the parking should be set up at the site. Obviously there is existing parking there and people are utilizing that parking that's in the little horseshoe parallel to the railroad tracks. Forest Lane is metered, as many of you know, so that folks don't park there and walk to school. So it is metered there and we would anticipate likely having the need for meters or at least enforcement there in that parking area. What we don't want to see is people parking, you know, five deep up Sypherd and Cheltenham and Dallam Roads, into the Oaklands. We showed in some of our presentations the walkability, the area in which this is in, where you can get to it within five minutes, ten minutes and 15 minutes by walking.

Mr. Silverman: That's an important exhibit and it leans in the direction of our Comprehensive Plan of a walkable community, and that's something that should be emphasized, with the option of potentially integrating the existing University parking building, if there is a need for, say, event parking. Because you talk about a gazebo at that site. There could be parking with existing . . . I'm sorry, there could be coordination with existing parking so it doesn't overflow into the community.

Mr. Filasky: So the size of the park and the amenities may lend itself to a small birthday party, you know, 10 or 15 people, but it doesn't lend itself to a large event type. Basically it's still within the neighborhood and, you know, out of the seven acres, 4-5 is associated with the pond area. So you're still looking at a relatively small area. So having . . . you know, copious parking is not really necessary . . .

Mr. Silverman: I'm just saying the opportunity is there to use other parking amenities that exist, if it's coordinated properly.

Mr. Firestone: Just to follow up on that, it seems that creating a lot of impervious surface for parking is sort of . . .

Mr. Filasky: Contrary to . . .

Mr. Firestone: Against the grain of stormwater control.

Mr. Filasky: Yes, right.

Mr. Silverman: Which, again, is one of my points. Just so it's clear in my mind, the favored concept is concept 2?

Mr. Filasky: Yes, we took concept 2 and we made a few revisions based on some comments we received at the third workshop. So it's concept 2 with a few additions to answer some questions.

Mr. Silverman: And if you'll excuse me for a moment, I'd like to have a sidebar with the Chair and my fellow Commissioners. This presentation is a very valuable presentation with respect to additional public information. It's part of our Comp Plan implementation and I'm just wondering since it's not a formal land development plan submission, if, as a board, we can, by resolution, endorse concept 2 to make a positive statement on the record. Do you think that's in order?

Mr. Firestone: You could make a motion. I'm not sure that I would support it but you're certainly welcome to make a motion. Not that I'm opposed necessarily to concept 2, I just don't know that we, as a Commission, should be going on record in support of concept 2. There are other concepts and I'm not even sure how the vote is going to go in front of the public. Whether the public is going to be presented with options of concept 1 versus concept 2.

Mr. Filasky: We're going to discuss that with Council next Monday as to exactly how to move forward with the project.

Mr. Silverman: Then what is the purpose of this presentation and what action should we take?

Mr. Filasky: Is that a question for me?

Mr. Silverman: No, that's a question for the Chair and my colleagues.

Mr. Firestone: If you can . . . I'll turn it over to Mary Ellen.

Mr. Gray: I think Commissioner Silverman got to the nut of it regarding the fulfillment of the concepts in the Comprehensive Plan. And should a concept . . . regardless of which concept – 1, 2 or 3 – is moved forward with, whether the overall plan of putting a stormwater management pond at Rodney make sense.

Mr. Firestone: I mean I certainly support going to the citizens with a vote and seeing how people think about it.

Mr. Silverman: In one way, I see this as no different than an applicant other than the City coming before us with a design concept and land development proposal.

Mr. Firestone: Like I said, if you want to make a motion, you're free to make a motion.

Mr. Silverman: I'm not quite sure how to structure it. That's why I kind of leaned toward the resolution since we can't take formal action because there's no formal submission.

Mr. Firestone: You can propose a resolution. I don't know if we want to call it a resolution or a motion but . . . actually before that, I would like to hear from anyone from the public who would like to be heard on this issue.

Ms. Jean White: Jean White, District 1. I support the plan to put the stormwater management proposal before you, that's just been presented. I attended all three workshops in July, September and October, and I do think that the company JMT did a very good job of running those workshops.

Let me see, I have seen . . . or I should say my husband has seen . . . the flooding that's pictured right there on his way to work and back, and so I'm convinced that this will be a great improvement not just for that, but for the larger issue. I have a tiny little thing about plan 2 and I'm just mentioning it but I know that the larger things ahead of the City is to pass this and to

start this. But on page 26 . . . and I'm just mentioning it to get it into the record . . . the picture of the pavilions which had this curved roof in the shape of a leaf with a stem area, and I highly dislike that, and I think a more traditional type of roof for the large pavilion and the three other ones would be much better. And I could go into that but I won't go any further.

Finally, I did have a question about whether the company or the City has been able to test the ground beneath Rodney. I thought I had heard way back that there was oil or something in the soil. I'm not talking about the transformers up above or the asbestos. And I'm just wondering, therefore, if there was any knowledge at this point, before the building is taken down if the soil itself is impacted by any pollution there. Thank you.

Mr. Firestone: Thank you.

Mr. Kevin Mayhew: Kevin Mayhew, 103 Elma Drive. I wasn't going to talk on this subject tonight but after hearing this presentation, I have some history with ponds. I was superintendent at Newark Country Club for . . . well I worked there over 20 years and managed six different ponds. The biggest headache with ponds is algae. I don't know what the plan is for algae control, but anything less than three feet, the sunlight . . . or at three feet . . . the sunlight is going to hit the bottom and make algae grow, so we always tried to keep ponds at least six feet deep to keep algae from forming. We had a lot of aeration equipment and you talk about a recirculation pump to have a waterfall effect, but do you have plans for lots of aeration to try and keep the water moving?

And then the other thing that came to mind is if this pond was dry, how many year storm could it hold? And I know everybody wants it wet for the aesthetics, but could you install valves, or do you have valves planned that you could lower the pond 24 hours in advance of a large storm to hold more capacity? So just some thoughts I had tonight.

Mr. Filasky: On the lowering of the pond or why it's not a dry pond, essentially we set the water surface elevation at the elevation of the downstream outfall. So once it's wet, unless we put an actual pump on there, we couldn't pump it down dry. And as far as aeration, again, we're looking into some solar options and some other things. I certainly understand that algae is an issue. We have algae issues in the reservoir and that's much deeper than six feet, so it's certainly something to take into account. So we appreciate that.

Mr. Firestone: Why don't you just address the soil remediation . . . the soil contamination under the building?

Mr. Filasky: Oh, sorry, so they have done soil borings as well as water samples from below, and we didn't find anything that would preclude the site from being developed from an environmental standpoint.

Mr. Firestone: Thank you.

Mr. Silverman: Are we ready for a motion?

Mr. Firestone: Yes.

Mr. Cronin: One more question, if I may.

Mr. Firestone: Yes.

Mr. Cronin: Tim, I believe this may be the same storm on August 13, 2013. I recall flooding at the intersection of Delaware Avenue and South College on the sidewalks and so forth there, which is outside of this impact area. The question in my mind is are there steps the City may be contemplating that would remediate or mitigate that area, and what would be done there that may be done here actually in lieu of what we're contemplating?

Mr. Filasky: So, personally, I've looked at pretty much every park in town, just because we already own there. Most of them are at the bottom or top of a drainage area because it's, for better or worse, you put the park or open space in the area you can't build a house for the last 50 years. So there are areas that I've looked at, many different areas, and upgrades that we can make. So, yes, we can make changes and have projects that address flooding at South College and Delaware Avenue. This does not, you know, address that area, but we can certainly . . . you know, once we have a successful project, I think we would have more success getting those projects off the ground, with a successful project like this.

Mr. Cronin: But the essence of my question is remedies you might have for South College and Delaware Avenue. What remedy might be employed there that could be employed here in lieu of what you're contemplating? As an alternative.

Mr. Filasky: I think that's what we discussed earlier, what the alternatives are to have this type of effect. And that is making larger pipes or other ponds downstream that, once you get downstream, you obviously need a larger pond to handle the same amount of flow. So there are certainly alternatives. Most cost either money or capital or just space in order to complete them.

Mr. Cronin: Thank you.

Mr. Filasky: Thank you.

Mr. Firestone: Thank you.

Mr. Silverman: Okay, I move that the Planning Commission endorse the continued effort for the Rodney Stormwater Site Management Project, as proposed in the documentation submitted for December 5, 2017.

Mr. Hurd: Second.

Mr. Firestone: Any discussion? All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY SILVERMAN, SECONDED BY HURD THAT THE PLANNING COMMISSION ENDORSE THE CONTINUED EFFORT FOR THE RODNEY STORMWATER PROJECT AS PROPOSED IN THE DOCUMENTATION SUBMITTED FOR THE DECEMBER 5, 2017 PLANNING COMMISSION MEETING.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

Mr. Firestone: Thank you very much.

Mr. Filasky: We appreciate your time. Thank you.

5. FOLLOW-UP TO RENTAL HOUSING NEEDS ASSESSMENT STUDY RECOMMENDATIONS.

Mr. Firestone: That takes us to Item 5, follow-up to Rental Housing Needs Assessment Study recommendations. I will note for the record that we received a presentation this evening. What we're trying to do with both applicants and the City is to get all the presentations to us a

week in advance, but we're just beginning to operate under the new rules, so Mike why don't you take us through it?

Ms. Gray: If I could just address that. This presentation . . . and certainly point taken as far as getting documentation a week in advance . . . this presentation is basically a reorganization of the documents that were submitted a week in advance. So it was just . . . more of an executive summary, if you will.

Mr. Firestone: Okay. Thank you.

[Secretary's Note: During the course of the presentation, Mr. Fortner referred to a presentation being displayed for the benefit of the Commission and public.]

