CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

FEBRUARY 24, 2025

Those present at 6:30 p.m.:

Presiding:	Mayor Jerry Clifton District 2, Corinth Ford District 5, Jason Lawhorn Deputy Mayor, District 6, Travis McDermott
Absent:	District 1, John Suchanec District 4, Dwendolyn Creecy District 3, Jay Bancroft
Staff Members:	Planning & Development Director Renee Bensley City Secretary Tara Schiano City Solicitor Paul Bilodeau Deputy City Secretary Diana Reed Assistant City Manager of Personnel Devan Hardin Assistant City Manager of Operations Jeff Martindale *(Virtual)* Parks & Recreation Director Paula Ennis *(Virtual)* Planning & Development Deputy Director Jessica Ramos-Velasquez *(Virtual)* Public Works & Water Resources Director Tim Filasky Public Works & Water Resources Deputy Director Ethan Robinson Chief of Community Engagement Jayme Gravell *(Virtual)* Parking Manager Marvin Howard *(Virtual)* Parking Supervisor Courtney Mulvanity Senior Planner Michael Fortner Planner I Katya Raskin

---

1. Mr. Clifton called the meeting to order at 6:30 p.m.

2. <u>EXECUTIVE SESSION</u>

A. Executive Session pursuant to 29 *Del. C.* §10004 (2) for the purpose of preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property.

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 *DEL. C.* §10004 (B) (2) FOR THE PURPOSE OF PRELIMINARY DISCUSSIONS ON SITE ACQUISITIONS FOR ANY PUBLICLY FUNDED CAPITAL IMPROVEMENTS, OR SALES OR LEASES OF REAL PROPERTY.

MOTION PASSED. VOTE 4 TO 0.

Aye – Clifton, Ford, Lawhorn, McDermott.
Nay – 0.
Absent – Suchanec, Bancroft, Creecy.

(Secretary's Note: Mr. Suchanec and Dr. Bancroft arrived during Executive Session.)

3. <u>RETURN TO PUBLIC SESSION</u>

A. Potential vote to give direction to the City Manager.

Council exited Executive Session at 7:05 p.m.

MOTION BY MS. FORD, SECONDED BY DR. BANCROFT: THAT COUNCIL DIRECT THE CITY MANAGER TO TAKE ACTION AS AGREED UPON IN THE EXECUTIVE SESSION.

MOTION PASSED. VOTE: 5 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, McDermott.
Nay – 0.
Absent – Creecy, Lawhorn.

4. SILENT MEDITATION & PLEDGE OF ALLEGIANCE

Mr. Clifton asked for a moment of silence and the Pledge of Allegiance.

Mr. Clifton explained the procedures for the hybrid Microsoft Teams Meeting Platform. When beginning each item, the chair would call on the related staff member to present. Other than for land use applications, when their presentation was complete, he would call on each Council member on the dais for comment. Following, he would call on all members of the public who are present, and then those remote, to offer their comments. When a Council member had additional questions or comments, they should ask the chair to be recognized again after all members had the opportunity to speak. With land use applications, following presentations from both staff and applicant, he will seek comments from members of the public that are either present or remote before calling upon each Council member for their comments. He instructed in-person attendees to sign up on the sign-in sheet near the entrance of the Council Chamber if they wished to provide public comment. At the appropriate time, the chair would call on them to speak. Although all public comment is welcome and appreciated, Council requests that during meetings with higher attendance, that public commenters be mindful of others wishing to speak and condense their own comments to the best of their ability. If virtual attendees wished to comment, they should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak. The Microsoft Teams chat would be disabled during the meeting. All lines would be muted until individuals were called on to speak, at which point the speaker's mic would be enabled and they could unmute themselves to give comment. Public comments were limited to 5 minutes per person, and no time will be ceded. All speakers needed to identify themselves prior to speaking with their name and district or street address. When there were Council members attending remotely, he would call on them at the appropriate time for their vote. All votes were required to be audible and no visible voting would be accepted. He asked all Councilmembers using Teams at the dais to turn off their speakers and microphones to prevent feedback. He asked all attendees to keep cameras off until called on to speak. Public comments must be related to City business or affairs, or to the particular agenda item. All members of the public that violate this rule will first be warned to cease and desist. Following said warning, if the violation persists, the offender may be removed from the premises or have their microphone disabled for the remainder of the meeting. He stated the City of Newark will have zero tolerance for any hate-speech or vulgar language, as such in no way relates to City business or to any agenda item. If this occurs, there will be no warning given. The consequences for such heinous acts include being immediately removed from the premises or having the offender's microphone disabled for the remainder of the meeting.

5. 1. PUBLIC PRESENTATION: (15-minute limit): None

6. 2. ITEMS NOT ON PUBLISHED AGENDA

A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

7. 2-B. UNIVERSITY

(1) Administration (5 minutes per speaker) (10 minutes):

6:45

Caitlin Olsen, UD Administration, shared this is the time of year for decision days at the University, where accepted students make their final decisions. Upcoming "decision days" are March 8th and April 12th. The University expects around 1,000 people to attend. Additionally, the University's summer camp guide has been posted, of which some of the camps take place on campus. These camps range anywhere from academic to recreational. Finally, the University is closely monitoring the impacts of recent executive orders from the federal branch as they are an entity that receives federal funding. This information is available for the public to view and monitor through the main UD website. She encouraged the public to reach out if they have questions that cannot be answered on that website.

8. 2-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes): None

9. 2-C. CITY MANAGER (10 minutes): None.

10. 2-D. <u>COUNCIL MEMBERS (5 minutes):</u>
10:05
<u>Mr. Lawhorn:</u>
- No comment.

<u>Ms. Ford:</u>
- Noted she and Mr. Suchanec recently discovered the Main Street Empower Center, which helps and gives counsel to individuals without secure housing, must relocate from its current location at the Newark United Methodist Church due to lack of available space in the afternoon. She noted she, Mr. Suchanec, the Empowerment Center Director, and Rev. Corey Fields are currently seeking a solution to this problem as they would prefer the Empowerment Center to remain on Main Street. The New Ark United Church of Christ has given them temporary shelter until June, and that site cannot remain a permanent home for it with the upcoming plans. She wanted to inform the public this search is ongoing, and that this is a vital part of the community that provides excellent service for people in need.

Mr. Clifton thanked Ms. Ford and Mr. Suchanec for their work and efforts to move this initiative forward.

<u>Mr. Suchanec:</u>
- Stated the Empowerment Center offers various services from food, clothing, support, and counseling. He noted this is an essential part of the community. There will be meetings around this initiative scheduled in the next few weeks. He believed this process would be incredibly challenging as the Empowerment Center does not have a dedicated budget for renting space. The City could potentially negotiate discounting, but there will still be a challenge in finding funding to solve this problem. While long-term solutions may arise, the City may have to find a short-term solution, potentially by providing temporary funding support, to keep this service functional within the City.

<u>Mr. McDermott:</u>
- No comment.

