

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

July 12, 2021

Those present at 7:00 p.m.:

Presiding: Mayor Jerry Clifton
District 2, Sharon Hughes
District 3, Jay Bancroft
District 4, Dwendolyn Creecy (arrived at 7:05 p.m.)
Deputy Mayor, District 6, Travis McDermott

Absent: District 5, Jason Lawhorn

Staff Members: City Manager Tom Coleman
City Secretary Renee Bensley
City Solicitor Paul Bilodeau
Finance Director David Del Grande
Chief Purchasing & Personnel Officer Jeff Martindale
Director of Public Works and Water Resources Tim Filasky
Deputy Director of Public Works and Water Resources Ethan Robinson
Planning and Development Director Mary Ellen Gray
Planner II Michael Fortner
Planner II Tom Fruehstorfer
Chief of Police Paul Tiernan

1. Mr. Clifton called the meeting to order at 7:00 p.m.

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

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

Mr. Clifton explained the procedures for the 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.

3. MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: TO ADD ITEM 5A TO THE AGENDA.

MOTION PASSED. VOTE: 4 to 0.

Aye – McDermott, Bancroft, Hughes, Clifton.

Nay – 0.

Absent – Lawhorn, Creecy.

4. 1. **ITEMS NOT ON PUBLISHED AGENDA**

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

5. 1-B. **UNIVERSITY**

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

3:53

Caitlin Olsen, UD Administration, had nothing to share and was present for questions. There were no questions from Council.

6. 1-B-2. **STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes):** None

7. 1-C. **CITY MANAGER (10 minutes):** None

8. 1-D. **COUNCIL MEMBERS (5 minutes):**

4:46

Dr. Bancroft:

- Cautioned against the Peruvian N37 variant and encouraged vaccinations.

Ms. Creecy:

- Informed that she was part of a vaccination campaign that would take place August 13 and 14 and would be held at Dickey Park. Senator Sokola and his wife would be present to help educate area residents on the benefits of vaccinations.

Ms. Hughes

- Informed that she was working with Denise Gaines, Newark Housing Authority, to address issues at the Red Roof Inn and surrounding area and aimed to have a resolution in the upcoming weeks. She asked for suggestions to assist.

9. 1-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):** None

10. 2. **APPROVAL OF CONSENT AGENDA: (1 minute)**

- A. Approval of Council Meeting Minutes – June 28, 2021
- B. Receipt of Planning Commission Minutes – June 1, 2021
- C. Receipt of Financial Statement Ending April 30, 2021
- D. Approval of Recommendation for a Change Order to Contract No. 20-09 – Sanitary Sewer Repair and Rehabilitation
- E. Approval of Waive Bid in Accordance with the Code of the City of Newark and Related 2021-2025 Capital Improvement Plan Budget Amendment for Cleveland Avenue Water Adjustments
- F. ***First Reading – Bill 21-21 – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Providing a Reconsideration Process for Parking Waiver Applications – *Second Reading – August 9, 2021****
- G. ***First Reading – Bill 21-22 – An Ordinance Amending the Comprehensive Development Plan by Changing the Designation of Property Located at 268 East Main Street – *Second Reading – August 9, 2021****
- H. ***First Reading – Bill 21-23 – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from BC (General Business) to BB (Central Business District) 1.25 Acres Located at 268 East Main Street – *Second Reading – August 9, 2021****

7:30

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

11. 3. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:**

- A. Appointment of Blaine Hackett to the District 4 Position on the Diversity and Inclusion Commission for a Term to Expire July 15, 2023 (5 minutes)

9:45

Ms. Creecy explained that she nominated Pastor Hackett to the Commission because of his willingness and participation in the clean-up efforts in District 4. She noted the clean-up was scheduled for August 14th and stated that Pastor Hackett and his church would be on her team to assist. She revealed

that she, Mr. Coleman, and various staff worked with Pastor Hackett to secure his cemetery and that Pastor Hackett had delivered over 40 food boxes to the community on Madison Drive over the past month. She found that Pastor Hackett's actions displayed vigor, talent, and great concern for the community. She was pleased that Pastor Hackett was included in the meeting.

The Mayor opened the table to Council comments.

Ms. Hughes had no questions.

Dr. Bancroft thanked Pastor Hackett for his willingness to serve and believed his career in the Army would encourage diversity in the community.