Mr. Fortner: Alright, thank you. You have a presentation and the memo in your packets. The intent of that is to move forward with the Rental Housing Needs Assessment recommendations that were in there. And they're kind of divided up into two groups. We divided it up into . . . the purpose is not to get you to necessarily make a recommendation today, but basically give directions on what things to move forward with. We would develop the policy proposal or the ordinance change, then we would come back to you to have public hearings on. By supporting or moving forward with some of these recommendations, we're not looking for you to endorse that, it would just be let's move forward with this, discuss it, and have a public hearing, and then bring it to a vote or recommendation to Council.

So you've got things that are within your direct purview, which are usually things in the Zoning Code. And so these are things that would definitely have to come to you for a recommendation. There are other things that are outside of your direct purview, but these are things that you may decide to be involved with. And in those cases, you might want to . . . you would either have a request to us and we would play a direct role in that, and we would develop the policy at our meetings. Or we could maybe not want to have a direct role in them, but you may want to let them move forward with other appropriate departments to work on that. Or you may want to have no role in them whatsoever.

The first one is a Zoning Code amendment. The first two are in the direct purview of the Planning Commission. So it's a Zoning Code amendment . . . oh, I'm sorry, let me go back. I also divided them into short-term, medium-term, and long-term. The short-term is a simple ordinance change in the Zoning Code to expand the number of blocks that are exempt under the Student Home Ordinance. And those are streets that were reviewed. There were focus groups with this, lots of public meetings, and they identified those streets as possible things that we could expand the exempt streets.

The other one that is related to that but can be done separately is to consider allowing four unrelated tenants in a single family rental that's on an exempt street. So you could do that ordinance. We could move forward with an ordinance like that without expanding the streets. I know this is confusing to go over but some houses that were before the ordinance was changed are allowed four. But then after the ordinance came in, they were only allowed three. So you have houses on exempt streets and some have three unrelated and some allow four. It's very confusing for tenants. It's very confusing for the landlords. It's confusing for the City are the arguments for change on that. So we could make it a uniform four. It would be a proposal. Again, it would be something that we would write up as an ordinance, as a report, you would have public hearings on it, and then you would give a recommendation one way or the other to Council as part of your role, and we could add that to your agenda.

The same with adding to the exempt streets. It would simply come before you as a report in an ordinance, you would review it, just like we did with the micro-breweries or the accessory dwellings, where we had two or three meetings where we tweaked it, and then we would come back and you either recommend for or against it.

The other one is a Zoning Code amendment too, but it's a medium-term issue. It's developing incentives for non-student renters and owner-occupants in targeted neighborhoods. This is trying to devise bonuses for encouraging smaller apartments. We've already done some of this in the BB district, but it would be a longer term thing. We'd have much more research, much more reports we'd come by. This would be a longer term project. It would take six months to a year. Something like that estimated time.

After that, we have things that are outside your direct purview. That means they'd involve changes that are not in the Zoning Code or subdivision agreements, but they may be something that you consider to be planning issues, and that you want to be involved with that you think would be a benefit to the community. And so one of them is . . . and I have this as a medium-term . . . incentivize the shift to non-student renters or owner-occupants. This is developing housing programs to encourage people to buy houses, like the POOH program, which has been discontinued. And what kind of role do you want to play in developing those programs or making a recommendation to Council. You don't have to do that if you don't want to. You don't have to take that project on. But if you would like to take that project on, it would involve a series of meetings where we'd discuss different options. I would do research on different types of ways communities have done this. A lot of this is already in the Rental Housing Needs Assessment already. We would expand on that. We would give different scenarios and incentives. Who do you want to buy houses? You would be involved in all that if you chose to be in that, but you don't have to be in that. Or you could just say we want those programs to go forward because there's some debate whether we should have housing incentive programs. Some people think the City shouldn't be involved in the business of encouraging people to buy homes and then giving them direct financial incentives. And that's a debate, as well. So do you want to be involved with that? Do you want to recommend for these programs in the future? Or do you want a clear role in developing that program?

The same with creating . . . this is a medium-term . . . creating incentives for landlords to participate in a regularly scheduled property inspections. This is, again, changes to Section 17. This is mostly Code Enforcement. Again, it's outside of your direct purview, but you may find this important to participate in. You may want to develop how we can make inspections more common. Make the City's position to inspect units stronger. What ordinance changes do we need in a thing like Chapter 17?

The same with the . . . what do you call it . . . the Gold Star Rental Program with the language they used in the Rental Housing Needs Assessment. This is sort of like a self-certification program. Landlords would meet a level, would demonstrate that they've met a level that they can self-certify. We would allow them to self-certify and to create Gold Star. That means they would be able to advertise that to students that they are a safe place, that they've met a high standard set by the City. Along with that, there would be self-certification and just more of a cooperative dynamics, I think is the intent of a program like this. One doesn't exist. This would . . . so I have this as long-term . . . this would take a lot of public meetings with other agencies and other departments and property owners. So how would Planning Commission want to be involved in developing something like this? Or do they want to see it happen but don't want to be involved with it? Or do they not want to see it happen at all? Or just not be involved with that?

And, finally, there is working with the Newark Housing Authority. This is, of course, creating changes to Section 13 Finance, Revenue and Taxation. It's giving incentives to create affordable units. The City is doing this in a way with the development of new housing units with Newark Housing Authority at the site on Main Street at 313 East Main Street. They're looking to develop that and we're contributing \$40,000, or \$35,000, of CDBG funds to that project, trying to help encourage investment. There could be other things, but this is, again, coordinating with outside agencies and the role you want to play with it. You'd also need to review the proposals that comes in, but do you want to be in a role where we create changes to Section 13 that would create incentives for affordable housing?

And then there's the final thing. This has to do with the University building, for making that affordable housing for seniors. That was an idea that was floated in the Rental Housing Needs Assessment. And maybe that, through a series of incentives or zoning, make that an opportunity to create affordable senior housing. This is not the Rodney but the Dickinson dormitories. Again, that's a long-term goal or whatever, but it would be obviously a lot of coordination with the University, property owners, and what role would you want to play in something like that.

And that's the end of my presentation. That was the purpose of the memo. To get direction on what things you want to see us bring forward, do more research on and bring forward, or things you just don't us to even worry about because you don't want to be involved with it.

Mr. Firestone: Thank you, Mike. Alan?

Mr. Silverman: In the relatively recent past, judging by actions of Council and what's been reported in the role of the . . . by the local newspapers, there seems to be a blurring of the roles and responsibilities of the Planning Commission, the City government, and the members of Council. I think you were very right in reporting out several baskets of potential activities here. Given the apparent rejection with respect to the use of Urban3 to supplement staffing with regard to planning issues that have been identified by this board, such as redoing the definitions in the Zoning Code, looking at a 30-40 year old Code and bringing it up into this particular century, and the application of that Code to current needs with respect to the adopted Comprehensive Plan, I believe that this group should adopt a minimalist approach to the information that you've presented, and, at this point in time, only deal with those, I believe, two recommendations that directly deal with the Zoning Code. That's clearly within the role of what this Commission does. We don't advise the City on property management. We don't advise the City on fee schedules. We don't advise the City on what programs they should adopt with respect to incentivizing or dis-incentivizing housing. Within our adopted Comprehensive Plan, we're very clear on our goals that we support a variety of housing, income ranges that will meet the demands of the community. We have a very clear policy in the Comprehensive Plan that that housing should be safe and sanitary. We have policies with respect to the blending of housing within the community, and conforming to contemporary neighborhood standards. I don't think we need to get into other activities with respect to housing that are clearly, in my mind, the role of the City government to propose and deal with, and Council to decide on whether those kinds of activities should be part of the Newark community and how they should be paid for.

Mr. Firestone: Thank you. Anyone else?

Mr. Hurd: I have a couple comments, I guess, on the first two items – 1A and 1B. The first one, on the streets that they're proposing to be exempt, does the department have any opinions on any other blocks that maybe should be included that the study didn't pick up? Or do you think that they caught them all?

Mr. Fortner: Well there's no official department recommendation right now, but those are certainly on the table if there are other streets . . .

Mr. Hurd: Maybe I should phrase it differently. It may make sense in that part of the recommendation to say is there anywhere else that it starts to make sense to include not just the nine listed. And related to that, I think, for 1B when we're talking about 3-person and 4-person permits, it will help us, I think, if we know how many there are of each when we're looking at those streets. Trying to get a sense of what's the distribution.

Mr. Fortner: Okay.

Mr. Stozek: I basically agree with what Alan said. I think we should limit ourselves. I would like to make one personal request on Item 4C/D. This is just something that got to me. When

we're talking about creating a Gold Star program, I wish you would pick another name. A Gold Star program . . . the reason I'm asking is a Gold Star program is an official program that's been around since the 1920s recognizing families who have lost sons or daughters in military service, and I don't want to have any possible confusion about Newark's Gold Star program and what that might be.

Ms. Gray: If I may, this is directly from the Rental Needs Assessment Study. Staff did not pick these names or recommendations, but point well taken.

Mr. Fortner: Understood. We've had comments that Gold Star is not a great name.

Mr. Stozek: Call it Blue Ribbon or something.

Ms. Gray: Very good. Thank you.

Mr. Firestone: And they're actually not doing very much to get that Gold Star either.

Ms. McNatt: I have a quick question. My head spins with this topic. Which recommendation or action item incentivizes student rentals to be located closer to the University and out of communities that are the furthest away and are being overrun by basically Code-violating or violating the Code, and they are rental units . . .

Mr. Fortner: There's the Student Housing Ordinance. So when they set the exempt streets like when you saw on that map . . .

Ms. McNatt: Yeah, the red and blue . . .

Mr. Fortner: Okay, so the blue is the current existing exempt streets. And so that was set by Council years ago when they established this. And those are basically areas where they thought this is where students are already living. There is a high density there and it makes sense, so why regulate as much there. Now so, say in doing a change like allowing up to four unrelated rather than having this kind of patchwork of three and four all in there, just saying four where they can meet it in Code . . . so if they can get the parking, they can't get four, for example, and they have simply a very small house. But by allowing that, it's basically recognizing students . . . we want them to focus on certain areas. That's where we think students should live and hopefully that alleviates pressure by allowing more students to live there. Alleviate pressure from the outer neighborhoods.

