

CONSERVATION ADVISORY COMMISSION
MINUTES

March 12, 2024

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

MEMBERS PRESENT: Mike Cambron, Helga Huntley, Andrew O'Donnell, John Mateyko, Mahi Palanisami, Mikayla Rypkema, Savannah Sipes, Sheila Smith

STAFF: Jordan Herring, Administrative Professional I
Tara Schiano, City Secretary/Legislative Services Director
Renee Bensley, Planning & Development Director

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

MOTION BY DR. HUNTLEY, SECONDED BY MR. O'DONNELL: TO MOVE ITEM #9 BETWEEN ITEM #6 AND #7.

MOTION PASSED. VOTE: 7 TO 0.

AYE: CAMBRON, HUNTLEY, O'DONNELL, MATEYKO, PALANISAMI, SIPES, SMITH.

NAY: 0.

ABSTAIN: 0.

ABSENT: IRVINE, RYPKEMA.

1. APPROVAL OF MINUTES FROM MEETING HELD ON FEBRUARY 13, 2024 (2 MINUTES)

Dr. Huntley was uncertain of a statement on Page 18 of the February 13th minutes, "Ms. Smith will write the next agenda," as part of the discussion regarding conservation articles. She proposed an edit to remove it.

MOTION BY DR. HUNTLEY, SECONDED BY MR. O'DONNELL: THAT THE CONSERVATION ADVISORY COMMISSION (CAC) APPROVE THE MINUTES FROM THE FEBRUARY 13, 2024 MEETING AS EDITED.

MOTION PASSED. VOTE: 7 TO 0.

AYE: CAMBRON, HUNTLEY, O'DONNELL, MATEYKO, PALANISAMI, SIPES, SMITH.

NAY: 0.

ABSTAIN: 0.

ABSENT: IRVINE, RYPKEMA.

2. PUBLIC COMMENT (5 MINUTES PER SPEAKER)

There was no public comment.

3. TREE GIVEAWAY PROGRAM – JOE SPADAFINO (15 MINUTES)

Joe Spadafino, Parks & Recreation Director, thanked the CAC for their participation in the Tree Giveaway program. More than 450 native trees and shrubs have been given away since the program began in 2022. Each year, the committee has allocated \$7K for each of the two giveaways, totaling \$14K annually. However, only \$12K-\$13K of that allocation has been spent historically. The Parks & Recreation Department requests \$14K this year once more in consideration of items such as shipping and material prices. There has been a positive public response from this program with the trees being “sold out” within the first 1-2 weeks of the 3-week advertising period. Although the fall program moves slower than the spring, all trees are still given out. This year, staff will ask previous recipients to send photos or written updates on the trees they have obtained from the program. When the program is advertised, staff will sometimes receive emails from previous recipients remarking how their trees have survived. The program will procure its trees from the same nursery as before due to its healthy stock and quality.

Ms. Smith remarked there were not many types of shade trees given out in last year’s program. She was additionally unsure if there were certain native trees missing from the list. She found the list of trees Bill McAvoy helped the City create for the program and asked if this was the list Mr. Spadafino was referencing in planning meetings.

Mr. Spadafino stated he worked with Herbert White, Parks Superintendent & Master Arborist, to select the plant materials.

Ms. Smith asked if he would use the tree landscape list the CAC created for the City.

Mr. Spadafino responded he would follow up with Mr. White.

Ms. Smith noted the list could be found as an appendix within the City’s Code. She wished to see the tree landscape list be utilized by the City. The Sustainability Plan states the City will plant native flora suitable to the region. She believed last year’s list of available plants was very limited when looking at it. She suggested considering using a different nursery with a more diverse stock of native plants. She noted she closely examined the native tree list due to the goals outlined in the Sustainability Plan.

Dr. Huntley asked if Mr. Spadafino had access to the list Ms. Smith referenced.

Ms. Smith specified when she spoke of the new list, it was created as an appendix to the new tree ordinance. This list was meant to replace the previous list containing many non-native plants. There was an extensive process of reviewing the old list and removing the non-native plants, as it was unacceptable.

Mr. Spadafino stated the department has the recommended plant list, which Ms. Smith was referring to. However, using this list is not mandated by Code. It only serves as a recommendation.

Ms. Smith believed this is the only list that should be associated with the tree code, as the previous list was extensively analyzed and edited to remove problematic plants. She did not believe last year’s tree list met the goals of the Sustainability Plan. There is a higher need for shade trees than ornamental trees, the latter of which she saw present on that list. She recommended finding a new plant provider and showing the CAC the list before making any decisions or purchases.

Dr. Huntley asked when the City needs to order the plants for the program.

Mr. Spadafino stated the plants have already been ordered.

Dr. Huntley asked if Mr. Spadafino had a list of all the plants ordered.

Mr. Spadafino stated he could send it to the members of the CAC.

Dr. Huntley stated the CAC could not make any changes to the list for the spring program. However, she asked if Mr. Spadafino could bring the CAC a proposed list for the fall program.

Mr. Spadafino stated the list of plant materials needs to be submitted early. He estimated it will be prepared in June or July.

Dr. Huntley asked if June would be a good month for this item to be put on the agenda.

