

**CITY OF NEWARK
DELAWARE
CONSERVATION ADVISORY COMMISSION
MINUTES**

May 12, 2020

MEETING CONVENED: 7:05 p.m. Council Chambers

MEMBERS PRESENT: Chair George Irvine (presiding), Beth Chajes, Mary Clare Matsumoto, Bob McDowell, Robyn O'Halloran, Sheila Smith

ABSENT: Kismet Hazelwood, Helga Huntley

STAFF: Nichol Scheld, Administrative Professional I
Joe Spadafino, Director of Parks and Recreation
Jeff Martindale, Assistant to the City Manager/Acting Human Capital Manager
Kathleen Reidinger, Customer Service Representative I

PRESENTER: William Hurd, Planning Commissioner, Chair of the Planning Commission, Chair of the Green Building Code Work Group

Dr. Irvine called the meeting to order at 7:05 p.m.

1. APPROVAL OF MINUTES FROM MARCH 10, 2020

Dr. Irvine asked for the approval of the March 10th meeting and if there were any concerns, edits or questions pertaining to the minutes. There were no responses.

MOTION BY MR. MCDOWELL, SECONDED BY MS. SMITH: TO APPROVE THE MINUTES.

MOTION PASSED. VOTE: 6 TO 0.

AYE – IRVINE, CHAJES, MATSUMOTO, MCDOWELL, O'HALLORAN, SMITH.

NAY– 0.

ABSENT– HAZELWOOD, HUNTLEY.

2. PUBLIC COMMENT

None.

3. TREE ORDINANCE PRESENTATION – JOE SPADAFINO

Mr. Spadafino explained that the presentation would be the first of the ordinance. It was scheduled to be presented to the Planning Commission the week prior, but the presentation had to be rescheduled. On October 22, 2018 the City Council proposed revisions of Chapter 32 Article XXV Landscape Screening and Tree Ordinance. City Council provided direction to review the current ordinance pursuant to Section 32-87(g) General Provisions Definitions and Tree Mapping Requirements.

Mr. Spadafino stated the purpose of the Committee was to examine the following and prepare recommended changes to the ordinance for Council review:

- What New Castle County and other communities have established for valued tree removal, tree preservation and tree mitigation practices
- Tree preservation in a forested area
- Environmental impact of tree removal and reforestation
- Definition of a valued tree in the ordinance
- Prepare recommended changes to the ordinance

Mr. Spadafino read all changes throughout Article XXV Landscape Screening and Treatment ordinance and requested for questions to be held until the end.

Mr. Spadafino mentioned to Ms. Smith that he did meet with Bill McAvoy, State Botanist for Delaware Fish and Wildlife. There will be an updated recommended tree list created to be used as a guide and will be made up of native trees, shrubs, non-invasive and invasive trees. The list would not to be a comprehensive list of every tree species.

Mr. McDowell believed that from a biological view, this version of the ordinance was a great improvement from the first edition presented to the CAC. He felt that the addition of the critical roots zone protection and other additions were going to serve the city well because it could be explained to developers as to why certain steps need to be followed.

Mr. McDowell asked if the funds from the Tree Preservation Fund could be used towards the yearly Reforestation Day, Mr. Spadafino replied yes. Mr. McDowell would like the funding to be a third option to developers, with the first option being to not cut down trees and second option to replant trees.

Ms. Smith added that one area which generated a lot of discussion was the idea of forest preservation. The committee worked diligently to create guidance for property owners on how to preserve and reduce part of the mitigation expense if they presented an acceptable conservation plan created by a certified conservation trained ecologist.

Mr. Spadafino explained that the committee also discussed the removal of invasive species. He believed that the removal plan could possibly take up to two or three-years.

Ms. Smith asked when staff last performed a tree survey and Mr. Spadafino believed it to have been ten to eleven years since any City parks were surveyed. He stated that the Division of Forestry performed a tree canopy survey to determine which species make up the canopy and which species were over-abundant or lacking. He shared that talks have taken place with the University of Delaware to have the survey performed as part of a graduate program.

Ms. Smith suggested that staff speak with the University about having botany or entomology students perform a "Bio Blitz"; a survey performed by students to catalog every species viewed from plants to insects to animals in natural areas. "Bio Blitzes" have been performed in national parks.

