

**CITY OF NEWARK  
DELAWARE  
COUNCIL MEETING MINUTES**

**JULY 14, 2025**

Those present at 6:30 p.m.:

|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| Presiding:     | Mayor Travis McDermott<br>District 1, John Suchanec ( <i>Virtual</i> )<br>Deputy Mayor, District 2, Corinth Ford<br>District 3, Jay Bancroft ( <i>Virtual</i> )<br>District 4, Vacant<br>District 5, Jason Lawhorn<br>District 6, Emile Brown                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Staff Members: | City Manager Tom Coleman<br>Deputy City Secretary Diana Reed<br>City Solicitor Paul Bilodeau<br>Parks & Recreation Director Paula Ennis<br>Planning & Development Director Renee Bensley<br>Planning & Development Deputy Director Jessica Ramos-Velasquez ( <i>Virtual</i> )<br>Public Works & Water Resources Director Tim Filasky<br>Public Works & Water Resources Deputy Director Ethan Robinson ( <i>Virtual</i> )<br>Chief of Community Engagement Officer Jayme Gravell ( <i>Virtual</i> )<br>Assistant City Manager – Operations Jeff Martindale<br>Deputy Chief of Police Kevin Feeney<br>Electric Director Bhadresh Patel<br>Finance Director Jill Hollander<br>Parking Supervisor Courtney Mulvanity ( <i>Virtual</i> )<br>Administrative Professional II Alexis Van Campen |

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1. Mr. McDermott called the meeting to order at 6:15 p.m.

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) for the purpose of strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 *DEL. C.* §10004 (B) (4) FOR THE PURPOSE OF STRATEGY SESSIONS, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO COLLECTIVE BARGAINING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE BARGAINING OR LITIGATION POSITION OF THE PUBLIC BODY.

MOTION PASSED. VOTE 5 TO 0.

Aye – McDermott, Ford, Bancroft, Lawhorn, Brown.

Nay – 0.

Absent – Suchanec.

3. **RETURN TO PUBLIC SESSION**

Council exited Executive Session at 7:02 p.m.

#### 4. SILENT MEDITATION & PLEDGE OF ALLEGIANCE

Mr. McDermott 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. If 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 Councilmember 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 3 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. 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. 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 behavior include being immediately removed from the premises or having the offender's microphone disabled for the remainder of the meeting.

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

#### 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):

4:24

State Rep. Mara Gorman explained the Delaware Municipal Electric Corporation (DEMEC) allows line workers to participate in the Light Up Navajo Program, which brings line workers out west to the Navajo Nation to help and provide electricity to families in need. She stated there are approximately 10,400 homes without electricity out of the 55,000 homes located on the 27,000 square mile Navajo Nation. Volunteer power utility crews across the nation donate their time and resources to travel to this location and build infrastructure that provides power to these homes.

She shared that since 2019, DEMEC and the Navajo Tribal Utility Authority (NTUA) have supported this initiative through sending a crew from various DEMEC member communities, including the Cities of Newark and Dover, in 2025. She noted she and Rep. Cyndie Romer have tributes for two present line workers who spent April 26<sup>th</sup> – May 3<sup>rd</sup> extending electricity to six homes. She noted she first heard about this initiative when DEMEC visited Legislative Hall to talk about programs they offered during Advocacy Day. She was impressed to find DEMEC is sending people who are volunteering their time and energy to provide power to so many people living without. She noted ongoing conversations across the country about rural broadband, which this initiative is only one step behind.

Mr. Coleman stated this is the third team Newark has sent as part of this initiative. He supported continuing their participation as the crews sent to the Navajo Nation have commented that this is a worthwhile experience. NTUA's General Manager has stated this is a life-changing experience for the recipients of this program. Individuals without power may drive 3 – 4 hours to get water or ice to keep their food, water, or drugs cold. As such, this is a remote and challenging environment for City employees to work in with extremely long hours and workdays. He was appreciative of the employees who volunteer for this program.

Rep. Cyndie Romer reiterated this program helps Native Americans without power. She thanked the line workers for their education and advocacy by participating in this program. She noted there have been complaints about Delmarva's high electric bills, which she did not see in the 23<sup>rd</sup> and 24<sup>th</sup> District, which DEMEC services. She thanked the line workers for lending their resources to the Light Up Navajo project.

Rep. Gorman shared the signed tributes to Robert Johnson and Michael T. Uhde, thanking them for their work.

**7. 2-B. UNIVERSITY**

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

**10:10**

Caitlin Olsen, UD Administration shared that new in-person student orientation will be on Mondays, Tuesdays, Thursdays and Fridays, while orientation for new online students will be on Wednesdays. Students will fully return in late August.

**8. 2-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes):**

**11:08**

Max Bobbin, District 3 resident & UD Graduate Student Government (GSG) Representative, stated he was speaking against the upcoming first reading of Bill 25-19. He noted the claim that it is not a student tax bill, claiming it singles out only students, using both undergraduate and graduate students a metric to calculate tax. Then, it charges UD as a proxy. He believed State and local lawmakers, UD administrators, and students have all acknowledged that the cost will be passed down to students. He disagreed with the argument that it is not Council's responsibility as the bill does not require UD to pass the tax along to students. He believed regardless of intent, UD has stated in their approved FY2026 they will enact a new student fee for this change. He did not believe Council should pass a bill while being aware of this outcome and then disclaim responsibility. He believed this indicates Council supports a targeted tax on students.

He noted a second claim that students do not pay their fair share to the City of Newark while straining its resources. He explained graduate students choose to pursue their education at UD, with many choosing to make Newark their home. These students pay taxes either through direct property ownership or high rents to landlords and apartment complexes. He believed it was disingenuous to claim they do not pay their fair share, as they pay the same taxes as any other resident. He was concerned this bill punishes graduate students who do not even live within or use the resources of the City of Newark. He asked why an individual should pay taxes to municipality they don't live in. He was concerned that the argument that students use city resources by simply being on UD's campus was flawed. He believed the bill would also include a tax on faculty, staff and administrators as they would also strain City resources if this were truly the concern. He asked why they are not included in this bill if this is the logic behind its implementation.

Mr. Bobbin noted many people work but do not live within city limits and the City does not treat them as a burden in the same manner as students. He noted a statement by the City Manager to the Dover Administrative Committee: each year, Newark gets 4,500 new 18-year-olds who need to be taught not to throw trash in their yards or how to manage their trash bins. He stated graduate students are full adults with varying degrees, and many work full-time while pursuing their education. He found these comments insulting and believed they indicate Newark does not view graduate students as adults worthy of respect. He was disappointed that Council would consider this bill during the summer, where students would not be present to voice their concerns. He thanked Council for hearing his concerns and hoped they can collaborate on a solution that respects the role played by graduate students within the city.

Dr. Bancroft was concerned Mr. Bobbin's comments misrepresented the bill.

**9. 2-C. CITY MANAGER (10 minutes):**

**15:00**

Mr. Coleman stated the speed camera program is expected to go live on October 13<sup>th</sup>. However, there are still multiple factors the City needs to discuss with the vendor in the next three months. Council will still need to discuss whether they want to move forward with the speed camera authorized on Main Street in the bond bill, and if so, what threshold they would want the violations to be issued at. He reminded that under the base law, violations can only be written for vehicles going 11+ mph over the speed limit. Main Street has been approved for speeds of 6 mph or higher. While Council cannot provide direction this evening as it has not been advertised, the City will schedule an item for discussion on Main Street and how Council would like staff to handle incorporating Main Street into the 15-street rotation on a future agenda.

He continued, noting most streets will require cameras to be placed in two directions, equating to 30 different positions the camera will have to face. If Main Street is added to this list, it would be seen on an even rotation for 2 weeks every 64 weeks. He did not believe this was Council's intention during their discussion of this idea. Therefore, the next scheduled discussion of this topic will include whether Council would like there to be a permanent camera on Main Street, and if they would like to add a second camera into the rotation so it cuts the frequency every road gets in half. He reminded the City cannot make money off of this program; they can only use the generated revenue to cover the program's cost. Any additional revenue collected must be sent to the Office of Highway Safety. Each camera costs around \$7,000 to \$8,000 per month, inclusive of all services. The City would need approximately \$84,000 per year for an additional camera, the cost of which can be covered by revenues from tickets generated by the program. However, he reminded the City does not yet know what the revenues from the program will be, as the revenues will change depending on the street.

**10. 2-D. COUNCIL MEMBERS (5 minutes):**

**17:45**

**Mr. Lawhorn:**

- No comment.

**Ms. Ford:**

- Thanked the City Manager for working with the community to retain the traffic lights at the intersection of Tyre Avenue and Main Street. She noted there are many residents in this area who use wheelchairs and walkers, and rely on that traffic light to cross the street safely. She reminded everyone that a 4-way stop sign was being proposed as a replacement for the traffic light. However, an elderly woman was recently killed while utilizing a crosswalk protected by a stop sign in the Newark Shopping Center. She believed this emphasizes the need to involve the community in these decisions because while the Delaware Department of Transportation (DelDOT) wishes to make this change, they may not understand the potential impact on the surrounding community, or its demographics. She believed a simpler solution would be to adjust the cycle of lights to accomplish a traffic calming effect.
- Believed ticketing offenders with speed cameras would be the only way to correct their bad behavior.

**Mr. Brown:**

- No comment.

**Dr. Bancroft:**

- Concurred with Ms. Ford, stating he has been notified of speeding concerns especially along West Chestnut Hill Road.

**Mr. Suchanec:**

- No comment due to technical difficulties.

**Mr. McDermott:**

- No comment.