Mr. Spadafino agreed. He added Mr. White should attend this meeting, as well. The trees will not have been ordered by then. The fall program takes place in late September-early October.

Ms. Palanisami concurred with Ms. Smith.

Mr. Cambron commented these trees are very substantial to give away.

Mr. Spadafino stated a fraction are. Some are shrubs or trees for wildlife habitat. The list does not only consist of large shade trees.

Dr. Huntley added the trees are not very large when given out in the program. She noted the oak and hickory trees she received last year were doing very well.

Mr. Spadafino stated the larger trees on the list are about 6 feet in height when given out.

Mr. Cambron noted he has been involved in multiple Earth Day tree giveaways for multiple years, but they gave away saplings instead. He has seen more trees given away costing less than for the quantity the City is receiving for \$7K. He asked to know the thought process behind this decision.

Mr. Spadafino noted the program aimed to give away plants of a decent size and quality to residents. He noted smaller seedlings are less likely to succeed.

Dr. Huntley opened the floor to public comment.

Glenn Zelluk noted he and his mother received trees from the giveaway. He was very impressed with the quality and how well the department has carried out the program.

There was no further public comment, and Dr. Huntley returned the discussion to the table.

Dr. Huntley noted the CAC approved \$15K for last year's tree giveaway.

MOTION BY DR. HUNTLEY, SECONDED BY MS. SIPES: THAT THE CONSERVATION ADVISORY COMMISSION (CAC) ALLOCATE \$14,000 OF THEIR 2024 BUDGET TO SUPPORT THE ANNUAL TREE

GIVEAWAY PROGRAMS BOTH IN THE SPRING AND FALL FOR THIS YEAR WITH THE REQUEST THAT THE CAC WILL HAVE A CHANCE TO APPROVE THE LIST OF TREES AND SHRUBS TO BE CHOSEN FOR THE FALL GIVEAWAY.

MOTION PASSED. VOTE: 7 TO 0.

AYE: CAMBRON, HUNTLEY, O'DONNELL, MATEYKO, PALANISAMI, SIPES, SMITH.

NAY: 0.

ABSTAIN: 0.

ABSENT: IRVINE, RYPKEMA.

Dr. Huntley thanked Mr. Spadafino, stating this program has been a great success.

Mr. Spadafino appreciated the CAC's support.

4. DICKEY PARK PROPOSED IMPROVEMENTS – JOE SPADAFINO (20 MINUTES)

Mr. Spadafino reminded he originally presented the Dickey Park improvement project to the CAC when it was in its first stages. At this meeting, he would be presenting plans that were discussed at a well-attended public meeting for the residents of the surrounding area.

Dickey Park is 8.2 acres of land which was acquired for \$10 in 1963 from the developer of the nearby townhomes. It was named after Edna C. Dickey, a known activist in the City of Newark at the time. It has been a centerpiece of Madison Drive since its inception as one of the busiest parks in the City of Newark. As the park is showing its age, the City is looking to modernize with improvements and natural habitat areas.

The park's basketball court, swimming pool, community garden, and softball field will remain throughout the project. In 2023, the parking area was repaved, drainage improvements were made on the basketball court, the community garden was opened, the pool was resurfaced, and a new playground was built. The goal is to create more places for families and friends to gather, play, and enjoy themselves. The pavilion serves as the hub of the park and hosts Camp R.E.A.L.'s activities from the end of June to the beginning of August.

The fence needs to be repaired and replaced. The fence will be cut slightly shorter and down to the third base line of the softball field. The 1980's-built pavilion is rusted with many gaps that do not protect its inside from rainfall. All of Dickey Park's playground equipment is inspected multiple times a year, and while it meets Code, improvements and replacements will still be made to modernize it and extend its longevity. He noted the placement of the Little Free Library. Additionally, there has been consideration to place rain gardens in areas where flooding has been a significant problem. Habitat gardens will be placed in several areas as well.

Dr. Huntley asked if the list presented consisted of the proposed plant improvements, not what has already been implemented.

Mr. Spadafino confirmed this to be correct. He noted the metal pavilion will be replaced. There is an existing 20x20 pavilion that will remain. The existing sidewalk will be incorporated into a great loop walking trail. The existing parking lot will be used to make part of the trail. That section will then be restriped. All of these improvements will be compliant and accessible with the Americans with Disabilities Act. A portion of

the stormwater work will be done near the community garden. He provided an example of the new pavilion. New fitness stations will replace the current monkey bars at the request of residents. There is approximately 3,500 square feet of impervious surface between the street hockey and basketball courts which will be removed and converted into a gathering area. Large shade trees will also be put in this location.

Ms. Smith asked where the fitness area will be located.

Mr. Spadafino stated it will be in a select alcove of the park. Trees and garden areas will be added near the trail once the park is developed. These installations will be completed in-house. The softball area will not be touched. Trees will be placed in inactive areas.

The Dickey Park public meeting was held in January of 2024. Staff met to discuss the comments received from the public. April-August 2024 will be the planning period for the development and construction of the park. It is currently in its inception stage. Bids will go out in the fall, and construction will begin in 2025. The City has allocated \$450K in American Recovery Plan Act funding. There is also a \$35K Outdoor Recreation Parks & Trails (ORPT) grant to assist in funding the pavilion. While not as substantial as before, these funds will still help to significantly improve the park.