Mr. Spadafino explained staff added the definition of "forest" to the ordinance:

"An area covered by a canopy of trees or perennial woody plant with a single or multiple

stem that branch into a well-formed ground of foliage reaching an average height of at least 20 feet, covering a land area of 0.25 acres or 10,890 square feet. Forest does not include trees planted or grown for commercial purposes, does not include canopy over existing or historical home sites, gardens and lawns.”

Dr. Huntley wondered if all non-native suggested trees should be removed from the list. She felt that there should be language to indicate approval would be required from City Council regarding some phrasing and offering discretion to the Parks and Recreation Director.

Mr. Spadafino explained that Tom Zaleski, Parks Superintendent and certified Horticulturalist, had already spoken with the CAC to compromise on 70% of native plants throughout the landscaping with developers. Ms. Smith asked if the list has been finalized as she would like to have the list include characteristics of each of the native trees, listing more than just the wildlife value. She wanted to indicate which are drought tolerant, salt tolerant, exceptional street trees, and shade trees. Mr. Spadafino stated that the list was complete and would be circulated within next few weeks. Mr. Spadafino added that the wildlife value would not be able to fit into the ordinance, however, it has been discussed to include a link to show the environmental values.

Dr. Irvine asked when the ordinance was last updated. Ms. Smith believed it to be 27 years. Dr. Irvine advised that it might be useful to include an inflation index to increase the \$500 fee by inflation as needed every 4 to 5 years. Otherwise, in 27 years, the \$500 fee might be far less than what it was now and would be an incentive to buy plants instead of paying the fee. Mr. Spadafino stated this was another area quoted in the discretion of the Parks and Recreation Director that required Council approval. The Committee wanted to make sure that developers would not be saving money by mitigation.

Dr. Irvine asked how many more readings of the ordinance would occur. Mr. Spadafino explained on June 2nd, it will be presented to the Planning Commission with first reading to Council on June 8th. However, Council only comments on second readings. Ms. Scheld stated that she would have to verify the dates after the meeting. Dr. Irvine believed that the Committee should notify Council that the CAC is in favor of the new ordinance. Ms. Smith would like for the current suggestions to be implemented prior to the CAC making a recommendation.

The CAC agreed to withhold from making a recommendation until they can review the minutes of this meeting and review the suggestions provided for the drafted ordinance.

4. SOLAR EFFICIENCIES PROJECT PRESENTATION UPDATE – JEFF MARTINDALE

Mr. Martindale stated that the City had intended to have completed the plastic straw resolution and the purchase of electric vehicle by the end of June. However, due to the current health environment, they have been delayed. Mr. Martindale added that the City did receive three dual-port electrical vehicle charging stations from Charge Point in April. The stations are planned to be installed in 2020.

Mr. Martindale added that he has worked with Seiberlich Trane, contracted through an RFP, to perform an energy savings and efficiency project. The initial purpose of the RFP was to improve the failing HVAC systems in City Hall and the Police Department. The project was still active and fit the City's Sustainability Plan.

Mr. Martindale wanted to focus on the rooftop solar and solar efficiencies. The project would

likely include solar panel installation on the roof of City Hall, the Police Department, the George Wilson Community Center, and one of the larger buildings at the maintenance yard. The largest hurdle would be the roof repairs as a number of the rooftops have not been updated or repaired in a meaningful way for several decades. The repairs may be included into part of this project so that the cost could be dispersed throughout a larger loan plan. This would be beneficial to the City as there was an expected revenue shortfall during the duration of the COVID-19.

Mr. Martindale will notify the CAC to make them aware of the presentation date to Council and the recommendation date and estimated it would be in early June.

Dr. Irvine wanted clarification that the plan would be to “fold” the cost of the roof repair into the cost of installing and maintaining solar on City rooftops. Mr. Martindale confirmed, and added it would include solar, HVAC work throughout the buildings, and City street lighting. The portion of the project involving the George Wilson Center’s HVAC system was broken out to be completed sooner in anticipation of summer camps.

Dr. Irvine asked if there would be a Purchase Power Agreement (PPA) or if the City would self-finance the project. Mr. Martindale was unsure about the solar part of the program. This would be a question to ask Seiberlich Trane during a follow-up as the City has contracted the company and they will be presenting their findings to Council with the month.

