

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

May 24, 2021

Those present at 6:00 p.m.:

Presiding: Mayor Jerry Clifton
Deputy Mayor, James Horning, District 1
District 2, Sharon Hughes
District 3, Jay Bancroft
District 4, Dwendolyn Creecy (arrived at 6:08 p.m.)
District 5, Jason Lawhorn
District 6, Travis McDermott

Staff Members: City Manager Tom Coleman
City Secretary Renee Bensley
City Solicitor Paul Bilodeau
Director of Public Works & Water Resources Tim Filasky
Chief Communications Officer Jayme Gravell
Chief Human Resources Officer Devan Hardin
Chief Purchasing and Personnel Officer Jeff Martindale
Electric Director Bhadresh Patel
Finance Director David Del Grande
Parks and Recreation Director Joe Spadafino
Parks and Recreation Deputy Director Paula Ennis
Planning and Development Director Mary Ellen Gray
Parking Manager Marvin Howard
Parking Supervisor Courtney Mulvanity
Public Works and Water Resources Director Tim Filasky
Public Works and Water Resources Deputy Director Ethan Robinson

1. Mr. Clifton called the meeting to order at 6:00 p.m. and informed that the agenda needed to be amended for an Executive Session B, 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 pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body, and a Return to Public Session B, Potential Vote regarding direction to City Manager and Special Counsel.

MOTION BY DR. BANCROFT, SECONDED BY MR. HORNING: THAT COUNCIL AMEND THE AGENDA TO ADD EXECUTIVE SESSION B, 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 PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE BARGAINING OR LITIGATION POSITION OF THE PUBLIC BODY, AND A RETURN TO PUBLIC SESSION B, POTENTIAL VOTE REGARDING DIRECTION TO CITY MANAGER AND SPECIAL COUNSEL.

MOTION PASSED. VOTE 6 to 0.

Aye – McDermott, Lawhorn, Bancroft, Hughes, Horning, Clifton.

Nay – 0.

Absent – Creecy.

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (9) for the purposes of strategy sessions, 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 and personnel matters in which the names, competency and abilities of individual employees are discussed, unless the employee requests that such a meeting be open.

- B. 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 pending 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. HORNING, SECONDED BY DR. BANCROFT: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (9) FOR THE PURPOSES OF STRATEGY SESSIONS, 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 AND PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED, UNLESS THE EMPLOYEE REQUESTS THAT SUCH A MEETING BE OPEN.

MOTION PASSED. VOTE 6 to 0.

Aye – Horning, Hughes, Bancroft, Lawhorn, McDermott, Clifton.
Nay – 0.
Absent – Creecy.

3. RETURN TO PUBLIC SESSION

- A. Potential vote regarding on-the-job injury settlement.

3:09

Council exited Executive Session at 7:00 p.m.

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE RESOLUTION OF A CITY EMPLOYEE'S ON THE JOB INJURY CLAIMS AS SET FORTH IN THE MAY 21ST, 2021 MEMORANDUM OF THE CITY SOLICITOR AND SPECIAL COUNSEL AND AS OUTLINED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.
Nay – 0.

4. RETURN TO PUBLIC SESSION

- B. Potential vote regarding direction to City Manager and Special Counsel

4:34

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: THAT COUNCIL DIRECT CITY MANAGER COLEMAN PROCEED WITH OPTION 3 AS OUTLINED IN EXECUTIVE SESSION WITH REGARDS TO DISCUSSIONS WITH AFSCME UNION LOCAL #1670.

MOTION PASSED. VOTE 6 to 1.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, Clifton.
Nay – McDermott.

5. SILENT MEDITATION & PLEDGE OF ALLEGIANCE

5:38

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

Mr. Clifton explained the procedures for the GoToMeeting Platform. He stated that at the beginning of each item, he would call on the related staff member to present and, once the presentation was complete, he would call on each Councilmember in order of district number to offer their comments. If a Councilmember had additional comments to add later, they should signal Ms. Bensley through the GoToMeeting chat function. Members of the public wishing to comment should also signal Ms. Bensley through the chat function with their name, district or address, and the agenda item on which they would like to comment. He noted that for participants logged in by phone, names would only appear as Caller One, Caller Two, et cetera, so it was imperative that the participants inform Council of their identities. He stated that all lines would be muted until individuals were called to speak. All speakers were required to identify themselves prior to speaking and, in compliance with the executive order on teleconference meetings by Governor Carney, votes would be taken by roll call. He continued that it may be necessary to

adjust the guidelines if any issues arose during the meeting. He reminded that all lines should be muted until called upon to speak.

6. 1. ITEMS NOT ON PUBLISHED AGENDA

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

7. 1-B. UNIVERSITY

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

8:20

Caitlin Olsen, UD Administration, reminded that graduation was upcoming and shared that a doctoral hooding ceremony was scheduled for Thursday at 4:00 p.m. at the stadium for the class of 2020 and 2021. She added that there were two ceremonies scheduled for each day on Friday, Saturday, and Sunday.

The Mayor opened the table to questions from Council.

Mr. Horning asked if was anticipated that most students would leave the City around June 1st. Ms. Olsen replied that student move out was not as much of a mass exodus as it was during move in and UD staff typically saw an off campus change on June 1st. She reminded that many students chose to remain in the City during the summer months of their junior and senior years.

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

8. 1-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes):

11:20

Keri Edwards, SGA, informed Council that the SGA was accepting applications for two new government affair senators and interviews would begin within the next two weeks. She hoped that by the middle of June, the 2021-2022 SGA Cabinet would be complete.