Mr. McDermott had no questions. He found that Pastor Hackett's reputation in the community spoke for itself and thanked him for his willingness to serve.

Mr. Clifton agreed that Pastor Hackett was well-known throughout the community for his service.

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

MOTION BY MS. CREECY, SECONDED BY MR. MCDERMOTT: TO APPROVE THE APPOINTMENT OF BLAINE HACKETT TO THE DISTRICT 4 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2023.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton thanked Pastor Hackett for his efforts in the City.

12. 3-B. APPOINTMENT OF PATRICK MCCLOSKEY TO THE DISTRICT 6 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022 (5 MINUTES)

13:46

Mr. McDermott stated that Mr. McCloskey lived four miles outside of City boundaries with his husband, Kyle. Although Mr. McCloskey resided outside of the City, he had served its citizens for the past 13 years as a University of Delaware Police Officer. He sought out Mr. McCloskey to join the Commission after reviewing the demographics provided by the City Secretary in November. He was shocked that there were no gay male representatives on any City board or commission and that only 5% of the boards were represented by Mr. McCloskey's age demographic of 35 years old. He did not believe that anyone should be selected for a position based solely their demographic and wanted people to be evaluated for their community service, character, and their life challenges and experiences. He reiterated that Mr. McCloskey served the City's citizens as a Police Officer and informed that he was one of the leading DUI enforcers throughout the State, was a Master Certified Police Instructor who was able to instruct at all academies throughout the State, and had won numerous awards for DUI enforcement throughout the City. Mr. McDermott assumed that joining the Police Force 13 years ago as an openly gay male was no easy task and informed that gay males were drastically underrepresented in law enforcement, specifically in Delaware. He was unaware if any Police agency kept track of sexual orientation of its employees and the belief throughout the LGBTQ+ community was that there were about six openly gay male Police Officers throughout the State. He considered Mr. McCloskey to be a trailblazer for the LGBTQ+ community in law enforcement and believed that Mr. McCloskey would be a great addition to the Commission.

The Mayor opened the table to Council comments.

Ms. Creecy had no questions.

Dr. Bancroft had no questions and appreciated Mr. McCloskey's willingness to serve.

Ms. Hughes thanked Mr. McCloskey and thought he would bring insight to the Commission. She noted his bravery and wished him well in the coming weeks and months.

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 DR. BANCROFT: TO APPROVE THE APPOINTMENT OF PATRICK MCCLOSKEY TO THE DISTRICT 6 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton thanked Mr. McCloskey for his willingness to serve.

13. 3-C. APPOINTMENT OF SASHA ABER TO THE AT-LARGE POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022 (5 MINUTES)

18:55

Mr. Clifton selected Ms. Aber for the at-large position on the Diversity and Inclusion Commission because she was known to many in the community through her restaurant on Main Street. He felt that Ms. Aber brought a unique set of qualities to the Commission. He acknowledged that she had a very open mind, was inclusive, and was a white, Jewish, single business owner and parent. He noted that Ms. Aber served on various boards in the past and he was proud to nominate her to the Commission.

The Mayor opened the table to Council comment.

Ms. Hughes had no questions and thanked Ms. Aber for her willingness to serve.

Dr. Bancroft thanked Ms. Aber and remarked that Home Grown was a great corner of the community.

Ms. Creecy thanked and congratulated Ms. Aber.

Mr. McDermott had no questions and thanked Ms. Aber.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: TO APPROVE THE APPOINTMENT OF SASHA ABER TO THE AT-LARGE POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton thanked Ms. Aber for her willingness to serve.

14. 3-D APPOINTMENT OF ANNALISA EKBLADH TO THE DISTRICT 5 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022 (5 MINUTES)

21:47

Mr. Clifton explained that Mr. Lawhorn was unable to attend and read his statement into the record:

“It is an honor to nominate Annalisa Ekbladh to the District 5 appointment for the Diversity and Inclusion Commission. Annalisa is an experienced leader with a long history of public service in the Newark community. Annalisa’s experience with the Christina Educational Enrichment Fund, the UD Center for Disabilities, and most recently, as Director of Policy and Family Services for Autism Delaware, has demonstrated two decades of spearheading inclusion support efforts for the disabled and special needs members of our community. Her skills with training, strategic planning, grant writing, and communications will serve this Committee well. I am sure my colleagues on Council have reviewed Annalisa’s resume to see the vast amount of experience and skills she will bring to the Committee. I am grateful for her offer to serve and I am excited to see the recommendations that will come to Council in

the future. I encourage my colleagues to approve this nomination and, again, thank Annalisa for her great work in the City.”