Mr. Martindale explained that Seiberlich Trane is primarily an HVAC company, a Trane energy efficiency team, and an ESCO (Energy Service Company). The requested proposals that ended up becoming the existing contract were a result of the City requesting for ESCOs. Three proposals were received. In September 2019 there was a committee formed comprised of Mr. Martindale, Tom Coleman (City Manager), Dave Del Grande (Director of Finance) and Mr. Spadafino who decided that this contractor would be the best team to complete the project for the City.

Dr. Irvine appreciated how the project was expanded to include remote access and control of City lights as well as looking for energy efficiency savings in HVAC systems. Mr. Martindale added that the Trane team was able to find more cost savings to be made in terms of energy over the next 20 years.

Ms. Smith asked if the University of Delaware was going to be part of the plan or if any of their data was being used. Dr. Irvine stated that this project came about because of a presentation to Council which used data provided by Dr. John Byrne and Michael Chajes. Mr. Martindale added that even though the City has not coordinated directly with the University of Delaware on this project, it is a comprehensive multi-year process to get to this point.

5. GREEN BUILDING CODE WORK GROUP FINAL PRESENTATION – WILL HURD

Mr. Hurd stated that the first reading of the code was to be read the previous week. However, the City Secretary discovered modifications made to portions of Section 32 which required a longer advertisement time frame and could not be presented to Council at that time. Since the group was removed from the agenda, Mr. Hurd presented the same presentation he gave to the Planning Commission. The presentation explained why and how the group was formed and what work was performed.

In April, the Planning Commission approved all the Green Building Code amendments. Council did

have some comments which Mr. Hurd has spoken to Mary Ellen Gray, Director of Planning and Development, on how, if they could be, and what would happen to the time frame to incorporate.

Mr. Hurd explained that Councilmember Horning felt that not enough credits were being provided to offset the cost. Mr. Hurd and the workgroup are working to first get more people interested in solar.

Mr. Hurd is working on several questions from Councilmember Markham that would require evaluation of effectiveness and efficiency:

- Zoning HVAC – Mr. Hurd would consult with Tim Poole, Code Enforcement Officer
- UV systems in the air ducts – Filters would still be necessary to capture large particles and the addition of a UV system to kill mold and bacteria may be effective and efficient
- Non-toxic decking materials – Will require more research

Mr. Hurd added that the first reading has been scheduled for July 2nd with second reading on either July 13th or July 20th. (*Secretary's Note: No Council hearing dates have been scheduled at this time.*) Ms. Gray has also resubmitted the amendments to the selected list of developers and contractors to provide them with a second chance to voice concerns or questions. This is an attempt to mitigate objections at the end.

Dr. Irvine offered the assistance of the CAC. Mr. Hurd would appreciate a recommendation from the CAC when the time comes to be presented to Council.

Mr. McDowell asked if there was a list of “forbidden” shade trees such as Bradford Pears or Norway Maples. Ms. Smith stated the new list has had all invasive trees removed. Mr. Hurd stated that they the Work Group could reference specifically in the landscape ordinance that there is a recommended shade tree species list guide.

6. NET POTENTIAL MEMBER DISCUSSION

Dr. Irvine explained that NET (NET Energy Transmission) is an advisory group. Under the new Sustainability Plan, the CAC can make recommendations about service members. It would provide the CAC with guidance about transitioning Newark from dirty energy to clean energy and on specific issues discussed in the plan. The group recommended to reach out to the following list of conservation experts, professionals, and professors:

- Mr. Hurd
- A member of the CAC – Dr. Irvine, Ms. Chajes, Ms. Smith
- A member from the office of the Center for Energy and Environmental Policy
- Dr. Steve Hegedus
- Dr. Michael Chajes
- Corey Budischak
- Dale Davis
- Dr. Jeremy Firestone - Center for Research in Wind
- Dr. Willett Kempton
- Dr. Stephanie McClellan

Dr. Irvine requested Ms. Scheld to verify with the City Secretary, the formal steps to create a commission within the City. Ms. Scheld recalled at the last meeting that the CAC was to compile a list of the names of qualified and interested individuals to serve as members that would be given to Mike Fortner, Planner II. She shared that Dr. Huntley sent a list of potential members to Mr. Fortner.

7. DISCUSSION ON SEPTEMBER 8 MEETING – CANCEL OR RESCHEDULE TO 09/15 OR 09/22

Dr. Irvine went over the options for this meeting and shared that Mr. Wessells had resigned. He asked for a volunteer to take over Mr. Wessells work for Community Day planning.