<u>Dr. Bancroft:</u>
- Hoped to find a solution to this problem. He reminded the City is trying to be mindful of its finances, but he thanked Mr. Suchanec and Ms. Ford for their work.
- Noted there was an assembly discussion revolving around the City's long-term power needs and the instability of the grid long-term. He noted this is a need that the City does not have a good plan for. This discussion planned to look at all the factors involved and determine a plan to improve Delaware's independence and resilience. He reminded we import a fair amount of our power, which constitutes the need to think about the issues on multiple scales. He believed long-term resilience is key as they rely on their neighbors who may not have the City's interests in mind during times of struggle. He noted that the Indian River Coal Plant only supplied 0.03% of the City's power but was paid $6 million a month by the City before its closure. He hoped this fee's stop would relieve the constituency of increasing prices. He thanked all who are keeping informed of this situation of the Delaware Municipal Electric Corporation (DEMEC) and the grid.

<u>Mr. Clifton:</u>
- Noted he and Rep. Cyndie Romer were invited to speak to the Arbor Park Civic Association. While Delmarva does not impact this association, Delmarva was a large part of the conversation. A question during this discussion was how Delmarva power bills will impact Newark; the "quick and easy" answer is that it will not make a significant impact. This helps Newark's residents appreciate the City's contract with DEMEC and that the City is a citizen-owned electric company.
- Stated he would follow up with City Manager Tom Coleman to see if the City can use the Inform Me notification system on a smaller scale for residents directly impacted by specific issues, such as the recent discussion around Folk Park.

Renee Bensley, Planning & Development Director, noted. InformMe is an opt-in calling list that requires a resident to opt into it to receive notifications. This issue would be a matter of whether the City is at the maximum number of lists they can have and if they can encourage residents to sign up for specific lists depending on the type of notifications they would like to receive. She was unsure how granular it would be regarding geographic-specific issues. She would follow up with Council with more information.

11. 2-E. <u>PUBLIC COMMENT (5 minutes per speaker) (10 minutes):</u> None

12. 3. <u>APPROVAL OF CONSENT AGENDA</u>: (1 minute)

A. Receipt of January 2025 Alderman's Report

B. Receipt of the February 10, 2025 Council Meeting Minutes

C. ***First Reading* – Bill 25-11** – An Ordinance Amending Chapter 27, Subdivisions, Code of the City of Newark, Delaware, By Adding Definitions and Updating Addressing Standards for Buildings in the City of Newark – ***Second Reading* – March 24, 2025**

D. ***First Reading* – Bill 25-12** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Amending Definitions and Adding Hospitals as a By-Right Use Within the BB (Central Business District) and BC (General Business) Zoning Districts – ***Second Reading* – March 24, 2025**

19:56

Ms. Schiano read the consent agenda into the record.

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

13. 4. <u>APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:</u>

A. Appointment of Gilbert Nichols to the District 1 Position on the Parking Advisory Committee for a Term to Expire on October 15, 2026

21:06

Mr. Suchanec believed Gilbert Nichols was qualified and indicated his interest in taking a position on the Parking Advisory Committee. He believed the credentials listed on Mr. Nichols' application could apply well to this problem.

The Mayor opened the table to Council comment.

Ms. Ford noted this approval will result in the Parking Advisory Committee reaching a quorum. She wanted the committee to have its first meeting as soon as possible before any of the current members leave.

Mr. Lawhorn thanked Mr. Nichols for offering to serve on this committee. He requested staff to ensure that the committee has a copy of the Parking Subcommittee report and its related documents for their review before their first meeting.

Ms. Bensley stated this was the intent of the initial kickoff with the Parking Advisory Committee. The committee would start with an overview of Parking, the Parking Division, and the City's history of parking efforts up to the present day. This would likely encompass the first two meetings of the committee. Staff will work to find a date and time that works for all four members to meet. A previous issue was that there was a quorum for the committee, but the members could not meet at the same time. Staff hope this will not be an issue with the current lineup of the committee.

There was no public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. SUCHANEC, SECONDED BY MS. FORD: THAT COUNCIL APPOINT GIL NICHOLS TO THE DISTRICT 1 POSITION ON THE PARKING ADVISORY COMMITTEE FOR A TERM TO EXPIRE OCTOBER 15, 2026.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

14. 5. <u>ITEMS NOT FINISHED AT PREVIOUS MEETING:</u> None

15. 6. <u>SPECIAL DEPARTMENT REPORTS:</u> None

16. 7. <u>FINANCIAL STATEMENT:</u> None

17. 8. RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:

A. Recommendation to Award a Contract Stemming from Request for Proposal (RFP) 24-04 Municipal Planning Services and Amend the FY2025 Operating Budget to Transfer Unused Contractual Services Funds from FY2024 to FY2025

25:00

Ms. Bensley explained RFP No. 24-04 was issued in November 2024 for general municipal planning services. Five firms responded, and after the review of the submissions and subsequent presentations, staff are recommending Council award this contract to three firms. The three firms (AECOM, Rossi Group, and Verdantas) have strengths in various areas that provide a well-rounded range of skills to help enhance the department's capacity to complete items on Council's prioritization list without requesting additional full-time employees (FTEs). Through reviewing the cost sheets provided, the three firms had similar ranges for each position that may be assigned to a project. For projects assigned under this RFP, project scopes would be provided to the firm, so staff can compare pricing and approach before a final assignment is made. Current funding available for this contract in the FY2025 budget is $115,000 between the budgets for the Planning and Code Enforcement divisions. This funding is intended to begin the outreach process for developing Comprehensive Development Plan VI, to be completed in 2026, and to review and adopt the 2024 International Code Council (ICC) updates. As part of this agenda item, staff also request that Council amend the FY 2025 operating budget to transfer $195 unused dollars from FY2024 to the current budget year to address additional Council prioritization projects. If the budget amendment is adopted, the total funding available for the contract in FY2025 would be $310,000. Subsequent years' funding will be determined through the annual budget appropriation process, as this is a time and materials contract with engagements on a project-by-project basis. Approval of this contract does not oblige Council to specific funding in future budget years outside of completing awarded projects. She noted the memo date referenced in the motion should be corrected to February 14th instead of February 5th.

The Mayor opened the table to Council comment.

Mr. Lawhorn noted a large priority will be the development of Comprehensive Development Plan VI. He asked for further clarification on other items, such as the unified development code.

Ms. Bensley explained the Planning Commission included the unified development code as an item they want to move forward with in their work plan. This would be behind several other projects being worked on by the City. She noted some examples of how the additional money would be utilized: a comprehensive electrical vehicle (EV) update, completing the rental and business license audit, and assistance with the climate action plan as the next part of the Sustainability Plan process.

Mr. Lawhorn asked if this would be paid for all at once as part of one project or "as we go."

Ms. Bensley noted the money would be available in the budget, but the projects would be considered on a project-by-project basis. Staff would create a scope for each project, give it to each of the three vendors, and they would return with what they believe their estimate for pricing would be as well as the time and their approach. Based on those three submissions, staff would exercise their judgment to decide which one would get each project.