Mr. Clifton wholeheartedly concurred with Mr. Lawhorn’s assessment.

The Mayor opened the table to Council comments.

Ms. Hughes had no questions.

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

Ms. Creecy thanked Ms. Ekbladh for her willingness to serve and for all of her contributions to the community.

Mr. McDermott had no questions.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: TO APPROVE THE APPOINTMENT OF ANNALISA EKBLADH TO THE DISTRICT 5 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2022.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton reiterated his thanks to Ms. Ekbladh.

15. 3-E APPOINTMENT OF JOHN KALMER TO THE AT-LARGE POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT (5 MINUTES)

25:14

Mr. Clifton informed that after every Census year, the City was required by law to use the updated data and review the numbers of residents in each district to ensure equal proportion. He had known Mr. Kalmer for a few years and believed his experiences and demeanor would make him a perfect fit for moving the district lines in the next six months. Mr. Clifton was happy to put the appointment forward.

The Mayor opened the table to Council comment.

Ms. Hughes had no questions.

Dr. Bancroft thanked Mr. Kalmer for his willingness to serve.

Ms. Creecy thanked Mr. Kalmer for wanting to serve and looked forward to working with him.

Mr. McDermott had no questions.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: TO APPROVE THE APPOINTMENT OF JOHN KALMER TO THE AT-LARGE POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton thanked Mr. Kalmer all those who stepped forward to serve.

16. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None

17. 5. **SPECIAL DEPARTMENT REPORTS:**

- A. Recommendation for Approval of a Permanent Maintenance and Access Agreement to Facilitate Installation and Maintenance of a New Traffic Signal Pole at 111 West Cleveland Avenue

28:21

Mr. Robinson presented the recommendation. He explained that as part of the DeIDOT Pavement and Rehab Program, the need to locate a signal pole and mast arm on the City-owned parcel at 111 West Cleveland Avenue was not identified through the design phase. Staff worked closely with the DeIDOT design team and reviewed the item with the City Solicitor. Staff recommended that Council approve the siting of the mast arm and utility pole at the subject site.

The Mayor opened the table to Council comment.

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

Ms. Hughes asked where the pole would be located, and Mr. Robinson replied that it was at the southeast corner of Cleveland Avenue and New London Road. She asked if it was a new light and Mr. Robinson explained that there was an existing pole at the intersection on the corner and the request would remove the old pole and install a new signal pole and mast arm at the intersection. He confirmed that pole would encroach on the City-owned parcel and so required the permanent maintenance and access agreement. Ms. Hughes asked why a new pole was necessary. Mr. Robinson replied the main reason was to bring the intersection up to DeIDOT's latest signalization standards and to also allow for a more pedestrian-friendly curb ramp and intersection. He reiterated that the existing pole would be removed from behind the curb line and brought into the City's site to free up the pedestrian access round. Ms. Hughes asked what was inside of the arm. Mr. Robinson replied that the arms were hollow and explained that the pole would have an associated concrete foundation, would stand approximately 20 to 25 feet maximum height, and the mast arm would cross the intersection of New London Road and Cleveland Avenue in a diagonal fashion to accommodate the new light signals. Ms. Hughes asked if the poles would remain completely hollow and Mr. Robinson confirmed but acknowledged there could be some internal reinforcing.

Mr. Clifton had no questions.

The Mayor opened the floor to public comment.

Pastor Hackett asked if the repairs were on the side of the intersection where the church was located. Mr. Robinson asked if he was referring to light fixture or a signal light. Pastor Hackett was trying to ascertain which pole was being replaced. Mr. Robinson clarified that the pole would be situated directly diagonal from the church. Pastor Hackett witnessed the workers fixing the poles and installing boxes and wondered the purpose but assumed it was connected to the new pole. Mr. Robinson believed that Pastor Hackett could be referring to some of the pedestrian poles which would allow pedestrians to cue up the signal and cross sooner. He confirmed the workers were installing pedestrian signal poles in multiple locations along the project and confirmed that a new pedestrian signal pole would be installed in front of the church. Pastor Hackett had not received notification of any work and asked if it was regular protocol. Mr. Clifton asked Pastor Hackett to verify which church and Pastor Hackett said he was referring to St. John African Methodist Church, Inc., at the corner of Cleveland Avenue and Hillside Road at 77 New London Road. He reiterated that he had not been made aware of the work and asked when the project would start and end. He informed that trucks were parked in the church's lot, but he did not question the situation because his church worked closely with the City.