**11. 2-E. PUBLIC COMMENT (5 minutes per speaker) (10 minutes):**

**21:20**

Keri Knorr, Delaware Municipal Electric Corporation (DEMEC) Energy Services Manager, announced that DEMEC will host their annual dinner at Bally's Dover Casino Resort on Wednesday, September 17<sup>th</sup> from 5 to 8 p.m. She noted the event will be moderated and presented by DEMEC President & CEO Kimberly Schlichting. She believed this event would be an excellent opportunity to network with colleagues from other communities and industry experts. She noted DEMEC tracked 28 pieces of State legislation relating to energy and municipal electric utilities this legislative session. This is in addition to several actions by the President, Congress, and PJM, which will impact energy resource planning and costs. During the annual dinner, DEMEC will also recognize members' national awards and designation, as well as the Dover & Newark crew that served this year's Light Up Navajo Project. The Navajo Tribal Authority General Manager will also provide a brief update at this event.

Tina Jackson, 119 Tyre Avenue, asked Council to reconsider the decision to convert the intersection of Tyre Avenue & Main Street from a traffic light to an all-way stop sign. She believed the current configuration of this intersection was designed and upgraded by DelDOT for both pedestrian and vehicular safety. She believed the traffic light allows individuals of multiple demographics, such as students and mobility-challenged individuals, to cross this intersection safely. She further believed it would be difficult to prove the correlation between changing this intersection to an all-way stop and

improving pedestrian safety on Main Street. She noted it to be necessary to change only one variable at a time in an experiment. Still, the City is planning to change as many variables as possible before the start of UD's fall semester. She was concerned that pedestrian data at this intersection would become invalid, as they would avoid crossing the intersection with this change. She also believed there would be a quality-of-life change that cannot be statistically measured.

She stated it to be her belief that every pedestrian will be put at unnecessary risk if the signal is removed without the implementation of a crossover bridge, especially with a constant influx of out-of-town drivers. She noted she had sent a letter to Council on June 27<sup>th</sup> outlining multiple questions about the criteria and statistics for this intersection. She stated that this is the second traffic light DelDOT has attempted to remove from this area, reminding the community that they had to rally to prevent the West Park Place & Apple Road traffic light from being removed as well. She noted numerous other safety measures to calm traffic, such as blinking yellow traffic lights and speed cameras. She believed speed enforcement to be necessary on Main Street as many incoming cars are coming from roads with 35 mph speed limits. She was concerned that many unwanted traffic congestion issues would be caused if vehicles utilized newly placed stop signs on Main Street. She anticipated many cars would elect to use George Read Village as a shortcut, which is not designed for increased traffic. She asked Council to reconsider this change before another individual is injured.

Eric Wallers, 122 Tyre Avenue, thanked the City Manager for negotiating with DelDOT to put a speed camera on Main Street. He noted that public support is low for replacing the traffic light at the intersection of Main Street and Tyre Avenue with stop signs. Residents and business owners do not believe this to be a good idea. He was concerned that pedestrian, bicyclist, and motorist safety will decrease if the traffic light is removed. He noted the next pedestrian signal is seven football fields away from this location and believed there to be too many people dependent on the safety of that signal to justify removing it. He noted multiple blind spots at this intersection will become a safety concern with the removal of the traffic light. He believed removing the light will not contribute to improving safety in any shape or form.

Rev. Elisa Diller, 182 King William Street, supported keeping the traffic light at the intersection of Tyre Avenue and Main Street. She noted this corridor to be a major pedestrian pathway from Newark High School to Main Street, of which many students travel. She noted these students are much safer crossing this corridor due to the traffic light and asked that any decision should take this fact into consideration. She concurred with Ms. Ford and Ms. Jackson regarding the individuals living in this area with mobility issues. She reminded them that the new Newark Housing Authority project will create 74 additional apartments, and she was collaborating with the New Ark United Church of Christ to install an additional 30 to 40 units. She believed these projects would only add to the number of pedestrians who would need this light to cross the street safely and thanked the Councilmembers who opposed removing the traffic light.

Janeks Zvigulis, 37 Choate Street, noted many landlords are being fined for trash violations due to their tenants' behavior. He believed the tenants should be held responsible for these violations instead and asked for a change to the current approach.

Mr. McDermott suggested Mr. Zvigulis speak to Council and the City Manager following the meeting. He noted that tenants usually receive fines for these actions; landlords are only held responsible for these violations when they fail to hold their tenants accountable for this behavior.

Donald Sharpe, District 6, was representing the UAW Cap Council, Coalition for Natural Stream Valleys (CNSV), and the Neighbors Saying No (NSN) organization. He welcomed Mr. Brown to his seat on Council. He noted the rail fence on the Pomeroy Trail is damaged and requested Council to contact their State legislators or the Delaware Department of Natural Resources & Environmental Control (DNREC) to see if they can repair it, as the fence protects pedestrians from falling down a potentially deadly drop. There is also a dead tree along this trail that poses safety concerns, as its branches are starting to fall. Additionally, he noted that an 80-year-old tree was cut down on the trail near Fairfield and asked if there is an existing policy in place where a forester evaluates trees and determines if it is necessary to cut them down. He asked what the results would be of this examination if such a policy was in place.

Desmond Kahn, District 1, noted that he and Mr. Sharpe spoke at a previous meeting to advocate for the placement of a portable toilet at Curtis Mill Park, following a survey in which around 60 people expressed a desire for this addition. He noted the Parks & Recreation Director stated this park does not meet the City's criteria for a portable toilet. Mr. Suchanec, at this previous meeting, suggested the Parks & Recreation Department conduct their survey of the park. He wished to know if the survey was

conducted, and if so, what the result was. He asked the Council to pass a motion for the Parks & Recreation Department to install a portable toilet at the park, pending the outcome of this survey.

Ms. Reed proceeded to read two written public comments into the record.

**(Secretary's Note:      The following public comments were received from:**

- [April Howarth.](#)
- [Matthew Jarvis, 27 Tyre Avenue.\)](#)

**12.      3.      APPROVAL OF CONSENT AGENDA: (1 minute)**

- A.**      Receipt of the March 20, 2025 Board of Adjustment Meeting Minutes
- B.**      Receipt of the April 16, 2025 Board of Adjustment Meeting Minutes
- C.**      Receipt of the May 13, 2025 Conservation Advisory Commission Meeting Minutes
- D.**      Receipt of the May 20, 2025 Parking Advisory Committee Meeting Minutes
- E.**      Receipt of the May 27, 2025 Diversity & Inclusion Commission Meeting Minutes
- F.**      Receipt of the June 3, 2025 Planning Commission Meeting Minutes
- G.**      Approval of the June 9, 2025 Council Meeting Minutes
- H.**      Approval of the June 16, 2025 Council Meeting Minutes
- I.**      Receipt of the April – June 2025 Planning Commission Quarterly Report
- J.**      Receipt of the May 2025 Alderman's Report
- K.**      Resignation of Joel Murphy from the District 2 Position on the Diversity & Inclusion Commission
- L.**      Resignation of Tamesha Garnett from the District 3 Position on the Diversity & Inclusion Commission
- M.**      Resignation of C. Linwood Jackson from the District 4 Position on the Diversity & Inclusion Commission
- N.**      ***First Reading – Bill 25-18*** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Establishing and Providing an Electronic Speed Monitoring System for the City of Newark – ***Second Reading – July 28, 2025***
- O.**      ***First Reading – Bill 25-19*** – An Ordinance Amending Chapter 13, Finance, Revenue and Taxation, by creating a new Article IX, Tax Levy on Colleges and Universities Within the Code of the City of Newark, To Codify the Jurisdiction and Authority of the City of Newark to Levy Taxes upon Colleges and Universities within the City of Newark Pursuant to the Recent Amendment of the City of Newark's Charter Set Forth in House Bill No. 24, as Amended by House Amendment No. 1 – ***Second Reading – July 28, 2025***

**46:29**

Ms. Reed read the consent agenda into the record.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**13.      4.      APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:**

- A.**      Appointment of A. R. Siders to the District 2 Position on the Conservation Advisory Commission for a Term to Expire on March 15, 2026

**48:40**

Ms. Ford explained A. R. Siders, an Associate Professor at UD who specializes in contingency planning and disaster management, has offered to serve on the Conservation Advisory Commission (CAC). She noted Ms. Siders is the director of UD's climate hub along with being a subject matter expert who can contribute to the CAC's initiatives. She noted that Council decided against hiring a permanent employee to update their emergency plan in favor of hiring a consultant. Now, a subject matter expert is offering her services for free by requesting to join the committee. She hoped her addition would help strengthen an already strong committee. She reminded that she is in favor of the CAC reviewing any land use projects

before they move onto their hearing with the Planning Commission, as well as that their comments are considered when evaluating projects within the City of Newark.

A. R. Siders, non-resident, noted she resides close by in Maryland but works at UD. She noted her expertise is in flood management, disaster response, and land use planning, and has both a law degree and a PhD. She also hoped to serve as a connection between the University and Council to strengthen their collaboration on any City decisions.

The Mayor opened the table to Council comment.

Mr. Lawhorn asked for clarification that Ms. Siders is a Maryland resident.

Ms. Siders confirmed, stating this has been discussed with the City's legal counsel. She explained that there is no residential requirement to serve on the CAC as it is an advisory commission.

Mr. Bilodeau stated that this was accurate, as he had verified it through the CAC's Code provisions. There is no requirement that an individual reside within a particular district for this committee, as they are an advisory board. Some committees have such requirements, but others, such as the CAC, do not.