Mr. Hurd: I'll just add that from the steering group meetings, that was, in fact, the intention was to say we want to try to encourage more density in these areas and pull people out of the neighborhoods. So 1A and 1B were, essentially, crafted to try to produce that effect.

Ms. McNatt: Thank you for the clarification.

Mr. Firestone: I don't have a real problem with us having a de minimis role on a couple of these. And more in the lines of policy recommendation than getting dirt under our fingers, but that would be the incentivizing non-student rentals or owner-occupants in targeted neighborhoods and the affordable housing. But I think I agree with the general broader concept of the policy and figuring it all out, it's probably more of a staff function and the City Council has to decide how they want to allocate resources. Would anyone else like to be heard on this?

Ms. White: Jean White, District 1. In, in fact, Council . . .

Ms. Gray: I don't think your mike is on, Ms. White.

Ms. White: Okay, Jean White, District 1. If, in fact, the Planning Commission and then City Council wants to add streets, at this point there are nine listed, to become student home physically exempt streets from the list, I think that all owner-occupants on that street, but maybe everybody on that street, should receive a notice, a mailed notice, that this is going to happen, so that some people can come to a meeting. Because if this is a distinct issue it could be for owner-occupants of such a street and they, in fact, may not want that to happen. And I think as with other situations, there has to be a positive notification. Not just in the newspaper or on the website or whatever. So I don't know whether you, the Commission, would like to weigh in on that, but I think that would be important.

The second thing about converting all student rentals, some of which allow three students, and others that allow four because they're grandfathered, I think it would be important to have what's before you to know where all of these are located. There was a map that I think that put that forth, but it was hard to know which were three and which were four, I believe, because that's difficult information to get. But it's one of the things that could be on this GIS application request. And I think before passing that, it would good to know what the current situation is for that. Where are the three and where are the four? It may take some looking, but I think instead of just passing it, one could use more information. Thank you.

Mr. Firestone: Thank you. Please step up.

Mr. Mayhew: Thank you. Kevin Mayhew, 103 Elma Drive in Newark. I'm the president of the NLA which is the Newark Landlord Association, and I've also served on the Rental Housing Needs Assessment Study's Phase II committee with two of you from this board. I'm here to discuss the occupancy limits on exempt streets and to endorse the consultant's recommendation of allowing four tenants per unit. I could have invited 20 other landlords here tonight to speak on this topic but I didn't think you guys wanted to waste your time hearing all that because this topic has been already thoroughly discussed and vetted during the Phase II study, and we've had focus meetings, too, to discuss this.

Phase I of the Rental Housing Needs Assessment Study concluded that we needed to add 50 new units a year to keep pace with the student demand for off-campus living. Additional units would be needed above the 50 if the City would like more rentals to be available at market rate to non-students. The 2017 freshmen class at UD was the largest in history. The president of UD has said he would like to grow the undergrad enrollment by 1,000 over the next four years. Total enrollment at the Newark campus increased by 475 students this year, which is more than double the rate that the consultants in that Rental Housing Needs Assessment pegged the rate at. They were factoring it on a 1% increase. So far in 2017 there haven't been any new student housing projects brought forth by developers for City Council to approve. This is the time to move forward with this recommendation.

If we are to provide rental housing for people other than students, there needs to be more inventory available. One way to alleviate this kind of pressure would be to allow all houses on exempt streets to be occupied by four tenants. My calculations show there is a potential for 137 bedrooms to be legally used on these streets. This would alleviate confusion on exempt streets and standardize the occupancy. City Council identified these streets as exempt from the Student Housing Ordinance because they recognized this is where they want the students to live, close to campus. After talking with a couple of the Newark councilmembers, they were not aware that there were empty bedrooms going unused on these exempt streets. If this is where Council wants the students to live, why aren't we using all these bedrooms? If it's confusing to City Council members, you can understand the confusion the students encounter when they look at one house on the street that's allowed three, and the very next door house is allowed four. They are then tempted to illegally use the unused bedroom.

In conclusion, you have a recommendation by the consultants the City hired, you have a rising demand, and you have no new approved projects so far in 2017. It's time to move on with this agenda and pass it on to City Council. Thanks.

Mr. Firestone: Thank you. Any other discussion from the Commission? Chair would entertain a motion.

Mr. Hurd: Sure, I'll give it a shot. I move that the Planning Commission recommend to the Planning Department staff that they create the department report for review and consideration of amendments to Chapter 32 Zoning Code of the City of Newark list of exempt streets and number of unrelated tenants. I would like to just add to the general sort of scope of that report to make sure that it also includes documentation of the current 3- and 4-bedroom tenant permits and that it would include that prior to it being reviewed by Planning Commission, that notification goes to all the residents on those streets being considered.

Mr. Silverman: I'll second that.

Mr. Firestone: Any discussion?

Mr. Silverman: Point of clarification. Will, I agree with you and Bob and Ms. White that the more graphic we can make that representation, the better. So something very similar to the recent drawing and graphic that we were presented displaying that information.

Mr. Hurd: Ideally if it could be in the GIS as a layer, I think that would be best.

Mr. Silverman: But even before we get to a mature GIS system, even if it has to be a combination of GIS and hand-produced, I'd like to see that document.

Mr. Hurd: Yes.

Ms. McNatt: Question. Does that recommendation allowing the student exempt streets, is that automatically allowing the units to go from three to four bedroom?

Mr. Hurd: No.

Ms. McNatt: No. Okay.

Mr. Hurd: It's creating a report that we would then come to discuss in public to debate should this street be in, should we do three or four . . .

Ms. McNatt: Thank you.

Mr. Fortner: I envision it as two different ordinances, as well. So there would be an ordinance for three or four, and an ordinance for exempt streets.

Ms. McNatt: Thank you for the clarification.

Mr. Firestone: Any other discussion? Okay, all those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY HURD, SECONDED BY SILVERMAN, THAT THE PLANNING COMMISSION RECOMMEND TO PLANNING AND DEVELOPMENT DEPARTMENT STAFF THAT THEY CREATE THE DEPARTMENT REPORTS FOR REVIEW AND CONSIDERATION OF AMENDMENTS TO CHAPTER 32 ZONING CODE OF THE CITY OF NEWARK LIST OF EXEMPT STREETS AND NUMBER OF UNRELATED TENANTS, WITH THE ADDED CONDITIONS THAT:

- A. THE REPORT INCLUDE DOCUMENTATION OF THE CURRENT 3- AND 4-TENANT RENTALS;
AND
- B. NOTICE OF THE PROPOSED CHANGE BE PROVIDED TO PROPERTY OWNERS OF THE IMPACTED STREETS PRIOR TO THE PLANNING COMMISSION MEETING.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

Ms. Gray: Point of clarification. So based on that motion, staff will certainly move forward. So is it the pleasure of the Commission that the other action items articulated in Mr. Fortner's memo, you do not want to see again and that we would take this . . . should the Planning staff want to move forward with that, then we would take that to City Council?

Mr. Firestone: Well as I understood at least #2, it's under the direct purview . . . the Zoning Code amendment medium-term. But I wasn't sure that we needed to take that up right now . . .

Ms. Gray: Okay.

Mr. Firestone: As opposed to the short-term. I would expect at some point that would come back to us. We could either act on it now, or we could defer consideration.

Mr. Silverman: Madam Director, do you want to peel this onion from the back to the front with respect to deleting activity related to municipal code but maintaining the other topics that deal with zoning . . . is that what you're saying? Am I not making myself clear?

Ms. Gray: I'm not getting your drift.

Mr. Firestone: I don't quite understand peeling the onion, myself.

Ms. Gray: If I could restate my request, and perhaps it's just restating what you're articulating. We have action items 1A and 1B, there was a motion to move forward with. And then we have, in the memo, action items 2B and . . .

Mr. Fortner: That's the only other Zoning Code.

Ms. Gray: That's on the Zoning Code. And then we have other action items 2A, 4A/B, 3A, 3B, and 4C/D. So my question is, do you want to see these again at another time and we'll put them on the work plan? What is the pleasure of the Commission?

Mr. Hurd: I'll make a motion.

Ms. Gray: Excellent.

Mr. Hurd: So on action item 2B, I move that the Planning Commission recommend that staff begin the process of additional research and provide periodic status reports to the Planning Commission on the issue of incentivizing the development of rental units for smaller households. I'm expecting that that would include research in other cities and if there's a way . . . basically, is that something that can feasibly be done in the Zoning Code, or is it going to require a different structure?

Mr. Silverman: Second.

Mr. Firestone: Any discussion?

Ms. McNatt: Clarification. Does action item 2B also include action item 2A, 4A/B, 3A and 3B?

Mr. Firestone: No.

Ms. McNatt: I'm confused.

Mr. Hurd: I don't quite understand [inaudible].

Mr. Firestone: Yes.

Mr. Silverman: Yeah.

Ms. McNatt: I'm so confused.

Mr. Firestone: I think it only includes the information that's on the slide that's on the lower half of page 2.

Ms. McNatt: Okay, because this information is on two different documents.

Mr. Firestone: Yeah, I know and one is called 2A/B. I agree, it's confusing but that's . . . am I correct, Will?

Mr. Hurd: Yes.

Ms. McNatt: Just 2B or 2A . . .

Mr. Hurd: I'm looking at the 2B item because it is identified as research related to the Zoning Code modifications to support smaller units.

Mr. Silverman: I'm trying to get my head around this. I'm going to disregard referencing the PPT and go back to the memo from Mr. Fortner.

Mr. Hurd: Oh, it does say 2A there.

Mr. Silverman: And on the bottom of page 2 it says action items outside the purview of the Planning Commission. Perhaps we need to simply delete, or instruct the staff to disregard everything from the heading Items Outside the Direct Purview of the Planning Commission through the remainder of the document on pages 2, 3, and 4. Is that what we're really saying? I'm getting lost in . . .

