

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

June 10, 2019

Those present at 6:00 p.m.:

Presiding: Mayor Jerry Clifton
District 1, James Horning
District 2, Sharon Hughes
District 3, Jen Wallace
District 4, Chris Hamilton
District 5, Jason Lawhorn
District 6, Deputy Mayor Stu Markham

Staff Members: City Solicitor Paul Bilodeau
Acting City Secretary Tara Schiano
Finance Director David Del Grande
Newark Police Department Chief Paul Tiernan
Sergeant Greg D'Elia
Parks and Recreation Director Joe Spadafino
Planning and Development Director Mary Ellen Gray
Planner Tom Fruehstorfer
Public Works and Water Resources Director Tim Filasky

1. Mr. Clifton called the meeting to order at 6:00 p.m.

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (9) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body.

MOTION BY MS. WALLACE, SECONDED BY MR. HORNING: THAT COUNCIL ENTER EXECUTIVE SESSION A, PURSUANT TO 29 *DEL. C.* § 10004 (B)(4) AND (9) FOR THE PURPOSES OF A STRATEGY SESSION INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY.

MOTION PASSED. VOTE 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.
Nay – 0.

3. **RETURN TO PUBLIC SESSION**

Council exited Executive Session at 7:03 p.m.

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

Mr. Clifton welcomed Girl Scout Troop #672 and asked Cadence from the troop to lead all in the Pledge of Allegiance.

5. 1. **PUBLIC PRESENTATIONS (15-minute limit):**

A. **Resolution No. 19-R:** A Resolution Thanking Girl Scout Troop #672 on Their Generosity and Support of the Newark Police Department's K9 Fund

2:53

Mr. Clifton thanked the troop with a Resolution thanking them for their generous donation to the Newark Police Department K9 fund. Mr. Markham read the Resolution into the record.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: THAT COUNCIL APPROVE RESOLUTION 19-R, A RESOLUTION THANKING GIRL SCOUT TROOP #672 ON THEIR GENEROSITY AND SUPPORT OF THE NEWARK POLICE DEPARTMENT'S K9 FUND.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.
Nay – 0.

(RESOLUTION NO. 19-R)

6. 2. ITEMS NOT ON PUBLISHED AGENDA

A. Elected Officials who represent City of Newark residents or utility customers

(Secretary's note: Due to a later arrival, Representative Paul Baumbach spoke later in the meeting.)

7. 2-B. UNIVERSITY

(1) Administration (5 minutes per speaker)

8:02

Caitlin Olsen, University of Delaware Administration, said UD completed another successful year for UDon't Need It. It was the biggest year yet. She shared that Jason Winterling and his team are so wonderful to work with, they worked very hard for the whole two-week program.

Ms. Olsen thanked the community members and UD volunteers who helped out. She acknowledged Nedra Boyer, Lester Stein, Becky Gilliam, Danny Wright, Maureen Scholz, Lisa Prescott, Carol McKelvey, Casey Impagliazzo, Diane Kukich.

Ms. Olsen noted the leftovers go to good places, such as Habitat for Humanity, Goodwill and the pet shelters. Ms. Olsen said the Newark Police Department (NPD) worked very hard in keeping the community safe at scheduled events such as Alumni Weekend and Delabration.

Ms. Olsen said that they are in good shape for various projects with some additional deed work that is nearing completion with the lawyers finishing their piece. Rodney is looking good. She noted she is working with JMT and they were able to locate some information from archives about the underpass which was helpful.

Ms. Olsen announced Arbour Park Civic Association reached out to discuss what is happening at the STAR Campus. She said they are going to do a community event, but she believes it would be great if they had other civic associations that would want to come to STAR Campus to see what is happening with that project.

Ms. Olsen said that this week they have the Rental Housing Subcommittee and then the Transportation Improvement District Committee. UD has representatives on both committees. She believed they would get some good material out of the Rental Housing Committee. Ms. Olsen was working on Community Bike Days, which is coming up in September. She will be working with Parks and Recreation on Community Day planning.

Ms. Olsen provided the numbers for first-year students, which was around 4,250. She noted that graduate student numbers are available online. She was not certain of the percentages but would provide further detail to Council when it becomes available. She also sent the Town and Gown presentations.

Ms. Olsen said New Student Orientation starts June 25th through the end of July. She noted they have been working well with DelDOT on Main Street making sure people still can access the restaurants.

The Chair opened the discussion to questions from Council.

Ms. Wallace asked Ms. Olsen if the Nights and Weekend Pass could be more prominently displayed on the parking page and if she could provide an update when available. Ms. Wallace asked that the City's webpage include the link to this as well.

Mr. Hamilton thanked Ms. Olsen for keeping the Delabration within the agreed upon framework. He noted he had no issues with noise during the event.

8. 2-B-2. STUDENT BODY REPRESENTATIVE(S): None

9. 2-C. CITY MANAGER:

13:16

- Ms. Gray introduced the new Code Enforcement Manager, Stephanie Peterson, and read her bio into the record. Ms. Peterson began her career in a nuclear power industry working as a Dissymmetry Technician working for PSE&G Nuclear in Hancocks Bridge, New Jersey for 11 years. After leaving the workforce to start a family, Ms. Peterson re-entered the workforce by starting her own company, and founded Stone LLC, a successful property rehabilitation company she operated for five (5) years. Ms. Peterson has worked in the municipal code enforcement industry for eleven years. She started her career there, working as a Housing Officer in the township of Carney's Point, New Jersey. She was later appointed to the positions of Assistant Zoning Officer, Health and Safety Officer, and Municipal Liaison to New Jersey's Commission on affordable housing. She later went to work for the city of Woodbury, New Jersey, where she managed the day to day operation of two (2) municipal construction offices as a Technical Assistant to the construction official and was later promoted to code official. Most recently, she worked in the Borough of Lansdowne, Pennsylvania where she held the position of Lead Code Enforcement Officer and Assistant to the Construction Official. Ms. Peterson has attained several New Jersey and Pennsylvania ICC certifications through her studies at Rector's School of Government Services, Canning College, and the Pennsylvania Construction Code Academy. Ms. Peterson resides in Penns Grove, New Jersey, but she and her family are presently looking for a home in or around the Newark area.

10. 2-D. COUNCIL MEMBERS:

17:32

Ms. Wallace:

- Reported George Danneman reached out to Council about a meeting for another proposed hotel on Main Street. The meeting will be held by the developer for the public to learn more about the project. Ms. Wallace said nothing has been submitted to the City yet, but it will be publicized when submitted and she wanted to take this opportunity to share this with the folks here and on livestream. She wanted to see if the City could get this public meeting added to the website because she believed there was going to be a lot of interest around this particular project. The meeting is going to be held July 14, 2019 at 1:00 pm at the SpringHill Suites, the hotel across from the post office at the corner of Route 273 on Main Street.

Mr. Horning:

- Recognized a resident, Amy Bland, who reached out to him as well as Mr. Clifton regarding a nationwide Taps event for veterans coordinated across the country. Ms. Bland reached out as a professional bugler to get Newark involved with the event the previous week. Mr. Clifton attended the ceremony as well. Mr. Horning said the VFW, on short notice, hosted it, had a World War II veteran present, and the Ladies' Auxiliary was in attendance. The chaplain did a benediction. Mr. Clifton read from some prepared words as well and was a very nice event. He thanked all for their participation and attendance.

Mr. Clifton:

- Mr. Clifton said a speech at the event mirrored General Patton's speech to the troops just before the D-Day invasions and was quite stirring. Mr. Clifton believed that General Patton recognized that the free world literally hinged on that moment.

11. 2-E. PUBLIC COMMENT:

20:29

Len Schwartz, District 3, said that he hoped that most remembered that the City considered becoming a supplier for broadband internet to residents two or three years ago. At the time, Ralph Begleiter and Dan Grim, the University's IT Director joined him in encouraging the City to do this. As they have both retired, he will continue with the matter. Unfortunately, at the time, the City hired a consultant to produce the report that estimated a cost of \$33 million to supply fiber to every address in the City. The most unfortunate part is that this report cost the city about \$60,000.

Three months ago, Mr. Schwartz said he spent four weeks in Melbourne, Australia. He reported he was able to buy the month's worth of broadband for a grand total of \$9.00. He said his total equipment cost was zero, since his phone, just like most, has a hotspot feature. Thus, the phone acts as a router. The correct way to deliver broadband is wirelessly just like the way a cellphone works. He believes the University is still agreeable to share its wholesale purchase of data with the City at cost. The wholesale cost of a gigabyte is less than one cent. He believes that the City has other advantages as it already owns the utility poles and has a billing department that supplies electricity to residents.