Pastor Hackett wanted to know if there would be signage installed on the property, which could potentially harm the lawn. Mr. Robinson explained that the project belonged to DeIDOT, not the City, and informed that DeIDOT had the right to enter within the right of way but he could not speak to any other DeIDOT right of entry agreements. He continued that the pedestrian signal in front of the church would be located within the right of way and confirmed that DeIDOT had variable message boards indicating when the actual work would begin on July 19th. He expected crew mobilization as early as the next Monday. He asked that Pastor Hackett reach out to Public Works if the use of the church's parking lot became an issue so City staff could assist. Pastor Hackett explained that the church recently put in a new parking lot and some of DeIDOT's trucks were extremely heavy and made impressions on the new pavements; he asked if New Castle County was responsible. Mr. Robinson replied that it was a DeIDOT project and offered to have a separate discussion offline to address vehicles and personnel parking on private property because City staff had contacts with DeIDOT and their contractor so the issue could be eliminated. Pastor Hackett had no issue with the lot being used but wanted to make sure that any damages could be addressed. Mr. Robinson understood the concern.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL APPROVE THE PERMANENT MAINTENANCE AND ACCESS AGREEMENT ON THE PARCEL LOCATED AT 111 WEST CLEVELAND TO FACILITATE THE INSTALLATION AND MAINTENANCE OF A NEW TRAFFIC SIGNAL AS PART OF DELDOT'S CLEVELAND AVENUE IMPROVEMENT PROJECT.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

18. 6. FINANCIAL STATEMENT: (Ending March 31, 2021) (15 minutes)

39:46

Mr. Del Grande stated the financial reports for March and April were completed but he would present April's report because it included more updated information. He informed that the City's total Operating Expenses remained below budget through April and all spending trends, with seasonality, reflected a positive balance of \$878,000, an improvement of \$73,000 from March's estimate. He explained the change from March was primarily due to smaller than expected utility purchases amounting to \$62,000 but cautioned that the utility savings could be offset by increased electric and sewer utility consumption as the City returned to pre-COVID conditions. He reported the Departments and Divisions that showed deficits were Refuse, Engineering, Finance, Administration, IT, Legislation, Sewer, Fleet, and Facilities and were due to the encumbering of expenses in the beginning of the fiscal year, which were obligated but not yet expended, as well as expenses incurred from the series of snow events in the first quarter for Public Works and Water Resources. The activities made it appear that spending was outpacing budgetary authority, however, the budgetary shortfalls were expected to improve as the year progressed. The deficit in Administration was due to COVID-related purchases that would be reimbursed through the American Rescue Plan Act (ARPA) grant.

Mr. Del Grande noted that overall revenue reflected a \$224,000 positive variance when compared to the budget, or a \$365,000 reduction from March. He noted that all utilities outperformed 2020 year-to-date in Revenue and were partly due to the changes in customer and volumetric charges for water and sewer. Water and sewer volume were down by less than a half of a percent, but revenue was up 0.76% and 0.50% respectively. Electric sales and revenue were also up compared to 2020 year-to-date and electric's improvement was due solely to sales volume. When 2021 activity was compared to the 2021 budgeted expectations, electric and water were on target, and sewer was 1%, or \$78,000, short of expectations. Staff predicted that utilities would return to pre-COVID levels as the year progressed.

Mr. Del Grande announced that Real Estate Transfer Taxes (RTT) continued to be a strong performer and expected that real estate activity would be brisk throughout the year. He noted that although the City had seen only two transactions in excess of \$1 million to date, staff witnessed a larger quantity of properties changing ownership at amplified values than in previous years. As such, RTT activity brought the total tax revenue portfolio into the positive for the year.

Mr. Del Grande continued that parking revenue had been slow to return to pre-State of Emergency activity but said that April improved slightly from March. He explained that virtual classrooms reduced the number of students commuting to school throughout the year and Lot 1 occupancy, which was normally 95% on the weekdays, was closer to 20% occupancy. He acknowledged that the summer months were historically slow, and staff did not expect parking volume to return until September. He added that Parks and Recreation programs were below prior years' enrollment and activity figures but revealed that fine revenue increased when the Alderman Court reopened, which offset losses from Parking and Parks and Recreation. He explained that the revenue sources, along with the several others, were included in the "other" category and were projected to be \$447,000 short of budget expectations at year-end.