Mr. Fortner: In a sense, yeah. On the memo, 2B is the action item to encourage or incentivize smaller units. And that is from recommendation 2, which incentivizes non-student renters, but it's the second part of that.

Mr. Hurd: Yes.

Mr. Silverman: This is like trying to read the IRS code on Form B12 . . . just make it clear.

Mr. Firestone: We already have a motion on the floor regarding . . .

Mr. Hurd: I think for me, at least, the intention is that we're making motions to move 1A and 1B forward, and 2B forward. And therefore, by omission, not moving anything else forward.

Mr. Silverman: Okay. If that's the understanding, I agree with that.

Ms. Gray: Okay.

Mr. Firestone: Is there any further discussion on the motion related to item 2B? Hearing none, all those in favor, signify by saying . . . yes?

Ms. White: Is this separate?

Mr. Firestone: You were heard on . . .

Ms. White: On 1A and 1B.

Mr. Firestone: On this item. And now we're just going through. You had public comment on the whole thing.

Ms. White: 2B is different.

Mr. Firestone: On the whole thing you had public comment.

Ms. White: Okay [inaudible].

Mr. Firestone: All those in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY HURD, SECONDED BY SILVERMAN, THAT THE PLANNING COMMISSION RECOMMEND TO PLANNING AND DEVELOPMENT DEPARTMENT STAFF THAT THEY BEGIN THE PROCESS OF ADDITIONAL RESEARCH AND PROVIDE PERIODIC STATUS REPORTS TO THE PLANNING COMMISSION ON THE ISSUE OF INCENTIVIZING THE DEVELOPMENT OF RENTAL UNITS FOR SMALLER HOUSEHOLDS.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK

NAY: NONE

ABSENT: MCINTOSH

MOTION PASSED

Mr. Firestone: Okay, are we ready to move forward or do you want a motion related to the other items?

Ms. Gray: No, that's clear because Mr. Hurd included, from what I understand, in his motion and by omission, not moving forward with the action items outside of the purview of the Planning Commission, as articulated in the memo.

Mr. Silverman: Yes.

Ms. Gray: Is that fair enough?

Mr. Hurd: Yes.

Mr. Firestone: Fair enough.

Ms. Gray: Okay. Thank you.

6. OVERVIEW OF IPA TRAINING: HOUSING DEMOGRAPHIC REALIGNMENT – SOLVING THE MILLENIAL PUZZLE IN DELAWARE (WILL HURD).

Mr. Firestone: That gets us then to Item 6, which is really just an informational item, and I've asked Commissioner Hurd to give us a few minutes' synopsis of the training session he attended.

Mr. Hurd: And I will try to . . . I'm not going to re-read my notes here, because that was the purpose of the notes page. But what I want to sort of draw people's attention to is on the back side of that notes page. The thing that I took out of this, aside from the demographic shift that

we're expecting to see and millennials moving in and boomers moving out, and having to deal with how do you sell off properties that aren't sized for the right sizes, they proposed basically a way to start dealing with some of these transitional areas that every city or town is dealing with, and that we, even, are dealing with. And we're starting to see, you know, when we see areas where we're doing a number of Comp Plan amendments, we're seeing areas that are transitionally not zoned properly or not zoned quite the way they should be. Their proposal was to say that you have a master plan process for those specific areas that is more detailed than a comp plan, but doesn't carry the legal weight of the Comp Plan. So you can say here is the Comp Plan and we want low density. Fine. But then you can sort of drill down and say what are we looking for? Are we looking for single family homes? Are we looking for townhomes? Are we looking for . . . you know, getting more public participation and getting more detail about sort of what you're looking for as a city, so that there's more of a structured guideline for developers who are going to look at that area and say, well that's an area that's transitioning and I think I want a piece of it. But, oh look, the city has already kind of laid out their intentions and their wishes about that area in more detail. So basically it's a way to structure it, to get more of a predictable outcome to focus the development, if we feel it needs a little more focusing, rather than just saying we want low density or we're open to high density, or we're kind of in between. Which is, I think, where the Comp Plan fails because of the need for the Comp Plan designation to match the zoning, which means we get these pockets. So it's a way to kind of overlay it and say we would accept a higher density zoning if someone came in and wanted to rezone, but if they're going to come in and do that, we're looking at this kind of structure to make that happen.

I think the other thing I took out of it is that I think we're in good shape in terms of being able to provide a fairly wide variety of housing. I think we do have some gaps. Things like one and two bedroom apartments and sort of affordable housing. But, in general, we're fairly walkable. We don't have huge houses on half-acre lots and all that kind of suburban sprawl that Sussex, for instance, is dealing with. I think we're in a good position to absorb some of this growth that's coming in a way that will support the City.

Mr. Firestone: Thank you. Any . . .

Mr. Silverman: Yes.

Mr. Hurd: I can take questions.

Mr. Silverman: Well I follow this in my professional reading and something that is included in your message is there's going to be an excess of housing inventory with respect to square footage per person based on my group, the baby boomers, dying off and less population . . . literally, less population following us, and a population that's looking for a very different lifestyle. Do you think that given the demands for rental housing in Newark stimulated by the University, that what is seen as a long-term issue, five or ten years out, may be actually accelerated in our community? As us boomers empty out of houses, it will be backfilled by people wishing to rent those properties, or organizations coming in and buying those properties for income purposes, as opposed to family residential that we're used to?

Mr. Hurd: They didn't really talk about that much, and I'm not sure if I have an opinion on that. But certainly one of the factors, I think, that the millennial generation, as a general factor, is that they tend to be carrying more student loan debt than previous generations. And so that does certainly factor into what kind of housing they're looking at. So they're often not in the position to purchase. They're looking to rent, and they're looking to rent smaller and closer. So I think in some ways they're not going to be attracted to the Bins or Nottingham or such, because it's a little too far out. But I don't know what . . . we don't really have a lot that we can offer them in town that supports that. I don't know if that quite answers it but I think we're not . . . I don't know fully, but I think Newark is not going to be as affected by boomers moving out because I think some boomers have already left. If they're getting a bigger house, they've already left town and got the bigger house. So it's like New Castle County's problem more than

it's ours. Except maybe on the edges. But certainly some people with the larger houses, it's like who are you selling it to? Who is going to come along and want that same sort of set-up? I think more rentals does seem to be some of the trend that people are seeing. Less ownership and more rental.

Mr. Stozek: I think another issue beside the student debt is the fact there's a lot of people out there that are under-employed. They can't get good paying jobs at this point.

Mr. Hurd: Yeah.

Mr. Stozek: I mean that could change, as well. I think things are going to mature later than we're used to them maturing.

Mr. Hurd: Yes.

Mr. Firestone: Would anyone from the public like to be heard on this item? Okay.

7. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE AS THEY RELATE TO REGULATIONS FOR WIRELESS FACILITIES IN THE RIGHT OF WAY AND OUTSIDE THE RIGHT OF WAY.

Mr. Firestone: That then takes us to Item 7, review and consideration of amendments to the Zoning Code as they relate to regulations for wireless facilities in the right of way and outside the right of way.

Mr. Stozek: Haven't we seen this before?

Mr. Firestone: A topic we've discussed before and I guess we'll discuss it again tonight. Mary Ellen, why don't you begin?

Ms. Gray: Yes. Thank you, Mr. Chair. Per the Planning Commission meeting of November 7, there were a number of changes recommended through discussion, and then there were some follow-up emails regarding some requests for clarification. So what I did was, just to keep track of the changes, because at the November 7 meeting there were some changes that were presented, mostly of an editorial nature, to the Commission, so I did a little coloring and the changes that were presented to the Planning Commission on November 7 are highlighted in yellow and the changes that are new are highlighted in green.

We have also reviewed these proposed changes with our legal counsel and the general message is that they don't see any of the changes that they have heartburn over. There are a couple of notes indicating that regarding their request for a setback from the right of way, proposed in the Amendment 2 Section 1(b), it should be tailored to ensure that it does not inadvertently result in a prohibition of wireless facilities which does not comport with the federal regulation. So, Mr. Chair, it's certainly at your pleasure whether you want to go through these one-by-one, or have a general discussion.

Mr. Firestone: Well I guess I would say let's go through them and if anyone has anything first on any of the changes, and then we'll go through and talk about other things. So why don't we start on, I guess, the first change on page 2. Does anyone have any questions about any of the changes on page 2?

Ms. McNatt: Page 2 of the ordinance, correct?

Mr. Firestone: Page 2, yes. So it's . . . right now we're in Amendment 1. So page 2 of the proposed ordinance.

Mr. Hurd: I'll just mention that I had sent in editorial comments that did include page 2 but I don't know if we're not . . . we're not really looking at a clean version yet, right? Maybe that's next time?

Ms. Gray: I was hopeful that we would, but I forgot to put yours in. I'm sorry. I apologize.

Mr. Hurd: Well they're ones I sent like Thursday.

Ms. Gray: Yes, those editorial changes, which were reviewed by legal counsel and they were all good to go, but they did not make it into this version.

Mr. Firestone: What's the date on which we need to vote on this by?

Ms. Gray: I had that.

Mr. Herron: It has to go back to Council by April.

Ms. Gray: No, by February.

Mr. Herron: By February to act on it.

Ms. Gray: By February.

Mr. Firestone: So is it our January meeting then?

Ms. Gray: That would be great.

Mr. Firestone: Okay, we're going to work our way through . . .

Ms. Gray: We can do our final in January.

Mr. Firestone: So we'll catch your changes . . .

Mr. Hurd: Because I certainly don't want to read those into the record if . . .

Mr. Firestone: Yeah, they were small.

Ms. Gray: But helpful, and I appreciate that. Thank you.

Mr. Firestone: Page 3? Page 5?

Mr. Hurd: Actually I have one question on page 4. It was not of an editorial nature, but of a discussive nature. That's not a word, I know.