Mr. Lawhorn asked if each of those would warrant Council approval.

Ms. Bensley clarified this would be a general municipal planning service contract. Anything subsequent would be awarded administratively.

Mr. Lawhorn was unsure how many items Ms. Bensley named were Council directives. He asked when the 2025 Council prioritization discussion would take place.

Ms. Bensley stated it is scheduled for after the election.

Mr. Lawhorn hoped those items would be included in that discussion so Council could determine which items they would like the most.

Ms. Bensley noted that some of the items are being worked on as the State mandates them, and they will be top priorities. Staff will work on these State-mandated initiatives before Council has their prioritization discussion.

Ms. Ford noted the EV policy is a large priority for Council. She wanted to ensure Council would still have input through this process, such as setting priorities for other tasks to prevent them from being “squeezed out” due to budget constraints.

Ms. Bensley clarified staff are working based on the existing prioritization list but could incorporate new ideas based on Council’s wishes.

Ms. Ford believed Council needed to set their priorities as soon as possible.

Mr. Suchanec asked for clarification that the items listed this evening, and others were on Council’s priority list.

Ms. Bensley believed the only item not specifically on Council’s priority list was the Unified Development Code; it is instead in the Planning Commission’s work plan. Staff looked at this idea in 2025 in terms of getting an estimate and project scope. They were not planning to move that forward as part of the project.

Mr. Suchanec asked if this would typically come to Council instead of the Planning Commission.

Ms. Bensley noted the Planning Commission establishes their work plan each year, which will be presented to Council on March 17th along with the next step in staff’s affordable housing outreach project.

Mr. Suchanec asked if this will be the first time Council sees details on the Unified Development Code.

Ms. Bensley stated this is part of the work plan request, as there is not much detail to share. Interest has been expressed in finding out the scope and pricing of this idea, as New Castle County has its own unified development code.:

Mr. Suchanec believed it appears on the surface that Council should approve the award of this contract as they have been told repeatedly there are issues in fulfilling their wishes due to staffing challenges. He asked if the named initiatives would be given estimated dates of completion.

Ms. Bensley stated this would be a part of staff providing project scopes to each awarded firm. In return, they would receive estimated completion dates, pricing, and methods of approach.

Mr. Suchanec asked if each project would come back to Council.

Ms. Bensley explained while each project will not come back to Council, Council will be incorporated as part of the project, such as the Comprehensive Development Plan 10-year update which is slated for an October 2026 approval. Staff will need to receive a project scope for the 2024 ICC adoption. She noted it may not be the entire ICC Code that staff ask to update; it may be some of the more extensive codes only. As the ICC is comprised of various smaller codes, some of this could be done in-house by staff. The comprehensive fee review and update has been mentioned repeatedly during several budget years, and would include reviewing where the fees are, where they should be, if there are fees that the City should charge but are not, if there are fees that the City is charging but should not, and how to use those fees to provide affordable housing incentives potentially. Staff do not plan to move beyond receiving a scope and estimate of the Unified Development Code in 2025 and will not be launched in conjunction with Comprehensive Development Plan VI. The rental and business license audit needs to be completed so staff can pursue other Council-backed initiatives. Staff are hoping to quickly start the items that have either been on previous prioritization lists, are mandated by the State, or need to be completed to move forward on other initiatives.

Mr. Suchanec noted the Comprehensive Development Plan update is mandatory, and he has asked repeatedly for rental license and business permit updates. However, he was hesitant to move forward on the Unified Development Code as he was unsure what the impact would be on Newark’s residents.

Ms. Bensley noted the memo states “potential projects.” Staff will take this evening’s feedback and input from Council’s prioritization discussion and adjust accordingly.

Mr. Suchanec believed staff and the consultant should work on the items specifically prioritized by Council, which does not include the Unified Development Code.

Ms. Bensley stated that this can be removed if that is Council's wish.

Mr. Suchanec wanted to amend this contract award motion to specifically state that the consultant's work will be limited to the priority list provided by Council.

Ms. Bensley stated staff did not object to adding this language to the motion. However, she requested the amendment also include State-mandated items as many are not included on Council's priority list.

Mr. Clifton asked the City Solicitor to opine on this matter,

Mr. Bilodeau suggested hearing the rest of Council's and any potential public comments before addressing potential motions and amendments.

Mr. McDermott agreed with the previous statements made by Council. He knew there was concern about spending money on a consultant but not seeing results. He believed this contract award had many open ends and not much definition of what the money will be spent on. He believed that issue could be rectified by stating the consultant will focus on State-mandated initiatives with the addition of Council priorities. He noted the per-hour pricing of a senior professional and asked who the staff equivalent would be.

Ms. Bensley responded that she would qualify. A principal professional would be the Planning & Development Deputy Director for Planning projects and the Code Enforcement Manager for Code Enforcement projects.

Mr. McDermott noted those staff members do not make money equivalent to what will be paid to the consultant. He wondered how many employees would need to be hired to fulfill these roles.

Ms. Bensley stated that a large part of this contract's purpose is to scale up, meet Council's demands, and address the growing backlog of projects. They hope this will be temporary, only lasting long enough to get back on even ground regarding staffing levels and Council expectations. She noted she has repeatedly addressed Council and has not met their expectations due to staffing constraints. However, this contract will allow these expectations to be met and provide the results to Council that they have voiced they are not seeing. She would note that many projects on the prioritization list must be done between the projects mandated by City and State Code. She stated the number of items under this contract are items staff need to work to complete. However, this limited staffing means they cannot accomplish everything Council wishes.

Mr. McDermott commended Ms. Bensley on an outstanding job. He noted he routinely relays to Council to keep their personal prioritization lists small as longer lists are not realistically achievable. He hoped approving this contract would help staff address the backlog of priorities so the City can focus on crucial items like the Comprehensive Development Plan. He hoped this would also lead to not needing to ask for new employees during the next budget cycle. He believed achieving these goals is incumbent on Council to be realistic about what they wish for the City to accomplish each year. He wanted to ensure that staff feel supported by Council in achieving these initiatives.

Ms. Bensley clarified the Planning & Development Department would not request new positions until Enterprise Permitting and Licensing (EPL) is thoroughly underway.

Dr. Bancroft echoed Council's previous statements, as they are sometimes unclear on where their money is going and must answer the public when they ask. He noted the Unified Development Code is a way to synthesize the Code in a way that makes it easier for the public to understand. It is meant to improve efficiency and prevent overlapping regulations when pursuing initiatives like affordable housing.

Mr. Clifton agreed with Council's previous statements and that the City's priorities should be those stated by Council. The Planning & Development Department is facing a significant backlog, but some people want to invest money in Newar's community. If the City brings on new positions to address that backlog, they must consider if that is sustainable in the long term. He hoped the approval of this contract will help address these issues.

There was no public comment, and the Mayor returned the discussion to the table.

Ms. Ford offered her amendment.