Mr. Clifton thanked Ms. Edwards for her service to the SGA and UD and for her willingness to communicate with Council. He wished her the best for her future endeavors and promised to contact her for future volunteer positions.

9. 1-C. CITY MANAGER (10 minutes): None.

10. 1-D. COUNCIL MEMBERS (5 minutes):

13:24

Mr. Clifton shared that last Thursday, there was a meeting at the George Wilson Center that was live streamed to the NAACP and various guests by Christina Holubinka of the Parks and Recreation Department. The meeting was attended by Dr. Freeman Williams, Syl Woolford, and Mr. Clifton with the conversation centered around the community's desire to recognize Councilman George Wilson and his personal history. He noted that Debra Norris, of UD's Art Conservation Department, and other departments offered expertise to assist in moving the initiative forward. One of the suggestions was to create an outside seating area with a bench and bricks embedded with a QR Code that would link to Mr. Wilson's history in order for visitors to access the information outside of the Center's operating hours. Mr. Clifton noted that Ms. Holubinka suggested a great rendition of what to include on the basement walls to outline Mr. Wilson's history. He shared that there could be some hesitancy within the community to share personal pictures because of their deep personal meaning and the NAACP offered to have a history tab on its website that would link directly. He wanted the City to at least have a history tab on its website to showcase Mr. Wilson and the George Wilson Center and suggested using a smaller room within the Center as a permanent or rotating display under the auspices of the City and the NAACP to preserve the artifacts. He requested Council feedback.

Mr. McDermott:

- Fully supported Mr. Clifton's initiative and wanted to highlight community trailblazers whenever possible.

Mr. Lawhorn:

- Supported ways to educate the community on Mr. Wilson.
- Withdrew his appointment for Kelly Bachman for the Ethics Committee. He noted that he had received texts that some members did not support the nomination and did not feel that Ms. Bachman would receive a fair hearing.

- Formally requested FOIA training for Council. Ms. Bensley confirmed that staff would work to provide FOIA training in the near future.

MOTION BY MR. LAWHORN, SECONDED BY MR. HORNING: THAT COUNCIL REMOVE ITEM 3A FROM THE AGENDA.

MOTION PASSED. VOTE 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.
Nay – 0.

Ms. Creecy:

- Supported the George Wilson initiative.
- Shared that she, Mr. Coleman, and other individuals walked through Pastor Hackett’s cemetery and revealed that the cemetery had been vandalized and was filled with litter. Pastor Hackett had since cleaned the area and intended to replace some fencing. She asked that the City provide two \$30 security cameras for the cemetery.

Mr. Clifton supported installing cameras but suggested that they be a higher quality for resolution needs. Mr. Coleman offered to speak with the Police Department to meet with Pastor Hackett and agreed with Ms. Creecy that the vandalism was disgraceful. Mr. Clifton asked the location of the cemetery for clarification and Ms. Creecy replied that the graveyard was on South Main Street across from the Sunoco.

Dr. Bancroft:

- Fully supported community efforts to honor George Wilson.
- Wanted to remain vigilant while the community emerged from COVID.

Ms. Hughes:

- Supported honoring Mr. Wilson.
- Requested an update on the Diversity and Inclusion Commission. Ms. Bensley replied that the application process for the Diversity and Inclusion Commission was open until Friday, June 11, per the 45-day timeline included in the Boards and Commissions Policy for vacant seats. Staff had received 10 completed application packages thus far and she anticipated more before the deadline. Once the deadline passed, staff would forward the materials to Council for the seven at-large seats and once Council nominated members, staff would put the nominations on an agenda.
- Welcomed FOIA training for Council but considered the suggestion to be in poor taste because Mr. Lawhorn chose to pull his nomination.

Mr. Horning:

- Supported the initiatives to preserve Mr. Wilson’s legacy.
- Believed the conflict of interest rules in City Code were clear and believed the campaign donations could be grounds to recuse on a vote. Mr. Clifton interjected that he closed the discussion on the application out of respect for Mr. Lawhorn and asked that the meeting continue.

11. 1-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):** None

12. 3. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:** None.

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

14. 5. **SPECIAL DEPARTMENT REPORTS:**

A. **Resolution No. 21-__:** Fixing a Time and Place for a Hearing on the Vacation of Lawson Street (15 minutes)

34:00

(Secretary’s note: Council moved to Item 5A and returned to Item 2 as Ms. Bensley had stepped away.)

Mr. Bilodeau explained the resolution was for Council to consider vacating Lawson Street, a paper street that existed to some degree between Woolen Way and Annabelle Street. He continued that the City’s Charter allowed the City, by ordinance, to create a procedure to vacate or abandon streets that Council believed were no longer necessary. He explained the first step was to approve the current resolution to adopt the time and hearing date for Council to consider all public comments on June 21st during a virtual hearing, unless the State of Emergency changed and allowed for in-person meetings. He

stated the City's intention was to enclose the street and occupy and maintain the area as City property. He reiterated that the resolution was to set the hearing date for June 21st at 7 pm.

The Mayor opened the table to Council comments.

Mr. McDermott explained that the issue was brought to his attention by the owners of a property adjacent to Lawson Street.

Ms. Creecy asked why the block was not part of mapping for the City and requested clarification. Mr. McDermott replied that in discussion with Mr. Coleman, it was discovered that Lawson Street was originally supposed to connect Annabelle Street with another but never came to fruition during the development. Lawson Street was a dead-end street that split the property but had no value to the City and the City was still required to maintain and plow the street.