Ms. Gray: Okay.

Mr. Hurd: Item 2, it says towers in the right of way shall not exceed a height comparable to the average height of utility poles or electrical poles within a two block radius of the proposed facility. I have an issue with using a block as a dimension in an ordinance. I think we should determine a foot diameter because we don't have standard blocks in this town.

Mr. Silverman: Particularly in suburban style . . .

Mr. Hurd: Well everywhere you go there's going to be different size blocks. Unless it is the intention of the Commission to allow for that varied dimensioning everywhere you go.

Mr. Firestone: Do we have a standard size block in Newark? Do we know the average size block?

Mr. Silverman: No, it's random.

Ms. Gray: I do not.

Mr. Firestone: Well should we . . . can you research that and come up with a good proposal that sort of incorporates a significant number of blocks but not . . .

Mr. Hurd: To my mind it needs to be something like the notification radius or some sort of standard radius that we can use to sort of say this is an area of influence or adjacency. So whether that's 300 feet or 500 feet or 1,000, there's already three sort of choices that we've discussed previously on other situations.

Mr. Firestone: Thank you. Page 5? I've got one issue on page 5 which also ties into something on page 7. So on 5 we added that towers shall employ best available stealth technology. And then on 7 we say towers and antennas, under (h), shall employ stealth technology to the maximum extent feasible. And I think those are two different standards, but we should only have one. So best available means it's just the best that you can get on the street, whereas technology to the maximum extent feasible implies some level of feasibility. There could be some cost component or practicality. And I'm not arguing one or the other, I just think we should have . . . I'm not sure that we need to say it twice. This one also goes with antenna, on the second one, but if we're going to do it twice, we should use the same language.

Mr. Silverman: Agreed, and I think we should use best available because . . . I can't remember if it's implied or inferred, if I've got the right word . . . on page 7, paragraph (h), maximum extent feasible . . . what happens if the applicant doesn't own the patented technology that is really considered the best out there? Because these things tend to be very proprietary.

Mr. Firestone: Okay. Anything else on page 5?

Mr. Cronin: Yes, Mr. Chairman?

Mr. Firestone: What?

Mr. Cronin: Yes.

Mr. Firestone: Go ahead.

Mr. Cronin: Item (d) 4. I think the word applications would read better if it were singular, without the S.

Mr. Firestone: It's a little hard to tell whether that's a cross-out or addition.

Ms. Gray: I'm sorry, page 5. Page 5 where?

Mr. Firestone: (d) 4.

Ms. Gray: (d) 4.

Mr. Cronin: For applications, it should be singular.

Ms. Gray: The S is crossed out.

Mr. Cronin: Is it?

Ms. Gray: Yes, it's hard to see though.

Mr. Firestone: It is hard to see.

Ms. Gray: Because for some reason it printed in blue . . . I'm not sure, sometimes when I pull it up it's red and sometimes it's blue. It's just like one way or the other. So, wait, I'm not sure. Let me double check that. Now I'm looking at it real close. It should be singular.

Mr. Cronin: Either way, it should be removed.

Ms. Gray: Yes. Okay. Thank you.

Mr. Firestone: Anything else on page 5? Okay, page 6? Page 7?

Mr. Cronin: So we're going to say best available there on page 7?

Mr. Firestone: What?

Mr. Cronin: We're going to say best available on page 7?

Mr. Firestone: Yes.

Ms. Gray: Okay.

Mr. Firestone: We fixed that. So anything else on page 7? Page 8? Page 9? Okay, well we made it through Amendment 1.

Ms. Gray: Alright.

Mr. Firestone: So now page 10?

Mr. Silverman: Do we want to get nitpicky to the point of typos?

Mr. Firestone: I would say small typos to . . . I mean you could say it, but you can communicate those to Mary Ellen, sort of like Will did.

Mr. Silverman: Okay.

Mr. Firestone: Page 11? I've got one question on 3, and it's the last sentence which is a decision sentence, and I'll ask Bruce this while we've still got him. This is the sentence that says the existence or non-existence of a gap in wireless coverage shall be a factor in the City's decision on an application for approval of a telecommunications tower. And later we have some other decision criteria, and the question is whether all the sort of City's decision criteria should be put together in the same place. It seems to me it will be easier for the applicants, easier for the City, and easier for the public if everything is grouped like that.

Mr. Hurd: Is that feasible the way this is structured, or are we limited somewhat by the structure of the previous ordinance?

Mr. Firestone: I don't know if you have a take on this, Bruce. Is this just a question of practicality?

Mr. Herron: I think it is just a question of practicality. I don't think legally it's required to be all in the same area, but it makes sense.

Mr. Silverman: It does.

Mr. Firestone: Well I guess, Mary Ellen, why don't you see if you can rework it and if it makes sense to move it, or otherwise in the decision criteria to maybe refer back to this section so that it's clear what all the decision criteria are, in one place.

Mr. Silverman: My preference is standalone rather than referring back and forth, and back and forth.

Mr. Firestone: Mine, too.

Mr. Cronin: In that same item, it seems to me that the first sentence is quite sufficient by itself. It's comprehensive and you don't need the second sentence.

Mr. Firestone: Well the first sentence says that the applicant should make a certification . . .

Mr. Cronin: That there is a significant gap in wireless coverage. The second sentence says the City has to look at whether there's a gap or no gap. Well it's one or the other. There's a gap or there's no gap. So if the applicant is already saying there is a gap, then the question is whether the City agrees with what the applicant said or not.

Mr. Firestone: Yes. Or can the City approve if there's not . . . if it believes there is no gap? Because if the City can't approve, then maybe we don't even need that sentence there. I mean this is just what the applicant needs to bring forward.

Mr. Silverman: Now if I was on the applicant's side, I wouldn't be making application unless there was a gap in my service.

Mr. Cronin: Exactly.

Mr. Silverman: As opposed to no wireless service anywhere in the City by any provider.

Mr. Cronin: Which is what the first sentence said. The applicant is going to certify he's got a gap. So the second sentence says the City is going to consider gap or no gap. It's already been certified there's a gap, so we're going to accept the certification or not. You don't need the second sentence.

Mr. Silverman: A gap in any service, or a gap in his service?

Mr. Cronin: It says wireless coverage.

Mr. Silverman: Okay, so you're reading it . . .

Mr. Cronin: They're talking about the same gap.

Mr. Silverman: Okay, because I could read it that there's a gap in my Verizon coverage. For example, where I am, I use T-Mobile. I have to look for bars in my community.

Mr. Cronin: Okay.

Mr. Silverman: There's a gap in T-Mobile service. If I switched over to Verizon, it would blow the handset out of my hand.

Mr. Cronin: But what does the first sentence say? The applicant certifies that it's going to fill a gap in wireless coverage.

Mr. Silverman: Okay.

Mr. Cronin: Regardless of whether it's T-Mobile or somebody else.

Mr. Silverman: I see where you are.

Mr. Cronin: He's filling a gap. So, therefore, if we're accepting the certification, we don't need to consider that there could be a non-gap.

Mr. Silverman: So if another carrier comes in and says, wait a minute, we provide coverage in that area . . .

Mr. Cronin: It would be another application. Every application responds to these rules. So I kind of think the second sentence is superfluous.

Mr. Hurd: It does make some sense, what you're saying, because if one of the conditions for this application is the certification and they show up without the certification for gap coverage, that is a valid point for Council to look at it and say where is the certification for gap coverage?

Mr. Cronin: Exactly.

Mr. Hurd: And they could say there's no gap.

Mr. Cronin: Exactly. What are we doing here? Just a thought.

Mr. Hurd: I'm leaning towards striking that last sentence because I think calling it out as a factor, everything here is a condition of that, you know, for consideration for that special use permit. Everything here should be a factor. And to call out that as a specific factor when other things aren't called out specifically, strikes me as a little odd. Unless its intention really is to highlight that we don't want to approve equipment that's not filling a gap.

Mr. Cronin: Then you should be saying something to the effect that the non-existence of a gap is a means for declination.

Mr. Hurd: It's kind of what they're saying.

Mr. Cronin: No, they're not. It's saying the gap either exists or it doesn't exist. So the City is going to make a determination based on whether there's a gap. If yes, we can determine its okay. If there is no gap, you can still determine its okay. You can go either way based upon gap or non-gap. It just says it shall be factor. It doesn't say deciding factor which way or the other. It's just a factor.

Mr. Hurd: Yeah.

Mr. Cronin: So it's kind of screwy.

Mr. Firestone: I mean some applicant could make a certification that there's a gap, and some citizen could come and say I can get my cell phone on T-Mobile there. There's no gap.

Mr. Silverman: Yeah.

Mr. Firestone: So then City Council would then have to . . .

Mr. Cronin: They have to decide whether it's a gap or . . .

Mr. Firestone: Decide whether there was actually a valid certification or not. Anyway, if that's going to be a decision criterion, then it should get moved. I guess that's the point that I guess we need to figure out . . . whether we want that to be a decision criterion. Okay.

Mr. Cronin: Page 12.

Mr. Firestone: Okay, so page 12.

Ms. McNatt: I have a question.

Mr. Firestone: Yes?

Ms. McNatt: The definition of right of way as defined in 32-4 which is described on the front memo cover, it's not in color on this front memo cover, but I'm assuming that's a new definition, or an expanded definition?

Ms. Gray: That was the definition that was included in the ordinance, the original wireless ordinance that was adopted by Council back in April.

Ms. McNatt: Oh, you're just adding it here as the information. That's all this is on the front page. Is that correct?

Ms. Gray: Yes, because there was a request at the last meeting to have a setback.

Ms. McNatt: Okay. Thank you.

Ms. Gray: You're welcome.

Mr. Firestone: My one question . . . actually I raised the issue of setback from the right of ways. With wind turbines, the setback from roads is not as big as the setback from structures. So the setback from roads was generally 1 ½ times the height. So the question is whether we want a smaller setback from roads, or do we want the full . . .