Mr. Lawhorn recalled previous discussions but noted this correlated specifically with residents living within the city. He believed Ms. Siders' qualifications were impeccable but struggled with allowing a non-resident of the State to serve on one of the City's advisory committees.

Ms. Siders understood Mr. Lawhorn's concern but noted she comes to the city every day and uses the various stores and businesses within it. She is very familiar with the city and has a vested interest in its decisions due to her daily involvement within it.

Mr. Lawhorn was surprised to hear there was no residential requirement and proposed discussing this topic in the future. He thanked Ms. Siders for volunteering, believing her qualifications were valuable.

Ms. Siders noted that this desire is the reason why this is partly a one-year term, as the hope is to use this opportunity to share with other colleagues and residents of Newark a better understanding of how they can be involved.

Mr. Brown appreciated Ms. Siders' willingness to serve and looked forward to her involvement on the commission.

Mr. Suchanec recognized Ms. Siders' qualifications and believed she was an excellent addition to the CAC. While he did not oppose her appointment, he agreed with Mr. Lawhorn. He believed Council should review the City's committees, commissions and boards to investigate if they should have consistent, standard requirements for the membership of these advisory committees.

Dr. Bancroft thanked Ms. Siders for her willingness to serve.

Mr. McDermott thanked Ms. Siders, noting her qualifications. He recalled the previous conversations about this topic. He held no opposition, believing that allowing a Councilmember to nominate individuals outside of their district would make it easier to find willing candidates. However, he did not consider allowing an out-of-state individual to serve in the initial discussion. While he did not oppose this appointment, he believed this should be considered for the future.

There was no public comment.

MOTION BY MS. FORD, SECONDED BY MR. BROWN: TO APPOINT A. R. SIDERS TO THE DISTRICT 3 POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A TERM TO EXPIRE MARCH 15, 2026.

MOTION PASSED. VOTE 5 TO 1.

Aye – McDermott, Suchanec, Ford, Bancroft, Brown.

Nay – Lawhorn.

Absent – 0.

**14. 4-B. REAPPOINTMENT OF PATRICK MCCLOSKEY TO THE AT-LARGE POSITION ON THE DIVERSITY & INCLUSION COMMISSION FOR A TERM TO EXPIRE ON JULY 15, 2026**

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56:28

Mr. McDermott noted that Patrick McCloskey has served on the Diversity & Inclusion Commission since its inception, representing District 6, and will continue to serve as the At-Large representative. He noted Mr. McCloskey has worked as a UD police officer for almost 18 years and is an advocate for the City's LGBTQ+ community. He believed Mr. McCloskey had done an outstanding job during his tenure on the commission and encouraged his reappointment.

Patrick McCloskey, non-resident, noted he is a resident of Middletown but works in the city daily. He was pleased to continue serving on the commission.

The Mayor opened the table to Council comment.

Mr. Suchanec noted the resignations of three members of the Diversity & Inclusion Commission were included on this meeting's consent agenda. He advised Council to pay slightly more attention to increasing this commission's membership.

There was no public comment.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. FORD: THAT COUNCIL APPOINT PATRICK MCCLOSKEY TO THE AT-LARGE POSITION ON THE DIVERSITY & INCLUSION COMMISSION FOR A TERM TO EXPIRE ON JULY 15, 2026.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**15. 4-C. REAPPOINTMENT OF RICHARD GASKINS TO THE DISTRICT 1 POSITION ON THE DIVERSITY & INCLUSION COMMISSION FOR A TERM TO EXPIRE ON JULY 15, 2027**

59:10

Mr. Suchanec commented that he was pleased Richard Gaskins wished to continue serving in his current position, noting his belief that he has been a great addition to the commission.

Richard Gaskins, District 1, stated he was looking forward to working on the commission and receiving recommendations from Council on the commission's membership. He stated the commission needs more members to serve.

There was no Council or public comment.

MOTION BY MR. SUCHANEC, SECONDED BY MR. LAWHORN: THAT COUNCIL REAPPOINT RICHARD GASKINS TO THE DISTRICT 1 POSITION ON THE DIVERSITY & INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2027.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**16. 4-D. REAPPOINTMENT OF SHEILA SMITH TO THE AT-LARGE POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A TERM TO EXPIRE MARCH 15, 2028**

1:01:23

Mr. McDermott noted this was his reappointment and appreciated her willingness to serve.

Sheila Smith, District 3, thanked Ms. Ford for recognizing the CAC's level of skill and commitment. She noted this is her third reappointment, but also served on the commission in the 1990's. She was excited for Ms. Siders' appointment to the CAC.

There was no Council or public comment.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL REAPPOINT SHEILA SMITH TO THE AT-LARGE POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A TERM TO EXPIRE MARCH 15, 2028.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**17. 4-E. REAPPOINTMENT OF FRANK DEMARINIS TO THE AT-LARGE POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A TERM TO EXPIRE MARCH 15, 2029**

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**1:03:37**

Mr. McDermott noted this is another Mayoral reappointment. He believed Mr. DeMarinis was qualified to serve on this committee and encouraged Council to reappoint him.

There was no Council or public comment.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL REAPPOINT FRANK D. MARINIS TO THE AT-LARGE POSITION ON THE COMMUNITY DEVELOPMENT/REVENUE SHARING ADVISORY COMMITTEE FOR A TERM TO EXPIRE MARCH 15, 2029.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**18. 5. ITEMS NOT FINISHED AT PREVIOUS MEETING: None**

**19. 6. SPECIAL DEPARTMENT REPORTS:**

- A.** Recommendation for the District 4 Special Election and Filing Date – Deputy City Secretary (5 minutes)

**1:40:40**

Ms. Reed explained the resignation of former Councilwoman Dwendolyn Creecy on June 29, 2025 has rendered the District 4 Council seat vacant. Therefore, the City is required by charter to hold a special election 60 – 90 days after the occurrence of the vacancy. Ms. Creecy’s resignation was received on the business day following her email, so the window in which to hold a special election would be between August 28<sup>th</sup> – September 28<sup>th</sup> to allow adequate time for any potential candidates, the availability of both the Department of Election staff and equipment, as well as the Newark election board. Staff recommend that the special election be held on Tuesday, September 23, 2025. The Department of Elections has confirmed their availability for this date. The Charter states nominating petitions shall be filed in the Office of the City Secretary no later than 29 days before the election. If Council moves forward with setting the election date for September 23<sup>rd</sup>, the deadline for receipt of nominating petitions will be Monday, August 25, 2025. Staff intend to make nominating petitions available on Tuesday, July 15, 2025.

There was no Council or public comment.

MOTION BY MR. LAWHORN, SECONDED BY MR. BROWN: TO SET TUESDAY, SEPTEMBER 23, 2025 AS THE DATE FOR THE DISTRICT 4 SPECIAL ELECTION, AND TO SET THE FILING DEADLINE FOR SAID SPECIAL ELECTION AS MONDAY, AUGUST 28, 2025.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**20. 6-B. RECOMMENDATION TO APPROVE ACCEPTANCE OF THE AWARD FOR THE REIMAGINING OUTDOOR SPACES 2025 GRANT FROM THE WILLD GROUP FOR THE DESIGN, DEVELOPMENT, AND CONSTRUCTION OF A WALKING PATH INCLUDING A FOOD FOREST AND HABITAT PLANTINGS AT FOLK MEMORIAL PARK – PARKS AND RECREATION DIRECTOR (10 MINUTES)**

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**1:06:50**

Paula Ennis, Parks & Recreation Director, explained this is a recommendation to approve a budget amendment to the Parks & Recreation Department's Contracted Services operating budget by accepting the award for the Reimagining Outdoor Spaces 2025 grant from the Wills Group for the design, development, and construction of a walking path, including a food forest and habitat plantings at Folk Memorial Park.

The Mayor opened the table to Council comment.

Mr. Suchanec was impressed with the presentation of this item and the process that led to a final recommendation. He asked if the park's nearby residents had reviewed this recommendation.

Ms. Ennis stated this was sent out to District 3 residents through InformMe, along to Mr. Suchanec and Dr. Bancroft to share. This was also posted on the City's website, and staff sent out over 6,400 surveys to community members.

Mr. Suchanec thanked Ms. Ennis for disseminating handouts.

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

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE A BUDGET AMENDMENT TO THE PARKS CONTRACT SERVICES OPERATING BUDGET BY ACCEPTING THE AWARD OF THE REIMAGINING OUTDOOR SPACE 2025 GRANT FROM THE WILLS GROUP IN AN AMOUNT UP TO \$65,000 FOR THE DESIGN, DEVELOPMENT, AND CONSTRUCTION OF THE FINALIZED APPROVED PLAN FOR A STONE DUST WALKING PATH, FOOD FOREST, AND HABITAT PLANTING AT FOLK MEMORIAL PARK, AS OUTLINED IN THE STAFF MEMO DATED JULY 3, 2025.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**21. 6-C. RECOMMENDATION TO AMEND THE 2025 OPERATING BUDGET BY ACCEPTING ADDITIONAL FUNDING UNDER FEDERAL GRANT UNDER AWARD 2022-MO-PASSTHRU-3309, "CONNECT AND PROTECT PROGRAM," AND APPROVE A CHANGE ORDER TO A CONTRACT FOR LAW ENFORCEMENT BEHAVIORAL HEALTH RESPONSE PROGRAM STEMMING FROM REQUEST FOR PROPOSAL (RFP) 24-02 – POLICE CHIEF (10 MINUTES)**

**1:09:30**

Kevin Feeney, Deputy Chief of the Newark Police Department (NPD), reminded that in April 2024, the Newark Police Department (NPD) was awarded \$103,600 in federal funding through the Delaware Criminal Justice Council's (CJC) Connect and Protect Program, a federal pass-through grant. In June 2024, the City issued RFP 24-02 to secure behavioral health services, specifically a mental health case manager, to enhance the NPD's response to mental health crises. Following a competitive process, Christiana Care Center for Community Health and Empowerment was selected to provide this service. The NPD's Behavioral Health Unit officially launched in January 2025 and is currently staffed by a full-time contractual case manager. As of May, the case manager has received 166 referrals and has successfully connected numerous individuals in crisis with essential behavioral health and community-based support services.