Mr. Lawhorn stated the existing list will be revised in May. This motion will be carried from today's list and modified according to the May discussion. He believed Council improves their priority discussion process every year but advised to ensure that their goals are specific, measurable, and attainable this year. He wanted to ensure the details of a plan are identified so Council knows precisely what is needed to get to the finish line.

MOTION BY MS. FORD, SECONDED BY MR. SUCHANEC: TO AMEND THE MOTION TO ADD THE WORDS, "THE ABOVE COMPANIES WILL WORK ON PROJECTS ON THE APPROVED COUNCIL LIST OF PRIORITIES AS WELL AS STATE AND CITY MANDATED PROJECTS."

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy

MOTION BY MS. FORD, SECONDED BY MR. MCDERMOTT: THAT MAYOR AND COUNCIL AWARD A CONTRACT FOR TWO YEARS WITH THE OPTION TO ADMINISTRATIVELY RENEW FOR TWO ADDITIONAL ONE-YEAR PERIOD STEMMING FROM REQUEST FOR PROPOSAL NO. 24-04 TO AECOM TECHNICAL SERVICES, ROSSI GROUP, AND VERDANTAS LLC FOR MUNICIPAL PLANNING SERVICES IN AMOUNTS NOT TO EXCEED THOSE OUTLINED IN THE MEMO DATED FEBRUARY 5, 2025 OR ALLOCATED IN FUTURE YEARS' BUDGETS, AND THAT MAYOR AND COUNCIL AMEND THE FY2025 OPERATING BUDGET TO TRANSFER $110,000 OF UNUSED PLANNING CONTRACTUAL FUNDS AND $85,000 IN UNUSED CODE ENFORCEMENT ENGINEERING FUNDS FROM FY2024 TO FY2025 WITH THE AMENDMENT THAT WAS APPROVED THAT CONSULTING COMPANIES WILL WORK ON THE PROJECTS ON THE APPROVED COUNCIL LIST OF PRIORITIES AS WELL AS STATE AND CITY CODE MANDATED PROJECTS.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

18. 9. <u>ORDINANCES FOR SECOND READING & PUBLIC HEARING:</u>

A. Bill 25-05 – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Adding Church, or Other Places of Worship, Seminary or Convent, Parish House or Sunday School Building as a By-Right Use Within the BB (Central Business District) Zoning District – Planning And Development Director (15 minutes)

53:57

Ms. Schiano read the ordinance into the record.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: FOR SECOND READING AND PUBLIC HEARING.

Ms. Bensley explained this issue was raised as part of the discussion regarding the potential affordable housing mixed-use development that the New Ark United Church of Christ is exploring at their 300 East Main Street location. One of the barriers identified for this potential project was the number of discretionary approvals required for this project, which would make it less competitive for State and Federal funding programs as discretionary approvals can result in lower scores for applications. One such discretionary approval is the current Special Use Permit required for churches and other religious institutions. Several churches already in the BB zone have not caused issues.

She continued that staff believe that changing this section of the Code to enable churches as a by-right use would bring the City's Code into greater compliance with the Religious Land Use and Institutionalized Persons Act of 2000, which is federal legislation protecting religious institutions from discrimination and zoning laws. Specifically, this law prohibits zoning regulations from having unequal treatment or unreasonable limitations than other similar uses. Moving churches and other religious institutions to "by-right" uses would eliminate this conflict in the BB zone. Staff plans to bring a similar amendment for other commercial zones as part of the more extensive discussion of changing uses in various zoning categories on the March 4th Planning Commission agenda to be brought to Council for discussion. The proposed amendment is consistent with the Comprehensive Development Plan as it is considered an institutional use of which others are by-right in this district. The Planning Commission reviewed this amendment at their December 3rd meeting and voted 7-0 to recommend Council approve the proposed language.

The Mayor opened the floor to public comments.

Former County Councilwoman Elisa Diller, 182 King William Street, was speaking in her capacity as a minister and believed this proposal made sense. She recalled that when Council was working on the charrettes in 2022, she was intrigued by what she had seen when walking along Main Street and reviewing the maps. Despite being at its location for a long while, she realized the Methodist Church would not have been a conforming use in the BB zone. She believed it made sense to take care of this issue now.

Chris Locke, Lang Development Group, asked if the provision exempting churches from being taxed would apply to only the space being used as a church, or the entire building if it is in BB zoning.

Ms. Bensley clarified that it would only apply to the space being used as a church.

There was no further public comment, and the Mayor opened the table to Council comment.

Mr. McDermott believed this proposal made sense and had no issues with it.

Dr. Bancroft thanked the Planning & Development Department for the information provided. He did not see this proposal as "religious favoritism." He believed this is a great opportunity for Council to incentivize the City's nonprofits to address affordable housing.

Mr. Lawhorn fully supported this proposal. However, he knew that some parties sometimes use religious institutions to scam the public. The Special Use Permit serves as potential protection from this problem, but this proposal removes that part of the process. His only concern was if Council is removing this protection by eliminating the Special Use Permit part of the process.

Ms. Bensley stated this proposal eliminates a potential lawsuit if Council turns down a Special Use Permit from a church in the BB zone, as there are other similar uses in that Zoning District. Potential criminal issues are addressed on a case-by-case basis through the Police Department.

Mr. Lawhorn noted that a legitimate church is not harmful to the community, but an individual who uses a church's image to take advantage of people harms the community.

Ms. Bensley believed the image of many for-profit institutions that are allowable by right in the district could also be used to scam people. Financial institutions, banks, and loan companies are allowable by right in the district, and their image is also frequently used in scamming operations.

Mr. Bilodeau noted that scams run through many fashions, such as messages about EZPass and mortgage documents.

Mr. Lawhorn understood.

Mr. Suchanec asked for clarification that if a building is erected with 20% church space, only that space will be tax-exempt and the remaining 80% would be subject to taxes.

Ms. Bensley explained this would depend on the remaining space's use. She gave the example of how there could be Newark Housing Authority (NHA) vouchered units that could be subject to additional tax exemptions. However, market-rate apartments could be taxed as any other apartment complex. This would be dependent on a case-by-case basis for the tenants utilizing that space.

Mr. Suchanec asked what would happen if the space was leased to another non-profit organization.

Ms. Bensley stated it would depend on the status of the individual organization.

Mr. Suchanec believed a developer could be incentivized to consider including nonprofit functions on a development's first floor.

Ms. Bensley stated such an idea is outside the scope of this bill, as this bill specifically addresses churches as a use in the BB zoning district.

Mr. Suchanec asked what specific process is used to take "by right" uses and make them allowable by Special Use Permit in the Code.

Ms. Bensley clarified that this is through the ordinance process.

Mr. Clifton believed Star Campus is 80% taxable as two floors are University space and eight are commercial. Marriott Courtyard is 75% taxable as they could not justify it would be 100% taxable due to the number of students working there. He noted that any nonprofit occupying such space will have their status determined by the Federal Tax Code. He believed this meeting made a lot of progress for Newark in starting the conversation related to the New Ark United Church of Christ project.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 25-05 AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.
Nay – 0.
Absent – 0.