Dr. Huntley asked if benches will be incorporated for residents to sit.

Mr. Spadafino confirmed benches will be incorporated throughout the park, such as around the trail and community garden.

Dr. Huntley noted in her visits to the park, she frequently had the impression there were not many trees, but a large amount of grass. She asked if there are plans to add more shade trees.

Mr. Spadafino confirmed shade trees will be added along the backside of the basketball court. Herb White has worked with the Delaware Department of Forestry. The State of Delaware will match a ½-2 in. caliber tree for every tree Newark purchases for the giveaway. Staff have already been planting those throughout the City's parks, including Dickey Park. However, at least three large oak trees have needed to be removed due to bacterial leaf scorch. While it is possible to attempt to fight these diseases, sometimes human elements are worse than insect damage. He noted 4-5 trees which were around 6 ft. tall in that area have snapped in half over the last six months. Staff hope park improvements and higher attendance can help mitigate those issues as the community takes more ownership. Vandalism is not unique to Dickey Park; it occurs throughout the various parks within the City. Several trees on Main Street are vandalized each year. Staff hope a good tree canopy can be established with more visibility of the park and planting larger trees that are not as susceptible to vandalism.

Dr. Huntley asked if there are plans to plant trees around the playground.

Mr. Spadafino responded shade trees will be placed near the benches and play area. However, staff are waiting until construction is complete to prevent the trees from impeding the process.

Ms. Sipes asked if the walking trail will be impervious surface.

Mr. Spadafino stated it will be made of asphalt.

Ms. Sipes asked about the park's current lighting.

Mr. Spadafino explained the basketball and street hockey courts are lit. A security light in the pavilion would be the only light added as part of the improvements. This light will most likely be motion activated during the evenings to prevent it from staying on for the entire night. The lights at the basketball and street hockey courts are user activated.

Ms. Sipes asked if there are any plans to improve grass fields in the project.

Mr. Spadafino explained the field will be evaluated to see if a layer of topsoil is needed. In addition, staff plan to aerate the lawn and bring in additional seed.

Ms. Smith requested clarification that there will be no additional lighting in the park besides a security light under the roof of the pavilion.

Mr. Spadafino confirmed this is correct.

Ms. Smith hoped the Planning & Development and Parks & Recreation Departments will move toward using dark sky lighting in any future plans. This is a specific approach to lighting where the bulb is not visible to prevent light pollution. Light pollution has multiple impacts on both human and wildlife health. It is decimating insect populations. The idea behind dark sky lighting is to only shine light where, when, and only how much is needed. Additionally, warm light should be used due to the serious health effects caused by blue light. She highly encouraged using approved dark sky lighting fixtures in future park projects.

Mr. Spadafino stated the project will not replace the current court lighting.

Mr. Mateyko found this plan terrific. He stated planting in the southwest is ideal to provide shade in recreational areas. He asked Mr. Spadafino to consider more locations where the public frequently congregates that could be impacted by incoming summer weather. He encouraged placing trees in those areas with a small portion of funding.

Mr. Spadafino stated there is a project in the Grove where the City will remove approximately 3,500 square feet of asphalt and line it with trees and benches. This will be an area where the public can enjoy the outdoors.

Mr. Mateyko stated trees can thrive in the current climate. However, when the temperature significantly increases, some trees will grow slower. Planting trees now will help to plan ahead. Additionally, he mentioned many nations and major cities have banned the use of Roundup and other toxic chemicals. As Bayer is facing lawsuits due to the use of these chemicals, Bayer will take the glyphosate out of public consumer formulations found in stores such as Lowe's and Home Depot. However, it will not be taken out of the formulas used for professional use. He suggested the City stop using professional-grade Roundup immediately and either use store-bought Roundup or to not use it at all.

Dr. Huntley asked what the City's policy on herbicides is.

Mr. Spadafino explained herbicides are used to control weeds in certain areas dependent on the variety of weeds and how many are in a single location. However, it cannot be used in all areas, as any surrounding flowers could potentially be harmed with the weeds.

Dr. Huntley stated the CAC would like to see fewer toxic chemicals used by the Parks Division. She asked if this presentation was only an update or if Mr. Spadafino was looking for action from the CAC.

Mr. Spadafino stated this served as an update to show the CAC how their ideas have been incorporated into the project.

Dr. Huntley noted their ideas have been accommodated well.

Mr. Spadafino stated the parking lot is large enough to incorporate the trail if it is restriped. He reiterated the area consisting of only asphalt in the park will be removed.

Ms. Smith stated the CAC desired less mowing in the park. She asked if the department could reduce the amount of mowing and if so, by how much.

Mr. Spadafino stated the stormwater and habitat areas which are to be added will not be mowed. There will be mulch rings around the trees to mitigate stress from mowers bumping into their trunks. While it is not massive, changes will be made.

Ms. Smith suggested planting trees in groups with larger mulch beds around the area. This would help to simplify the mowing area.

Ms. Palanisami asked if the City will be hiring a light designer for the project.

Mr. Spadafino stated the only light added as part of the project will be one new security light in a new 40x40 pavilion. The current lighting in the basketball and street hockey courts will remain untouched.