He continued by stating that last month, the CJC approached the NPD with an opportunity for additional funding under the same program to expand the scope and duration of the current initiative. To build on the Behavioral Health Unit's success, NPD staff is seeking to use this new grant funding to contract a part-time mental health clinician through Christiana Care by modifying the existing contract. Any remaining funds will ensure the continued support of the existing case manager position, which is projected to deplete its current grant funding by January 2026. In total, new grant funding will not exceed \$113,000. Like the original award, it requires a one-to-one in-kind match from the City. This expanded funding opportunity allows the City to build on a successful foundation and continue strengthening its response to mental health crises in the community. With the Council's support, the NPD can ensure that those in need receive timely, appropriate care while easing the burden on their frontline officers.

The Mayor opened the table to Council comment.

Mr. Suchanec asked if behavioral health responses are a 24/7 requirement.

Deputy Chief Feeney stated this is not a requirement, and this service would not be 24/7 with the new part-time clinician. The NPD expects it to be a daytime service, and the mental health case manager will work with the clinician to follow up on individuals. If something happens during the weekend or overnight, they will follow up on the next available day.

Mr. Suchanec asked if the NPD encounters a situation that needs their expertise, could they wait until these individuals are available.

Dep. Chief Feeney responded in the affirmative. He stated the NPD will have State-provided services overnight and on weekends that they can contact, but contracted staff can follow up the next business day.

Mr. McDermott remarked this is a great program, noting that while the NPD is trained in handling these situations, many do not rise to the law enforcement criteria for response. Many individuals have mental health crises requiring a professional's attention and connection with the right resources, which this program allows.

Dep. Chief Feeney stated the case manager position has made a significant impact. He believed the addition of this part-time clinician would introduce a new level to the program, providing staff with data to inform future expansion plans.

The Mayor opened the floor to public comment.

Chris Locke, District 1, believed the NPD is phenomenal when addressing mental health issues. They work with Sean's House, demonstrating their dedication to this initiative. He believed this was an outstanding program. Regarding Mr. Suchanec's question, he stated that Sean's House is open 24/7 and offered to discuss potential collaboration with Deputy Chief Feeney. He thanked the NPD and Dep. Chief Feeney for their work.

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

MOTION MY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL APPROVE A BUDGET AMENDMENT TO THE 2025 OPERATING BUDGET TO ACCEPT THE ADDITIONAL FUNDING PROVIDED BY THE FEDERAL CRIMINAL AND JUVENILE JUSTICE AND MENTAL HEALTH COLLABORATION "CONNECT AND PROTECT PROGRAM" ADMINISTERED BY THE DELAWARE CRIMINAL JUSTICE COUNCIL, IN THE AMOUNT NOT TO EXCEED \$113,000, AND APPROVE A CHANGE ORDER TO THE CONTRACT STEMMING FROM RFP 24-02, AGREEMENT FOR LAW ENFORCEMENT BEHAVIORAL HEALTH RESPONSE PROGRAM, TO ADD A PART-TIME CLINICIAN.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

## **22. 6-D. TAX RATE DISCUSSION – FINANCE DIRECTOR (45 MINUTES)**

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**1:15:13**

Jill Hollander, Finance Director, explained in May 2020 that New Castle County was ordered by the Chancery Court of Delaware to conduct a countywide reassessment because property values had significantly changed since the previous reassessment in 1983, and values were no longer equitable, and uniform compared to current market values. The reassessment is intended to level the playing field; it does not increase or decrease total tax revenues, but instead reallocates the total tax more fairly based on the current assessed values of real estate parcels. Property owners received updated assessment amounts from the County and were given instructions on how to appeal them. Based on the reassessment, the City tax rate will change from \$1.08 per \$100 of assessed value to \$0.2385 per \$100 of assessed value.

Mr. McDermott noted this is a revenue-neutral tax adjustment. While the City is not generating any additional revenue, individuals' tax rates may fluctuate depending on their new reassessed value, as conducted by the County.

Ms. Hollander responded in the affirmative; this change reflects a revenue-neutral rate for the City itself.

The Mayor opened the table to Council comment.

Mr. Lawhorn noted the school board is raising taxes with this event. While the City has the same opportunity, he did not suggest following suit as he believed the City should go through its usual channels of doing so. While he understood the school board's reasoning for doing so, he wanted to go on record by stating that, although the City could do the same, they are not choosing to.

Mr. Suchanec asked if Council is voting to change the rate this evening.

Ms. Hollander responded in the affirmative.

Mr. Suchanec asked if this would be reflected in the FY2026 budget discussions

Mr. Coleman explained that the new rate will be reflected as the FY2025 rate in the upcoming budget discussions, and Council will need to select the FY2026 rate. The tax bill with this amount will go out in August, so it will already be billed before Council discusses the next budget.

Mr. McDermott noted that under the old tax assessment, many properties were paying far too little in property taxes. He wanted to see what this change does to that number and investigate the City's cost of services for each property within Newark and come up with a base rate. He asked if the problem still existed or if the reassessment had resolved it.

Ms. Hollander responded that after staff analysis, this problem was still identified as existing, and some properties are paying less than the cost of service. She noted that the Council had previously set the rate at \$350, which would cover trash collection.

Mr. McDermott noted the use of \$350 as the barometer in budget discussions, but other services, aside from trash, are provided to houses. He wished to see a number reflecting what it costs to service one house generally. He sought a more equitable tax baseline. He hoped staff would have this information come the FY2026 budget discussions.

There was no public comment.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL ADJUST THE APPROVED 2025 TAX RATE DOWN TO \$0.2385 PER \$100 OF ASSESSED VALUE TO ACCOUNT FOR THE NEW PROPERTY ASSESSMENTS.

MOTION PASSED. VOTE 5 TO 0.

Aye – McDermott, Suchanec, Ford, Lawhorn, Brown.

Nay – 0.

Absent – Bancroft.

**23. 7. FINANCIAL STATEMENT:** None

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

- A.** Recommendation to Award a Contract Stemming from Invitation to Bid (ITB) 25-03: Newark Police D Sally Port Slab Replacement (CIP N2302) – Assistant City Manager – Operations (10 minutes)

**1:23:40**

Jeff Martindale, Assistant City Manager – Operations, stated the NPD sallyport slab replacement is a project necessary for staff safety and municipal building longevity. It involved demolishing the 31-year-old slab-on-deck structure that supports the NPD sallyport and motorcycle garage, then replacing it with a self-supported inverted roof membrane assembly (IRMA) slab. The engineers on the project are confident this new solution will last much longer than current. The project is within the budgeted amount as part of the FY2025 budget. As the contractor claims they can mobilize within 1 month, this should close the project around Thanksgiving.

Mr. McDermott noted this project was discussed during the FY2025 budget process.

The Mayor opened the table to Council comment.

Ms. Ford asked for clarification that this money is already included in the budget.

Mr. Martindale responded in the affirmative.

Mr. McDermott how this will affect the NPD's ability to bring prisoners into the building.

Mr. Martindale stated had and Dep. Chief Feeney have discussed the matter. Staff will coordinate with Troop #2 in the case of any combatant prisoners, while everyone else will still have an alternative exit and entry into the building.

There was no public comment.

MOTION BY MS. FORD, SECONDED BY MR. BROWN: THAT MAYOR AND CITY COUNCIL AWARD A CONTRACT STEMMING FROM INVITATION TO BID NO. 25-03 FOR NEWARK POLICE DEPARTMENT SALLYPORT SLAB REPLACEMENT TO KINSLEY CONSTRUCTION, LLC OF YORK, PENNSYLVANIA IN THE TOTAL AMOUNT OF \$642,000.00.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**25. 8-B. RECOMMENDATION ON THE AWARD OF INVITATION TO BID (ITB) NO. 25-06 – 2024/2025 STREET IMPROVEMENT PROGRAM (CIP H2401) – PUBLIC WORKS AND WATER RESOURCES DIRECTOR (10 MINUTES)**

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**1:26:10**

Tim Filasky, Public Works & Water Resources (PWWR) Director, explained this is a recommendation to award a contract stemming from ITB No. 25-06, the City's annual street improvement program. He noted that the program was fully funded in 2024, and then in 2025, staff would utilize only the Municipal Street Aid funding received from the state. While the City has a new contractor this year, this contractor has done extensive work in the city, particularly on the curb and sidewalk improvements on Delaware Avenue. He noted that there are two motions: a recommended motion and an alternate motion. The alternate motion includes the Fairfield Crest Swim Club parking lot, which is utilized for City business, such as accessing and maintaining the park in this area.

Mr. Lawhorn noted the Fairfield Crest Swim Club is at the base of a hill off New London Road, near the Pomeroy Connector Trail. The trail is heavily utilized, but it lacks adequate parking. As the parking lot serves both trail users and its club members, it is in poor condition, and the swim club cannot afford to repair it. He believed this would be a "thank you" gesture to the swim club for allowing the City to use the parking lot, and he considered this a reasonable amount to make the repairs.