Mr. Schwartz estimates the City could supply broadband to households for as little as \$20-25 a month while still making a small profit. He believes this could effectively replace the \$130-150 a month that Comcast and Verizon charge for their triple play. The only significant cost to the City would be to purchase and install radios as they are referred to on some of the utility poles. This could be done one neighborhood at a time.

Mr. Schwartz announced that over a year ago Dan Grim and he met with an equivalent supplier, and if the City was willing, they could hook up a neighborhood for free as a demonstration project. He believes this another important reason why the City should pursue this. Mr. Schwartz said a year ago, the Republican majority of the Federal Communications Commission overturned net neutrality, even though they have received many emails asking them not to do this. This allows ISPs like Comcast and Verizon to slow down data from sites they do not like, and he reported they have already started to do this. These ISPs are last mile providers. Mr. Schwartz said the City could replace them and restore net neutrality to Newark residents. There are about 500 cities and towns in the U.S. that have Municipal Broadband, but 26 states have already passed laws restricting the City's ability to do this. He noted fortunately, Delaware is not one of those states. He is happy to pursue this further if there is an interest. He noted he had forwarded information to Council on this matter.

John Morgan, District 1, saw the developers for the Dickinson site were going to the Planning Commission with the by right proposal in early August. He states it was a little over four years ago, after the University had announced its plan to sell both the Rodney and Dickinson sites that during a University Faculty Senate meeting during Scott Douglass' presentation on the proposed sale of the sites, that if a commercial developer could tear down the dormitories and build housing for students in its place, and pay property taxes on the land and the buildings as well as income tax on whatever profits it made; the University should be able to tear down the buildings and put up other buildings and at least break even.

Dr. Morgan believed the Dickinson site would be a very good place to have graduate housing. He believed it was a much better location than STAR Campus, which would be a mile if not more from the main campus; whereas the Dickinson site would be a very convenient walk or a bike ride from main campus. Dr. Morgan stated he had never gotten a good answer to his question about why the University was selling the Dickinson site to a commercial developer who is planning to build housing for students there, rather than redeveloping the site itself for its own students and possibly for graduate students. He thought it would be good if the City would invite the new Executive Vice President, John Long, to come to a Council meeting and explain in public what the University's plans are for the Dickinson site and why it was felt not to be a good idea to build its own housing for students there.

Jean White, District 1, thought the public comment had been changed at the previous meeting from three minutes to five minutes and asked if that had happened. Mr. Clifton said that had not been formally codified yet, but that it was up to the chair of the meeting to enforce the time limit and he did not think they had seen him cut anybody off in the three months he had been chairing the meetings. He noted that if there were more people at the meetings, he would make them adhere to a set time limit, but with fewer people he was more lenient. He noted the formal changes would be considered at the first meeting in July.

- 12. 3. APPROVAL OF CONSENT AGENDA:**
- A.** Approval of Special Council Meeting Minutes – May 20, 2019
 - B.** Approval of Council Meeting Minutes – May 28, 2019
 - C.** Receipt of Planning Commission Green Building Code Work Group Meeting Minutes – March 26, 2019

29:37

Ms. Schiano read the consent agenda into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: TO APPROVE THE CONSENT AGENDA AS RECEIVED.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.
Nay – Hamilton.

- 13. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None**

- 14. 5. APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:**

A. Appointment of Dr. Horacio Lewis to a Mayoral Appointment on the Newark Housing Authority to a Term to Expire January 15, 2020

30:24

Mr. Clifton explained that there were a couple of vacancies on the Newark Housing Authority in both Governor's and Mayor's appointments. He wanted someone who had a background that could really enhance the board. Dr. Lewis was unable to attend tonight's meeting. Mr. Clifton noted that he was known to some of the Council members as he had served for 15 years on the Community Development/Revenue Sharing Advisory Committee. Mr. Clifton thought Dr. Lewis had done a stellar job on that committee and noted Council had Dr. Lewis' application and Mr. Clifton could answer any questions.

Mr. Hamilton asked why Dr. Lewis was not there. Mr. Clifton said that Dr. Lewis still served as Professor Emeritus at UD and had a conflict.

There was no public comment.

MOTION BY MR. CLIFTON, SECONDED BY MS. WALLACE: APPOINTMENT OF DR. HORACIO LEWIS FROM DISTRICT 2 TO FILL AN UNEXPIRED TERM ON THE NEWARK HOUSING AUTHORITY TO A TERM TO EXPIRE JANUARY 15, 2020.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.

Nay – 0.

15. 6. SPECIAL DEPARTMENT REPORTS:

A. Plastic Straw Recommendation – Conservation Advisory Commission

32:30

Mr. Clifton announced that Sheila Smith, Conservation Advisory Commission (CAC), member was available to answer questions from Council on the CAC's recommendation on single use plastic straws. He noted that the CAC was asking Council to consider one of three policy options which are listed:

1. Ban the distribution of single-use, disposable plastic straws at restaurants, food-service establishments and commercial entities; or;
2. Adopt a city-wide policy whereby restaurants and commercial establishments which currently provide straws do so on request-only basis, or
3. Phase in the ban (option #1) over a one to two-year time frame starting with the straws upon request (option #2).

Mr. Clifton opened the discussion to questions from the table.

Ms. Wallace asked if Ms. Smith's intention was to answer questions on behalf of the committee. Ms. Wallace announced she had questions from residents who were wondering about how they came up with the 91,000 straw per day usage in the City. Ms. Smith announced that she was a resident and a member of the Conservation Advisory Commission and was in the meeting when they did the calculation. She stated that there was a presentation given by the students from Newark Charter, and they gave the number about how many straws used by individuals per year based on some research they had done. Ms. Smith stated that the students, after their research, came up with how many straws are used per individual and then the CAC chairperson did some quick math. Ms. Wallace stated that the number seemed a bit high and that she is in favor of adopting a policy, however, she thinks that a ban would be problematic for customers who do need straws. Ms. Smith stated that upon request, a ban could include possible exceptions. Ms. Wallace stated Council could have that discussion.

Mr. Lawhorn stated that fundamentally at a high level, his only question was also on the 91,000 straws used daily in Newark. He believed that to be a shocking number, so if there is validity to that, then it should certainly be investigated. He expressed that it just seems high given the number of residents in the City. Ms. Smith asked if Mr. Lawhorn could refresh her a little, was the 91,000 per City per year, which Mr. Lawhorn states it was used daily in the City of Newark. Ms. Smith stated that they would all have to use three plastic straws per day and thought the number must have been more like monthly or annually. Mr. Lawhorn suggested going back to the students for another project next year to dig into how they got that number, where were they from and what kind of plastic straws. He suggested starting a problem-solving exercise around how they could help to reduce that. He thought work like this was great.

Mr. Lawhorn expressed his support of the concept of being more environmentally friendly and eliminating source materials that damage the environment. He thought there was a big social movement

in the city heading in the right direction. He was supportive of staff helping to head in that direction when they could. He also believed that a ban was possible due to resident opposition. However, there were other issues to consider such as medical issues and certain quality of service issues.

Mr. Lawhorn supported the idea of continuing down this path and possibly adopting a citywide policy that restaurants and commercial establishments who provided straws do so on a request-only basis. He expressed concern about enforcing the actual policy. He suggested they could encourage the community and Council members to help drive the request-only policy. Mr. Lawhorn suggested engaging the students again and turning this into a problem-solving exercise of analyzing what that number is and what potential solutions were available to keep the social movement going.

Mr. Markham asked if this was just setting a policy direction. He noted there was no ordinance associated with this but there was a bit more that still needed to be worked out. Mr. Markham stated that when he went to a restaurant, they were not giving out straws. He stated he was not sure how a policy change helped in that restaurants were already heading in that direction and suggested doing nothing and letting them handle it themselves. He stated one of his constituents is employed at DNREC and is also a commission member on the CAC. He expressed to Mr. Markham the issues with plastic. He believed that by request only would satisfy the issue. He suggested going a little stronger than recommendation number two because that recommendation is the way restaurants are going currently, and he believed it means nothing.

Mr. Markham suggested looking at recommendation number three but with very careful wording about people getting straws for a reason. He stated he did not know how places like McDonald's are addressing this matter as they are all giving out straws. Ms. Smith wanted to clarify with the students that the survey and the conversation was with locally owned restaurants. They did not talk to the larger businesses and the larger businesses were where the litter was primarily coming from.