Mr. Del Grande concluded that in total, the net current operating surplus, a combination of revenue versus expenses and encumbrances, was positive \$1.1 million at the end of April. The City's expected revenue was meeting its anticipated expenses for the year based on April 30 assumptions. He reported that the cash balance at the end of April was \$55.4 million, which included \$24.5 million in the City's long-term cash account, \$6.6 million in the ESCO escrow account for ESCO projects (solar, roof, and HVAC repairs), and \$24.2 million in operating cash. The electric regulatory liability carried a credit balance, an over-collection of \$715,000, which would be managed through the 2022 Rate Stabilization Adjustment (RSA) by design and as pursuant to Code.

The Mayor opened the table to Council comments.

Ms. Hughes, Dr. Bancroft, and Ms. Creecy had no questions.

Mr. McDermott referred to page 2 of the presentation where the City would be \$500,000 short of budget expectations for other revenue and asked if the projection was for the rest of the year. Mr. Del Grande confirmed that the figure was based on activity and assumptions through April and any forthcoming issues of which staff was aware. He continued that “other revenues” was comprised of fines, business licenses, permits, Parks and Recreation fees, and Parking. He noted that Parking was the major reason staff expected “other revenues” to be down. Mr. McDermott asked if the 2021 budget anticipated that parking would be stronger. Mr. Del Grande replied that Parking generally brought in \$3 million a year in revenue and staff decreased the estimate to \$2.5 million but the trend for the first four months of the year was towards \$2.1 million, or a \$486,000 difference between estimates and April results. He noted the number could improve but the impact of virtual classrooms at UD created a larger negative impact. Mr. McDermott noted that staff anticipated a positive result even with the shortage and asked Mr. Del Grande to repeat what would make up the difference. Mr. Del Grande replied that the gross utility revenue (electric, water, sewer, stormwater, and utility contractual services) and RTT were currently performing above budget and were absorbing some of the losses from Parking.

Mr. Clifton noted the cable and franchise tax was down nearly 17% and was surprised given that more people were home. Mr. Del Grande explained that the figure was down based on a few bills staff received earlier in the year and shared that the City absorbed some of the allowance for doubtful accounts that Comcast and Verizon had with Newark’s franchise fee. He explained that as Comcast and Verizon began writing off lost business, the City would share in the revenue loss. Mr. Clifton assumed their default rate was higher over last year. Mr. Del Grande confirmed but clarified that the whole amount was not due to default accounts. He explained that the loss was also due to the number of accounts and the decrease of pay-per-view activity over the last year. He reiterated that although many items made up the franchise tax, those were the two that he noticed in particular.

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

19. 7. RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:

- A. Recommendation to Award Contract No. 21-03 – Water Valve Operation, Improvement and Information Management System (10 minutes)

49:40

Mr. Filasky explained that the City’s valves would finally be exercised properly. He informed that the project had been under consideration since 2017 and would help improve the system performance by turning each fully open valve to fully closed and back open or vice versa. He continued that valves could break during operation in an emergency, opened or closed, and could potentially turn a routine main break into a complicated overnight repair. He continued that the exercising program would identify valves that needed replacement so staff could plan for orderly replacement. He noted that the project bids did not match with the amount budgeted in the CIP sheet, but staff needed enough funding left over to replace or repair any valves that were identified as broken or in need of repair. He reiterated that staff’s intention was to award the bid and begin the program and then evaluate how many valves broke or needed repairs in the first round of exercising 1,000 valves in the first year. He continued that the exercise would take place at the end of the year with little to no disruption to the system.

The Mayor opened the table questions from Council.

Mr. McDermott noted that staff budgeted for the lowest bid of \$165,000 but required additional funds to replace additional valves. Mr. Filasky responded that based on estimates from 2017, staff assumed that \$165,000 would be needed for the first year and \$125,000 every year thereafter. However, the bid came in much lower than anticipated so if staff preferred, the contractor could do all 3,000 valves. Instead, staff wanted to do the first 1,000 and make the necessary repairs closer to the end of the year. He explained that staff did not want to exercise all of the valves at once and then not have the funding to make repairs, so reserves were necessary. He continued that staff would exercise 1,000 this year and, if the program went well, staff would exercise 2,000 next year and fix or replace any valves to finish the program within three years. Mr. McDermott clarified that the bid came in substantially under the budget, so staff was requesting the keep the money to fix the valves as they broke. Mr. Filasky confirmed.