Ms. Palanisami wondered if it would be possible to replace grass with sedges (carex) if organized a year out. This would minimize the need to mow.

Mr. Spadafino noted carex does not grow as high as grass.

Dr. Huntley thanked Mr. Spadafino for his presentation.

5. 4/13 NCCL GREENFEST PLANNING (20 MINUTES)

Dr. Huntley noted the CAC needed to finalize their plans for the Newark Center for Creative Learning (NCCL) Greenfest at this meeting. The event lasts from 11 a.m. to 3 p.m. on Saturday, April 13th, with setup between 9:30 a.m. – 10:30 a.m. She asked who would volunteer to support the commission at the event, who could provide a table, and if Mr. O'Donnell could provide his electric vehicle (EV).

Mr. O'Donnell agreed to provide an EV display. He believed he would be able to attend the event in its entirety.

Ms. Sipes stated she could attend the event for the whole day.

Ms. Smith stated she has committed to attending UD's Earth Day event on The Green, therefore, she would not be available to attend this year's Greenfest.

Dr. Huntley asked if there are additional topics the CAC wished to share at Greenfest.

Ms. Sipes wanted to host an activity regarding biodiversity and native plants.

Ms. Smith suggested an activity for the children to identify which plants are native and which are invasive, noting there is already a teacher at NCCL who educates her students on native plants.

Dr. Huntley offered to assist with the activity.

Mr. Cambron believed he could attend the event for two hours.

Dr. Huntley asked if Ms. Sipes could coordinate activities for the day. She could give NCCL Ms. Sipes' contact information for correspondence.

Ms. Sipes agreed.

Ms. Smith noted she could provide the table and tablecloth, while Jeffrey Martindale, Chief Procurement and Projects Officer, has the canopy. She would be able to assist with setting up the event but would not be able stay.

Dr. Huntley, Ms. Sipes, Mr. O'Donnell, and Mr. Cambron would coordinate their presentations through email.

6. 4/19 UD EARTH DAY (5 MINUTES)

Ms. Smith noted she has attended UD's Earth Day event for the past two years. UD has asked her if she would attend the event again this year, to which she responded she would need to confirm with the other members of the CAC. In the past, the CAC has spoken with UD about the Lights Out initiative, and she presented it at the Earth Day event by herself last year. She wished to do the same this year.

Dr. Huntley asked if the remaining members of the CAC were on board with Ms. Smith presenting the Lights Out campaign on their behalf at the UD Earth Day event.

Dr. Huntley stated Ms. Smith will work with the UD Earth Day organizers to see when and how she can present a Lights Out booth at the event.

Mr. O'Donnell clarified the date of Earth Day is Monday, April 22nd.

7. ENVIRONMENTAL REVIEW OF DEVELOPMENT PROJECTS (20 MINUTES)

Dr. Huntley stated this item pertains to the question of whether the CAC would like to incorporate an environmental review of development projects, and if so, how. Historically, members of the CAC have strongly felt there have been several development projects which did not align with the City's environmental and conservation goals. However, the CAC currently has no role in the development process nor authority to comment on specific development projects. The City Solicitor has historically recommended the CAC make broad recommendations regarding land use and suggestions for ordinances. A recent example is Mr. O'Donnell's recommendation to regulate gas stations. The CAC can make recommendations that apply to everyone but cannot target specific projects. When several CAC members attended a Council meeting as

private citizens to comment on a recent development project, Councilman Suchanec recommended she ask the rest of the CAC whether they would like to receive the authority from City Council to be involved in the review process. Her ideas for proceeding in this process were:

- Asking City Council to make the CAC part of the development process and task them with doing an environmental review of every project requiring approval by Council.
- Recommending City Council to consider an environmental review as part of their standard review, which could be asked of the Planning & Development Department.
- Asking for a step in the development process to be an environmental impact study that the developer is required to complete and submit.
- Asking City Council to have the Planning & Development Department consider climate change mitigation adaptation in all operations.

She would entertain additional ideas from the commission, or the commission could choose not to entertain the idea at all.

Ms. Smith asked if some of these options would require ordinance changes.

Dr. Huntley responded they would. An ordinance is necessary for City Council to require every development project to be accompanied by an environmental impact study. The CAC does not need to direct City Council on whether to do this by regulation or ordinance. They can recommend what they would like to see from Council or what their desired outcome should be, then City Council and staff could work together on finding the best path forward.

Ms. Smith stated the CAC has previously made recommendations to City Council which have been approved. However, there is currently nothing obligating the City to follow the CAC's recommendations which were approved by Council. She noted the anti-idling recommendation was turned into an ordinance but is rarely enforced by the City. After multiple efforts made by the CAC, she did not recall seeing any signs discouraging idling on the municipal building's property. She was unsure if the CAC's current work was impactful.

Dr. Huntley asked if her idea was for the CAC to pursue these ideas in the form of proposed ordinances. She recalled learning the anti-idling ordinance is unenforceable.

Ms. Smith stated the CAC can make as many recommendations as they wish, but the recommendations cannot move forward without the City's investment in the Sustainable Newark Plan. She noted the plan adopted in 2019. The CAC has not yet received the greenhouse gas inventory they requested. She was unsure how the CAC should encourage other parties to invest in their ideas. Their work has not seemed to progress much beyond spending their budget on items, initiatives, and projects.