(ORDINANCE NO. 25-07)

19. 9-B. BILL 25-06 – AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 300 EAST MAIN STREET – PLANNING AND DEVELOPMENT DIRECTOR *(30 MINUTES FOR 9B & 9C)*

1:07:17

Mr. Clifton announced items 9B & 9C would be discussed in unison.

Ms. Schiano read the ordinances into the record.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: FOR SECOND READING AND PUBLIC HEARING.

Ms. Bensley explained this application is requesting a Comprehensive Development Plan amendment and rezoning at this location to facilitate the construction of a potential mixed-use building with a church on the first floor and affordable housing units on the upper floor. However, this application does not have any new construction with it at this time as the major subdivision application will be submitted later pending the results of the ongoing engineering studies. This property is located along the north side of East Main Street between Market East Plaza to the west, Kelway Plaza to the east, and a City of Newark electrical substation to the north. The existing 300 East Main Street zoning is RD – Single-family Detached Residential. The existing church is permitted by right in the RD zoning district. The proposed mixed-use building with the first-floor church and upper-floor apartments is allowed by right in BB with the previous passage of Bill 25-05. The property adjacent to the east is zoned BB, which is within the boundaries of downtown, as defined in Chapter 27, Appendix 13(B), which is the design standards and guidelines for downtown properties. Given the potential project's mixed-use nature, BB was the most suitable for the desired conversion and more appropriate for the site than the existing RD zoning. However, even if this proposed project does not move forward, the BB zone is appropriate for the area to match the nearby properties in the downtown corridor.

She stated that this application does not currently conform to the Comprehensive Development Plan V 2.0. 300 East Main Street is located within Planning Section A. The proposed future land use designation will require a change to "mixed urban" from the current "residential low density" designation. Mixed Urban is consistent with other parcel designations in the East Main Street corridor within the Comprehensive Development Plan. However, this application does align and encourage affordable and safe housing in Chapters 5 & 10 of the Comprehensive Development Plan as outlined in the Planning and Development Report. No new construction or dwelling units are currently proposed as part of the application. Once the church has moved forward in its process and a major subdivision application is filed, it will go through the standard review process by staff before coming to the Planning Commission and Council. While the Subdivision Advisory Committee did not review this application, it was reviewed by the Land Use Division. Their comments are on Page 3 of the Planning and Development Report and have been integrated into this presentation.

Ms. Bensley noted that following the department review of the proposal, staff prepared the attached Planning & Development report and presented it to the Planning Commission on January 7th, with the recommendations that the Planning Commission recommends City Council approve the Comprehensive Development Plan amendment and rezoning for this site. The Planning Commission voted unanimously 7-0 to recommend approval of both items.

Rev. Elisa Diller, New Ark United Church of Christ, explained one reason behind moving forward with the rezoning was that this project cannot be done unless it is rezoned in a way that allows the church to exist on the first floor and a nonprofit developer to develop housing hopefully four stories up. This rezoning is consistent with surrounding properties. She noted the church is trying to do its part in assisting the City with its affordable housing deficit. She thanked both City staff and Council for the support they have provided the church. She believed there are few chances to approve projects like this, as Main Street properties do not often come available, let alone with a third-party commitment to provide affordable housing.

The Mayor opened the floor to public comments.

Angela Seguin, Ridgewood Glen, noted the state is in a deep housing crisis as Delaware's point-in-time count on January 24, 2024, noted the highest homelessness census since 2007 at 1,358 people. She is the Executive Director of Delaware's Domestic Violence Coordinating Council. Domestic violence is one of the leading causes of homelessness. The National Network to End Domestic Violence has identified that most service requests (53%) that domestic violence providers were unable to meet were for housing. 92% of homeless women report having experienced some form of sexual or domestic abuse during their lifetime, and over 50% report that domestic violence was the direct cause of their homelessness. 25% of people who are experiencing homelessness in Delaware are children under the age of 18. Black and African American people and families are five times more likely to experience homelessness in Delaware than white people and families. She clarified that she is both a resident of Newark and a member of the New Ark United Church of Christ. The congregation has explored the possibility of tearing down the existing structure and building a new structure to include affordable housing. This is a venture that involves risk. She stated that the congregation has a long history of striving to live their social justice values out in real life through action. She noted that when the congregation first decided whether to purchase the property at 300 East Main Street, members wondered if it was the right choice because property ownership and maintenance would take funding away from the other good work they wanted to contribute to the community. With much argument and debate, the group lovingly worked to make the unanimous decision to purchase the space. Since then, the church has made multiple efforts to help the community, such as installing solar panels, donating money and labor to Habitat for Humanity, supporting the local food pantry, and other efforts. She noted that the church is the current home of the Empowerment Center. She hoped Council would support approving Bills 25-06 and 25-07. She stated the City of Newark has a long history of putting its values into action and taking risks. She believed this was an opportunity to make a tangible difference and provide affordable housing.

Rev. Cynthia Robinson, New Ark United Church of Christ, thanked Council for their support and encouragement thus far. She noted that she has been the pastor of this church for over 11 years, and she appreciates that the City of Newark is a city of neighbors. This opportunity serves to help "love our neighbor." The church is willing to disrupt their lives for the well-being of their neighbors. She hoped the City and public could embrace this value, as well, for the sake of those who are the most vulnerable. She encouraged Council to use this value in moving forward with Bill 25-06 and 25-07.

Rev. Corey Fields, Calvary Baptist Church, supported Rev. Robinson and the church. He appreciated those who have already spoken about what this would take. He noted that those who lead the church are on the "front lines" of helping individuals with nowhere to go to survive. He thanked those helping to work on a new home for the Newark Empowerment Center. A constant frustration is that they work with people who may have other resources but need a house and have nowhere to be sent. He was encouraged by this example of people aiming to go above and beyond to put a small dent in a bigger problem. People of faith, residents, and worshipers in Newark are trying to make a bold step that takes a lot of effort and conversation regarding a complex issue. He knew any work done by Rev. Robinson would benefit the community.

Gilbert Nichols, District 1, believed it is excellent when people put their resources where their hearts are and are willing to move forward with this. However, it is their individual decision to do so. He noted that the origin behind districting, codes and other regulations is to set expectations for everyone about where they live, what goes on, and where they might invest things. He believed it seemed crass to compare the investment of human beings to financial investments. He noted discussions about the vision of downtown and Main Street and goals relating to bringing people in to get a tax base. He stated these conversations are legitimate and should not be labeled negatively. He advised that Council be careful and futuristic when thinking about how to change the nature of a situation because this project intends to help people who need it the most.

There was no further public comment, and the Mayor opened the table to Council comment.

Mr. McDermott believed this aligns with other rezoning that Council has approved for projects on Main Street, both in precedent and legal regards. He supported this project, believing people should do what they want with their property. He did not believe this project differed from any other mixed-use project brought before Council. He noted that more discussion about this project may occur when the plans come through.