Ms. Creecy, Dr. Bancroft, and Ms. Hughes had no questions.

Mr. Clifton shared that he recently installed a hot water heater and discovered that all five of the plastic valves the builder put in were stuck in place. He was unaware that valves in the home required

exercising as well. Because of the oversight, the cost of the repair increased by hundreds of dollars in order to install new valves.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL AWARD CONTRACT NO. 21-03 TO THE LOWEST RESPONSIBLE BIDDER, WACHS WATER SERVICES, INC., IN THE AMOUNT OF \$126,000.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

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

- A. Bill 21-18** – An Ordinance Amending the Comprehensive Development Plan by Changing the Designation of Property Located at 1501 Casho Mill Road (*See Items 9-A and 9-B*) (90 minutes for items 8-A, 9-A and 9-B combined)

55:56

Mr. Clifton informed that Items 8A, 9A, and 9B would be discussed in unison.

Ms. Bensley read the ordinance and requests into the record.

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

Ms. Gray presented the application requesting a major subdivision, Special Use Permit, and Comprehensive Development Plan amendment for 6.7 acres located at 1501 Casho Mill Road. The proposal included demolition of the existing structure, which was fully located within the FEMA regulated flood plain, grading and filling in the flood plain to bring the footprint of the proposed structure above the base flood elevation. She continued that the proposed new three-story mixed-used building included about 19,400 square feet of commercial space on the ground floor and a total of 48 apartment units, including 22 two-bedroom units, six one-bedroom units, and 20 studio apartment units. She emphasized that the new structure would be constructed above the base flood elevation and would not be located in the FEMA regulated floodplain. She informed that the City's Zoning Code did not allow the construction of commercial or residential structures in a FEMA regulated flood plain, also known as a Special Flood Hazard Area (SFHA). In response, the applicant proposed re-grading the site to raise the area of the proposed building location above the base flood elevation, defined as the elevation of flood water in the event of a 1% chance storm event, commonly referred to as a 100-year flood. She noted that grading in the flood plain required a Special Use Permit and was discussed in more detail in the April 28, 2021 Planning and Development Staff report included in the Council packet.

Ms. Gray continued that the City required the applicant to submit their plans to FEMA for review to verify that the proposed plan would remove the building location from the SFHA. FEMA issued a Conditional Letter of Map Revision (CLOMR) indicating that they agreed that if the site was developed as proposed, FEMA would revise the flood plain boundaries and the constructed building would be in the regulated flood plain. She ensured that when constructed as proposed, the structure would not be located in the SFHA. Per Section 32-95(c) of the Code, Council could revise a delineation of the SFHA where there were changes that could be validated by detailed engineering studies, employing on-site survey techniques with prior approval from FEMA. She explained that approval of the Special Use Permit to allow grading in the SFHA to raise the area out of the FEMA-regulated flood plain would result in area's revision to the BLR zoning designation. She acknowledged the document had a typographical error on page 264 of the staff report whereby "the Green Mansion" should be "Casho Mill" and confirmed that all other information in the fiscal impact section was accurate.

Ms. Gray stated that the application was presented to the Planning Commission at the May 4, 2021 meeting where the applicant agreed to donate a section of the property along Christina Creek to Newark to be incorporated into the City's park system in exchange for not paying the \$700 per unit fee in lieu of open space. The change was recommended by the Parks and Recreation Department during the Subdivision Advisory Committee review process and would be discussed in more detail by the applicants in their presentation. She shared the Planning Commissions motions from the meeting:

- Voted 6-0 to recommend that the City approve the major subdivision plan for the apartments and offices
- Voted 6-0 to recommend that the City approve the Special Use Permit for grading of lands in the flood plain with the recommendation that the applicant provide notification to the residents and tenants that the parking lot was in the flood plain and was subject to flooding
- Voted 6-0 to recommend that the City revise the Comp Plan V Land Use Guidelines for 1501 Casho Mill Road from “commercial” to “mixed-urban”

Ms. Gray concluded by mentioning that because the applicants altered the plans during the Planning Commission meeting by agreeing to donate a section of the property along Christina River to the City, the plans needed to be and had been revised before presentation to Council. She continued that during the Planning Commission meeting, it was discovered that some of the building elevation diagrams provided by the applicants were either mislabeled or improperly configured. She emphasized that the drawings correctly illustrated the general design, materials, and character of the proposed structure and confirmed that the drawings were revised to show the correct configuration. She added that the building elevation figures included in Exhibit A of the attached Planning and Development Report represented the original elevations presented to the Planning Commission and the plans in the Council packet reflected the correct building configuration.