Mr. Coleman noted the Fairfield Crest Park is on the Fairfield Swim Club's property, for which the City has a \$0 lease. The park has no parking except for the swim club's.

Mr. Filasky stated that there is a dead-end street in this area, but it has driveways on it. He noted Sen. Dave Sokola has provided \$50,000 of funding towards the rising road portion of this project. He and former Rep. Paul Baumbach have contributed to this project for many years prior, and the City to working with Rep. Gorman to continue that relationship.

The Mayor opened the table to Council comment.

Mr. Brown asked when this project would be completed by.

Mr. Filasky stated staff are working to begin this as soon as possible, beginning with Academy Street. Due to the size of the project, staff anticipate it will be finished in Spring 2026.

Mr. Brown asked if the \$2.2 million will cover everything included in the project.

Mr. Filasky responded in the affirmative.

Ms. Ford asked for clarification that the second motion in their memo encapsulates every proposed street in this project.

Mr. Filasky responded in the affirmative. He noted this is the section closest to Main Street, so it sees a lot of use.

Mr. McDermott asked for clarification on the inclusion of Possum Park Road.

Mr. Filasky explained there is a water main coming down Possum Park Road, of which the City has done quite a bit of work. This is a very minor patch on its shoulder, as the remainder is beyond the scope of what they can do with in-house crews.

Mr. McDermott noted in previous years, he has expressed concerns about how some neighborhoods have only half of their streets included as part of a project, so one half looks sufficient while others appear to be in disrepair. He would prefer projects to include entire neighborhoods at the same time.

Mr. Filasky stated this is a matter of engineering.

There was no public comment.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT MAYOR AND COUNCIL AWARD A CONTRACT STEMMING FROM INVITATION TO BID NO. 25-06 – 2024/2025 ANNUAL STREET PROGRAM TO THE LOWEST QUALIFIED BIDDER, SAM’S CONSTRUCTION, LLC, FOR THE BASE BID AND OPTIONS I, II, AND III IN THE AMOUNT OF \$2,214,247.50.

MOTION PASSED. VOTE 7 TO 0.

Aye – McDermott, Suchanec, Ford, Bancroft, Creecy, Lawhorn, Brown.

Nay – 0.

Absent – 0.

**26. 9. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

- A. Bill 25-14 – An Ordinance Amending Chapter 22, Police Offenses, Article XVIII, Marijuana, Code of the City of Newark, Delaware, To Codify the Jurisdiction of Newark’s Alderman’s Court (Court 40) to Prosecute Certain Marijuana Violations Pursuant to the State of Delaware’s Enactment of House Bill 33, As Amended by House Amendment No. 1 – City Manager (15 minutes)**

**1:33:40**

Ms. Reed read the ordinance into the record.

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

Mr. Bilodeau explained it is now legal for 21+ individuals to consume private use quantities of marijuana in private, but not in public. Before this bill, marijuana offenses could only be prosecuted in the Court of Common Pleas (CCP). Sen. Sokola and Rep. Romer assisted in amending the State Code to allow the City to prosecute certain marijuana offenses in Alderman’s Court, such as public consumption. This ordinance implements these changes into City Code.

The Mayor opened the table to Council comment.

Mr. McDermott believed this ordinance was important as it negates City officers from traveling outside City limits to the CCP, lightens the State’s caseload which will lead to more concrete resolutions, and gives the City the ability to regulate these low-level offenses. He thanked Rep. Romer and Sen. Sokola for their work on this initiative.

Mr. Brown asked if these offenses would appear on a certified criminal record.

Mr. Bilodeau explained that for adults below 21, getting caught smoking in private would be a civil offense for the first two offenses, but then the third offense would be criminal. He clarified civil offenses do not appear on criminal records. However, for individuals 21 and above, any time they would be caught smoking in public would be a criminal offense.

Mr. McDermott explained this is outlined in State law, and the level of offense remains the same in the City of Newark.

Dr. Bancroft was concerned this effectively makes the City’s laws stricter than the State’s.

Mr. Bilodeau clarified the City's laws are no stricter than the State's.

There was no public comment.

MOTION BY MS. FORD, SECONDED BY MR. BROWN: THAT COUNCIL ADOPT BILL 25-14 AS PRESENTED.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**(ORDINANCE NO. 25-16)**

**27. 9-B. BILL 25-15 – AN ORDINANCE AMENDING CHAPTER 32, ZONING, CODE OF THE CITY OF NEWARK, DELAWARE, TO CREATE SIGN REGULATIONS FOR PARKLAND ZONED PROPERTIES – PLANNING AND DEVELOPMENT DIRECTOR (20 MINUTES)**

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**1:38:25**

Ms. Reed read the ordinance into the record.

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

Renee Bensley, Planning & Development Director, explained that before 2009, City parks held residential zoning district designations like the properties surrounding them. When Comprehensive Development Plan IV was adopted by the City in 2008, it included a provision for the creation of a parkland category for all publicly owned open space and parks within the City of Newark. This change was made by Ordinance No. 09-07 in February 2009. While the implementation of a parkland zoning district provided a separate zoning designation for the properties, it created a new category of zoning district that was not addressed in the City's sign ordinance. When the City recently investigated upgrading the signs at the George Wilson Center (GWC) with a new illuminated bulletin board sign, concerns were raised that there were no parkland sign provisions in the Code, which led to the drafting of this proposal.

She continued by explaining that, in drafting the language of this ordinance, the Planning & Development staff worked with Parks & Recreation to ensure that existing and proposed signs for the City's parks would conform to the proposed regulations. Parks & Recreation confirmed that the proposed language would cover all existing and planned signage in City parks. The Planning Commission, at its May meeting, voted unanimously (7 – 0) to recommend adopting the revision as presented.

The Mayor opened the table to Council comment.

Ms. Ford asked if new signage technology motivated this change.

Ms. Bensley explained staff had an internal discussion once the sign at the GWC was selected. Staff initially thought to potentially utilize it under the identification signs exemption in the Code; however, since that was written in the 1950s (long before a bulletin board sign was even contemplated), staff felt this might be stretching too far and decided to move forward with the ordinance. This ordinance accommodates new technology so that they can use these signs.

There was no public comment.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT COUNCIL ADOPT BILL 25-15 AS PRESENTED.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – 0.

**(ORDINANCE NO. 25-17)**

Mr. McDermott announced there would be a brief recess at 8:42 p.m.

**28. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:**

- A.** Request by Center Street Associates, LLC for the Major Subdivision by Site Plan Approval of 124 E. Main Street to redevelop the mixed-use building by adding two additional floors with 25 new apartments and redevelop the ground floor commercial spaces ***(Agreement & Resolution Attached)*** – Planning and Development Director (30 minutes)

**1:46:19**

Council returned from recess at 8:47 p.m.

Ms. Reed read the major subdivision request into the record.

Ms. Bensley explained that this application is requesting a major subdivision by site plan approval for the property located at 124 East Main Street. The applicant proposes constructing two additional floors to be added to the existing two-story building, resulting in a four-story mixed-use building with retail spaces on the first floor and 39 apartments on the upper three floors. She noted this plan does not request rezoning, comprehensive plan amendments, or a parking waiver. The request for site plan approval is due to the existing site conditions resulting from the reuse of the existing building, as this plan was submitted under the new BB zoning regulations adopted in December 2022.

She continued by noting this project is located on the northeast corner of the East Main & Center Street intersection. The parcel is currently zoned BB – Central Business District. The property is fully developed, featuring a mixed-use building with ground-floor retail and two stories of apartments. The lot is currently comprised of approximately 16,000 square feet of building coverage, 400 square feet of paved area, and 5,300 square feet of open area. The proposed use of a four-story mixed-use building with ground-floor commercial space and three floors of apartments is permitted in the BB Zoning District. The proposed plan conforms to the existing mixed urban land use designation indicated in Comprehensive Development Plan V 2.0, requiring no amendment to the Comprehensive Development Plan. 124 East Main Street is included in Planning Section A of the Comprehensive Development Plan, which designates the entire parcel for mixed-urban use. Sections of the Comprehensive Development Plan, including details about Planning Section A and its future land use map, are found in Exhibit G of the Planning & Development report provided to Council.

Ms. Bensley stated this proposed development meets all Code requirements detailed in Chapter 27, Subdivisions, and Chapter 32, Zoning, if relief is granted through the site plan approval process. Zoning regulations for residential units in the BB zoning district do not restrict the density of new development. The 39 proposed apartments in the expanded mixed-use building on the half-acre lot result in 78 units per acre. This is an increase from the existing 28 units per acre. The density of this project, along with other pertinent project details, is compared to other recent projects in Exhibit F. She noted that East Main Street is a State road, but Center Street is a City street. If approved, the proposed development is estimated to generate an additional 120 average daily trips on East Main Street. The proposed development is subject to the Transportation Improvement District (TID) adopted by City Council in March of 2023; a traffic impact study is therefore not required. Fees will be assessed as part of the TID, based on the net addition of new housing units and commercial square footage, at the rate in effect at the time of payment.

She continued by explaining the lot is currently operated as retail on the first floor with apartments on the second floor. The proposal is to add two additional floors or apartments to the existing building. At the time of the original major subdivision approval for Center Square at 124 East Main Street, a total of 89 spaces were required for the project. A 33-space parking lot was included in the project but was transferred as a separate parcel to the City as land in lieu of payment for a 56-space parking waiver. On May 4, 2004, a 12-space expansion of the existing parking waiver was approved by the Planning Commission and paid in full. The proposed development, reviewed under the existing parking requirements of the Code, requires only 76 parking spaces. With the 68-space parking waiver and expansion, along with the credit for the 31 spaces provided on the City's lot as per the original subdivision approval, the plan provides sufficient parking spaces to meet the parking requirements for the proposed development.