Mr. Mateyko asked when the issue he posed at the previous meeting will be discussed.

Dr. Huntley stated the current conversation pertains to the CAC's potential involvement in the review of development projects. The next item on the agenda is to discuss the Sustainability Plan review, followed by the annual report and the CAC's 2024 goals and priorities.

Mr. Mateyko stated the Sustainability Plan is well-written but aspirational. Multiple countries, states, and local governments use ideas which are not aspirational and have the force of law. The City is a duty-

bearer, by having a home-rule charter, it has assumed the duties of the State for everything within their limits.

Ms. Smith believed there is a missing link between the CAC's ideas and the City's actions. She was aware the capital budget is decided years in advance, and the City receives grants, these are what shape the City's plans. They approach the CAC for comment on certain items. She found it remarkable that Councilman Suchanec approached the CAC with this idea which is a different interaction than previously experienced.

When writing the 2023 Annual Report, Dr. Huntley had realized none of the CAC's 2023 recommendations to Council have been discussed. She noted she needs to work on this with the Mayor to ensure Council discusses their recommendations.

Mr. O'Donnell noted this essentially means there is a lot of discussion, but no action taken on the initiatives the CAC brings forward. This discussion pertains to what the CAC can do that results in action.

Ms. Sipes believed the CAC providing insight on individual projects would be a daunting task. She wondered if there was a way for the CAC to change this idea into something akin to a rubric of criteria to use when reviewing a project. If it follows and meets the standards in the rubric, the CAC could make no objection. However, if there are items missing or needing further discussion, the CAC could be involved in the review process. This could potentially apply only to projects with a budget above a set amount. She believed the CAC needs to be involved to see change or they need to write an ordinance or law forcing the City to take responsibility for the action items they propose.

Ms. Smith stated the planning process is very complex. She believed part of it is a timeline, whereas the CAC is always attempting to catch up after lagging behind. She did not believe these ideas were being bought up by the Planning & Development Department or Planning Commission. She wondered what laws currently exist relating to these ideas and what the City must do to move forward on these initiatives. By the time the CAC knows about a project, most of the review process has already been completed.

Ms. Sipes noted the projects the CAC could potentially be involved in will most likely be years in the future. The CAC should get involved now to avoid high costs or being unable to make any legal changes.

Mr. O'Donnell asked the Planning & Development Director to offer any suggestions or ideas.

Renee Bensley, Planning & Development Director, stated the Planning & Development Department has actively worked toward the Sustainability Plan, and has achieved multiple goals set for them such as Goal 2.1 and Goal 2.2. Planning & Development staff, the Planning Commission, and City Council are all bound by Code requirements. If the CAC want to be involved in the development process, they will also be bound by the Code. If the CAC would like to add specific standards to the City Code, that would enable staff to tell a developer what they are required to follow. The CAC will not have significant authority to influence the process or make changes without amending the Code.

Planning & Development staff worked hard on the stretch code for green building as completed in early 2020 as part of the 2018 International Energy Conservation Code (IECC). In the City's adoption of the IECC, there is a requirement for a certain number of green energy points in a development project. There are minimum numbers for each category along with an overall number that must be met. If a development project exceeds the number of points required by a certain amount, this criteria would enable them to go through the Site Plan Approval process which allows Council to offer relief on certain area and density requirements based on the list of criteria in the Code, with one of them being the additional green energy

points. The Planning Commission has begun discussing how the Site Plan Approval process tends to lean toward having additional asks for greenfield development but may not necessarily have criteria that meets redevelopment. She noted most development projects in Newark are redevelopment. The Planning Commission is discussing what they can do to have this set of criteria for greenfield development while having another set for redevelopment. She suggested this could be something the CAC would be interested in having additional input on that could be incorporated to help more green-friendly construction and projects be put into place.

She has heard the CAC discuss items and initiatives such as banning new fossil fuel infrastructure. However, those items are very ambitious and affected by many different pieces of the Code. She suggested prioritizing development items they find to be the most problematic. Then, she could work with the CAC to identify the portions of the Code that would need to be amended to enforce the CAC's desired change. If staff and the CAC collaborate, they can form recommendations for the Planning Commission and City Council to meet more stringent goals. Some items can be directly forwarded to Council. However, any topics related to Chapter 14A, Floodplains; Chapter 27, Subdivisions; or Chapter 32, Zoning, will also need to be approved and recommended by the Planning Commission. For example, something involving Chapter 7, Building Code, could go directly to Council, while more challenging items may be akin to a multi-step process.

Dr. Huntley asked for clarification that the CAC can only make recommendations to City Council, who then could direct the Planning Commission to review the request.

Ms. Bensley suggested sending the recommendation to Council, who can direct staff to prepare the amendments for consideration by both the Planning Commission and Council.

Dr. Huntley noted the CAC has attempted to send items, such as the new fossil fuel infrastructure ban, to City Council, for City Council to give direction to the respective bodies.

Ms. Bensley requested clarification that the recent resolution adopted encouraged all future vehicle fueling stations to include only EV charging stations was brought forward as a condition to a Special Use Permit, and not a Code change.