Mr. Markham stated he would like to see how a larger state like California or New York deals with little nuances like this. He believed there were a lot more details to be worked out. He would like to encourage this, but not before more issues are addressed.

Mr. Hamilton agreed with Mr. Markham but was uncertain on what number he would consider acceptable or not acceptable.

Ms. Hughes agreed that 91,000 sounds like a lot. She echoed Mr. Hamilton's sentiment that it does not matter whether it is 50,000 or 91,000, it is a lot. She stated she has received a few emails from residents regarding this issue, and they did not agree with the ban because of obvious issues with people that absolutely need a straw. Ms. Hughes stated there were a few other reasons of why they were not supportive of it. She thought that looking at this issue was a great start to thinking more about the environment. She believed that a good way to implement this and to gain traction a little bit later is to have the option that restaurants or whatever facility is to execute an on-request only policy. Ms. Hughes thought to completely ban plastic straws was going over the edge.

Mr. Clifton stated that he had a good conversation with someone that dines out frequently and were very careful to bring to his attention that although this does not happen in the restaurants in Newark, he has gotten glasses with smudge marks on it. So, one of the concerns is the sanitary issue and the health issue which he thought was a valid concern.

Mr. Clifton stated he had spoken with Mr. Coleman and Mr. Coleman asked him to pass along his concerns surrounding enforcement and the potential cost to the City for enforcement by police. He also asked what the penalties would be. Mr. Clifton said Mr. Coleman has agreed to, with direction from Council, an aggressive outreach program from the City to the restaurants asking them to use alternatives or to offer straws, if in fact they are plastic, only on a by request basis.

Mr. Clifton believes this may be one of the compromise cases which leads to bullet point number two. Mr. Coleman did commit to Mr. Clifton on having an aggressive outreach program, if it is the desire of the Council to do that. Mr. Clifton states Mr. Coleman had some concerns on what that would look like on a manpower and time standard.

Mr. Markham said it would have been nice for Council to have seen the City Manager's information before they began discussion at the dais.

Mr. Clifton asked Ms. Smith if she had any further comments.

Ms. Smith stated straws are a problem as it takes a plastic straw 10,000 years to break down. That is some of the research. She stated that straws are not recyclable so whether it is 50,000 a day or 20,000 a day, they are not recyclable. They easily go from out a car window or out of somebody's trash and into the waterways. Ms. Smith said she picks up trash during her frequent walks and the items are largely plastic straws with lids and plastic bottles and cups and plastic bags and it concerned her. She identified some of the trash is coming from large companies. Straws were just the tip of the iceberg, but they were a special problem and not recyclable. Plastic straws are small and end up in places that are problematic. Ms. Smith stated if people cared about wildlife and about cleanliness of oceans and waterways, there should be concern about plastic straws and reusable plastic utensils. She stated there are people who are concerned about not having the convenience of a straw but there are reusable straws, that is the industry now. It is very easy to get a reusable straw and carry it with you.

Ms. Smith pointed out if someone is worried about hygiene in restaurants that would only apply to glasses that are rewashed in the restaurant and has nothing to with a plastic cup. She asked how many people actually use a straw at home and when they thought of it that way, it was hard to understand. Ms. Smith asked how was it that everyone needed a straw when they went out and got a drink, and the reason was probably that their own dishes were clean.

She applauded Mr. Coleman's suggestion to do a very heavy-duty education campaign about the issues and hoped they would actually see the amount of straws used. She stated if they did a really good job and did their homework, they could speak true numbers that were meaningful.

Mr. Clifton opened the discussion to public comment.

Joe Charma, District 1, said he quickly looked up some national geographic numbers and there are 8.3 million tons of plastic dumped in the oceans every year, which are staggering numbers. He stated there are 8.3 billion straws polluting the world's beaches. Every day in the United States there were 500 million straws used and he thought those were mind-blowing numbers. He stated he took the population of the United States, 330 million, and that turns out to be about 1.5 straws per person per day. He stated that the population of Newark is 32,000, which is about 48,000 straws a day. In a month, that was 1.4 million straws, without all the transient people coming in and out of the City, coming to restaurants. He believed the numbers were real numbers and anything to be a good steward of the environment is a positive thing. He stated that in the past, as was mentioned with the idling ordinance, he urges to give this consideration and make a good decision.

Dee Durham, Co-Chair and Co-Founder of Plastic Free Delaware, stated that they have been working for ten years now on this issue. They started out working on the plastic bag issue. HB130 passed last week in the state legislature and now, because of HB130 they could also not only ban plastic bags, they could also charge a fee on plastic or paper bags, which was not an option previously in Delaware. Ms. Durham echoed some of the things Ms. Smith stated. Ms. Durham stated that she knew the students from Newark Charter School who have been leaders on this issue in Newark and unfortunately they could not attend the meeting. She stated she wanted to be present to update them on the conversation that took place, but she is sure that they are disappointed they could not be in attendance.

Ms. Durham added that she researched the numbers as well and saw the average American uses 1.6 straws a day. She stated it is not just Newark residents, but it is also all the people that come to dine in the City. She also believed the students are included in residency number. She believed the number 91,000 is pretty close and if not, it is still pretty staggering.

Ms. Durham stated that of the laws passed around the country on straws, she did not know how many have actually gone into effect but believed there were quite a few passed by local governments and reported that California was considering one. She stated that the vast majority of the bans on straws were by request only so whatever reason they need, want or prefer a straw, they would be able to get one. She stated that was the model that they would prefer to see happen. She noted New Jersey and New York, both have over 20 local governments that have passed similar laws, but perhaps not just on straws. She stated that the norm currently is more and more governments at all levels globally were passing laws that actually banned all single-use plastics, with certain exceptions.

John Morgan, District 1, reported sometime during the last year, the Greene Turtle stopped giving out plastic straws and replaced them with paper straws. He believed for almost all purposes a paper straw was as effective as a plastic straw. He did not see a really good reason of why there could not be an actual ban on plastic straws, with rare exceptions. He also suggested working with UD Dining Services to provide paper straws and reaching out to Caitlin Olsen to pass along this information.

James Creque, District 4, was encouraged people had stopped using plastic straws. However, he believed paper straws could have a bad taste. He thanked Council for their hard work and appreciated their efforts.

Paul Tilghman, District 2, believed the conversation was heading in the right direction; meaning a ban was going too far and straws by request only was probably the right approach. He added his daughter has some learning differences so he was present on her behalf to say there are many people with disabilities who cannot drink without a straw and a metal straw is not feasible due to safety issues. He believed paper straws may not be substantial enough, so in that circumstance plastic straws may be their only solution.

Mr. Clifton returned the discussion to the table.

Ms. Wallace thanked all for their comments and believed a ban may not necessarily work for everyone, although she would be happy personally with a ban. She also believed enforcement may be an issue. She believes the real benefit to a “by request only” restriction needed to be the benefit of education. She believes the City should focus on that and not get bogged down with enforcement. She would like to move forward with a policy that the City Manager could bring back to Council and vote on and endorse that makes plastic single use by request only. She reiterated the education piece was essential to the chain restaurants that are the larger source of plastic straws. She suggested offering an incentive to businesses to encourage the use of paper straws. She also noted businesses must educate the servers as that is important as well. She suggested the City have an education campaign during the business license renewal process and offer some sort of incentive.

Mr. Horning agreed with the general consensus during the discussion. He echoed the concerns with those with disabilities and how important the single use plastic straw can be to some. He noted Dr. Amy Roe could not attend but forwarded to Council some resources in this regard. He believes the ban may be going too far. He believed staff was looking for some form of direction from Council as to how they should approach the matter and assess resources. He had some concerns and agrees with the “by request only” for straws. He also agreed with the outreach campaign. He did need to see more information in terms of the fiscal impact and expense of enforcement or what the resources were actually going to be conduct the outreach. He asked for the City Manager and staff to return with that information. He thanked the CAC for the recommendation for the work they do as volunteers to highlight the issues, monitor what is going on around the country and to follow these trends.

Mr. Lawhorn said he had nothing further to add but the conversation generally seemed to be heading in the same direction with all.

Ms. Hughes believed this was not the time to be able to generate enough enthusiasm from local businesses and the general public to completely ban the use of plastic straws. She believed “by request only” was going to have a pretty good impact. She believed the bottom line in order to address these matters instead of trying to “police our way into it” was to create more of a public awareness. She believed “by request only” was a subtle but obvious message to the individual.