Ms. Bensley stated that, following the review of this proposal by the Subdivision Advisory Committee, staff prepared the attached Planning & Development report. Staff presented this report to

the Planning Commission at their April 1<sup>st</sup> meeting, recommending that the City Council approve this project. During the discussion of this hearing, Planning Commissioners highlighted the lack of green space or communal areas in the plan. They proposed an amendment, recommending that the Council consider an amendment to provide an easement for the conversion of some parking spaces in the adjacent City-owned lot to green space or an outdoor seating area. Planning Commission voted 5 – 1 to recommend that City Council consider the proposed easement and voted 6-0 to recommend that City Council approve the major subdivision by site plan approval for 124 East Main Street. She noted that, as part of the agreement to transfer the parking lot to the City from the previous parking waiver, the land is to be returned to the applicant if the land is to be used for any purpose other than parking motor vehicles on an hourly basis. This would also reduce the number of parking spaces available at a time when the number of spaces has been reduced in this area by new constructions in Lots 3 & 4, along with the closure of Lot 7. The area behind the current building will be improved with the removal of the dumpsters and the refurbishment of the parking lot after the Meridian on Main construction project is complete. She explained that judging the aesthetics of the site based on its current state during construction does not provide an accurate representation of the site's future. She noted staff do not support the Planning Commission's recommendation. The Planning and Development report indicates that the evaluation of the downstream sanitary collection system should be completed before the plan can be scheduled for consideration by City Council. However, the PWWR Department has agreed that the evaluation can be conducted before the approval of the Construction Improvement Plan (CIP), should Council vote to approve this project. The subdivision plans referenced in the March report is dated May 14, 2024, and revised through March 17, 2025. Those plans are also included here for Council's consideration. She noted the motion included in the cover memo for this project once Council's hearing of this proposal is complete.

Jeff Lang, 29 West Park Place & President/Owner of Lang Development Group, explained this building was constructed in 1999 on the former Farmer's Bank site. Lang Development Group entered an agreement to move Happy Harry's down the street into the corner, which was a long-term Main Street tenant before its transformation into Walgreens. He noted Home Grown Café has become a main staple of Downtown Newark – Walgreens and Home Grown populated the first floor, while residential units populated the second floor. The Lang Development Group carefully considered the redevelopment of this property in conjunction with the termination of Walgreens' lease. Walgreens approached Lang Development Group as many drugstores in the United States are redeveloping their business models and ultimately decided to close this location. Therefore, the Lang Development Group took this opportunity to consider the building and potential changes. They considered the current state of the street and the size of the adjacent buildings, deciding to take a more in-depth look at this initiative. Mr. Locke and the architects from Lang Development Group took the time to delve into how this building should appear, given the importance of this corner.

Mr. Lang proceeded to highlight the changes that would be made to improve the building's attractiveness. He noted that this project involves taking an existing building, as some of the concerns they have with the existing building relate to zoning and the need for variances related to the building's footprint. The building's existing footprint was developed under a different Zoning Code, and Lang Development Group worked with the City at the time regarding the back parking lot. The building's backyard setback and some side yard setbacks are related to the location of the line they established. If this project were to take place in the present day, Lang Development Group would have modified that line to be more compliant. He noted the new building will mimic the massing of the street more than the previous iteration. The fourth floor of the Center Street side of the building will be set back to comply with the Zoning Code. This project will modernize some of the architectural features of the building, such as switching out the windows on the second floor to match the third and fourth floors. A portion of the first-floor corner will be modernized. He noted the company's belief that this project continues to address the growing need for residential housing in downtown Newark to provide students with options not available within Newark's residential neighborhoods. Lang Development Group also believes this project contributes to and strengthens the downtown market by attracting more people and increasing the appeal of the curb.

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

Mr. Brown asked if this project would consist of 37 units or 39.

Mr. Lang clarified it would consist of 39 units.

Mr. Brown asked how many total residents these units would be able to accommodate.

Mr. Lang explained that the original units were designed for 4 residents and will be redesigned now for 3 residents. These will likely accommodate over 100 residents in total.

Mr. Brown asked for clarification that no parking will be provided for this project.

Mr. Lang noted when Lang Development Group began building in downtown Newark, they did not provide parking spaces for any of their apartments. In subsequent years, Council and City administration believed parking was an essential component of downtown residential units, so they began requiring more parking. The more buildings that were constructed, the more additional parking or parking waivers were needed. While many of Lang Development Group's buildings have parking underneath, they believe that space would be better utilized for commercial purposes. Recently, Council and City staff have decided to modify the parking requirements to go backwards to what they believe is more appropriate. However, Lang Development Group has been very successful in renting their apartments regardless of whether they have accompanied parking. They believe a model that does not necessitate a resident to bring their car is very attractive. He noted residents feel the need to bring their cars if they are offered the space to do so.

Mr. Brown asked if any of the side streets would be blocked off during this project's construction.

Mr. Lang stated Lang Development Group will be required to scaffold the street for pedestrian safety.

Ms. Ford asked how this project and its construction will impact Home Grown Café's business.

Mr. Lang stated Lang Development Group has been working with Home Grown Café Owner Sasha Aber, as they were her original landlord and continue to act as such. Ms. Aber is committed to staying in this location to expand and grow the business into the adjacent bay. Home Grown Café and Lang Development Group will enter into a long-term agreement following this project's approval.

Ms. Ford voiced her concerns regarding pedestrian safety, noting the recent fatality on Main Street was near a construction area. She believed it was critical to provide a safe walkway nearby. She was also concerned about Mr. Lang's comments relating to attracting student tenants.

Mr. Lang noted that their apartments are not intended to attract a specific demographic of tenants; they are meant to attract whoever is available in the marketplace. Lang Development Group builds units that are more attractive in the long term to residents due to the building's size and scale. They do not build many units that lack a dedicated bedroom or bathroom. This is a more traditional market-rate apartment design, which is currently in high demand in the marketplace. These units are convertible and appealing to any resident in the community.

Ms. Ford asked for clarification on why staff disagrees with the recommendation proposed by the Planning Commission.

Ms. Bensley explained the Planning Commission recommended that City Council provide an easement over parts of Lot 4 to allow for the creation of some outdoor or green space. Staff disagreed for several reasons: parking in this area is already shrinking; and the original agreement for the City to take ownership of that property was that it be exclusively used for monthly/hourly parking, so staff did not think an easement would be possible, as they would have to return the property to the applicant.

Ms. Ford stated the City would lose revenue by returning or removing those spaces.

Mr. Lawhorn noted a recent initiative by Council is to decouple parking from apartments to encourage a more walkable, bikeable downtown. He noted student housing is currently in substantial demand, so if students are to be housed on Main Street, it will be valuable for the City to decouple parking and not have parking requirements for downtown apartments. He agreed that when parking is located underneath a building, the City is losing valuable space that could be used for more housing. He noted that there is a significant issue of housing supply and demand, believing it is detrimental to the City whenever potential areas are not utilized for housing. He did not believe it would make sense to have open space behind this building, agreeing with staff's recommendation. He believed that the addition of beds made possible by this project is a small step towards addressing the housing supply and demand curve and ultimately helping to work towards affordable housing.

Dr. Bancroft believed this project seemed to follow most of Council's wishes for development projects. He noted the effort made in plantings, energy conservation, and collaboration with local businesses in the area.

Mr. Suchanec asked if there is a main entrance for the residential portion of this building.

Chris Locke, Lang Development Group General Counsel, explained the entrance to the residential apartments is in the rear of the building. This is part of the project that necessitates site plan approval, as the building's design was completed before buildings were required to have their entrances facing Main Street.

Mr. Suchanec requested clarification on whether daily access to the units would be from the back.

Mr. Locke responded in the affirmative, as this has been the case since 1997.

Mr. Suchanec asked how many additional new retail units will be on the first floor of the property.

Mr. Locke explained that while the square footage of the retail space will not change the use of the space from the previous Walgreens location may change to host multiple tenants. He noted that Home Grown Café plans to expand, and that the remaining ample retail space could host 2–3 other businesses.

Mr. Suchanec agreed this is an important, central location for the city. He noted the clock tower is considered a quasi-landmark of this area, but it will not be duplicated or added to this new building. He asked for the reason behind this change.

Mr. Locke explained the clock tower had not been used regularly and was hard to maintain. While they investigated this opportunity, they ultimately decided against its inclusion because they could not envision how a clock tower would fit into the project's architecture.

Mr. Suchanec asked if this project has a flat roof.

Mr. Locke confirmed it would have a flat roof.

Mr. Suchanec asked if there are any plans to improve the aesthetics of the square in the corner of the project.

Mr. Locke stated the design team worked hard to update the exterior of the building to a more modern aesthetic and that the clock was costly to maintain.

Mr. Suchanec asked that this be reconsidered, noting the high visibility of this building on Main Street.

Mr. Locke noted that Lang Development Group recognizes this, and while they have worked with the City on multiple initiatives, a significant amount of money has already been spent on engineering this project.

Mr. Suchanec appreciated that this building is only four stories. He believed this was a good design that would not take away from the character of Main Street.

Mr. McDermott agreed with Mr. Suchanec regarding the clock tower, believing there is a current charm to that corner that this project does not replace. While he appreciated the Planning Commission's intent to add green space, he did not believe it would be heavily utilized in the desired manner. He believed this was in line with previous development projects that have recently been approved.