Mr. Silverman: Now when you're speaking of road, do you mean the paved cartway? There is the right of way . . .

Mr. Firestone: Yes, I'm talking about from a road or a right of way. That . . .

Mr. Silverman: I can have a 100 foot right of way with a 25 foot road. Which . . . do I go from the edge of the travel way, the cartway? Or do I go from the edge of the legal right of way? That's important.

Mr. Firestone: This says right of way, so it's going to be from the right of way. But I mean the first question though is do we want it three times or something less from a right of way or road. I mean the thought there is that if it topples, you don't want it coming into where people walk or . . . versus having setback from structures which are already protected from the toppling, but you also want to protect against other things, as well, and not have it too close to structures.

Mr. Silverman: Then we would have to apply the same logic to any utility pole.

Mr. Firestone: Well I don't think we have to apply the same logic to utility poles. I mean we've got them all over the place. This is a new kind of structure. We can decide whether we want them that close. I mean the utility poles connect to one another. I mean there's a whole grid and cost issues that come into play. You're with the argument for no setback at all from roads.

Mr. Silverman: That's correct. These are an adjunct to the utilities that are already existing at the edge of the right of ways. That's what was described, I believe, the last time we discussed this, when the representatives were here. We're not talking about free-standing towers.

Mr. Hurd: No, we are. We're talking about structures outside the right of way.

Ms. Gray: Yes.

Mr. Silverman: Okay.

Mr. Hurd: This is Amendment 2.

Mr. Silverman: Okay.

Mr. Hurd: So we're not talking about the little poles that can go on the street. Yeah, those . . . I don't see a reason, I think, to change or muddy the language to say it's one setback from one thing and one setback from another. It helps to just keep it consistent. I will note in the middle of this, in item (b), it still says property line. When it talks about how you measure the setback. And we need to make sure that that language is property line or right of way.

Ms. Gray: Okay.

Mr. Hurd: Edge of right of way or something like that. Because we added right of way to what we're setting back from, we have to add it to where we measure the setback. Does that get confused, Jeremy?

Mr. Silverman: That was Stacy's point last time. That the right of way can be contained well within the property line.

Mr. Hurd: Right. So again it says property line.

Mr. Firestone: Just a note, we're one minute before 9:00 and the Chair is going to exercise his prerogative and extend the meeting to 9:30.

Okay, page 13? I've got an issue with the change to (i). And I actually have a problem with that whole item there on benefiting neighboring properties by preventing a negative impact on the aesthetic character of the community. Because I don't think that putting one of these in is going to provide any benefit as far as the negative impact. I mean they are going to have a negative impact. So they're never going to benefit. The question is, do they minimize the negative impact on the aesthetic character of the community to the maximum extent practical. That's what I think we want the City Council to be considering. Because there isn't going to be an aesthetic benefit.

Mr. Silverman: Minimize is a good word.

Ms. Gray: So what's the change?

Mr. Firestone: Minimizes any negative impact on the aesthetic character of the community.

Ms. Gray: So we're adding the word minimize?

Mr. Firestone: Well we would deleting benefit neighboring properties by preventing a, and we would just say minimizes any negative impact on the aesthetic character of the community, semi-colon . . . or, no, to the maximum extent feasible, semi-colon.

Mr. Hurd: It does seem like the sentence above is trying to say the same thing. I mean they're both kind of coming at it, but one is sort of saying Council shall consider, so it's kind of bringing the criteria in there. But the sentence before it is talking about matching colors, aesthetically compatible, blending with surrounding, and such. And so you almost want that second sentence that you're talking about to kind of say, did they do that well, maybe? Is that your intention? To kind of phrase it that way?

Mr. Firestone: Yeah, I just want to get it so that there's a clear sort of duty to minimize aesthetic impacts.

Mr. Hurd: Yeah.

Mr. Firestone: And to do it to the maximum extent feasible. I mostly just wanted to get rid of the sort of oddity of benefiting people by creating an aesthetic impact.

Mr. Hurd: Yeah, because you could read that by saying, so don't put a tower up.

Mr. Firestone: Right.

Mr. Hurd: No negative impact.

Mr. Firestone: Okay, page 14? Page 15? And I first have a question on (o). We use the term there . . . and this is sort of for Bruce . . . we use the term owner and operator, and the question is, should the legal obligations be on the applicant and then how the applicant wants to contract between owners and operators? But the applicant seems like they're the only entity that has a legal relationship with the City as far as getting the permit. And shouldn't all these . . . I mean maybe you'd also want to have the owner of the property have some of these obligations, as well. But it seems to be the applicant. Yes, do you have some help there?

Mr. Tom Fruehstorfer: Tom Fruehstorfer. It's the owner that provides the information. From my experience dealing with . . . we just dealt with one. The applicant doesn't have that. It is going to be the owner providing it.

Mr. Firestone: But isn't the owner just being the agent of the applicant?

Mr. Fruehstorfer: The applicant is the agent, but it's the owner that's providing the information. The owner owns the tower. The owner inspects the tower. The applicant is generally putting an antenna on the tower. At least the way we typically are dealing with them.

Mr. Hurd: In light of that, should that second paragraph then say instead of operator, say owner? Where we're talking about providing proof to the City about field measurements and all of the compliance issues? Because that seems to be in the same boat as the inspections.

Mr. Silverman: What paragraph, Will?

Mr. Hurd: Item (o). The first paragraph talks about the owner of such tower shall provide proof . . . and then it goes, in addition, the operator of such tower. And I think if we're saying the owner has the legal responsibility for inspections, then the owner has the legal responsibility for the stuff there about proof of field measurements. Rolling into the next page, it's operator again.

Mr. Herron: There is a note in here from our legal counsel, our expert legal counsel that says that typically the applicant is a site acquisition firm acting on behalf of a wireless provider. The owner/operator distinction is due to the specific reporting requirements being covered. FCC compliance is the obligation of the company providing the wireless service. Whereas tower or structural integrity is an owner concern.

Mr. Hurd: Okay.

Mr. Silverman: Okay.

Mr. Firestone: Thank you. Based on that, do you think we're adequately covered?

Mr. Herron: I do.

Mr. Firestone: Okay. Anything else on page 15? Page 16? I've got a couple of issues related to (p). Can't we simplify this by just saying any damages which may occur to surrounding properties or injury which may occur to persons shall be paid by the owner of the tower? Period.

Mr. Cronin: Perhaps say shall be the responsibility.

Mr. Firestone: What?

Mr. Cronin: The responsibility of the owner of the tower.

Mr. Firestone: Yeah, any damage . . . well just say the owner is responsible for any damages. We don't have to get into issues of causation, whether it's the tower failure . . . and the question is whether there should be insurance obligations on owners to maintain minimum insurance. But then ultimately how the City and others are actually paid for the damages, that seems like it's sort of somewhat an issue of contract. What do you think, Bruce?

Mr. Hurd: I guess my question would be since it says such failure is the result of human error or an act of God, unless there is a third option for assigning the blame, I think we've covered it if we've said it's either one or the other.

Mr. Firestone: I'm concerned that people are going to get into an argument about whether it was a failure of the tower or whether it was not a failure of the tower. I mean the tower didn't fail, a train ran into it.

Mr. Hurd: Okay.

Mr. Firestone: And then it caused some other kind of damages. So we could get into arguments over whether it was a tower failure or not. And I agree with you otherwise. So that's why I said just take out all the causation.

Mr. Hurd: Just say damages caused by a failure of the tower which . . .

Mr. Silverman: Bruce, do you know whether that's boilerplate carried through the federal specifications?

Mr. Herron: I don't know. The only comment I'm seeing here from our attorney says that insurance should be mandated under the ordinance. The City can define, if it wishes, what constitutes failure of a tower.

Mr. Firestone: But my suggestion is we just get rid of the word failure. We get rid of that and then we don't have to define it. And we do need some sort of language in here on what kind of minimum insurance is going to be required. I don't know if there are good examples from other jurisdictions.

Mr. Hurd: Bruce, is that standard to have a minimum insurance level? Or is it just the scope of what's covered? Mr. Chairman, in your experience with turbine towers, is there a level, or is it a blanket statement of . . .

Mr. Firestone: Well you figure out how much the value of the item is, so you obviously . . . part of it is replacement value but then you're also insuring against damages to individuals, just sort of like your automobile . . .

Mr. Hurd: Okay.

Mr. Firestone: Or if you get an umbrella policy. You're getting damages . . . an insurance company will quote you, but you could specify minimums that they have . . . you know, what the minimum coverage has to be on property and bodily injury, presumably. I'm not sure that we had any . . . we're a little different because we're a state institution . . .

Mr. Hurd: Right.

Mr. Firestone: Going into the City's jurisdiction.

Mr. Cronin: I kind of like the way it read starting with the new deletion. The owner of the tower has to give some proof of insurance for things that they're responsible for and they're either

going to pay it or the insurance is going to pay it. To me, I think that is a stronger way of covering the subject.

Mr. Herron: I'm not sure, did you say that you didn't think the failure of the tower should be in there?

Mr. Firestone: I would rather us not have to get into arguments if the tower falls whether it was a failure of the tower or something else. I mean it talks about human error or act of God, but what if it's a horse that runs into it. I mean there could be a whole bunch of other . . .

Mr. Hurd: Right.

Mr. Firestone: You know lawyers . . .

Mr. Herron: No, I know, but how would you . . . wouldn't you need something in place of that?

Mr. Firestone: I was just saying any damages which may occur to surrounding properties or injury which may occur to persons shall be paid by the owner of the tower. Period.

Mr. Herron: But then if somebody slips and falls and they're near the tower, then that could be . . .

Mr. Hurd: I see what you're saying. You need to say that the damages or injuries have to be caused by . . .

Mr. Herron: Caused by something related to the tower. It can't just be . . .

Mr. Hurd: Yeah, the tower has to get in there somehow.