Mr. Markham understood the sentiment of Council and would debate whether he completely agreed with this. He asked how the process would be deemed successful. He believed a return revisit should be scheduled on this matter. He was ready to move a little further in the process after his conversations with his DNREC constituent previously; however, he added, it would have to carefully drafted to cover many different scenarios. He was okay with the education policy but he would like to find some way to measure it and some commitment to revisit the matter in the future.

Mr. Clifton understood all concerns. He was with the majority of offering the “by request only” first with some benchmarks along the way to see how successful this was. He also thought the costs seemed to be a stumbling block for some providers (i.e. Styrofoam cups versus paper)

Ms. Wallace also suggested Ms. Smith return to the CAC and ask the commission to return to Council with a comprehensive single use plastic recommendation as the discussion was not only covering straws.

MOTION BY MS. WALLACE, SECONDED BY MR. HORNING: FOR THE CITY MANAGER TO BRING BACK A CITYWIDE POLICY FOR MOVING TOWARDS THAT SINGLE USE PLASTIC STRAWS ARE BY REQUEST ONLY AS WELL AS BRINGING FORWARD EDUCATIONAL INCENTIVES INCLUDING PUBLIC COMMUNICATION TO RESIDENTS AND BUSINESSES AND ANY COSTS ASSOCIATED WITH THIS PROCESS INCLUDING A MECHANISM TO READDRESS WITH COUNCIL AT A FUTURE DATE

WHETHER THIS POLICY HAS BEEN SUCCESSFUL AND REEVALUATE WHAT DIRECTION COUNCIL WOULD LIKE TO TAKE RELATIVE TO A POSSIBLE BAN.

MOTION PASSED. VOTE 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.
Nay – 0.

16. 6-B. GENERAL ASSEMBLY UPDATE AND ASSOICATED REQUESTS FOR COUNCIL DIRECTION – LOBBYIST

01:20:58

Mr. Armitage said relative to SB123 that he would address the discrepancy of information which was sent to Council versus the information entered into the system. He explained that he has five priorities at the top of his list for Council.

HB109 addresses the Charter changes which everyone has been working on since last October should be on the Senate’s agenda within the week.

HB159 referenced the sewer Charter changes. Mr. Armitage requested to have it added to the agenda, but he has not received confirmation yet.

SB44 details the Alcohol Decriminalization, which still had an amendment to be reviewed and attached. The Bill has not been placed on the House agenda at this time.

Mr. Armitage continued to work on obtaining additional funding related to PILOT, or to help to underwrite some of the costs related to Unicity; as well as lobbying the Bond Committee to increase Municipal Street Aid to \$7 million.

The Minimum Wage Bill was introduced. There would be a committee hearing during the week in the Senate and the bill would change the existing minimum wage that passed last year. Effective January 1, 2020, minimum wage would increase to \$11 per hour. The minimum wage would increase by \$1 each January 1st until 2024 where it should reach \$15 per hour. The League has opposed the bill. Mr. Armitage asked Council for direction. He believed the concern was regarding salary compression, as well as part-time seasonal jobs. He was unsure of how the bill would impact the City’s budget.

Mr. Hamilton asked if bill had been measured or attempted to measure the impact of the bill on small businesses or small non-profits. In his experience, when he was the president of a local pool, the budget was mostly for lifeguards. The pool’s membership fees were increased by \$25 to anticipate the smaller increase. A \$25 increase may not seem like a large amount, however an increase up \$15 per hour, existing pay would be increased by roughly 40%. That would be huge increase for a small budget. Mr. Armitage stated it was a \$2.25 increase. In October of 2019 it has been scheduled to increase to \$9.25 and then increase over the next 4 years. Mr. Hamilton and Mr. Armitage agreed that it would be a huge impact on small businesses. Mr. Armitage added that the farming community would be heavily impacted as well. Mr. Armitage has had several conversations with the State Chamber of Commerce as they were also upset. Opposition to the bill was expected. He was not sure if the City wanted to use political capital, opposing that themselves, or wait to see how the other organizations expressed their opposition.

Ms. Wallace felt that this was a topic for Council to avoid but would vote if necessary. She appreciated the comments and had a different perspective. With a shifting economy to more of a service economy, some residents could not afford rent and groceries. She thought minimum wage should have been growing for a long time.

Mr. Horning asked for a gauge of using the City’s political capital, in comparison, for example, to the alcohol decriminalization and the broad movement associated with this. He asked what the momentum was with this issue and was it considered unpopular. Mr. Armitage thought that it would be released by Senator Walsh’s committee. He recalled that last year it was a huge issue at the end of session around minimum wage. Senate passed it to the House. The House adjourned three times to go into caucus and the bill was eventually passed. There were promises made by the Speaker of the House to the Republican Caucus that the issue would not be visited again for four or five years. Mr. Armitage was not sure how the Republican Caucus would react, because to pass budgets the Republicans would need to say yes. However, if disagreements continue it could deteriorate because of unkept promises.

Mr. Horning reiterated Ms. Wallace’s point that the City has residents who would be favorable to it. He believed that Council should remain neutral but closely aware of how it progresses.

Mr. Lawhorn agreed with Mr. Hamilton's and Ms. Wallace's points. He also felt that the right bill was a fairly complex bill which does raise minimum wage for a large portion of the people. It has the right exceptions to consider the concerns and needs the flexibility. Mr. Lawhorn agreed to be neutral.

Mr. Markham did not see positive side for either position for Council. He would have to hear a good case to assign the lobbyist to it to know how it would affect the City. Mr. Armitage stated it would impact next calendar year. Mr. Markham stated he would stay neutral. He asked if they were finishing that topic, or could he ask other questions of the lobbyist. Mr. Clifton explained that since Representative Baumbach specifically asked for direction on this topic, that this topic should be finished first, then move on to those items he had specific questions about.

Ms. Hughes agreed with the comments regarding participation in this type of a circumstance. She believed that Council was not the public body for this type of endeavor. She thought Council had more appropriate and pressing issues to address.

Mr. Clifton agreed with Council. He also agreed that minimum wage should be increased, but he also thought it was time to consider a CPI (Consumer Price Index) Escalator to avoid this topic every few years. The CIP would keep pace with the economy rather than having this argument every few years. He agreed with the previous comments and did not know if Council needed to choose a position on this topic.

Mr. Armitage reported that SB106 notes if the police arrest someone for driving without insurance the issue would go to Court. This legislation would allow the judge to suspend fines if the person obtains insurance before their court appearance. The dilemma for many judges occurred when people could not pay the fine or did not have enough money pay for both. He emphasized many of the judges would prefer to suspend the fines, but the caveat was how did they ensure that person continued to keep the insurance. Mr. Armitage asked that he be allowed to have a conversation at the Committee hearings to allow judges to suspend the fines with the caveat that they be able to track the person to ensure the continuation of insurance coverage.

Mr. Bilodeau stated when a driver pleads guilty to not having car insurance the fine is \$1,500 and the loss of driving privileges for six months. He believed the way it was presented to him before was that if the driver got insurance after getting pulled over for not having insurance, the judge could dismiss the charges. Mr. Bilodeau believed that was letting people play the game of driving without insurance for as long as they were able and once they were caught, they could go buy it. He did not think it was a good situation. Mr. Bilodeau noted that he has represented many people that were injured in car accidents by people that did not have insurance. He did not want to encourage people to drive without insurance.

Mr. Armitage said Delaware State Police were actually on the same page. He noted AAA was still evaluating and he had not heard back from the lobbyist for State Farm and a couple of the other insurance companies. He was hoping to have some more background information to be able to share. He reminded all that typically during this time of year, items get introduced on a Thursday, are in a committee during the following week and then added to the agenda.

Ms. Wallace wanted confirmation the fine was currently \$1,500 and the driver loses their license for six months. Mr. Bilodeau confirmed this. He also added as a general rule, with regard to the \$1,500 fine, the judges in the Court of Common Pleas typically suspended part of the fine. Ms. Wallace shared a personal story. She noted many years ago when she pulled over for speeding while driving a new car, she had insurance but had not switched coverage over to the new vehicle. She went to court; the fee was waived because she had proof of insurance. The prosecutor spoke to the judge and stated that they were not interested in pursuing the matter. She noted at that time she had a young family with one parent in college and both working and noted the amount of \$1,500 was a life-changing amount of money. She stated it sounded to her that there was push back to not allow judges the option to waive fines so often.