MOTION BY MR. LAWHORN, SECONDED BY MR. BROWN: THAT CITY COUNCIL APPROVE THE MAJOR SUBDIVISION BY SITE PLAN APPROVAL AS SHOWN ON THE ATWELL GROUP'S MAJOR SUBDIVISION PLAN AND SITE PLAN APPROVAL FOR CENTER SQUARE – 124 EAST MAIN STREET DATED MAY 14, 2024, AND AS REVISED THROUGH MARCH 17, 2025, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS OUTLINED IN THE ATTACHED SUBDIVISION AGREEMENT AND RESOLUTION.

MOTION PASSED. VOTE 6 TO 0.

MR. LAWHORN VOTED YES FOR THE MOTION BECAUSE THE PROPOSED PLAN FULLY COMPLIES WITH THE SUBDIVISION ORDINANCES, THE BUILDING CODE, THE ZONING CODE, AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY AND THE LAWS AND REGULATIONS OF THE STATE OF DELAWARE; AND WILL NOT BE IN CONFLICT WITH THE PURPOSES OF THE COMPREHENSIVE

DEVELOPMENT PLAN OF THE CITY. HE MADE THIS FINDING DUE TO THE REASONS OUTLINED IN THE MARCH 25, 2025 PLANNING AND DEVELOPMENT REPORT.

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

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

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

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

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

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

Nay – 0.

Absent – 0.

**29. 10-B. REQUEST OF HERBAL GROWERS LLC FOR A SPECIAL USE PERMIT TO ALLOW A MARIJUANA CULTIVATION FACILITY AT 302 MARKUS COURT – PLANNING AND DEVELOPMENT DIRECTOR (20 MINUTES)**

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**2:16:27**

Ms. Reed read the Special Use Permit request into the record.

Ms. Bensley explained the Planning & Development Department received a Special Use Permit application and supporting materials from Herbal Growers LLC for the indoor cultivation of adult-use marijuana on April 29, 2025. The Delaware Office of the Marijuana Commissioner has granted Herbal Growers a conditional cultivation license. On August 26, 2024, the Council adopted comprehensive zoning regulations permitting marijuana establishments for cultivation, production, and retail sales in limited areas of the city, subject to a Council-approved Special Use Permit, as part of Ordinance 24-19 for the MI – General Industrial district. Marijuana cultivation facilities are to be indoor only, and marijuana product manufacturing facilities are restricted to limited areas of the city, requiring a Special Use Permit. They are limited to areas in the zoning district east of Library Avenue and Capitol Trail, which is Rte. 72, or west and south of Suburban Drive, Christina Parkway, and East Chestnut Hill Road, which is Rte. 4.

She continued by stating this facility will be located at 302 Markus Court, located south of the railroad tracks in the industrial park off Otts Chapel Road. The current facility meets all the requirements in this section of the Code. A subsidiary retail marijuana store is not proposed at this facility, meaning the 300-foot minimum distance from a school is not required. However, the property line of the nearest school, Newark Charter Primary High School, is approximately 900 feet from the Herbal Growers LLC facility location, and it is on the opposite side of the railroad tracks from this location. The Planning & Development Department and other operating departments reviewed the plan for this application and noted that, in the recommendation, it does correspond with the land use recommendations of Comprehensive Development Plan V 2.0, which calls for industrial uses at this location. The adjoining properties to the east, west, and south consist of industrial uses and zoning. The Amtrak Railroad presents a significant barrier, as mentioned, between the Herbal Growers facility and the residentially zoned properties to the north, which contain the Newark High School complex. The Christina River and parkland provide a barrier between the facility and residential properties to the southeast. The Planning & Development Department also notes that the facility will not include a subsidiary marijuana store, and such will not cause a significant change to the traffic patterns in the area.

Ms. Bensley stated the PWWP Department confirmed that anticipated wastewater pollutant concentration related to the growth operation of PH, BOD, or SS, and the anticipated flow rates are appropriate for the site. No other department expressed concerns or objections to the application, including the Police and Electric Departments. The Planning Commission reviewed and discussed this application at its May meeting and unanimously recommended that the Council approve it with no additional conditions. She noted the available motion on Page 2 of the cover memo provided in this report.

Namen Patel, Herbal Growers LLC, noted he began this initiative with his experience as a brain tumor survivor, whose healing journey was profoundly shaped by medical marijuana. He noted this experience brings a personal and heartfelt commitment to this company's mission to ensure that anyone has access to safe, effective, and comprehensive cannabis care. He noted in his recovery, he heard the statement that when used in the correct dose, marijuana is medicine, and even something as essential as food can harm the body if consumed in excess. He noted that one of his business partners, Dave Gidder,

has successfully operated a licensed retail store in the Colorado cannabis industry. Mr. Gidder will lead a compliance and retail readiness strategy within this business. His third partner, Jatin Upadhyay, is a seasoned Delaware-based entrepreneur with a strong background in business operations and local engagement.

He noted the business is committed to operating safely and responsibly, including through odor control, environmental efficiency, and public safety. He noted odor control is an issue within the industry, so Herbal Growers traveled to similar facilities in Oklahoma, Colorado, and Massachusetts to study how they operate and how Herbal Growers can make a good facility that is not bothersome to their neighbors. This facility will feature airlock corridors and carbon filters, integrated with exhaust redirection in the recirculation path of the HRX system, to effectively capture and neutralize odors. Regarding environmental efficiency, Herbal Growers will use energy-efficient LED lighting instead of traditional HPS fixtures, significantly reducing energy consumption and heat output. The facility will also incorporate a water-efficient irrigation system to minimize resource usage and support sustainable operations. Additionally, regarding public safety, this facility will feature a secure design with 24/7 monitored alarm surveillance and strict access control protocols. The facility will be fully fenced with restricted entry points to ensure only authorized personnel can access these premises. Herbal Growers fully adheres to state and local laws, including fire safety and security requirements, building codes, and zoning regulations, ensuring a fully compliant and secure operation.

The Mayor opened the floor to public comment.

Shanta Lallind, 132 Sandy Drive, noted that she is the owner of Forget-Me-Not Families. This nonprofit organization collects and shares gently used clothes, shoes, toys, and household items with Delaware families in need. She noted that her organization works with homeless and addicted communities, and all items distributed are provided free of charge. This program is not funded by grants, the State, or the Federal government – it is funded through their textile recycling company. She noted they serve approximately 8,000 people a year and do many events. While marijuana is legal in Delaware, she asked Council to reject this application due to her fear that it will harm her business and the other surrounding facilities due to their proximity. She noted not only families with children heavily visit her business, but also individuals returning from rehab for drug addiction. She was concerned marijuana odor would negatively affect her business, as it would contaminate the items being given away. She believed there was other open land that could be used for this facility.

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

Dr. Bancroft believed the applicant had carefully considered security, odor control, and conservation in their business development. He did not believe this facility would be too close to the nearby pool or neighboring businesses and did not think it would harm them. It was his opinion that this is a good project.

Mr. Lawhorn noted that, after an extensive process of identifying the most suitable locations, Council approved very few places for these facilities in Newark. While it is close to the local school, it is on the other side of the railroad tracks. The council heavily discussed a defined delineation point that is not an easily accessible travel point, which alleviated concerns about proximity to schools. He appreciated Ms. Lallind's comments and concerns. Still, he believed they would be alleviated as the State has done a thorough job in creating regulations that would combat these issues, such as odor. He noted that this is a production facility, not a sales location. He stated the carbon filters need to work and be maintained, because this is a Special Use Permit that Council reserves the right to remove should there be substantial issues. While there are concerns about smell for any surrounding neighbors, he believed this applicant has indicated they will be sensitive to it. He reiterated that the applicant would need to be mindful of any issues since Council can remove the Special Use Permit should these issues not be addressed.

Mr. Patel believed odor to be an issue with establishments other than just marijuana facilities. He assured that if the City believes this facility is causing a nuisance, Herbal Growers will go one step above.

Mr. Lawhorn wanted Mr. Patel to realize that this was a serious possibility, as it was a complex topic for both the State and the City to navigate. He supported this project because of all the previous work done toward the code restrictions that were implemented. He did not anticipate any outside individual to be able to determine that this is a marijuana cultivation facility just by passing by. Additionally, there should not be any access to marijuana in any other way besides this business's secure exporting of it. He noted if this passes, he hoped Herbal Growers would contact their Councilmember should any unexpected issues arise due to the lengthy work done to address many related concerns. He

believed the work done to ensure these facilities would not be a blight on the community made this project worth supporting.

Ms. Ford believed the initial discussions regarding marijuana within the city were restrictive to the existing Fresh Delaware facility. While she realized this location would host no retail sales, she did not believe she would support this project due to Ms. Lallind's objections and the proximity to Newark Charter Primary High School.

Mr. Brown noted that he was concerned about security and water runoff, citing his experience with growers in Maryland and Pennsylvania. He asked how high the fencing would be and for clarification regarding the razor wire on top.

Mr. Patel explained there will be fencing around the entire facility in addition to security. Mesh will cover the single window at the facility. There will be both exterior and interior insulated metal panels. As there will be fencing, nobody can walk through without authorization due to the restricted access.

Mr. Brown asked if the fence is accessible to cars so vehicles can get inside.

Mr. Patel confirmed but noted the outside gate will be locked.

Mr. Brown inquired about how water runoff would be handled and whether CO2 would be utilized in the growth process.

Mr. Patel stated the growth process will be hydroponic, consisting of water and nutrition.

Mr. Brown asked if this means the water would be reused.