Mr. Lawhorn, Dr. Bancroft, Ms. Hughes, Mr. Horning and Mr. Clifton had no questions.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL ADOPT A RESOLUTION SETTING JUNE 21, 2021, AS 7:00 P.M. AS THE TIME AND PLACE FOR A HEARING ON THE NECESSITY FOR THE CONTINUATION OF LAWSON STREET AS AN EXISTING PUBLIC STREET.

MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Hughes, Horning, Clifton.
Nay – 0.

(RESOLUTION NO. 21-I)

15. 2. **APPROVAL OF CONSENT AGENDA: (1 minute)**
- A. Approval of Council Meeting Minutes – May 3, 2021
 - B. Approval of Council Meeting Minutes – May 10, 2021
 - C. Approval of Staff Recommendation for the FY2022 Budget Council Meeting Schedule
 - D. Receipt of Alderman's Report – May 6, 2021
 - E. Receipt of Financial Statement Ending February 28, 2021

40:54

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.
Nay – 0.

16. 6. **FINANCIAL STATEMENT:** None

17. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:**
- A. Recommendation to Award RFP No. 21-02 – SCADA Integration Services (15 minutes)

42:00

Mr. Filasky explained that Supervisory Control and Data Acquisition (SCADA) allowed staff to remotely monitor and operate the City's water and sewers. As a result, staff could make immediate changes or direct changes to the systems which made it easier to adapt to changing water and sewer conditions. He revealed that the new South Wellfield Water Treatment Plant was currently operational. He explained that the previous process took hours and required staff to visit each well and manually turn them on while another staff member waited at the plant to turn it on as the water arrived. Staff could now remotely start the wells using SCADA. Then, the treatment plant began to turn on as soon as the wells began to pump adequate water. He reiterated that SCADA removed some human error and increased efficiency with the number of people required to start or stop some processes. He likened the recommendation to the engineering contract where staff put out bids every four years. Staff selected the incumbent, Allied Control Systems (ACS), for another two-year period, renewable for two additional one-

year periods, for a total possible project term of four years. He emphasized that staff was pleased with the services that ACS provided and noted that ACS was on-call 24/7 for any issues.

The Mayor opened the table to Council discussion.

Mr. Horning thanked Mr. Filasky for the presentation and considered the public health crisis in Flint, Michigan as a great example of how drinking water was taken for granted until it was contaminated. He asked how ACS measured with the overall cost. Mr. Filasky replied that ACS was based on an hourly rate for its professional staff, similar to the engineering staff, so as long as the hourly rates were not incomparable to other groups, staff was satisfied. He continued that staff requested a task order with a price quote for each project to compare with the proposal. Mr. Horning asked if the bid was comparable to the others and Mr. Filasky confirmed and reiterated that ACS was competitive and scaled appropriately to ensure that appropriate wages were paid to its employees.

Ms. Hughes, Dr. Bancroft, Ms. Creecy, Mr. Lawhorn, and Mr. McDermott had no questions.

Mr. Clifton shared that he and Mr. Coleman had discussions regarding a system of which many employees complained and asked if the system was the same. Mr. Filasky replied that there were very few complaints on SCADA from the water operators and said that when implemented properly, SCADA was very useful.

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

MOTION BY MR. HORNING, SECONDED BY MR. MCDERMOTT: THAT COUNCIL AWARD RFP 21-02 TO ALLIED CONTROL SERVICES, INC., THE HIGHEST RANKED FIRM, FOR THE PROVISION OF SCADA INTEGRATION SERVICES FOR CITY OF NEWARK DEPARTMENT OF PUBLIC WORKS AND WATER RESOURCES PROJECTS FOR A TWO (2) YEAR PERIOD, RENEWABLE FOR TWO (2) ADDITIONAL ONE (1) YEAR PERIODS, FOR A TOTAL POSSIBLE PROJECT TERM OF FOUR (4) YEARS.

MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Hughes, Horning, Clifton.

Nay – 0.

18. 7-B. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO CHANGE THE EMPLOYEE LIFE AND LONG-TERM DISABILITY INSURANCE CARRIER (15 MINUTES)

50:24

Ms. Hardin informed that the City paid the premium for Term Life and Long-term Disability for all full-time City employees and had been with the current carrier, The Standard, since 2007. In recent years, especially in her prior position as the City's Benefits Coordinator, she was displeased with the services provided by The Standard and by the fact that the rates had increased. She contacted the City's broker through the Delaware Valley Health Trust (DVHT) to assist with finding a new carrier. Staff reviewed the options and agreed that Symetra was the best option. Mr. Martindale and Ms. Hardin vetted Symetra and found they offered the same benefits with some enhancements at a lower cost. She estimated the savings at 20% on the premium each year and recommended that Council move forward with Symetra for the provider, effective July 1, 2021, to allow staff the opportunity to transition.

The Mayor opened the table to Council comment.

Mr. Horning appreciated the presentation and that staff focused on cost savings to address citizen concerns while ensuring employees had the same level of benefits. He recalled that \$70,000 was a 1% City wide tax increase and Mr. Coleman confirmed the estimate was close. Mr. Horning likened the amount to a 0.5% property tax increase City wide savings.

Ms. Hughes credited Ms. Hardin for seeking alternate sources and thanked her for the effort.

Dr. Bancroft had no questions.

Ms. Creecy agreed with previous Council comments.