Mr. Armitage believed that they were trying to codify it. He thought the Attorney General's Office also frequently suggested the judges waive the fine. However, waiving of the fine was not necessarily in the Code for the judges to continue the practice.

Ms. Wallace asked to know what person or body was in opposition. Mr. Armitage stated he knew the State Police Department was not happy with the practice of waiving the fine. He did have a conversation with the State Police's lobbyist where they posed the question as if the fines were being waived then why write the tickets. Mr. Armitage added that the disincentive to have people get insurance would be to have large fine and the loss of your driver's license. He wanted some guidance from Council as to take step back while other people discuss and share their opinions.

Ms. Wallace thought that judges should have the choice to waive fines. She did not believe that it should be codified as she was aware that uninsured drivers in Delaware was a large problem. Ms. Wallace was unsure of the benefit to codify it and why it could not remain as it currently stands with judges having the discretion. Mr. Armitage believed the discretion did not exist now. Mr. Bilodeau concurred with Mr. Armitage, and noted the statute said, "If you find someone guilty, they shall fine them \$1,500." He noted if they actually read the statute verbatim, there is no wiggle room for the judge not to fine the full \$1,500. However, he said judges had been suspended fines anyway. He suggested supporting the judge having the discretion to waive a portion of the fine.

Mr. Armitage said the City Manager made the point of how it could be certain that person continues to keep the insurance in place and not let the policy lapse.

Mr. Clifton asked if there were any questions from the other side.

Mr. Markham believes the true ideal here is to have the person have car insurance. It would be an accounting nightmare, but they could fine the person and buy them the insurance for the year, so they knew that they always had it. That way they would not get off the hook and they would have insurance.

Mr. Horning asked if the fine is paid into a fund to assist motorists that are hit by uninsured drivers to assist them in paying their deductible. Mr. Armitage said fines get broken up into a whole bunch of things. There were fines that would actually return to the court of jurisdiction that was hearing the case, and then there were many additions that went into the Victims Compensation Funds, DELJIS, and four or five other things tacked on to existing fines that fund different agencies or programs in the state. Mr. Bilodeau said an initial fine of \$1,500 would be \$2,000 once the added fines were tacked on.

Mr. Horning believed for the most part, the people that were not getting insurance, were the ones that could not afford it. Therefore, he believed hitting them with a \$1,500 -\$2,000 fine and taking their license which may be their means of getting to a job would make it a financial hardship. However, he supported the idea of giving the judge discretion.

Mr. Clifton asked Council if they agreed on the concept of giving the judge discretion. He believed it was similar to other ordinances in that changing the word from "shall" to "may" changed the whole dynamic of it and may seem a bit too simple but is still a good point.

Ms. Wallace asked if this complicated Mr. Armitage's job. Mr. Armitage stated it did not.

Mr. Armitage said SB123, dealt with a program run by the Department of Corrections for earned credit towards fines. In Newark, if an incarcerated individual that still owed fines to a court entered this program through the Department of Corrections, they could earn money to pay off the fines, but because Alderman's Court was not part of the State court, those fines never got paid to Newark. Therefore, someone who entered this program may think they are paying back their fines when they are not.

Mr. Armitage asked for Council's permission to speak with the sponsors at the legislation and take the suggestions from Mr. Bilodeau and the Alderman, in that the fines should go back to the court that sentences that person. Currently, that is not the way that happens or the way the bill is written. That person would go through the program and generate the income, but the fine money never actually comes back to the Alderman's Court, so they still owe that fine.

Ms. Wallace suggested they may still have a warrant if the amount is over a certain dollar amount. Mr. Bilodeau said that may be true. He explained if someone has a fine in Alderman's Court and fines in state court, they start working off their fines from the state court. However, they believe they are working off Newark's fines as well, and they are not. Then, when they miss their deadlines for payment to Newark then a *capias* is issued for their arrest and their license is suspended. Mr. Armitage said he hesitated to go in and talk on behalf of Newark without Council knowing what he was doing. He thought this was one where he believed it was reasonable to suggest the fines return back to the charging courts.

Mr. Clifton asked if there was direction.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: TO ALLOW MR. ARMITAGE TO DISCUSS SB123 WITH THE BILL SPONSORS AND ADVOCATE FOR THE CITY'S POSITION THAT THE FINES COME BACK TO THE CHARGING COURT.

MOTION PASSED. VOTE 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.

Nay – 0.

Mr. Armitage said with reference to SB124 he was unable to find the reason for this happening, but currently legislation stated that someone driving a semi-truck would be prohibited from parking their vehicle on a residential street. This proposed bill would be pre-empting the City's ability to prohibit them from parking on residential streets. He believed Mr. Del Grande was not happy with this proposal.

Ms. Wallace asked what the definition was for oversized vehicles. Mr. Armitage believed it was in excess of 10,000 gross vehicle weight. Ms. Wallace said she would be in favor of overturning this. She noted one of the first things that a resident approached her about was someone parking a semi-truck in their neighborhood. She had multiple instances of this happening in City neighborhoods and believes her residents would not be in favor of this being overturned.

Mr. Bilodeau asked if this legislation only applied in New Castle County. Mr. Armitage confirmed this. Mr. Bilodeau said one of the amendments was made to have it apply to unincorporated areas of New Castle County. Mr. Armitage said what was interesting is when looking at the sponsors, one of them is in Wilmington and comes out into Elsmere and the other one was in Elsmere. So, he was not sure what they were thinking. Mr. Armitage was just trying to catch up with them today to determine where the genesis of this legislation, because they represent big parts of the district that are municipal areas. Mr. Armitage said the input from Council was helpful.

Mr. Armitage reported with reference to recreational marijuana. The League was going to oppose this. He thought that the continuing concern seems to be whether management really could restrict their employees from recreational use. One of the caveats he believed Mr. Osienski was agreeable to was to at least give municipalities the ability to prohibit stores that would sell recreational marijuana within their jurisdiction. However, Mr. Armitage believes there were still concerns around employee use. It was hard to determine if an employee may have used it and then come to work. There was not good science around being able to know if someone might still be high. He thought NPD Officer Andrew Rubin was the only expert at this point although others were being trained. The training was a bit extensive. Mr. Armitage did not know whether Council wanted to have a position on that or just let the League carry that.

Mr. Clifton was concerned that as employers they may not be able to determine the level of impairment. When they had to send an officer to a five-day class to be an expert, he was concerned.

Ms. Wallace preferred Newark stay out of this. She thought it was already decriminalized under an ounce. She noted there were people using and that problem already existed, and she believed they were talking about not making it a fineable item. She thought that adults should have the ability to drink or whatever and not have Council weigh in.

Mr. Horning asked if there was any feedback received from the police department on this with concerns similar to the field sobriety test. Mr. Armitage said he did not get any directly from the police department and noted the City Manager was not at the meeting.

Mr. Lawhorn would like to stay neutral.

Mr. Markham confirmed this only pertained to recreational use and there was no ability to test if someone was under the influence while they were operating machinery or driving.

Mr. Markham asked what the momentum was on the proposed bill. Mr. Armitage believed it was 50/50. It was the third iteration of the bill they had introduced and that sometimes was enough and sometimes people started to accept the idea that it was going to happen. Mr. Markham noted that enough jurisdictions were going to allow this and he believed someone would come up with a much better test. He said unless Mr. Armitage thought his one voice was actually going to sway the entire legislature, he thought there were other things on which to concentrate currently.

Ms. Hughes agreed with Mr. Markham and other Council members regarding the position to stay neutral.

Mr. Clifton asked if the charge was driving under the influence and it was suspected the person was under the influence of drugs, it was in fact the same charge. Mr. Bilodeau confirmed this and said if a driver had any THC showing active in their body, they would be considered driving under the influence. It showed up active four to five days later.

After discussion, it was decided Council consensus was to remain neutral.

Mr. Armitage asked for clarification on the Clean Water bill. It came out of committee (Natural Resources) but then was reassigned to Appropriations because of the funding. He believed it would not progress any further this year as there was not enough money set aside.

Mr. Armitage said the Bond Committee began meeting but when DEFAC meets on June 18, that was when they really started to do the bill drafting for how much they were going to start to put into those particular things. He noted the Charter bill was on the Senate agenda June 13 for the seven changes, but there were no updates currently.