Ms. Smith stated that topic was only one part of the conversation.

Dr. Huntley clarified the recommendation did not specify how City Council should implement that condition. Her thought was the CAC would adopt this recommendation, and after discussion, Council would choose if and how they wanted to proceed with the initiative.

Ms. Smith stated there was a brief discussion regarding the Special Use Permit process, along with a discussion with Ms. Bensley that mentioned the Site Plan Approval process.

Ms. Bensley explained according to the Code, the allowable uses in a zoning district have a section for by-right uses. This means a property owner has the right to construct a plan if it conforms to the Code and is an allowable use. Then, Special Use Permits allow certain uses if they do not detrimentally affect the health, safety and welfare of the City and its residents, and if it is not in conflict with the Comprehensive Development Plan. Staff, the Planning Commission, and Council can request conditions related to Special Use Permits, but they need to be reasonable and scalable. Part of this issue is the cost of installing Level 3 EV charging stations for the entire facility. It would not be considered a reasonable request if taken to court. If there is desire to require Level 3 EV charging stations as part of these projects, the requirement needs to be included as upfront

criteria in the Code for projects of this type. She did not foresee there being approval for EV charging stations to be the only type of fueling infrastructure allowed in new projects. However, it is possible a requirement to include one Level 3 EV charging stations per set number of gas pumps would be approved. Staff and the CAC can work together to obtain Council feedback on the recommendations made by the CAC, then return with a proposed ordinance based on their responses.

Mr. Mateyko did not believe the CAC should have primary responsibility for development projects. It should be the sole responsibility of Council, the City Solicitor, and the Planning & Development Department staff. However, it is useful in government to have an independent advisory committee for these purposes. He believed the data from an environmental impact study could help improve future development processes. He found it reasonable to require a developer to present a major project to Council for approval 90 days after the CAC reviews its environmental impact study. He suggested reviewing how other governments handle this matter.

Dr. Huntley offered Mr. Mateyko to provide insight into other governments' approach. She was not ready to move on from this topic as it has not yet been resolved and there are multiple CAC members who have not yet provided comment.

Mr. Mateyko explained the State of Delaware has concluded they do not have to create anything new in their laws, so it has not changed. However, the climate has, so the types of impacts are different. He suggested there should be minimum shading requirements instead of ventilation requirements. He believed the Code should require the City to make updates to accommodate new environmental conditions.

stated the purpose of this conversation is to determine what the CAC can contribute to the development process to reach such goals, noting Ms. Bensley provided insight on how to do so through amending the City's Code.

Mr. Mateyko advised beginning with Federal law. In 1990, President George H. W. Bush signed a bill for a global change research project. Every three years the agency must discuss, reevaluate, and publish it, which shall be deemed the controlling science in Federal law. Usually, Federal law reads that if Federal funding is used for a project, the Federal government can be involved. The National Climate Assessment explains how to achieve these goals in Federal projects.

Ms. Smith reminded the City's approach to this idea is not at the CAC's discretion. She suggested this is another topic to discuss as the CAC will not reach the goals they want to achieve with other entities who can.

Mr. Mateyko believed information related to the impacts of climate change on human health should be presented to the City Solicitor.

Ms. Palanisami stated a consultant in Denver brought in contractors, students, and other groups to create a sustainability team and collaborate in rewriting Denver's City code.

Dr. Huntley asked if this implemented a sustainability plan into Denver's planning code.

Ms. Palanisami confirmed she was correct, but it took several years. She wondered if recommending the hiring of a sustainability coordinator is an option worth pursuing.

Mr. Mateyko reiterated the Intergovernmental Panel on Climate Change (IPCC) must be used for foundational science as required by U.S. law. He suggested using the two most recent assessments as the current will often refer to its predecessor. He shared multiple documents to present to the City Solicitor and staff which apply to local industries. They present the basic science and timeline to protect public welfare.

Dr. Huntley stated there is a compelling legal basis for the CAC to request Council to apply environmental standards in approving development projects. However, they need to determine how to approach the initiative. She understood both Mr. Mateyko and Ms. Sipes favored requiring the CAC's review of an environmental impact statement for large-scale projects.

Ms. Sipes noted environmental impact statements are extensive and require a lot of time and resources. She did not believe this is what the CAC should require and review for development projects.

Dr. Huntley asked what other avenues Ms. Sipes could suggest.

Ms. Sipes believed a simple internal review or rubric would be a better option if the CAC wants to be involved in the development process. She agreed with Ms. Bensley that analyzing the Code and seeing what changes they can make would be beneficial.

Dr. Huntley suggested developing a rubric of conservation standards for a development project to meet. Their intention would be to have those changes implemented into the Code via ordinance which would be approved by Council. The CAC would not need to have much involvement in the plan review process if a project is required to meet those standards by ordinance.

Ms. Bensley believed this would be reasonable. It would effectively tailor the existing green building code point system to require developers to meet a baseline of standards for all projects, but then allow them to choose between others they can meet to pass.

Ms. Sipes asked if the green building code is in a separate document from the City's Code.

Ms. Bensley stated the City has adopted the 2018 IECC with amendments, as can be seen in Chapter 7, Building. The City's amendments are in the Code and include the point system she referenced.