Mr. Lawhorn agreed with previous Council comments and thanked Ms. Hardin on behalf of residents.

Mr. McDermott and Mr. Clifton had no questions and agreed with previous Council comments.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PROCUREMENT OF LIFE AND LONG-TERM DISABILITY INSURANCE COVERAGE FROM SYMETRA FINANCIAL INSURANCE COMPANY OF BELLEVUE, WASHINGTON WITH A VARIABLE PURCHASE PRICE FOR THE REMAINDER OF 2021. I ALSO MOVE THAT CITY STAFF AND DVHT PERSONNEL CONTINUE TO INVESTIGATE POTENTIAL NEW VENDORS FOR LIFE AND LTD INSURANCE COVERAGE SERVICES IN THE FUTURE BUT RENEW THIS AGREEMENT WITH SYMETRA IN PERPETUITY UNTIL A MORE EFFECTIVE OR EFFICIENT INSURANCE CARRIER IS DETERMINED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.

Nay – 0.

19. 8. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

- A. Bill 21-12 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Increasing the Estimated Property Value in the Waiver of Sale Procedure (15 minutes)**

56:00

Ms. Bensley read the ordinance into the record.

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

Mr. Bilodeau explained the ordinance dealt with surplus property the City owned and Code offered a procedure for public auction of larger parcels but smaller parcels of less than 10,000 square feet had a waiver if the property was worth less than \$5,000. Staff reviewed the language and determined that the \$5,000 amount had been in the books since 1982 and thought it was appropriate to increase the recommended amount to \$20,000. He continued that if Council adopted the recommendation and there was surplus real estate of less than 10,000 square feet and the City Manager and the City Solicitor both agreed that the value was less than \$20,000, then the City could sell the property, without public auction, to a contiguous owner. Staff viewed the measure as housekeeping to bring the dollar value up to current standards.

The Mayor opened the table to Council comment.

Mr. McDermott asked if there were any current properties of which Council should be made aware prior to voting. Mr. Bilodeau replied that NCCL was considering purchasing surplus property from the City so that their students could access a field behind the school. Mr. McDermott asked if there were any private owners that approached the City and Mr. Bilodeau replied that he was unaware of any. Mr. Coleman replied that two adjacent owners of 919 Rockmoss Avenue approached the City, but he recalled that the assessed value exceeded \$20,000 and would not apply. Mr. McDermott explained that he did not want the public to have the perception that Council was acting on behalf of a waiting citizen and wanted to be as transparent as possible.

Mr. Lawhorn had no questions.

Ms. Creecy explained that there was a property on Madison Drive that was purchased for \$43,000 but the owner wanted to sell the property for \$130,000. She asked if the scenario was legal and if the law would affect the exchange. Mr. Bilodeau replied that the ordinance dealt with City-owned property and asked if the property in question was City-owned. She replied that an investor owned the property and Mr. Bilodeau explained that an investor could sell the property for any amount chosen but if they committed a crime in attempting to sell something that was nowhere near its worth, then they would be answerable. He reiterated that the ordinance did not affect the transaction of the property in her example.

Dr. Bancroft and Ms. Hughes had no questions.

Mr. Horning asked if the public would be notified of the transaction. Mr. Bilodeau replied that a notification was not specified in Section 2.162, but he imagined that if the City Manager and City Solicitor agreed that there was property worth less than 10,000 square feet and valued less than \$20,000 and a

contiguous property owner was interested in purchase, the City Manager and City Solicitor would seek Council's approval in an open hearing to ensure that Council approved. Mr. Horning wanted to clarify the portion even though it was not part of the approval that evening.

Mr. Clifton had no questions.

There were no public comments and the Mayor returned the discussion to the table.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. HORNING: THAT COUNCIL ADOPT BILL 21-12 TO ALLOW THE CITY TO FOREGO THE PUBLIC BID PROCESS FOR THE SALE OF SURPLUS REAL PROPERTY TO A CONTIGUOUS PROPERTY OWNER AS LONG AS THE PARCEL CONTAINS LESS THAN 10,000 SQUARE FEET AND IS VALUED AT LESS THAN \$20,000.

MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Hughes, Horning, Clifton.

Nay – 0.

(ORDINANCE NO. 21-14)

20. 8-B. BILL 21-13 – AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, CODE OF THE CITY OF NEWARK, DELAWARE, TO INCREASE THE FINES FOR TRAFFIC VIOLATIONS IN HIGHWAY WORK ZONES TO MATCH STATE CODE (15 MINUTES)

1:07:00

Ms. Bensley read the bill into the record.

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

Mr. Bilodeau explained that the bill was a housekeeping measure that was brought to staff's attention during the construction on Elkton Road. Staff wanted to install signs that indicated fines would double in work zones and realized that the action was not in City Code as it was in State Code. The purpose of the ordinance was to amend the City's Code, so staff was able to install signs that indicated an enhanced moving violation in work zones. He noted the ordinance matched State Code nearly word for word.

The Mayor opened the table to Council comments.

Mr. Horning asked if current State law could be applied to violations in the City. Mr. Bilodeau explained that the City had the same moving violations as the State Code. He reviewed State Code and for every State Code violation where the fine was doubled, the City had the same violation in the City Code. Mr. Horning wanted to understand if City Police were still able to issue tickets under the State Code before passing the ordinance. Mr. Bilodeau confirmed but explained the Officers preferred to use the City Code.

Ms. Hughes and Dr. Bancroft had no questions.