Dr. Bancroft believed this to be a good example of the City's tolerance. He advised remaining careful of the surrounding neighbors. He noted Newark is not a very affluent city, but he believed it is positive that the church is exemplifying leadership through this initiative.

Mr. Suchanec believed the comments shared by the public accurately summarized this project. He believed this was a matter of people doing the right thing to help one another. He noted Council has approved other projects with housing on top and other uses on the bottom. However, this project is unique in that the residential units will be focused on affordable housing instead of student housing. The City does not have much land to build on, but this project creates new housing by taking much vision.

Ms. Ford fully supported this project and was excited to approach the approval process.

Mr. Lawhorn had no issues with the proposal and agreed with Rev. Robinson that this is a matter of disrupting their own lives to help others. He thanked the congregation for their work through this process, as it is a great effort to buy the property and then utilize it for these initiatives. He believed there is a rewarding feeling when helping the community and helping the church through this step in the process. He noted Council has discussed affordable housing for several years and his top priority issue with his constituents and throughout town. He believed seeing the community bring forward a solution to this problem is positive.

Mr. Clifton stated he was honored to be a small part of the process from the beginning of this project. He agreed with Mr. McDermott that there are other similar projects. Additionally, Council approved an NHA project across the street, directly correlating to this proposal. He noted he was honored to be Mayor when Sean's House was approved, which served the community in ways this project will, as well. A business owner had told him this project would be great as they needed more year-round employees. He noted he served for over a decade at Emmaus House Homeward Bound, which imploded when it had to go for a for-profit company. There was a debate whether to allow a fraternity in the building that at one time had a 30-day program and 9-month program for victims of abuse. He believed that approving a noble project like this is a chance that not many on Council will likely see again for the time they serve. This project will help house individuals on Main Street close to places like The Grove and other businesses where they can work or shop. He thanked the church for exemplifying their love of humanity through the undertaking of this project.

Ms. Bensley noted the Planning Commission had asked if they would consider the same application from any other property owner in the City, as this is being proposed by an organization that wants to provide affordable housing. She explained there is precedent within the City where private property owners have petitioned to have their property rezoned without being attached to a particular subdivision application. Any property owner can petition the City to have their property rezoned, whether for affordable housing or for profit. The Planning & Development Department treats all of these applications individually and equally, and all applications of this nature will go through the process of staff review and Council consideration.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT CITY COUNCIL APPROVE BILL 25-06, AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN DESIGNATION FOR 300 EAST MAIN STREET FROM "RESIDENTIAL, LOW DENSITY" TO "MIXED URBAN" AS DESCRIBED IN THE DECEMBER 31, 2024 PLANNING AND DEVELOPMENT REPORT.

MOTION PASSED. VOTE: 6 to 0.

MR. MCDERMOTT VOTED YES FOR THE MOTION DUE TO THE INFORMATION PRESENTED IN THE PLANNING & DEVELOPMENT REPORT.

DR. BANCROFT VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. SUCHANEC VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MS. FORD VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. LAWHORN VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. CLIFTON VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

(ORDINANCE NO. 25-08)

20. 9-C. BILL 25-07 – AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 53 WEST DELAWARE AVENUE – PLANNING AND DEVELOPMENT DIRECTOR (15 MINUTES)

1:37:01

MOTION BY MR. MCDERMOTT, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 25-07 AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

MR. MCDERMOTT VOTED YES FOR THE MOTION DUE TO THE INFORMATION STATED IN THE PLANNING & DEVELOPMENT DEPARTMENT REPORT.

DR. BANCROFT VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. SUCHANEC VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MS. FORD VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. LAWHORN VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. CLIFTON VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

Aye – Clifton, Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott.
Nay – 0.
Absent – 0.

(ORDINANCE NO. 25-09)

21. 9-D. BILL 25-08 – AN ORDINANCE AMENDING THE COMPREHENSIVE DEVELOPMENT PLAN BY CHANGING THE DESIGNATION OF PROPERTY LOCATED AT 53 WEST DELAWARE AVENUE – PLANNING AND DEVELOPMENT DIRECTOR (15 MINUTES)

1:37:58

Ms. Schiano read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MR. SUCHANEC: FOR SECOND READING AND PUBLIC HEARING.

Ms. Bensley explained that this application requests a Comprehensive Development Plan amendment due to a University applicant's recent purchase of the property. While no new construction is proposed as part of this application, this will facilitate an administrative subdivision to consolidate three lots into one currently in process. West Delaware Avenue bounds the property to the north, Carroll Court and Amstel Square Apartments to the south, a rental single-family house to the west, and other parcels owned by the applicant to the east. The existing zoning for 53 West Delaware Avenue is RM – Garden Apartments, the underlying zoning on the parcel while it was zoned UN – University when owned by the

University of Delaware. The existing community center is permitted in the RM zoning district by right, and all the properties adjacent to the east and west are also zoned RM. This application currently does not conform to the Comprehensive Development Plan V 2.0. It is located within Planning Section A. The proposed future land use designation would require a change to residential low density from the current University designation. The residential low density is consistent with the adjacent parcels to the east and west and was the prior Comprehensive Development Plan designation for the parcel until October 2021. when it was changed to University as part of an ordinance that changed several parcels with incorrect designations. However, as the University of Delaware no longer owns this parcel, it is no longer appropriate to designate it as University in the Comprehensive Development Plan.

She continued to note that while the Subdivision Advisory Committee did not review this application, it was reviewed by the Land Use Division of the Planning & Development Department, whose comments have been incorporated into the department's report and presentation for this project. Following the department's review of the proposal, staff prepared and presented this report to the Planning Commission at their January 7th meeting, with the suggested recommendation that City Council approve the Comprehensive Development Plan amendment to change the designation of 53 West Delaware Avenue from University to Residential, Low Density. The Commission voted unanimously 7-0 to recommend approving this item.

Colm DeAscanis, CDI Engineering President, explained that this is a small parcel surrounded by RM parcels. Before its purchase by the University of Delaware, it was RM per the previous 1976 – 1980 Zoning maps. It was then switched to a University designation following UD's purchase, and it was then purchased again by the Kristol Center for Jewish Life in 2022. The goal was always to switch this property back to RM zoning. This application follows the Planning Commission's unanimous approval to seek Council's approval in amending the Comprehensive Development Plan's future land use designation from University to Residential, Low Density (RM), consistent with the current use and adjacent zonings. This will facilitate the combination through an administrative subdivision of the other two parcels, equating to three parcels in total.

There was no public comment, and the Mayor opened the table to Council comment.

Mr. McDermott noted Council does not often receive requests to rezone University property to another type of zoning. This is effectively a proposal to "fix a glitch." He asked why this is necessary if the property cannot remain University property.