Ms. Smith believed to be beneficial to require certain items by default and then require the developer to choose what else they can add. The CAC has historically only seen projects after they have gone through most of the review process and can only voice their desired changes.

Ms. Sipes stated the CAC can move ahead of the process by incorporating their desired standards into the Code.

Ms. Smith noted this discussion pertains only to development plans. There are other conservation efforts the City should incorporate into their own practices by ordinance.

Mr. Mateyko stated science lays out the City's duty in protecting the public welfare.

Mr. O'Donnell thanked Ms. Bensley for the resources and information she provided to the CAC. He hoped staff and the CAC could have more cooperative collaboration in the future. He understood her advice that the CAC should focus on the City Code rather than individual projects. Projects are not currently required

to meet certain environmental standards and cannot be rejected without the threat of a lawsuit. The CAC and City staff can collaborate in amending the Code to require new conservation standards. He believed addressing climate change and reducing emissions are currently the CAC's top priority.

Ms. Bensley suggested looking at Chapter 32, Zoning, and identifying things the CAC would like to changing to apply uniformly to all projects submitted. This will be where different uses permitted by right or by Special Use Permit can be found. Many of those uses have associated special conditions that the City can add new criteria to. In her experience, developers will often push back on what is encouraged but not what is required. If the Code is changed to require certain conditions, developers can judge whether their project is viable to move forward prior to submission. She reiterated the CAC may find interest in analyzing the Building Code and Zoning Code, which covers items such as area requirements, density, and types of uses in each district. There are appendices related to items such as landscaping and design. City staff understand the goal of the CAC is sustainability and addressing climate change. However, staff aim to address specific items that can be changed within the Code that would align with the CAC's desired goals.

Council's prioritization exercise will take place their meeting on the following Monday. She suggested a member of the CAC attend and encourage them to direct Planning staff to work with the CAC to update the Building and Zoning codes to promote sustainability and climate change goals.

Dr. Huntley stated there are topics the CAC has discussed but need more work before they can make concrete motions, including ideas of what ordinance changes the CAC may want to make. She noted Mr. Mateyko's suggestion encouraging City Council to consider climate adaptation and mitigation as part of the City's welfare consideration.

Mr. Mateyko stated the City has a duty to protect public health, safety, and welfare under the new climate.

Dr. Huntley suggested drafting a recommendation for Council to encourage them to consider the impacts of climate change when discussing public health, safety, and welfare.

Mr. Mateyko reiterated all work done by the City should be done to accommodate the current climate.

Dr. Huntley suggested drafting a larger recommendation in May. She believed the CAC could make another recommendation at this meeting for next week's Council prioritization exercise to request City Council to direct the Planning & Development Department to work with the CAC to amend the City Zoning Code by making it more sustainable.

Ms. Smith asked if the handouts Mr. Mateyko referenced included the law he referenced the city was required to abide by.

Mr. Mateyko stated the documents consist of scientific evidence but not legally binding items. He hoped to provide them to the Mayor and City Solicitor.

Dr. Huntley proceeded to draft a recommendation for Council's prioritization exercise. There are many topics that were discussed during this item, but she did not believe they all could be addressed at this meeting. Many should be addressed with further discussion at a future meeting.

Ms. Bensley stated this recommendation could be entered as a public comment on behalf of the CAC during the Council prioritization discussion.

Ms. Sipes asked how a resident could go about obtaining a plot at the Dickey Park Community Garden.

Ms. Bensley directed her to the Parks & Recreation page on the City of Newark's website. They can be signed up for in the same manner as any other recreational activity offered by the City.

Mr. O'Donnell asked what portion of the Code addresses gas stations.

Ms. Bensley explained Chapter 32, Zoning, the BC – General Business district is the only district in which automobile fueling stations are an allowable use and only by a Special Use Permit. They are not a by-right use.

MOTION BY DR. HUNTLEY, SECONDED BY MR. CAMBRON: THAT THE CONSERVATION ADVISORY COMMISSION (CAC) RECOMMEND TO CITY COUNCIL TO SET AS ONE OF THE PRIORITIES FOR ITS PLANNING DEPARTMENT IN 2024 TO WORK WITH THE CAC TO IMPROVE THE SUSTAINABILITY ASPECTS OF THE CITY'S ZONING CODE.

MOTION PASSED. VOTE: 7 TO 0.

AYE: CAMBRON, HUNTLEY, O'DONNELL, MATEYKO, PALANISAMI, SIPES, SMITH.

NAY: 0.

ABSTAIN: 0.

ABSENT: IRVINE, RYPKEMA.

8. ANNUAL REPORT AND 2024 GOALS/PRIORITIES (20 MINUTES)

Dr. Huntley stated she drafted the 2023 Annual Report and shared it with the committee for their review over the next couple of months. She asked each member to send her suggested edits and she will try to incorporate them. Then, if needed, she will have an updated draft a week before the next CAC meeting in May for approval at the meeting. She suggested approving the 2023 Annual Report without the 2024 goals and priorities as they have not yet had a chance to discuss them. She recommended the CAC select 6-8 topics to discuss during the remaining eight CAC meetings in the year, in addition to continuing public outreach and conservation articles.