Mr. Herron: Yes.

Ms. McNatt: Isn't the goal here to just take out the words regardless of whether such failure is a result of human error or act of God. Take that portion out and combine the other two sections of the paragraph.

Mr. Firestone: What if we say any proximately caused damages?

Mr. Herron: Proximately caused by what?

Mr. Firestone: By the tower and . . . as a result of the tower and whatever else is hanging on it. I'm just trying to get to causation by just the minimum legal causation under law should be proximate. Well I don't know whether we need to resolve this tonight.

Mr. Herron: Right. We can look at that.

Mr. Firestone: This is an issue to work on before the January meeting so we can vote on it. Okay, so that's 16. And then we have 17, the big green addition. Anyone have any comments on that? I mean I'm pleased that we've expanded the range of . . . just sort of coincidentally, the other day I was driving down South College and all of a sudden I looked up and I saw the new STAR tower, and then I saw the water tower, and I looked at my odometer and then when I got there, it was over a mile from which I could see that building, that 10-story building. And these can be taller. And so there are going to be places where you can see if significantly further away than 1,000 feet. And so the question is, is 1,000 feet the right distance, or is it a quarter mile or a half-mile as far as actual notice.

While people are thinking about that, let me see if there's anyone from the public who wants to be heard on the wireless ordinance. We're not going to vote on it tonight, just to clarify. And

just to let you know, if you have small grammatical changes like Commissioner Hurd and Commissioner Silverman, you can submit those to us, as well.

Ms. White: Okay. Jean White, District 1. This is a complicated ordinance about technology that is difficult to understand that has gone through many drafts, and for tonight's meeting I have not had time to think about what has just been added for notice. I am glad to see something has been added. I have two questions about this. What is the range of telecommunication towers in height for which a special use permit is required? Somebody can answer that, the Planning Director. And question two is, for a tower that might be 500 feet, 1,000 feet, 2,000 feet, maybe 4,000 feet, I don't know, is 1,000 notification from the tower outward sufficient? And I was wondering, for example, whether it would be good to have two classes of notification. One for smaller towers, whatever they might be. And one for really large ones. But I do want to have my first question addressed, which is what the range of heights of towers that a special use permit is required?

Mr. Firestone: A special use permit is required if you're over 175 feet. If you're over 35 feet, you have to come before the Commission. Am I right?

Ms. Gray: There's two parts of this ordinance. One is inside the right of way and outside the right of way. Outside the right of way, a special use permit is required . . . there's an exception, I'm looking for the clause here . . .

Mr. Hurd: Page 12 . . .

Ms. Gray: Thank you.

Mr. Hurd: For outside the right of way.

Ms. Gray: Under item (e), correct. On page 12 you can get an exemption to this requirement for special use permit if, to the extent permitted . . . if the facility is located on an existing building or structure and does not extend 22 feet above the highest point.

Ms. White: I actually don't understand that but . . .

Mr. Hurd: But just to add to that, outside the right of way, the maximum height without a variance is 175 feet. Beyond that they need to also get a variance for the height.

Ms. White: Okay, so below 175 feet, this notice is not required?

Ms. Gray: No . . .

Mr. Hurd: No, it's still a special use permit.

Ms. White: Okay.

Mr. Hurd: Outside the right of way you still need a special use permit. It doesn't need a variance if it's under 175 feet.

Ms. White: Okay but it still needs a special use permit . . .

Mr. Hurd: Yes.

Ms. White: Starting at what height?

Mr. Hurd: If I'm reading Amendment 2 properly, any tower outside the public right of way is a special use permit.

Ms. Gray: Yes.

Mr. Hurd: Which requires notification.

Ms. Gray: With two exceptions, unless it's attached to an existing structure. Yes.

Ms. White: So it could be a tower that's 50 feet high, for example, would need a special use permit.

Mr. Silverman: Yes.

Ms. Gray: Outside of the right of way.

Ms. White: Outside the right of way. It could be 35 feet? Okay. So I think for 35 feet it's nice to have notice, and 50 feet and 100 feet . . . I may be simplifying this, but whatever . . . but when you get to a very high tower, I think 1,000 feet is not enough of a notice to those who would be impacted from the sight and the aesthetics. So I'm thinking that somehow there has to be a way to accommodate it. Although I do appreciate that there's been a paragraph put in about notice. But maybe it needs to be modified a little bit further. Thank you.

Mr. Firestone: Thank you. Would you like to be heard?

Mr. Joe Divis: Good evening, my name is Joe Divis, I'm with AT&T, and just on a couple of things that were discussed. When we're talking gap, its coverage and capacity. In this day and age, with the way technology is moving, the way customers, all types of customers whether it be government, public safety, business, it's all about capacity now. And I guess I just want to also say nobody likes a tower but like electric poles and other things that bring us water, gas, electric, they're a necessity and there's a balance between the infrastructure and the benefit that it brings. And I think connectivity in this day and age is something that we all need to conduct our daily lives. So I kind of want to put it out there if we, as AT&T, are coming to the City, it's because we need this to actually serve our customers. We're not throwing money just to kind of make everybody's life difficult. I just kind of want to put that in a frame of reference that, you know, when we come, it's because there is a need for it, and we're willing to spend the capital to meet the needs of our customers.

Since you're not voting, I just did want to make a couple of comments. The setback with the right of way, and I believe the comment was made about is that going to create a de facto prohibition of service. Because as I read it, and that's the first I've seen it today, there's a lot of that. It's not just schools and churches and things like that. There's a lot of that which could make a lot of locations potentially unusable, or having to go through more process to use. So I would . . . we're going to have to take a look at that, and I would just ask you to really look at what that is. I don't know, I think the comment was about the windmills . . . a lot of our towers now, if we have to do a tower versus a small cell, in an area like this you're not going to have to go that high. Because the higher you go, the further the signal goes out, and then it's going to get mixed up with the other signal from the other sites. Everything has to work together, so you go really high in an area where you want to cover a large geographic area. In a situation like Newark, we're looking at covering small areas and basically getting the capacity. Which you don't necessarily need height for capacity, you actually want it lower and close to the customer.

The information on the radio frequency, that is the province of the FCC and we're under the obligation of our license to meet the standards and we have a very thorough . . . and I'll be glad to share information of what we do with respect to RF exposure. You know, a lot of the ordinance we've seen it simply states you will meet the requirements of the FCC or you will follow the FCC requirements. So we think it becomes a slippery slope if there becomes reporting and everything like that that's not the province of the locality, but the province of the FCC.

And, as well, the notice . . . we've generally seen 500 feet has been the standard that I've seen. And I actually talked to one of our land use attorneys before I came here. I saw the 300 before

tonight, and now it's 1,000, so maybe there's some continued thought to what is appropriate given we're not going to be building a 1,000 foot tower or 500 foot tower, even. I think if you're looking at how the technology is going, everything is coming down because we're having to do more infrastructure to handle the capacity. My company has seen a 250,000% increase in data traffic on our network in the last ten years, so it's all about building that capacity, as well as doing some infill. But it's really about capacity these days. So I just wanted to put those comments and thoughts on the record. We've been in Mary Ellen's ear for a while now and we appreciate all the . . .

Ms. Gray: Since I started in April.

Mr. Divis: Pretty much.

Ms. Gray: April 10th was my first . . . this was my first action was looking at this ordinance.

Mr. Divis: And you got the call from me and life has never been the same, right?

Mr. Firestone: We may be able to put in some sort of minimum with a multiplier based on height.

Ms. McNatt: Can I . . . am I allowed to ask him a question, Mr. Chair?

Mr. Firestone: Yes.

Ms. McNatt: Just on average, as you described, the towers in a more suburban area are shorter, or closer to the customer. Where would you find, by your knowledge, a 1,000 foot tower? Out in the Midwest?

Mr. Divis: That's usually a radio/tv tower.

Ms. McNatt: Okay.

Mr. Divis: Because you're talking having to cover miles and miles.

Ms. McNatt: Miles. Okay.

Mr. Divis: There may be . . . we may be on something like that. I know if you look in the City of Philadelphia, you'll see there's a tower farm. I don't know if you're familiar with it, but it's for the radio and tv antennas. And those things are just . . .

Ms. McNatt: And you put your service on that?

Mr. Divis: But we're way down. Like if they're this high, we're way down here because we have to re-use frequencies. Radio and tv uses the same frequency. They're just going to blast it out there. Within that same area, we may be using frequencies on the multiples of dozens of times, so we have to be very careful in how far the signal propagates. If it bleeds into the next cell site, then it's interference and we don't have the good customer experience and all of that. So it's very precise. So the higher you go, the further out the signal goes, which now we don't want, because we're having to actually take a cell site and actually offload service from it. So you're actually having to kind of cut into new cells and things like that.

Ms. McNatt: Thank you.

Mr. Divis: Yes, sir?

Mr. Firestone: He's going to be quick.

Mr. Silverman: Yes, it will be. You've introduced a whole new concept to me. A light bulb went on. I would like to see us add wording to our document that talks about coverage or capacity. Not just coverage. Because you're talking about a volume, handling a volume of calls, as opposed to providing any service. Very simply.

Mr. Divis: And it is . . . I think the first part of that paragraph does say coverage and capacity. The second part doesn't. And it also is, somebody else may have better coverage than me, but I have to improve my coverage or capacity for my customers.

Mr. Silverman: That gets to my earlier comments. We've heard testimony, I believe it was with Verizon, that a person was complaining there was a segment of Main Street where their Verizon doesn't work.

Mr. Divis: Right.

Mr. Silverman: Which sounds crazy in this day and age.

Mr. Divis: It depends on where their facility is.

Mr. Silverman: Understood.

Mr. Divis: And it's all radio and it's all . . . you know, we have to work with the laws of physics with the radio waves.

Mr. Silverman: So I would like to see the word capacity put in.