Ms. Creecy asked if the ordinance would increase the amount of traffic violations and by how much. Mr. Coleman replied that in a work zone, the citation would double but the other fees would remain the same.

Mr. Lawhorn had no questions.

Mr. McDermott confirmed that a City Police Officer would have the ability to enforce State traffic Codes but he believed that any State charge would go to a Justice of the Peace Court or the Court of Common Pleas and not the Alderman Court, so the bill was logical.

Mr. Clifton had no questions.

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

MOTION BY DR. BANCROFT, SECONDED BY MR. MCDERMOTT: THAT COUNCIL ADOPT BILL 21-13 TO LIST THE VARIOUS MOVING VIOLATIONS IN WORK ZONES WITHIN THE CITY OF NEWARK THAT WILL RESULT IN ENHANCED PENALTIES.

MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Hughes, Horning, Clifton.
Nay – 0.

(ORDINANCE NO. 21-15)

21. 8-C. BILL 21-14 – AN ORDINANCE AMENDING CHAPTER 22, POLICE OFFENSES, CODE OF THE CITY OF NEWARK, DELAWARE, TO REDUCE COVID-19 PUBLIC GATHERING RESTRICTIONS EFFECTIVE JUNE 1, 2021 (15 MINUTES)

1:13:19

Ms. Bensley read the bill into the record.

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

Mr. Clifton reminded that Mr. Lawhorn raised the issue and the effective date was listed as June 1, 2021. He explained that if the date changed, then Council required an amendment prior to approving the amended bill.

Mr. Coleman explained that Council directed staff to bring the issue forward and he reviewed numbers with the Department of Public Health (DPH), 100 cases per 100,000 or greater than 6% of tests were positive, and DPH supported the figures. He revealed that data indicated the City was below both thresholds for the last four weeks running. Starting on April 25th, the City's cases out of 100,000 were 82, 49, 55, and 59. The percent positive for the same four weeks was 0.9, 0, 0, and not yet reported. Upon review of the data through last summer, Mr. Coleman felt the 6% positive was higher than needed and suggested that lowering to 5% would not make a difference because there was only one two-week stint where there were consecutive weeks in excess of 5%, December 27 – January 9 at 8% to 9%. He continued that Council could realistically increase the 100,000 threshold without causing issue. He explained that 100 was safe but increasing to 125 would have only added one extra week of relaxed rules over the spring and during one period in the fall in October because there was a four-week period where the numbers were below 110 for four-weeks in a row. He explained that those four-weeks would have been picked up but whereas currently presented, the City would have remained in the existing regulations the entire time. He noted there was one week below 100 and three weeks below 125 but in all of the weeks, the percent positive was 3.4% or lower. He noted that Council could choose to enact the ordinance immediately upon passage, but he urged caution to do so because there was an incident over the weekend on Friday night on Main Street where a party on Choate Street spilled over to Main Street. Police were dispatched to break the party up which led to revelers throwing bottles and screaming at officers. Mr. Coleman's recommendation was to hold the date listed in the original memo to avoid issues throughout the week.

Mr. Clifton thanked Mr. Coleman for the clarification and noted the State-wide hospitalization rate was 49 and 9 cases were critical. He emphasized that the 49 cases were a decrease from 477, the highest, and had been around 89 or 92 three weeks ago. He continued that 881,000 vaccinations occurred and, even if they were double vaccinations, that meant 440,000 people. He believed that UD was mandating vaccinations and noted that many dynamics had changed.

The Mayor opened the table to Council comments.

Mr. Lawhorn was initially in support of pulling the date up, but he preferred to hear other Council comments regarding Mr. Coleman's request to wait another week. He wanted to publish the rules and return to a state where the City's actions were clear to avoid conflicting with the State's rulings but also understood Mr. Coleman's point that waiting was only for one more week. He asked Mr. Coleman for clarification on moving from 100 to 125. Mr. Coleman explained that 100 was relatively low and when the City's numbers were high, they in the 300 to 600 range. He repeated his belief that the number could be slightly raised without adding to the risk and explained that he wanted to avoid a situation where the City went back and forth between the threshold because it was set too low. He informed that setting the limit to 100 in fall would have meant the City would have stayed in place and he clarified that City first exceeded 100 during the week of August 30 and only dropped below 100 once for one week until April. He explained that if the rate was raised to 125, then there would have been four weeks in October when the rules could have been relaxed, returned through the winter, and came out one week sooner this spring, than before. He could envision both scenarios and reiterated that DPH approved the numbers. He continued that the State was comfortable relaxing regulations now so the current levels were the figures that DPH would support relaxation in. He repeated that Council could consider raising the level to 125 without causing issues. Mr. Lawhorn repeated his support in increasing the number to avoid varying levels and emphasized that the City could react if the situation deteriorated.

Mr. Clifton asked Mr. Coleman if he was referring to changing the language in the third sentence in the amended ordinance. Mr. Coleman confirmed and continued that the difference was moving from five cases per day in the City to six cases per day. He noted the increase was small but provided a buffer.

Ms. Creedy agreed with Mr. Coleman's suggestions.

Dr. Bancroft hoped for a smooth transition and was inclined to let the current numbers stand and use the most objective measures as preferred by constituents.

Ms. Hughes was fine with the June 1st date and noted that the situation could be much worse.

Mr. Horning noted that Mr. Coleman and Mr. Clifton were consistent participants on the Governor's calls, and he felt the recommendation made sense, as did the effective date of June 1st. He noted that the students would be gone and were the population of which Council was most concerned. He continued that he drove by Klondike Kate's as they were repairing damage from the previous evening's troubles. He noted that Police had been dealing with the pandemic for over a year and he was concerned with a lack of respect for law enforcement, so he wanted to show support for the officers by remaining with the June 1st date.