Ms. Bensley explained this is underlying zoning, so it will change back to what it was before. However, according to State law, no changes to the Comprehensive Development Plan can be made without Council action, hence why this proposal has come forward for Council's approval.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. FORD: THAT COUNCIL APPROVE BILL 25-08 AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

MR. MCDERMOTT VOTED YES FOR THE MOTION DUE TO THE INFORMATION PRESENTED IN THE PLANNING & DEVELOPMENT REPORT.

DR. BANCROFT VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. LAWHORN VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MS. FORD VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. SUCHANEC VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

MR. CLIFTON VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY MR. MCDERMOTT.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

(ORDINANCE NO. 15-10)

22. 9-E. BILL 25-09 – AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, CODE OF THE CITY OF NEWARK, DELAWARE, BY REQUIRING NON-CONSENSUAL TOWING FEE LIMITS FOR TOW COMPANIES NOT TO EXCEED THE AMOUNT BY PERMITTED BY STATE OF DELAWARE CONTRACT – PLANNING AND DEVELOPMENT DIRECTOR (20 MINUTES)

1:45:20

Ms. Schiano read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: FOR SECOND READING AND PUBLIC HEARING.

Ms. Bensley explained when the City entered negotiations for the 2025 towing contracts, an issue encountered through this process was that the City Code limited the amount that could be paid for a contract much more extensively than what the state was offering. According to the City's Code, we were not to charge a fee of more than $80 per vehicle towed with a consumer price index (CPI) adjustment allowed each year starting on January 1, 2010. In 2024, the City would have been maxed at $118.23 by Code, which did not meet the needs of the bidding companies, as many of the City's tows take place in the evenings or on weekends. The State rewards rates at about $150 per tow. The contractors were looking for the same from the City, but the staff replied they could not offer this rate due to the City Code and would need to bring this back for Council consideration to have that changed. When developing the ordinance, staff believed tying it into the State of Delaware contract would prevent the need to repeatedly come to Council for Code changes while using it as a reasonable metric for staff to scale their allowable towing contracts.

She noted this is non-consensual towing for all of Newark, so these numbers would also bind any private towing company within the City. Since the original 2010 mark was passed, minimum wages have significantly increased, increasing towing companies' labor costs. Additionally, the cost of materials necessary for vehicle cleanup after collisions has more than doubled for the companies the City currently contracts with. The City also has restraints around the location of the towing companies, what they are required to offer for people who have their vehicles towed and picked up, and the necessary availability. There are a few towing companies that already meet the City's standards. Ewing and Goodchild are typically the two companies that meet all the other criteria in the City Code and are generally awarded the City's contract. The contract expired in December 2024. The City's current awardees have agreed to stay on at their previous rates until this ordinance can be brought forward and considered. If this ordinance is approved after its consideration this evening, the City will negotiate new contracts with those towing companies.

The Mayor opened the table to Council comment.

Mr. Lawhorn believed this proposal makes sense, as Council has tried to reduce staff's administrative burden when possible. He received a request from a constituent to make this information available on the website for ease of public access, such as in cases where residents are looking for this information after their vehicles are towed. He believed this could as double in case there is a situation where the State contract evolves in a way that appears unfair, so the City will have a mechanism where staff can identify this problem or the residents can bring it to staff's attention.

Ms. Bensley responded that the Parking Division can work with the Police Department to ensure this information is available on both sections of the website, as both the Parking Division and the Police Department utilize the towing contract.

Mr. Suchanec believed this made sense.

Mr. Clifton recalled Council had to previously vote every 2-3 years on a towing contract, to where towing contractors would come in at $15 to get City business so they could make money on storage. He noted $150 is high, but tying this to the State contract makes sense to save the City time and effort.

There was no public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. FORD: THAT COUNCIL APPROVE BILL 25-09 AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.

Nay – 0.
Absent – Creecy.

(ORDINANCE NO. 25-11)

23. 9-F. BILL 25-10 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY ADOPTING AN AMENDED PENSION PLAN FOR EMPLOYEES OF THE CITY OF NEWARK, DELAWARE – ASSISTANT CITY MANAGER (10 MINUTES)

1:52:44

Ms. Schiano read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: FOR SECOND READING AND PUBLIC HEARING.

Devan Hardin, Assistant City Manager of Personnel, explained that the City has experienced significantly increased staff turnover of employees hired after the change from the traditional defined benefit to defined contribution pensions between 2012 and 2014, depending on the employee group. Staff have noted that one of the most frequently cited reasons for departure in exit interviews is the retirement benefit change. During the most recent negotiations with the AFSCME and CWA unions in 2023, the City presented the unions with an option to bring the pension back with higher employee contributions to mitigate additional costs associated with the change. The unions agreed that this change benefited both sides, recruitment and retention. Accordingly, this was included in the most recent contract negotiations with CWA Local 1036 and AFSCME Local 3919, which were ratified in 2024. The proposed pension ordinance amendments will codify the terms ratified in each agreement.

In addition to the changes agreed to by the two unions, staff recommends that Council amend the pension ordinance to provide a similar benefit to management employees, with an option for management employees to choose to participate in either the defined benefit or the defined contribution plans. She noted that the City's management team comes from various backgrounds, with some promoting out of unions and others coming from careers elsewhere. Staff believe it is crucial to keep an option for managers to maintain the retirement benefits they receive as union employees. Otherwise, it is unlikely that any union employee will accept a management position if it means they must forfeit their retirement benefit. Similarly, many managers join the City later in their careers. They may already have a traditional defined benefit pension from a prior employer and prefer a defined contribution pension for flexibility. The proposed ordinance changes provide a one-time, irrevocable choice for management employees between the plans. All other benefits will mirror the benefits provided to the two union groups. The proposed provisions have been reviewed by herself, the City Manager, the City Solicitor, and the City's Consulting Actuary. The ordinance presented in Council's packet highlights the modifications to the pension plan.

The Mayor opened the table to Council comment.

Ms. Ford asked if a dollar amount is attached to the changes in the pension plan.

Ms. Hardin stated she would follow up with the actuary to determine that information. She noted she and City Manager Tom Coleman investigated this issue to decide there would not be a significant budgetary impact by using this method, as it would mirror what is currently done with employees' 401(a) plans. Additionally, employees can buy into the program using their 401(a) money.

Mr. Lawhorn noted that during previous discussions of this topic, the City Manager had noted that staff did not see a significant cost difference between having the pension plan vs. the 401(a) plan. He believed it would be beneficial to see data that supported that claim and would appreciate it if it was forwarded to Council for the future. He appreciated the retention benefit of this plan, as this type of pension makes it a much poorer decision for employees to leave for other agencies.

Ms. Hardin noted that staff must return to Council when AFSCME Local 1670 ratifies their contract. They can either bring this information to that presentation or forward it to Council via email.

Mr. Suchanec believed the approval of this ordinance was a step in the right direction to improve employee benefits and retention.

Mr. McDermott recalled seeing the cost analysis of this idea when it was discussed at a previous time.

Dr. Bancroft believed it is essential for employees to pay into a plan of this type. He noted some individuals may have been concerned with pensions due to the long-term liability. However, Council has multiple factors to include in this decision, such as retention and other issues within their government. He believed this to be a good plan.