Mr. Firestone: It's now 9:28. I would like to at least get . . . to skip to Item 11. So anyway, the Chair would entertain a motion for a short extension to get to at least Item 11, to cover a few things for the Planning Director.

Ms. Gray: Do you also want to cover the Parking Subcommittee update, as well?

Mr. Firestone: It will be up to whoever moves, but I just want to make sure we get to at least Item 11.

Ms. Gray: Yes, mine is short.

Mr. Hurd: I move that we add five minutes . . . ten minutes to the meeting time.

Mr. Firestone: Ten minutes. Is there a second?

Ms. McNatt: Second.

Mr. Firestone: All in favor, signify by saying Aye. Opposed, say Nay. Motion carries.

MOTION BY HURD, SECONDED BY MCNATT, THAT THE PLANNING COMMISSION MEETING BE EXTENDED BY TEN MINUTES.

VOTE: 6-0

AYE:	CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK
NAY:	NONE
ABSENT:	MCINTOSH

MOTION PASSED

Mr. Firestone: The Chair suggests that we skip to Item 11, and if we have time, we can go back to Items 9 or 10.

11. NEW BUSINESS AND INFORMATIONAL ITEMS.

Ms. Gray: Thank you, Mr. Chair. I wanted to give the Planning Commission an update on the outcome of the discussion items that were included in the . . . that were discussed at the last November 27 Council meeting. There were two outcomes of that discussion regarding Planning Commission items.

First is a request from Council to have a joint Planning Commission/City Council meeting. And in talking with our legal counsel, it was a suggestion to have it in the workshop format. And what I included in the memo to Council was a suggested timeframe of January. And certainly one of the things to discuss would be format . . . you know, who is going to run the meeting, ground rules, agenda items. So perhaps we could put that on the next January agenda for discussion on that.

The second is the . . . there was a request to do a waive bid for the Urban3 study, which is articulated in our work plan schedule to be discussed August 7, and that request was denied.

Two other quick things. One is Renee had requested that you all RSVP to . . . sorry, Bruce . . . but to your retirement party on December 20. And also our next meeting is scheduled for January 2, and I just wanted to poll the Commission to see whether everyone would be available on that date. January 2 might be a challenging date for some. I'll be here but . . . and the last thing is we are currently working on a website to post all of our current land use developments that are in-house. Right now we've been sharing that information in our activity report and including that, as well, as an item . . . we will be including that as a link under New Business and Information Items, with a link to that webpage. Mr. Chair?

Mr. Firestone: Will . . .

Mr. Hurd: I have a small question.

Mr. Firestone: Let me just poll who will not be here on January 2. Or probably not.

Mr. Cronin: Probably not. On January 1, I'll be five hours away. And even the prep time, I won't even be here to receive the packet the Tuesday before, truth be told.

Mr. Firestone: You've got your sense . . . it looks like five of us will be here. We don't know about Frank.

Ms. Gray: Okay.

Mr. Firestone: So you had also some potential alternative dates?

Ms. Gray: Yes. In talking with Renee, the Council Chamber is available Wednesday, January 3, Thursday, January 4, and the following Wednesday, January 10.

Mr. Cronin: How about Thursday, January 4?

Mr. Firestone: Does anyone have a conflict with Thursday, January 4? Okay, we have one person with a conflict.

Ms. McNatt: It's a night meeting, correct?

Mr. Firestone: Does anyone have a conflict with January 3?

Ms. Gray: Does that run into the same issue regarding getting the information and being able to read that? I guess, I'm sorry, Bob, I was talking to you. You had mentioned not being around

to receive the packet. I don't know whether one day would make that much of a difference, or whether the 4th would be better. I'm just throwing it out there.

Mr. Firestone: Well it seems that . . .

Mr. Cronin: Are there dates beyond the 3rd and 4th, you said?

Mr. Firestone: Commissioner McNatt can't make the 3rd or the 4th?

Ms. Gray: Oh, I didn't catch that. I'm sorry.

Ms. McNatt: Sorry, I guess I wasn't vocal enough about that. My fault. I cannot do the 3rd or 4th. If you're . . .

Mr. Firestone: I don't want to switch it then.

Ms. McNatt: Polling dates, I like the 2nd and the 9th and the 10th. If you're polling dates.

Ms. Gray: Oh, very good.

Mr. Cronin: How about the 9th or 10th, then?

Mr. Silverman: We have a quorum for the 2nd.

Mr. Firestone: I sort of think we should go that week because City Council wants us to start trying to plan to meet with them in January, so . . .

Ms. Gray: Okay.

Mr. Firestone: We'll probably be better off meeting earlier.

Ms. Gray: Okay.

Mr. Firestone: And we need to get through this.

Ms. McNatt: Is that agenda . . . is it supposed to happen the same night as the Planning Commission meeting?

Ms. Gray: No, this would be a separate night in a workshop format.

Ms. McNatt: Oh, so the 2nd would be our Planning Commission meeting?

Mr. Firestone: Correct.

Ms. Gray: Yes.

Mr. Hurd: Yes.

Ms. McNatt: Okay, that's what we're talking about?

Ms. Gray: Yes.

Mr. Hurd: Yes.

Ms. McNatt: Not the combined meeting?

Mr. Firestone: Not the combined meeting.

Ms. Gray: Correct. That would be a separate meeting.

Mr. Cronin: And if I may ask the question, the meeting on the 2nd, does that afford the department and staff time to get stuff out by the 27th of December, when your focus is elsewhere with whatever else you have leading up to that point in time?

Ms. Gray: It will be a challenge. What we talked about internally would be getting the packet out on the 22nd.

Mr. Cronin: The 22nd. Two weeks before the meeting.

Ms. Gray: Trying to get it out on the 22nd. It still might be the 27th.

Mr. Firestone: My nickname is the Grinch, so . . .

Mr. Cronin: Is that fair to the applicants to have the 22nd, for anybody that brings stuff to the . . .

Ms. Gray: Well the . . .

Mr. Cronin: Just food for thought.

Ms. Gray: And the potential applicants that we have that are looking to go on January 2, they are all aware of the date. It would be the Park N Shop, potentially. The application for 30 Benny Street is another potential, as well. But we have a date with them of the information they need to get to us before we can put them on the agenda.

Mr. Firestone: Park N Shop is probably likely to be a reasonable sized crowd.

Ms. Gray: I think that's a fair statement. And the other agenda items . . . potential agenda items we have per our work plan is the DelDOT informational session. I've outreached to DelDOT and I'm waiting to hear back from them. And recommendation to Council on an ordinance requiring floor plans for proposed major subdivisions.

Mr. Cronin: Well I would be in favor of the 9th or 10th, if the Commission would agree to that.

Ms. Gray: Well the 9th is out because that . . .

Mr. Cronin: I thought you mentioned that.

Ms. Gray: I apologize. No, the 9th is not a potential date.

Mr. Firestone: Why don't you check with Council on whether that's too late for us vis-à-vis their meeting with . . . wanting to have a meeting with us, and make sure that we're also not too late on the wireless ordinance by moving to the 10th.

Ms. Gray: Okay.

Mr. Firestone: So if we can accommodate all of that, then we could do the 10th. Otherwise we'll do the 2nd.

Mr. Silverman: If we had several members who could not make it, I could see this as an issue. If we have one member that can't make it, he's got two more absences before he can be challenged. And I'll put that in the form of a motion that we confirm that we will meet on our regular date of January 2. We do, apparently, have a quorum.

Mr. Firestone: Is there a second? Hearing no second, the motion fails.

Mr. Silverman: Thank you.

Ms. Gray: Okay.

Mr. Firestone: Okay back to you, we're on the 2nd unless you're able to confirm with the City Council that that won't impair our ability to meet with them later in the month, and it won't impair our ability to timely act on the wireless ordinance.

Ms. Gray: Okay, very good.

Mr. Firestone: It's now 9:38 and we only have two more . . .

Mr. Hurd: I have just a quick question. Have we sufficiently closed Item 7?

Mr. Firestone: We did. So the Chair would entertain a motion to adjourn or a motion to further extend if someone wants to give us a briefing on the Parking . . .

Mr. Hurd: I move to adjourn.

Mr. Firestone: Frank is not here so I would . . .

Ms. McNatt: I'll second.

Mr. Stozek: Second.

Mr. Firestone: All in favor of adjourning, signify by saying Aye. Opposed, say Nay. Motion carries. We're adjourned. Thank you for folks for coming this evening.

MOTION BY HURD, SECONDED BY MCNATT, THAT THE PLANNING COMMISSION MEETING BE ADJOURNED.

VOTE: 6-0

AYE: CRONIN, FIRESTONE, HURD, MCNATT, SILVERMAN, STOZEK
NAY: NONE
ABSENT: MCINTOSH

MOTION PASSED

8. REVIEW AND CONSIDERATION OF COMPREHENSIVE DEVELOPMENT PLAN V ANNUAL UPDATES. [WITHDRAWN UNTIL A FUTURE PLANNING COMMISSION MEETING.]

[Secretary's Note: Item 8, review and consideration of Comprehensive Development Plan V annual updates was withdrawn until a future Planning Commission Meeting.]

9. PARKING SUBCOMMITTEE UPDATE.

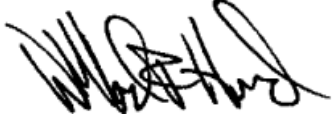
[Secretary's Note: The Parking Subcommittee update was not discussed as the Planning Commission adjourned prior to this agenda item.]

10. DISCUSSION OF PLANNING COMMISSION GIS NEEDS.

[Secretary's Note: Planning Commission GIS needs was not discussed as the Planning Commission adjourned prior to this agenda item.]

There being no further business, the Planning Commission meeting adjourned at 9:51 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Willard F. Hurd', written in a cursive style.

Willard F. Hurd
Planning Commission Secretary

As transcribed by Michelle Vispi
Planning and Development Department Secretary

Attachments

[Exhibit A: Planning and Development Department presentation \(Rental Housing Needs Assessment Study\)](#)