Mr. McDermott did not want the Police to be subjected to rude behavior but noted that there were laws to address such instances. He wanted to be cautious that the ordinance was not treated as an anti-party/anti-college party ordinance and reminded that the ordinance was enacted to combat a pandemic. He continued that if the situation was at the point where the Governor lifted restrictions, then he believed City residents should not be subjected to more stringent measures than the rest of the State. He was slightly concerned that the ordinance had morphed into a desire to stop college students from socializing. He reiterated that there were laws and ordinances in place to address large gatherings and emphasized the intent of the ordinance in question was to stop the spread of the coronavirus. He suggested that the ordinance be effective immediately upon its adoption that evening.

Ms. Creedy shared that she interacted students and understood their need for social outlets. She revealed that her father contracted COVID by delivering to the Main Street campus and her family nearly lost him. She did not feel that waiting another week was a major inconvenience. She understood both sides but thought it made more sense to wait another week.

Mr. McDermott appreciated Ms. Creedy's insight and conveyed his concerns for anyone who contracted COVID. He shared that he also contracted COVID and understood the seriousness of the illness because he had protracted symptoms for over six months. He clarified that as legislators who created laws for the Police to enforce, the ordinance was based on metrics that were provided by the State so if the metrics changed, then Council's opinion of the ordinance should also change. He continued that the ordinance was adopted by quoting science and Council debated for hours over science, recommendations from the Center for Disease Control, and the Governor's office. He emphasized that none of the discussion that evening had cited any of the recommendations or data from those parties while trying to extend the measures for another week. He understood that individuals would continue to contract COVID but reiterated that Council initiated the ordinance based upon the information provided by authorities on the subject and the data changed but opinions had not, which he considered hypocritical.

The Mayor opened the floor to public comment.

Dr. Bancroft tried to understand Mr. McDermott's argument and claimed that he wanted to support the objective measure. He said that he would prefer "bumping in and out" versus making manual decisions on what the City thought of the disease. He emphasized the need for simple and objective directions.

Ms. Olsen reminded Council that students were leaving campus so a reverse that evening could trigger a spread from infected community members to students who would then return to their hometowns and continue to spread the virus. She emphasized that the concern was not specific to students and was more about protecting the community as a whole and decreasing the chances of further spread.

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

MOTION BY MS. HUGHES, SECONDED BY MR. HORNING: THAT COUNCIL ADOPT BILL 21-14 TO SUNSET THE CITY'S CURRENT SOCIAL GATHERING RESTRICTIONS EFFECTIVE JUNE 1, 2021 AS LONG AS CERTAIN ENHANCED COVID-19 RELATED THRESHOLDS ARE NOT REACHED.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. HORNING: THAT COUNCIL AMEND THE EFFECTIVE DATE OF BILL 21-14 FROM JUNE 1, 2021, TO EFFECTIVE IMMEDIATELY UPON THE ORDINANCE'S ADOPTION.

AMENDMENT MOTION PASSED. VOTE: 4 to 3.

Aye – Bancroft, Lawhorn, McDermott, Clifton.
Nay – Horning, Hughes, Creecy.

Mr. Lawhorn asked for clarification on the metrics used for 100 and 125. Mr. Coleman replied that the metric was cases per 100,000 residents and informed that 100 appeared twice in the ordinance as proposed in line 7 and line 12: "higher than 125 case per 100,000" and "summary reports fewer than 125 new cases". Mr. Lawhorn asked Ms. Bensley if it was sufficient to reference the changes laid out by the City Manager to change the cases from 100 to 125 per 100,000 residents in all locations within the memo and Ms. Bensley confirmed.

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL AMEND THE ORDINANCE AND INCREASE THE METRIC FROM 100 TO 125 PER 100,000 RESIDENTS IN ALL LOCATIONS WITHIN THE MEMO AS INDICATED BY THE CITY MANAGER.

AMENDMENT MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Hughes, Horning, Clifton.
Nay – 0.

Mr. Clifton called for a vote on the ordinance as amended.

MOTION PASSED. VOTE: 6 to 1.

Aye – Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.
Nay – Horning.

(ORDINANCE NO. 21-16)

23. 9. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:

- A. Resolution No. 21-__:** A Resolution Renaming College Square Located at 100, 115 and 121 College Square to The Grove at Newark; Naming the North/South Running Street Compass Way and Naming the East/West Running Street Grove Lane (**See 9-B**) (30 minutes for 9-A and 9-B combined)

1:39:03

Ms. Bensley stated that 9A and 9B would be heard together and read them into the record.

Mr. Clifton asked the City Solicitor to explain the reasoning behind addressing renaming through Council. Mr. Bilodeau explained that City Code, Section 27-24, specified that whenever a subdivision or street were renamed, Council had a procedure which included gathering input from the Police and Fire Departments to ensure they were aware of the changes and could amend maps and communication system. He emphasized that renaming was more involved than installing a new street sign and that everyone needed proper notification and due consideration.

Ms. Gray informed that Council approved a major subdivision by site plan approval with special use permits for the College Square Shopping Center on March 25, 2019. The plan included demolition of sections of the existing shopping center and the construction of new sections of shopping center and apartment buildings with 305 apartment units. She revealed that demolition and construction had commenced, and the applicant requested to revise the approved plans including renaming the shopping center, its internal streets, and sign. The applicant requested to:

- Change the subdivision/shopping center's name to "The Grove at Newark."
- Change the north/south running street within the subdivision to "Compass Way."
- Change the east/west running street within the subdivision to "Grove Lane."