Mr. Clifton recalled that when he first took his position on Council, he believed the actuarial was around 72 – 73 years of age. He wondered if it would now be closer to 78 – 79 years old and asked if the City's actuary has voiced the current lifespan.

Ms. Hardin remarked she would need to follow up with the actuary but anticipated it would likely be in the 78 – 79 range.

Mr. Clifton believed the City had done a good job improving retention for police officers and linemen. He believed the approval of this ordinance was one more step in this process.

The Mayor opened the floor to public comment.

Chris Locke asked if the current pension plan is fully funded.

Ms. Hardin responded that it was 75% funded when last checked by staff. With the increased contribution amount employees will put into the pension plan, any new hires will be putting in 6% compared to current employees who are putting in 2.5% - 4.5%. She noted that staff hopes the additional increase in contributions will help to fund the current pension plan further.

Mr. Locke noted pension employees typically make less in salary. He asked if this would be the plan going into the future.

Ms. Hardin did not believe this would be the case, as the City would have to increase employee salaries as they move forward.

Mr. Locke asked what the employee's contribution to healthcare is, whether healthcare coverage continues after retirement, and what an employee's contribution is post-retirement.

Ms. Hardin stated that if an employee is the only person on their healthcare plan, they do not make any contribution, and the City covers it 100%. However, if the employee is on a couple or family plan, they contribute 17.5% of the overall premium, which will not change as it is contractually negotiated. However, after the employees retire and collect their pension, they are entitled to other post-employment benefits (OPEB) – included in the prior pension plan – which means they and their spouse will get a healthcare allowance for the remainder of their life. However, an employee in the 401(a) plan will get a retiree health savings account where they will contribute a portion of their salary that the City will match, increasing their contribution by 1.5% every year.

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

Mr. Clifton noted this is a unique situation as a union president told him that half of their union members want this money in their retiree healthcare. Still, other employees want the money in the contract.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 25-10 AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

(ORDINANCE NO. 25-12)

24. 10. <u>RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT</u>:

A. Request of 15 Elkton Road Associates for the Amendment of the Major Subdivision Agreement for 0.335 +/- Acres at 1 South Main Street to Convert the Use of the Second Floor from 5,500 Square Feet of Office Space to Six Residential Apartments – Planning and Development Director ***(Agreement & Resolution Attached) (20 minutes)***

2:05:33

Ms. Bensley explained this application is requesting an amendment to the previously approved subdivision agreement change for the use of the second floor of the building from 5,500 square feet of office space to six additional apartments made up of two-, three-and four-bedroom units for a total of 18 apartments in the building. The amendment includes changing the required parking configuration and associated parking waiver requirements if spaces are not provided as outlined in the subdivision agreement, as well as including the requirements from Electric, PWWR, Code Enforcement, and Fire for the renovation of the space. She noted that the parking requirements for the building have been reconfigured to reflect the fewer spaces now required in the BB zoning district. However, this also increases parking waiver fees if they do not comply with the parking requirements. There are no exterior changes proposed to the building or the site. As staff see this change as having minimal additional impact on the surrounding community over the existing constructed project, the Planning & Development Department recommends that Council approve this requested amendment to the subdivision agreement.

Jeff Lang, 29 West Park Place, explained that this building was built approximately 10 years ago. UD was a logical occupant of the first two floors, so the building was designed around their needs. However, due to budgetary constraints from the University, they have decided not to renew their lease, and the developer must now determine how they wish this space to be used in the future. A 13,000-foot office tenant in downtown Newark is not readily available. Many office tenants are contracting all across the country due to various reasons. The applicant saw an opportunity here to allow the building to continue to be reasonably successful by converting the second floor to a more needed use, as 13,000 square feet is far more extensive than what is available to meet the needs of the office community right now. Lang Development Group has other office spaces around town, and they would love to have tenants. He reminded that they are converting 500 Creekview from a 100,000 square feet office to 100 market-rate apartments. They are looking at all the options associated with their real estate portfolio. He believed this is an example of a positive reuse of a piece of property. He noted that the long-term reuse of all these properties is a frequent discussion topic. They are built today in what is believed to be a current marketplace need, but they must also be consciously designed for potential reuse. For example, they always design ceilings higher than necessary in residential spaces because of the potential conversion. However, tonight's request is specifically to convert a second-floor space, which theoretically could be utilized for residential use.

The Mayor opened the table to Council comment.

Dr. Bancroft believed this agreement amendment made sense.

Mr. Suchanec was concerned that each bedroom would have a door for security and a window for safety.

Mr. Clifton noted all bedrooms have to have at least one window by Code.

Mr. Lang stated this amendment would take the exact design of the above units and implement it below as it is the logical reuse of space. However, by Code, not all of the bedrooms need windows. Most of the bedrooms have windows, but some do not.

Mr. Locke clarified that windows are not necessary for every bedroom when the building is fully sprinkled.

Mr. Suchanec preferred to see a requirement that a bedroom, by definition, has a door and a window.

Ms. Ford concurred with Mr. Suchanec. She asked if these apartments' leases will be structured around the academic year or if long-term (such as 18-month) leases will be offered.

Mr. Locke stated that the apartments will be available to everyone in the public, and landlords and tenants will always negotiate the terms of leases.

Mr. Lawhorn stated that the New Castle County Chamber of Commerce has a yearly economic review. The extreme increase in office vacancies was recently discussed as a part of that. He believed this is part of the evolution of hybrid work and the lingering effects of the pandemic. He believed this indicated it makes sense to convert office space into housing.

Mr. Clifton believed this to be a housekeeping issue. He believed that if this building were made today, the first floor would likely be retail space, and all the above floors would be housing. He asked if these units are flexible in that their walls can be moved to increase or decrease the unit size.

Mr. Lang explained that they are not as flexible as moving walls but designed for various uses. He noted in New York City; many livable areas are utilized in different ways depending on the tenant's economic status. He believed it is essential to consider how many people want to live together, where they are comfortable living, and how they want to utilize their space. He noted that Lang Development Group looks at unit designs nationwide and considers the adaptability based on this situation. If the University contracts, they must consider what to do with units and how to make them appeal to many different uses and tenants.

Mr. Locke noted most of Lang Development Group's buildings are steel, which helps in redesigning units to make them more desirable for the marketplace's current demand.

Mr. Clifton appreciated how these units are flexible to today's needs.

There was no public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE SUBDIVISION AGREEMENT AMENDMENT CHANGING THE SECOND FLOOR OF 1 SOUTH MAIN FROM 5,500 SQUARE FEET OF OFFICE SPACE TO SIX RESIDENTIAL APARTMENT UNITS FOR THE BUILDING LOCATED AT 1 SOUTH MAIN STREET AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Suchanec, Ford, Bancroft, Lawhorn, McDermott.
Nay – 0.
Absent – Creecy.

25. Meeting adjourned at 9:23 p.m.

Tara Schiano
Director of Legislative Services
City Secretary

/jh