Mr. Patel stated that this is not part of Herbal Growers' current plan, as it is a cost, but they plan to invest in similar initiatives in the future.

Mr. Suchanec concurred with Mr. Lawhorn. While he was sensitive to any potential adverse impact on nearby residents and businesses, he believed the extensive work previously done on this initiative, along with the fact that this is a Special Use Permit that the Council can revoke, made him supportive of this request.

Mr. McDermott noted Ms. Lallind's concerns and that there is already one grower within the City (Fresh Delaware) limits that is considered a great partner. He stated he had smelled marijuana when he passed by Fresh Delaware, but he believed this could be problematic for an adjacent business like Ms. Lallind's. He asked Mr. Patel how they would address the City's approach to Herbal Growers with a voiced complaint of odor coming from their facility.

Mr. Patel reiterated Herbal Growers visited facilities in different states to see how far marijuana could be smelled from the facility. He noted that with the airlock and carbon filters, marijuana's odor cannot be smelled from across the road – the same distance that Fresh Delaware and the nearby Wawa location are from one another. However, if the City approaches the facility with a complaint, Herbal Growers can install more activated carbon filters. He reiterated that while this is a startup business, they do not mind going "one step up." He noted there are many solutions to this issue within the market that they can explore.

Mr. McDermott mentioned a theoretical situation where Council issues the Special Use Permit, and someone else complains that they can smell marijuana. He was concerned about the threshold of how much an odor of marijuana is too much, noting Council has seen previous situations where they get into similar legal debates because of other issues that cannot be objectively measured, such as noise. While he did not state that Herbal Growers does not have the best intentions, he noted that other individuals who have been granted Special Use Permits often fail to follow through on the promises they made during the initial hearings. He asked, in a case regarding marijuana odor, what ability does Council have to revoke or suspend a Special Use Permit. He believed that if an applicant spends a significant amount of money to start a facility, and Council revokes the Special Use Permit due to a complaint, the applicant will elect to take the City to court, as they will not shut down their business. He did not believe the City would fare well in this situation. He asked the City Solicitor to opine on this matter.

Mr. Bilodeau believed this was hard to speculate. In many cases, laws of this nature will be construed in favor of the free use of the property and against the City. He believed this is a similar situation

to the issue of the fans at the Newark Country Club golf course. The City would need strong evidence, such as through a study, that the odor of marijuana is a nuisance.

Mr. McDermott did not believe there was any entity that would be willing to study if there was a prevalent smell of marijuana. He noted he received a complaint from a resident stating people were smoking marijuana in their apartment; he asked who would go out to enforce the odor of marijuana within a residential facility. He was concerned due to the many “unknowns” in situations of this nature. He was unsure if the City would “win” in a situation where it would need to revoke the Special Use Permit due to the outlined issues.

Mr. Bilodeau noted conditions can be attached to Special Use Permits.

Mr. McDermott wondered how this could be stated.

Ms. Bensley noted the State does not allow any signage identifying a building as a marijuana facility; no passerby should be able to tell marijuana is being grown in a building aside from additional security measures. Regarding odor, Council could include that the applicant maintains the double-layer filtration system in permanent good working order as a condition of the Special Use Permit. If something were to break down, such as a filter, and the City received a complaint, staff could note this condition and require repairs to the facility.

Mr. Bilodeau wondered how many breakdowns would be tolerated.

Mr. Coleman noted the City also can temporarily suspend Special Use Permits, stopping operation of the facility until the issue is rectified; a financial motivator may push the business to fix these problems.

Jatin Upadhyay, Herbal Growers LLC, explained that after they met with the Planning Commission, the company’s design team designed a two-layer wall. This will consist of a metal building with a 4-inch IMP panel, along with a two-layer airlock system and carbon filter. He reiterated that Herbal Growers is doing their best to mitigate odor, such as through this newer design. If any future issues arise, they are also willing to work with the City and attempt to accommodate any requests.

Mr. McDermott appreciated Mr. Upadhyay’s comments but reiterated that has been issues prior where entities do not follow through with the promises made during these hearings. He wanted to know what Council can do to protect the next-door neighbors of this facility, and what they can do to defend the decision to suspend or revoke a Special Use Permit in court. Due to this reasoning, he would not support this request.

Mr. Coleman explained with noise; the City can issue citations if noise is audible across a property line. He suggested Council could create a similar ordinance for odor in the future.

Mr. Bilodeau believed this is a “slippery slope” as to whether music can be heard across the property line. He advised the Council to impose a condition that if the City receives any credible complaints of odor from this facility, it retains the right to suspend the permit until the problem is rectified.

Mr. McDermott noted the police are trained to smell marijuana and are legally allowed to go to court and state they are detecting such an odor. He asked if that would be enough evidence for the City to suspend the permit. He asked what the language should be for a condition in the Special Use Permit to relate it to odor specifically.

Mr. Bilodeau believed that the condition should be that if the Council receives credible complaints about marijuana odor, which are deemed plausible by their judgment, they reserve the right to suspend the permit until this problem is resolved.

Mr. Lawhorn suggested strengthening the proposed condition to include “a solution has been implemented” or “a solution has eliminated the odor”.

Ms. Bensley noted Planning & Development Director Jessica Ramos-Velasquez referenced in Wilmington, they placed violations of Special Use Permits as qualifying offenses in their nuisance property ordinance. This was upheld by the court when it dealt with the breach of conditions for a bar in Wilmington. In the future, the Council could direct staff to draft an ordinance to update the existing nuisance property regulations, to include violations of a Special Use Permit’s conditions as nuisance points and subject them to the requirements of that ordinance.

Ms. Ford noted that there are individuals who owe the City a substantial amount of money in fines or for violating the nuisance property ordinance, and this is not being enforced.

Mr. McDermott asked if the City could turn the water off to a property in this instance.

Ms. Bensley stated the only provision in Code for turning a property's water off is non-payment. Additionally, credible evidence of such a violation would go through the police, and not Council.

Mr. Bilodeau explained that credible evidence would be that an officer or several officers from the NPD stated to the Council that they smelled the odor from across property lines.

Ms. Ford suggested refining the language to specify that the evidence presented should come from trained police officers.

Ms. Bensley expected this to be handled similarly to when the City holds operating hearings on Special Use Permits for restaurants with alcohol: once the City receives a certain level of complaints, staff present the information to the Council, the applicants present their side, and the Council makes the decision.

Ms. Ford believed there is a stronger precedent with Special Use Permits regarding alcohol sales.

Mr. McDermott believed "credible evidence, such as a trained police officer smelling marijuana across a property line," should be stated within the condition.

Mr. Lawhorn supported moving forward with the idea of adding this to the nuisance property ordinance, noting that the City has suspended Special Use Permits for restaurants with alcohol, causing them to shut down for a specific period and suffer a financial loss.

Mr. McDermott concurred.

Ms. Lallind noted she has 24-7 security monitors, a fence, a partial wall, and ring cameras outside of her business's donation sheds. She has had to install remote locks on these sheds and has made numerous complaints to the police, who have told her there is nothing they can do. She was concerned this business would lead to an increase in deaths. Although there will be no sign on this building, the public is already aware that this facility will be located here. She noted the building will be near her business, along with the Eastern Truck Lift facility, and the roads in this area are very narrow. She suggested Council visit this location before making a decision.

Mr. Bilodeau specified the extra conditions to add would be, "The Council reserves the right to suspend or revoke the Special Use Permit if it receives credible evidence, such as from a trained city police officer, that the smell of marijuana is coming from this building across property lines. And in such case, the permit will remain suspended or revoked until such time as that problem has been rectified."

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL APPROVE THE SPECIAL USE PERMIT FOR THE MARIJUANA CULTIVATION FACILITY FOR HERBAL GROWERS, LLC, AT 302 MARKUS COURT, TO INCLUDE THE CONDITION AS STATED BY THE CITY SOLICITOR.

MOTION PASSED. VOTE 4 TO 2.

MR. LAWHORN VOTED YES FOR THE MOTION BECAUSE THE PROPOSED USE DOES NOT AFFECT ADVERSELY THE HEALTH OR SAFETY OF PERSONS RESIDING OR WORKING WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; AND WILL NOT BE IN CONFLICT WITH THE PURPOSES OF THE COMPREHENSIVE DEVELOPMENT PLAN OF THE CITY.

MS. FORD VOTED NO FOR THE MOTION BECAUSE THE PROPOSED USE DOES ADVERSELY AFFECT THE HEALTH AND SAFETY OF PERSONS RESIDING AND WORKING WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; WILL BE DETRIMENTAL TO THE PUBLIC WELFARE AND INJURIOUS TO PROPERTY OR IMPROVEMENTS WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE

OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; AND IS IN CONFLICT WITH THE PURPOSES OF THE COMPREHENSIVE DEVELOPMENT PLAN OF THE CITY.

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

MR. SUCHANEC VOTED YES FOR THE MOTION DUE TO THE STRENGTH OF ENFORCING THE SPECIAL USE PERMIT AND THE REASONS STATED BY MR. LAWHORN.

DR. BANCROFT VOTED YES FOR THE MOTION DUE TO HIS SUPPORT OF JOBS, ECONOMIC OPPORTUNITY, AND THE REASONS STATED BY MR. LAWHORN.

MR. MCDERMOTT VOTED NO FOR THE MOTION DUE TO THE REASONS STATED BY MS. FORD.

Aye – Suchanec, Bancroft, Lawhorn, Brown.

Nay – McDermott, Ford.

Absent – 0.

**30. Meeting adjourned at 10:04 p.m.**

Tara Schiano  
Director of Legislative Services  
City Secretary

/jlh