Ms. Gray reiterated that Code Section 27-24 stipulated that the Planning and Development Department was required to review requests with the Police Department and make recommendations to Council. She shared that the Police Department reviewed the changes and had no objections, so the

Planning and Development Department recommended that Council approve the applicant's requested name changes.

Ms. Gray explained that the applicant requested to make sign parameter changes by increasing the height and area of primary entrance signs (including the addition of an LED Screen), increasing the number of secondary entrance signs, illumination method, and content, and increasing number of tertiary entrance signs, area, and content. She explained that per the Subdivision Agreement, paragraph eight for College Square, the subdivision plans submitted to the City needed to be substantially consistent with the subdivision plans as approved by City Council on March 25, 2019, and, per Section 27-22 of the City Code, the proposed changes were reviewed by City staff and the City Manager who confirmed that the proposed sign changes were a substantial change to the approved subdivision plans, and required Council approval. She continued that Code Section 32-59(j) allowed shopping center identification signs without regard to size or shape if the signs were approved by the Planning Commission and Council as part of the subdivision approval procedure. She displayed the revised map of sign locations and illustrated signs included in the Council packet on page 25. She continued that staff reviewed the proposed changes and found them comparable to other shopping centers and well within the character of community standards. She noted that the Newark Shopping Center sign was about 28 feet tall, the Suburban Plaza sign was about 21 feet tall and then new proposed maximum sign height for The Grove at Newark was 30 feet. She admitted the Planning and Development staff addressed concerns over the LED sign with the applicant and recommended a stipulation that the sign images remain static. She informed that City Code Section 32-59(b)(7) prohibited signs that flashed, except for time and temperature indicators, and emphasized that staff did not support the LED sign having moving pictures or changing suddenly and purposely used the term "static" as defined in Webster's: characterized by lack of movement, animation, or progression. She confirmed that staff would support the LED sign changing periodically between static images but not at a high level or frequency.

Mr. Clifton recognized the attorney for the applicant, Michael Hoffman.

Mr. Hoffman, Tarabicos Grosso Hoffman, shared that the applicant's representative was also available that evening and introduced Frank J. Vassallo, Fusco Management. He added that the project team was available for questions. He reiterated that the applicant sought approval for three items: change College Square Shopping Center to the Grove at Newark, approve new names for two new internal streets, and revise the previously approved sign package for the redevelopment. He continued that the requests were straightforward, and he would keep the matter brief. He informed that the packets provided to Council and posted online included additional details and noted that the applicant attempted to redline where the changes to the previously approved sign packages were noted for simplicity.

Mr. Hoffman described the previous state of the shopping center as dated from the 1980s and characterized by asphalt and a variety of different retail buildings. He reiterated that the applicant appeared before Council in March 2019 in order to approve redevelopment to a new concept. Since 2019, the project team worked on the construction plans and had begun vertical construction. He informed that the team was initiating its leasing campaign to attract tenants and promote the project to the next step and the rebranding effort included the requested name change. He presented a depiction of the central plaza and the connecting road that would connect Library Avenue to Marrows Road, which was marked by retail and restaurants with the proposed apartments in the background. He explained that the applicant was seeking to change the name to The Grove at Newark because of the nearly 1,000 new trees that would be planted as part of the attempt to modernize the space into a lifestyle destination, creating a live, work, dine, shop and play environment. He continued that the name was vetted with City staff, including the Emergency Services Organizations, and was approved as appropriate because there did not seem to be any conflicting names that would result in confusion if approved.

Mr. Hoffman displayed the artistic renderings of the refined concept that would provide seasonal dining opportunities and outdoor spaces to create a walkable community and noted that the apartments would be called "Compass at the Grove". The project would include a walking trail to the south of the apartments and outdoor use around the storm water management facility. In an effort to identify and promote walkable and bikeable communities, the project would utilize changes in colors and pavement types throughout to emphasize biking aisles. He stated that the space would provide opportunities for concert venues and public use and reiterated that the project goal was to create a destination. He informed that there were two cross streets: east/west connector and north/south spine. The proposed street names were Grove Lane for the east/west connector and Compass Way for the north/south spine and had been vetted with staff and emergency personnel and deemed to be appropriate.

Mr. Hoffman informed that Code allowed Mayor and Council to approve a comprehensive sign package for shopping centers and he understood that the intent of the provision was to promote

consistency and commonality among a theme and approach in a singular shopping center development. He shared that the project received approval in March 2019 for the sign package and any material changes to the sign package required Council approval. He continued that the proposed changes were to better align with the refined vision as the project progressed through the construction process and in finalizing the vision and design. He displayed a map of the area and explained that the original concept at the Library Avenue entrance, across from Delaware Avenue, was for two (S1) signage, symmetrical columns with tenant signage on all ends to provide an essential entrance piece. The revision included one pylon sign on the left and an entrance sign on the right side, with an LED sign atop the pylon sign. He referred to staff's request that the LED remain static and stated that the applicant had no object. He emphasized that the intent was not to have flashing or moving components but to periodically change between static images throughout the day which was in line with current Code allowances. The applicant intended for the signage to be black and white, but tenants would be permitted to use their own logos and fonts within the black and white background.