Ms. Smith suggested after picking the goals, each member of the CAC choose a goal to focus on and monitor its progress. It would give each member the responsibility to contact and follow up with others to find new ways to move forward.

9. SUSTAINABILITY PLAN REVIEW (15 MINUTES)

Dr. Huntley noticed the CAC has previously discussed hiring a consultant to help in their 2024 task to revise the Sustainability Plan. She will make a motion to move forward and then open the table to discussion.

MOTION BY DR. HUNTLEY, SECONDED BY MR. CAMBRON: FOR THE CAC TO ALLOCATE \$25K OF ITS 2024 BUDGET TO HIRE A CONSULTANT TO LEAD THE SUSTAINABILITY PLAN REVISIONS. THE SCOPE

OF THE REVISIONS SHALL INCLUDE A REVIEW OF PROGRESS TOWARDS EACH OF THE GOALS IN THE PLAN, AN ANALYSIS OF HOW THE GOALS SHOULD BE ADJUSTED, WHAT GOALS SHOULD BE ADDED OR DELETED UNDER EACH OF THE FOUR MAJOR HEADINGS, AND THE DRAFTING OF A REVISED SUSTAINABILITY PLAN.

Ms. Smith asked if that would be enough money for the revision.

Dr. Huntley stated Jayme Gravel, Chief of Community Engagement, believed \$25K would be a good price point.

Mr. Mateyko asked if this item could be tabled and continued at another time.

Dr. Huntley did not want to table the adoption of a budget for this item because it was imperative for the CAC to hire someone who has time to work on this.

Mr. Mateyko wanted to hear a report on how the money spent on AECOM has proven useful to the City, as he wondered if they would be needed in addition to this consultant.

Dr. Huntley noted the City will likely hire AECOM as the consultant.

Mr. Mateyko stated this should be an agenda item where the Planning Commission could ask the CAC to provide them with \$20K to hire the consultant to interact with them and not the CAC.

Dr. Huntley explained the process for writing the original Sustainability Plan was to hire a consultant who interacted with all City departments. Additionally, the consultant worked with a steering committee, which the CAC would play the role of, in the revisions. The consultant will gather the information for the CAC, and the CAC will work with the consultant to develop the proposed revisions to the Sustainability Plan.

Ms. Herring noted Ms. Gravel provided an update stating the quote received for the original Sustainability Plan project was \$80K, per the City Manager, as opposed to the \$56K she had told Dr. Huntley.

Dr. Huntley noted this project will be significantly smaller and cheaper due to only needing revisions rather than an entire rewrite. She asked if the CAC wanted to consider allocating \$30K instead of \$25K due to the updated quote. If there is still not enough funding to cover it, the CAC could always return to this discussion.

Ms. Smith asked if there would be any match or involvement from the City.

Dr. Huntley did not believe the City planned to commit any funds from other sources and withdrew her previous motion.

MOTION BY DR. HUNTLEY, SECONDED BY MR. CAMBRON: FOR THE CAC TO ALLOCATE UP TO \$30K OF ITS 2024 BUDGET TO HIRE A CONSULTANT TO LEAD THE SUSTAINABILITY PLAN REVISIONS. THE SCOPE OF THE REVISIONS SHALL INCLUDE A REVIEW OF PROGRESS TOWARDS EACH OF THE GOALS IN THE PLAN, AN ANALYSIS OF HOW THE GOALS SHOULD BE ADJUSTED, WHAT GOALS SHOULD BE ADDED OR DELETED UNDER EACH OF THE FOUR MAJOR HEADINGS, AND THE DRAFTING OF A REVISED SUSTAINABILITY PLAN.

MOTION PASSED. VOTE: 5 TO 0.

AYE: CAMBRON, HUNTLEY, O'DONNELL, SIPES, SMITH.

NAY: 0.

ABSTAIN: PALANISAMI, MATEYKO.

ABSENT: IRVINE, RYPKEMA.

Ms. Smith noted AECOM still owes the CAC \$25K worth of work on the next steps for the greenhouse gas emissions inventory.

Dr. Huntley stated it would be addressed in the next meeting.

10. MONTHLY CONSERVATION ARTICLE WITH THE NEWARK POST (3 MINUTES)

- March – Light Pollution – Sheila Smith
- April – Street Greening – John Mateyko

Dr. Huntley asked if any commission members wanted to write a conservation article in the future months. There were no responses.

11. OLD/NEW BUSINESS

Dr. Huntley reminded the CAC to adhere to FOIA regulations by not sending items to the entire commission. If a commission member wants to disseminate items to the group, they should send the item to Ms. Herring, who will distribute them.

She noted the Public Works & Water Resources Department is working toward repairing a footbridge in Christiansted and are asking the CAC to contribute \$10K toward the cost. This will be on the next agenda.

Ms. Smith believed the CAC voted against providing this funding in the past when the project was originally proposed.

Ms. Herring noted there will not be an April meeting. The CAC will reconvene in May.

Dr. Huntley encouraged everyone to come and support the CAC at the NCCL Greenfest.

12. NEXT MEETING – MAY 14, 2024

MOTION BY DR. HUNTLEY, SECONDED BY MS. SIPES: TO ADJOURN THIS MEETING.

The meeting was adjourned at 9:20 p.m.

Jordan Herring
Administrative Professional I

/jh