SB130, the plastic bag bill, did pass. He did not know when the Governor was going to sign in, but he was pretty sure that he would. There are 10 legislative dates left. He noted he will publish the table the next day as he has added seven different bills, six Senate bills, one House bill. There are several other transportation bills that he mentioned that are in committee on June 12 at 10:30. The education bills that Newark supported were HB129 and HB134. They have their committee hearing on June 12. He was not sure that they were going to go forward as there was significant opposition to them.

Mr. Clifton opened the discussion to questions from the table.

Mr. Markham asked about the "PILOT-like bill." He notes there is not a lot of information on Mr. Armitage's report so that is not giving Mr. Markham a good feeling. He asked what the current status is and what is Mr. Armitage's opinion. Mr. Armitage reported there are not enough votes in the Senate to support the Senator Sokola putting it on the agenda again. He pulled it off the agenda. The conversations have been with Senator McDowell. Mr. Armitage noted because of the shortfalls they have in Unicity, that when they get to Grant-In-Aid, what they may see is that Senator McDowell may make an appropriation to support Unicity. He had been supplied with significant background information on what that shortfall has been over the last four years. Mr. Markham said it was better than nothing but it did not acknowledge the issue.

Mr. Markham noted he has not noticed SB77 before about the registration plates for counties and municipalities. It was something I thought was unusual that the county had it and Newark has never had it. He believed it may not be moving forward. Mr. Armitage said he does not believe it is moving forward.

Mr. Markham asked about the statewide property tax reassessment, the school lawsuit as that affects tax assessments everywhere in New Castle County. Mr. Armitage said he had not heard anything. Mr. Markham believed it may not affect Newark, but it appeared it may change how Newark did everything. Mr. Armitage said it would and if the judge decided he wanted to make his decision this month, that would certainly throw a monkey wrench into a lot of the things going on in Dover.

Mr. Horning inquired about the lawsuit on the assessment and asked if there were amicus briefs or anything similar that Mr. Armitage was aware of from other municipalities. Mr. Armitage was not sure.

Mr. Clifton asked if the appointment to the UD Board of Trustees has been acted upon. Mr. Armitage said it was not something he was watching and he did not have anything to offer at this time. If Council would like him to pursue this, he certainly could.

Mr. Armitage noted reported he talked to the Governor's Legislative Affairs person about Newark's two Charter bills, and they are fine with them, if they get to him for signature.

Mr. Clifton opened the discussion to public comment.

John Morgan, District 1, went back over the last seven months or so about various things that have happened, some of which Council is very aware of and others of which they may not be fully aware of. He noted at the second Council meeting in November 2018 that he spent several minutes describing the very different mode of operation of the University's Board of Trustees from almost every other public body in the State of Delaware, with decisions being made behind closed doors and then rubber stamped at the Board's semi-annual meetings. At that time, there was no opportunity for input by members of the public. He believes there were several positive responses from Council members to what he said at that time, in particular by Mr. Hamilton, Ms. Wallace, Mr. Clifton and former Councilman Morehead.

He noted a few weeks later, at the Board of Trustees December meeting, there was a brief opportunity for public comment for the first time ever and he said he spent his allotted two minutes

focusing on the issue of trying to counter the party culture of the University, with the ranking of the University as the number one party school by the Princeton Review. At the end of it, he said that if any of the trustees would like any further information, they could get in touch with him very easily, because his email address at the University is public. None of them did so.

He added on January 31, he went to the JFC hearing for the University of Delaware and several legislators asked questions about the University's party culture and very large classes, which are easy for kids to skip. He also made some comments about the University's party culture. Then later in early April at the Bond Bill Committee hearing, Amy Roe made some very direct comments about the effects of the intrusion of student housing into residential neighborhoods, and Representative Ed Osienski also asked some questions of President Assanis and Provost Morgan. He wondered whether they thought it would be helpful for the City's lobbyists to try to back up some of these concerns that have been expressed by he and Dr. Roe in Dover.

Nick Wasileski, District 3, thanked everyone in the room that had worked very diligently on the LLC voting rights issue and the single person one vote issue that has been discussed. He understood it was very controversial and some people may have had some sleepless nights because of this but he appreciated everyone's efforts. He thanked Representatives Baumbach and Kowalko for their efforts. He said that June 13 this issue will pass in the Senate, it will be signed and become history. He noted in comments about this LLC issue, and he added, this does not necessarily deal with Newark specifically, but Council may find this item of interest. Senator Sokola introduced a Senate concurrent Resolution 37 in April. The Resolution passed the Senate, and last week with help of Representative Baumbach it passed the House. The Resolution was to request that Delaware's U.S. Congressional Delegation sponsor federal legislation for a database of beneficial ownership of corporations and limited liability companies to assist with law enforcement. He noted it was HR2513 in the U.S. House of Representatives. The bill is being heard on June 11 in the Committee on Financial Services of U.S. House of Representatives. That resolution that has passed in the Delaware House and Delaware Senate and hopefully, will have a little weight in Washington to help solve a problem, which has been identified in the last few years and that is money laundering, narcotics trafficking and human trafficking that is enabled by the secrecy of limited liability companies. He wanted to thank the Delaware House and the Delaware Senate, and all of Council for supporting these issues that deal with the secrecy of beneficial ownership.

Mr. Clifton asked Mr. Bilodeau if the LLC voting bill would still have to be codified after it passed. Mr. Bilodeau noted the City Charter would have to be amended. He added that once the Legislature amended the City Charter, then further action was not needed.

17. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS:** None

18. 8. **FINANCIAL STATEMENT:** None

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

A. **Bill 19-14** - An Ordinance Amending Chapter 2, City Council, Code of the City of Newark, Delaware, Administration, City Council, Regarding Locations of the Public Meetings of City Commissioners, Boards and Committees

02:12:59

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: THAT THIS BE THE SECOND READING AND PUBLIC HEARING FOR BILL 19-14.

Ms. Wallace reported before she was a member on Council she had various residents telling her they had trouble with participating in offsite meetings. She reminded all that Council had this discussion last year when she brought it forward as a discussion first, before bringing forward a proposed ordinance to see if there was interest among Council members. She noted the proposed ordinance as written, did not prohibit meetings from being held offsite, but provided a process to have some oversight and make sure FOIA was being followed. Meetings could be held in City Hall or any of the other City buildings or locations without permission. But if a board, commission, or task force, that is a Council committee, wanted to have an offsite meeting, they needed to come to Council for permission. Council could review whether the location was appropriate as referenced in Mr. Bilodeau's memo to Council. She noted it was not necessarily a FOIA violation for the meeting to be held offsite, but what was a FOIA violation was if people could not participate because they could not hear or they did not know where the meeting was being held. If someone were to hold a meeting, for example, at Klondike Kate's which had a separate room and the meeting location properly designated with adequate signage enabling people to find the meeting, that would not be a FOIA violation. Ms. Wallace said the mechanism in place to come to Council for approval would mean Council would make that determination.

Ms. Wallace said she believed this was more of an issue when the Downtown Newark Partnership (DNP) was active because there were multiple meetings that were held offsite, and now she believed what will be called the "Design Committee" had meetings offsite. The intent was to prevent this from happening again. This did not preclude the City Solicitor or the City Secretary who is the FOIA Coordinator from deciding that a meeting could be held offsite. If, for example, there was a controversial issue such as the Florida T meeting held several years ago, which the City held offsite because the City believed the possibly existed where there could be a potential FOIA violation because the projected amount of attendees for that meeting would not fit in Council Chamber.

Mr. Clifton opened the discussion to questions from the table.

Mr. Lawhorn asked, as the proposed ordinance was written, did it require Council approval, because the and/or was confusing to him. He asked if Council, the City Solicitor and/or the FOIA Coordinator could approve an offsite meeting at any time. Mr. Bilodeau noted under subpart A, Council approved offsite, and then it said that the approval may be rescinded by the City Council or the City Solicitor. Mr. Lawhorn said it would require Council approval. Mr. Bilodeau confirmed they would require Council approval, other than the last one that essentially allows the City Solicitor or the FOIA Coordinator to determine when there may be a larger scale meeting that could be held somewhere else, such as the fire hall. Mr. Lawhorn interpreted that to mean that the FOIA Coordinator or the City Solicitor could approve the location and it did not require Council. Mr. Bilodeau said under certain circumstances. Mr. Lawhorn asked if the certain circumstances were determined by the City Solicitor and the FOIA Coordinator. Mr. Bilodeau said that was correct. Mr. Lawhorn believed it was a little confusing. He interpreted it to mean it really did not require Council approval and could be the City Solicitor or FOIA Coordinator, if they felt the circumstances justified doing so. Mr. Bilodeau added if there were to be an overflow crowd in attendance that would not fit in Council Chamber or in another location, then the City Solicitor or the City FOIA director could make that determination.