Dr. Irvine, Ms. Smith and Mr. McDowell agreed on the September 15th date. Ms. Matsumoto asked what the issue was with the September 8th date, Ms. Scheld educated that there would be a conflict with the election which was postponed from April. *(Secretary's Note: The rescheduling conflict is due to Council moving their meeting due to the Labor Day Holiday)*

8. MONTHLY CONSERVATION ARTICLE WITH THE NEWARK POST – SHEILA SMITH

Dr. Irvine submitted the last article which was about Community Day. No one was scheduled for June. Ms. Smith stated that she would be able to provide an article pertaining to invasive species in July. In August, Mr. McDowell would provide an article about Reforestation Day. Dr. Huntley was scheduled to provide an article for September regarding recycling.

Ms. Smith requested for members to come up with ideas for June and for the months after September. Articles have been sent to Ms. Smith first who would then forward the article to the Newark Post. Articles are due the last Friday of each month and are to be between 300 to 500 words.

Ms. Chajes offered to do an article about water conservation for the month of June. Mr. McDowell suggested to include stormwater and run off water. Dr. Irvine educated that the CAC recommended that Council issue a bond for the Rodney Project for water control and downhill parts of the city to help with flooding. Ms. Matsumoto added that the article could also include the approval from the city to remove a dam at White Clay Creek and highlight why the removal would benefit fish and nature.

Ms. Smith added that there were programs designed to partially reimburse the cost of installing rain gardens. Christiana Watershed has a program called "Catch the Rain".

Dr. Irvine suggested to Ms. Smith the articles for November or December to be follow ups to which parts of the sustainability plan have been implemented. Dr. Irvine offered to write the article individually or with Ms. Smith's help. Ms. Smith stated that Dr. Huntley wrote an article about sustainability earlier in the year.

Ms. O'Halloran stated that she was currently creating a story map for her GIS class to illustrate how the pandemic was affecting the environment from a worldly aspect. Ms. Smith added that it would be good to mention anti-idling and air quality for an October article. Ms. Chajes believed that Ms. O'Halloran's article should be submitted for June since it is based on the current health crisis. Ms. Chajes' article was moved to October and Ms. O'Halloran's to June.

9. PLANNING & DEVELOPMENT REPORTS

Ms. Matsumoto stated there was a recommendation to amend Planning Area 7 to allow a consideration of annexation of land that is outside of the planning area. The amendment was approved by the Planning Commission and presented to Council. Planning Area 7 was originally scheduled to be reviewed in 2021. Ms. Matsumoto said that “some of us” were unsure if the planning area should be expanded and that there was not enough time allowed to provide feedback. *(Secretary’s Note: The proposal referenced is to create a new Planning Area 7 in Comprehensive Plan V. Comprehensive Plan V is scheduled for a five-year review in 2021.)*

Ms. Matsumoto believed that there should have been a meeting before a scheduled meeting for May 28th and that her feedback would be for the City to wait to until the planning area is supposed to be reviewed in 2021.

Ms. Matsumoto does not see how the development fits in the Sustainability Plan. Ms. Smith stated that everyone should review the Planning Commission minutes from February because it seemed very confusing. Ms. Smith and Ms. Matsumoto expressed concerns about the process and annexation. Ms. Matsumoto believed that there were many letters of opposition to the annexation.

Dr. Irvine stated that the CAC is an advisory body and thought it was possible to address concerns as it fell under the umbrella of the Sustainability Plan.

Ms. Matsumoto would like to have this issue added to the next CAC’s agenda. Dr. Irvine suggested to have the topic titled: Conservation Implications of Amendment to Planning Area 7.

Dr. Irvine educated the group on written guidance provided by the City Solicitor: It is beyond the purview of the CAC to comment upon a specific development plan. It is not in the CAC’s Charter.

Ms. Matsumoto was concerned that not enough residents knew about the plan and Ms. Scheld informed her that all meetings were listed on the City website with accompanying agendas, advertised in the newspaper, and posted in the foyer at City Hall with ample notice.

10. OLD/NEW BUSINESS

- Report on Potential Update and Animal Sheltering Ordinance – Dr. Huntley

Dr. Huntley was not able to join due to technical difficulties and the matter was not discussed.

11. NEXT MEETING – JUNE 9, 2020

12. ADJOURNMENT

The meeting was adjourned at 9:37 p.m.

Nichol Scheld
Administrative Professional I

/dmp