Mr. Hoffman continued that within the site, across from Delaware Avenue, additional signs (S2) would help direct patrons to tenant locations. The S1 signs on the Marrows Road entrance would not include an LED sign. He continued that the corner of Library Avenue and Wyoming Road had two entrances and the team proposed to have one pylon with an entrance feature on the opposite side. He continued that the main north/south spine, the proposed Compass Way, originally included S2 signage on either end but was revised to have entrance features. He then displayed the various sign groupings and dimensions and thanked Council for the opportunity to present that evening.

The Mayor opened the table to Council comment.

Ms. Hughes thanked Mr. Hoffman for the presentation and said that she preferred the original signage. She asked for an estimated opening date and Mr. Hoffman hoped to launch the website following the Council meeting to include additional details and he envisioned a February 2022 opening. Ms. Hughes confirmed the site had progressed and Mr. Hoffman agreed that the project had been a multi-year endeavor. Ms. Hughes asked if the applicant heard from potential tenants and Mr. Hoffman confirmed. He explained that the website was intended to provide information to the public and also serve as a marketing campaign to attract retailers and a variety of restaurant options. Ms. Hughes asked if potential tenants had reached out and Mr. Hoffman replied that it was in the beginning stages and the team had not actively solicited pending the marketing effort.

Dr. Bancroft found the project to be tasteful and modernized and said that he wanted to avoid light pollution.

Ms. Creecy met with the project developers and expressed her support for whatever signs the developer requested. She wholly appreciated the project and the team.

Mr. Lawhorn agreed that the project was great and requested clarification on the LED signs. Mr. Hoffman explained that the entrance sign, across from Delaware Avenue facing east, would have been topped by a "welcome" LED sign. Mr. Lawhorn asked if just the top part of the sign would be LED, and Mr. Hoffman confirmed. Mr. Lawhorn asked if the LED sign would be static and change several times per day. Mr. Hoffman explained that LED signs could flash or include movie-like features, but City staff requested that the LED sign not have flashing or moving images and be a static sign. The project team agreed to the request that the image remain static but could be changed periodically throughout the day as long as the images did not flash. Mr. Lawhorn understood and asked Ms. Gray if staff approved the current status of the project and Ms. Gray confirmed.

Mr. McDermott apologized for not responding to Mr. Hoffman earlier and assumed that Grove Lane and Compass Lane were private roads and would be maintained by the maintenance corporation or the property owners. Mr. Hoffman confirmed that the roads were being named for the purpose of wayfinding and were internal to the site and were private. Mr. McDermott explained that he was not on Council at the start of the project and asked if the developers owned the ACME side of the property. Mr. Hoffman confirmed. Mr. McDermott looked forward to the final product.

Mr. Horning agreed with many of the previous comments and though the signage was appropriate for commercial use and its location. He appreciated the updated renderings and credited Mr. Fruehstorfer for the memo and analysis. He deferred to the Council member who represented the district for any concerns.

Mr. Clifton reviewed the proposal and thought "The Grove" had a calming effect given the multitude of trees that would be planted in the area. He thought the project was beautiful and he

understood that the LED sign concerns had been addressed. He loved the project and the future image of the east end of Newark.

The Mayor opened the floor to public comment.

Melanie Milburn, District 2, was pleased with the improvements that the project would bring and was happy to see that so many plants and trees were proposed. She hoped that the plantings would be native species and asked if there would be a variety. Mr. Hoffman assumed the plants were required to be native species. Jason Granado, LandDesign, worked with City staff to determine plantings. He shared that the plans called for 25 to 30 species of trees and reiterated that the team worked with City staff to provide all native plantings.

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

Ms. Bensley explained that there were two motions: the approval of the resolution and the approval of the request for the signage revisions.

MOTION BY MS. HUGHES, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE THE RENAMING OF THE COLLEGE SQUARE SUBDIVISION TO "THE GROVE AT NEWARK," APPROVE THE RENAMING OF THE NORTH/SOUTH RUNNING STREET WITHIN THE SUBDIVISION TO "COMPASS WAY," AND APPROVE THE RENAMING OF THE EAST/WEST RUNNING STREET WITHIN THE SUBDIVISION TO "GROVE LANE."

MOTION PASSED. VOTE: 7 to 0.

Aye – Hughes, Bancroft, Lawhorn, McDermott, Horning, Creecy, Clifton.
Nay – 0.

(RESOLUTION NO. 21-J)

24. 9-B. REQUEST OF COLLEGE SQUARE III, LLC; COLLEGE SQUARE II, LLC; 115 COLLEGE SQUARE, LLC; AND CS RESIDENTIAL, LLC FOR THE REVISION OF THE SIGN PARAMETERS FOR THE PROJECT AT THE PROPERTY LOCATED AT 100, 115 AND 121 COLLEGE SQUARE (SEE 9-A)

2:12:15

MOTION BY MS. HUGHES, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE REVISED SIGN PARAMETERS AS DESCRIBED IN THE APPLICANT'S REQUEST TITLED "SIGNAGE REVISIONS FOR "THE GROVE AT NEWARK" DATED MARCH 22, 2021, WITH THE STIPULATION THAT THE LED SIGN IMAGES MUST REMAIN STATIC.

MOTION PASSED. VOTE: 7 to 0.

Aye – Hughes, Bancroft, Creecy, Lawhorn, McDermott, Horning, Clifton.
Nay – 0

25. Meeting adjourned at 9:10 p.m.

Renee K. Bensley, CMC
Director of Legislative Services
City Secretary

/ns