Ms. Wallace said she believes she misunderstood Mr. Lawhorn's question. She explained there may be two different scenarios. For example, one is a newly formed committee that wants to hold their meeting at the bike shop downtown. They would have to come to Council, if they wanted to meet in another location, and Council would make that determination whether that change in location could potentially violate FOIA or not, with the City Solicitor's advice. However, there is another scenario where the City Solicitor and/or the FOIA Coordinator can determine that all meetings need to be held onsite, and that is in compliance with state code. That is a totally separate function. That could potentially be the case for any public, not just City Council meetings, but any of the City's public meetings.

Mr. Lawhorn believed he had a slightly different perspective. He believed that following FOIA laws was necessary. However, he believed subcommittees should be able to manage this themselves and if there were complaints certainly they should be addressed. He believed there was a lot of value for certain work function committees to have meetings in other places. Mr. Lawhorn used his own professional work experience as an example of how he believed there was value in using the actual location of where actual work may be occurring to use the same location site for meeting.

Mr. Lawhorn believed that the most productive work and problem solving may happen where the problems are and where the work is. He agreed that following FOIA is absolutely important and it should be ensured that it is happening. But, he thought it was going a little far to have committees come to Council for every meeting that they wanted to have that was not in City Hall.

Mr. Lawhorn mentioned that he had even considered this concept as it pertained to Council; in that if Council is looking at a development project, he would like for Council to be able have the meeting where the development is going to take place. He thought this proposal may be going a little heavy in the opposite direction. He had received quite a few emails and calls from a couple people that are on committees who are concerned about this proposed change. He wanted to make sure if this did get approved the flexibility would still remain to make those changes.

Mr. Lawhorn said from a community standpoint, he believed it would be valuable to have more meetings around the City in different districts, depending on what it is, to have a subcommittee meeting in his district, or in district 3, for example. He believed it would engage the community and may assist in getting volunteers. He also believed that if some of the committee members are discouraged by this proposal, he was concerned about this.

Mr. Markham was concerned about the space in this building and how limited it could be. Relative to City Code, he did not think the City Solicitor or the FOIA Coordinator should be able to override Council decision. He also did not think that every commission was going to come before Council. What he

proposed instead, was to have an approved list with locations that had been vetted for public meetings in the City. It could be a public school or another location. He believes having every board or commission coming before Council with a location request, could be too much.

Mr. Hamilton appreciated Ms. Wallace bringing this matter forward. He believed there had been issues in the past regarding many offsite City meetings. Many of them were held on Main Street. He believed one of the problems was any meeting is supposed to be an open meeting and he believed people should not be charged (parking) to attend a meeting. He believes public areas that did not charge for meetings may be an option as well and should be included on the approved list. The intent would be to include adequate signage at these potential meeting locations as well. He believed it was Council's responsibility as elected officials to make sure that the City's business is completely transparent, in all forms, to the public, and to make it as easy as possible for people to attend these meetings. He thought that a list of acceptable places could be attained.

Ms. Hughes liked the idea of specific locations to choose from but wanted clarification as to why there was so much emphasis being placed on this. She asked if there was a need for offsite meetings.

Ms. Wallace said she believed it depended on who was asked. She said this came about when she received feedback from several residents who reached out to her when they found it difficult to participate in meetings that were held offsite. The residents also inquired if this would violate FOIA or not because they could not hear or were sometimes unsure of the meeting location. Ms. Wallace said she then brought the matter forward for discussion with Council, but she also reached out to Mr. Bilodeau for him to come up with an opinion, which was included with documents for this agenda item. The current discussion was in response to the fact that some people found it difficult to participate, and that could be a potential FOIA violation. She believed there would be places that would be acceptable, and she believed having offsite locations could be a good thing for a variety of reasons.

Mr. Clifton supported Ms. Wallace bringing this matter forward. He noted a lot of the meetings were held in local businesses and he agreed with Mr. Hamilton's comment that if someone could not walk to the meeting they would have to pay for parking and he believed that was not acceptable. He believed that when a meeting is held in a restaurant or a coffee shop, it could be intimidating from the perspective the person attending may feel they may be expected to purchase something. He thought the committee members would not expect that but he still believed that the intimidating concept may be present. He believed some of the meetings were held at Starbucks and he felt Starbucks could be somewhat loud and disruptive. He would be a little disappointed to attend a meeting when he may not be able to hear what was going on. He also noted some meetings were not recorded so the benefit of listening at a later date was not an option. He believed it is a reasonable expectation that residents are a part of this government and City Hall is the people's building. He also believed it was a reasonable expectation to make every effort when someone wanted to attend a meeting that meeting would be held within the confines of their (City Hall) building. He reported he got the same emails and he appreciated what was being said. He recalled historically when site visits were made to look at proposed projects. However, currently there were location issues and record keeping issues and it opened a completely different circumstance.

John Morgan, District 1, said his comments are based in part on his experience as the Vice Chair of the Boards and Commissions Review Committee several years ago. He reported when the Committee looked at the Downtown Newark Partnership, it was the Committee's opinion (Boards and Commissions Review Committee) that some of the committees of the DNP had become dysfunctional; such as the Parking Committee; where he believed the minutes were very inaccurate and did not reflect what had been said at the meeting, including inaccuracies in the list of attendees. He would say, however, that his impression was the Design Committee was functioning very well. After listening to some of the members of the Design Committee, their reasons for wanting the meetings scheduled in the downtown area were because that is where their purview is and also to make sure that the architectural designs for projects on Main Street cohere with what is already there. He thought the recommendation in the final paragraph in Mr. Bilodeau's memo was a very good idea and thought perhaps that should go into Code with more specific language. He thought it would be okay to have meetings of the Design Committee on Main Street in a separate room, not in the corner of Panera or Starbucks, but in one of the many Main Street businesses which would be a regular meeting place. He thought there should also be a requirement there be good quality audio recording made, which he felt was not that hard to do. From the recording a very accurate transcript can be made. He would urge Council to give the Design Committee the flexibility to continue meeting on Main Street, in a situation very similar to what was described in the last paragraph of Mr. Bilodeau's memo.

Katie Gifford, District 3, said she has attended many meetings and was not someone who had a lot of difficulty finding the meetings, attending or participating. She enjoyed them and got a lot from them;

yet she did see the some of the issues. She appreciated the intent as she thought the intent was that meetings should be easy to find. She noted there were some locations and even rooms that were easier to find than others. She knew many residents so she always knew someone on the committee and could spot them when entering a meeting location. She believed that was an issue that could be addressed with a sandwich board or a sign on the table and she believed some groups did start doing that.

However, she did believe the issue of whether someone may or may not be able to hear the meeting was valid and a serious consideration. She reported she did encounter issues with being able to adequately hear at various meetings she attended at outside locations, particularly restaurants. She believed the obvious intent of this was to avoid circumstances such as this. She also noted for people that may be experiencing some sort of hearing loss or difficulty it was certainly easier to hear in a room where nothing was going on except that meeting or at the very least that meeting was the strong focal point of the room. She also noted there were some rooms where people who attended had the opportunity to listen or observe the meeting without necessarily participating. She noted some people do just want to attend and listen and she thought a public body should be open to that or at least it should be meeting in rooms where the setting is more conducive to that. She noted there were several other conference rooms available in City Hall in addition to Council Chambers. She also mentioned there was the George Wilson Center and she believed there were some committees that met there. She noted there have also been meetings held at WILMAPCO.

She liked the idea of not limiting the meeting locations to just City Hall but that there would be other locations that she believed would meet the criteria of having an easy to find room where the meeting could be the focal point. It would include easy access, suit the needs of the committee, and the public who are interested in the important work the particular committee is doing.

Joe Charma, Chair of the Newark Design Committee, said he has heard a lot of testimony and although he agrees there may be concerns he would say that in the 20 years that he has been the chair of a committee he has not heard from anyone that they had difficulty finding the meeting location, or they could not hear. He noted there have been a few places they had meetings where there were no members of the public attending but it was decided it was just too noisy and the committee themselves could not hear, so they no longer go to those establishments. He asked Ms. Wallace how many people have expressed concern. Ms. Wallace said she has had at least a half dozen residents reach out to her about this particular issue. Mr. Charma asked how many boards and commissions currently meet offsite that this would affect as Mr. Charma believed the Design Committee was the only committee that meets offsite. He expressed concern the Design Committee was being targeted and he believed it was important the committee meets downtown. He reported the committee does look at buildings while they are meeting. They may get up and walk out and look at the site and return to the meeting location and take notes. He also added the committee kept very accurate minutes. He noted someone could review the minutes from 20 years ago and find out what happened at every meeting. It has only been within the last two years that they may record the meetings.

Mr. Charma also reported they follow FOIA and there has been City staff members to the committee or have been the liaison to the City especially during the Downtown Partnership era. As such, they were very careful to follow FOIA. He also noted the meeting agendas were posted accordingly at City Hall and also were available online as the minutes are. He said to his knowledge no Council member has ever attended a Design Committee meeting although he noted former Mayor Sierer attended several meetings. He invited all of Council to attend their meetings. He reported the meetings were being changed to the third Thursday of the month to better fall in line with the Planning Commissions schedule as they sometimes review projects and submit recommendations that are considered by the Planning Commission. He urged Council to consider this proposed ordinance very carefully and allow this committee the flexibility to meet where it suits the committee and noted Council Chamber may be the suitable location. He noted it is hard enough to get volunteers to be on committees and sometimes when conditions are placed it may make it even more difficult. He knows there are committee members that are dissatisfied with this proposal. He thanked Council for their consideration and asked they continue to have the flexibility to meet offsite.

Howard Smith, member of Design Committee, objected to the idea because he did not think this was a problem and believed it was making a mountain out of a molehill. He felt if anybody could not find City meetings it was because they had not asked and they had not gone online to look at the agendas that are available. He noted until very recently the committee met the same day of every month and at the same time. He believed there was a lot of bureaucracy over top of a non-problem.

Mr. Clifton returned the discussion to the table.

Mr. Hamilton appreciated everything that had been said. He was not specifically targeting anyone or any particular group. He noted there had been several meetings he has attended and they have been in different places. He noted he has been at some meetings with Ms. Gifford and it had at times been difficult to hear. He noted he did not believe the public appreciated having to pay for parking. He thought all public meetings should be recorded as he stated he has been at several committee meetings and he felt some very important information had been left out of the meeting minutes, which he found offensive and self-serving. He also said that Council was making decisions all the time and did not believe they had to be at that location to approve something. He also noted that the Planning Commission cannot go to a site where they were going to decide. He thought it was about consistency for the public. He noted the George Wilson Center would be a good pre-approved meeting location. He was thinking of other public areas where people are used to meeting and not just a business where there could be distractions. He thought it could be very difficult to get involved unless there was consistency and people felt welcome. He believed that a public, quiet place meant for meetings, was the best for the public.

Mr. Markham reiterated a slightly different approach where there was an approved list with vetted locations and believed some flexibility was needed. He emphasized he did not think staff should override the Council in any case.

Mr. Horning agreed with having some flexibility and recording the meetings to have a video and/or an audio log. He understood the point about having to pay to park and thought it was a valid issue. He suggested if there was an approved list, there should also be a way to validate for parking. He suggested adding those additional businesses to the approved list once those logistics were worked out.

Mr. Lawhorn still had the same opinion. He believed committees should be empowered to function. To have an overriding code or ordinance that forced them to meet in City Hall made it much more difficult to go out and have functional meetings. He would like to encourage committees to look at the projects and proposals on which they were going to make recommendations as he believed it was a good thing. He believed FOIA concerns were valid and thought it was a good idea that it was brought forth. He thought the making the mountain out of a molehill comment was somewhat valid. He thought direction should be given to correct that problem; meaning do not have meetings in a loud restaurant and if any committee would continue to do so then address that problem and have the outcome codified. But he believed that adults that were volunteering to help the City that were given the directive not to have meetings in loud restaurants would not do so. He believed it was that simple. He suggested a compromise would be to have an approved list and may be a better option. Even so, he would prefer to empower these committees and expect them to follow the set rules, which means FOIA and when they have an issue they should fix it. He had not received any complaints about this issue. He worried about putting into law fixing what does not seem to be a major issue.

Ms. Hughes believed an approved list of meeting venues was a great idea. She thought it would not be that long as stated to meet the conditions suggested.

Mr. Clifton would accept an approved list but he thought it would have to be neutral places. He thought a business was not a good place to hold a public meeting. He would want the list to be governmental or quasi-governmental not just places such as Panera Bread, etc. He did not think it was good public policy to support one particular business. He was not certain the number of people who had complained could be verified but he could say it was difficult to prove a negative aspect if people just got discouraged and did not complain or attend.

Ms. Wallace did not want to belabor the point but wanted to assure Mr. Charma and others the Design Committee was not being targeted and she was not even aware if the people that reached out to her were complaining about the Design Committee; they were complaining about various DNP committees. She wanted to say this was not in retaliation or retribution, or to impact the Design Committee. In the past there was a problem and if she had one person who came to her and said they could not participate in a meeting; she had to take that seriously. FOIA law was a real thing for a reason and that was something that she campaigned on and it was something that she spoke a lot about ensuring the City follows FOIA. The law existed because people have a right to participate and that was her main focus. She did not want Mr. Charma to feel he was being singled out. There were many meetings of the DNP that were being held off site and she wanted to make sure the City did not go back to that because she did hear from residents that they found it difficult to participate.

Ms. Wallace reminded everyone the City was not a business and could not do things the way that businesses do. Newark was a government and that came with certain responsibilities. Some of them were a pain even to Council, to members of a committee, but there was a duty and responsibility. For example, Council discussed going to meetings every Monday, some of Council did not vote in favor of that and the

majority did, so now maybe some members of Council were going to be inconvenienced by that but that was what it took to be involved in this City government. There were lots of reasons she believed it was not a good idea to hold meetings offsite at venues like restaurants. There should be no barrier for participation whether it was cost of parking, purchasing a drink, not being able to hear or not finding the meeting location. All of those were potential FOIA violations but they were also a barrier for people to participate in their government which they had a right to do.

Ms. Wallace said there had been discussion about adding that meetings could take place at the municipal building or any City location and she has noticed that was not included in this particular ordinance. This was initially what had been talked about. She believed there may have been a step missed. She asked would it appropriate if this ordinance were amended to remove the "such approval may be rescinded by City Council and et cetera," and in addition if , "other city locations," was added to include, "prior approval is granted via an approved list of venues." Ms. Wallace asked if that was too much of a change. Mr. Bilodeau had thought Ms. Wallace was only going to inquire about the list. He was on the fence about that item being a substantial change or not. With the other two suggested changes, he would say this was in the realm of substantial change.

After discussion, it was agreed the proposed ordinance would be voted down and return back with a new proposed ordinance with changes for a first reading.

Ms. Wallace said she agreed with having an approved list of venues. She did not think it was necessary that all of the meetings happen in Council Chambers but she did think it was necessary that all the meetings happen in a place that people could participate, where they did not have to pay to park, they could hear, they could find the meeting. She believed this process was flawed. She appreciated the discussion and would like to bring something back that fit more like what she had heard tonight.

Mr. Markham said he would like to get an approved list into the record so this matter did not return with a debate about what is an approved list. Ms. Wallace said she was thinking that the appropriate wording would be something like, " approved list of venues to be maintained by the City Secretary's office." This would be done so specific locations did not have to be put in City Code because they changed. Mr. Markham asked there be a sister discussion to this to include the approved list when the proposed ordinance came back to Council.

MOTION BY MS. WALLACE, SECONDED BY MR. HAMILTON: THAT COUNCIL TO ADOPT AN ORDINANCE AMENDING CHAPTER 2 ARTICLE 1, CITY COUNCIL, CODE OF THE CITY OF NEWARK, DELAWARE, ADMINISTRATION, CITY COUNCIL, REGARDING LOCATIONS OF THE PUBLIC MEETINGS OF CITY COMMISSIONERS, BOARDS AND COMMITTEES.

MOTION FAILED. VOTE: 1 to 6.

Aye – Hughes

Nay – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace

20. 10. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:** None
21. 11. **ITEMS SUBMITTED FOR PUBLISHED AGENDA**
 - A. **Council Members:** None.
 - B. **Others:** None
22. **Meeting adjourned at 10:10 pm.**

Tara Schiano
Acting City Secretary

/dad