Mr. Clifton admitted that he was initially confused on the proposal and commended Ms. Gray for explaining the dynamics. He asked Mr. Bilodeau to offer any clarifications. Mr. Bilodeau admitted that the situation was an oddity and the property was zoned BLR but after FEMA revised their maps, the property was then located in the SFHA. He reiterated that when FEMA revised their maps, the zoning on the property changed so the area in question changed from BLR to SFHA. He continued that once the property’s elevation was raised beyond the SFHA, Council had the ability to remove the SFHA designation and reinstate the BLR zoning. He clarified that the situation was not a rezoning but was more a return to previously existed zoning following the actions to properly elevate the property per FEMA standards. Mr. Clifton wanted Council and the public to hear the dynamics of the situation and thanked Mr. Bilodeau.

Nicholas Kondraschow, of Rhodunda, Williams, and Kondraschow, represented the developer and was present with the principal of Liborio, L.P., Lou Ramunno, and the developer’s engineer, Scott Parker from Duffield Associates. Mr. Kondraschow presented an overview and explained that the goal of the project was to provide high quality housing on the western gateway to the City and create a potential live/work situation on Elkton Road and Casho Mill Road. He explained that the existing property was two parcels and was primarily developed with existing medical offices. He shared that the green space and parking area would not be altered rather, the buffers of the green area would be enhanced with additional plantings. He explained that the Record Plan approved in 1987 had a larger impervious area (3.1 +/- acres) than what currently existed (2.4 +/- acres). He informed that the footprint of the proposed project was essentially the same but there would be no increase in parking lot pavement and 19 parking spaces were added through restriping. He reiterated the proposal was for 48 apartment units, 19,387 square feet of office space, and 172 parking spaces basically within the same footprint. He displayed the 1987 Record Plan and the Proposed Record Plan and noted the difference in impervious coverage represented a 20% reduction in the approved plan. He next displayed a colored schematic of the plantings around the site that would be increased and also showed the access way on the upper left-hand corner. He noted that as shown in the lower right-hand corner of the schematic, the proposed building would be pushed back from what currently existed to include a stormwater management facility.

Mr. Kondraschow informed that the building elevation would have a maximum elevation of 35 feet and was Code compliant. He noted that the Planning Commission requested that the buildings be made lighter in color and the applicants complied with the request. He explained that the buildings would be made of mixed materials including dark red and light red brick, light and medium gray siding, dark gray trim, and cast stone sill, as well as a blending of different lighter colors from top to bottom and left to right. He continued that required parking was 161 space and reiterated that the applicants would provide 172 spaces through restriping and without increasing the pavement coverage. He informed that the property would be pedestrian and bicycle-friendly with bicycle parking of 34 spaces. He added there would be a net reduction in traffic because there were currently 846 average daily trips (ADT) based on the existing medical office use and the proposed use would allow for a decrease of 306 ADT. He explained there were currently no turn lanes at the access and the proposal would include road improvements for both a left and right turn lane. He emphasized that the project would be pedestrian and bicycle-friendly and would fit in the area with both business and residential uses.

Mr. Kondraschow reiterated that the area was now considered SFHA but described the designation as one that dealt with a rare storm event. He emphasized that the owner of the property had never experienced any water or flooding issues and repeated that the risk of flooding was rare, was known

as a 100-year storm event, and there was a 1% chance of flooding. He reminded that a CLOMR was produced by FEMA and was based on the proposed finish floor of the project being elevated above the base flood elevation. After the project was completed, FEMA would provide a letter of map revision confirming that the building complied with FEMA regulations. He informed that the SFHA designation resulted in a base flood elevation of 101.5' and the existing floor was 101.6' so the applicant would elevate the project area to 103.2' in order to be above the base flood elevation. He reported that there would be no net fill in the area and no downstream adverse impacts. He repeated that part of the project included the dedication of 1.75 acres to the City to use as parkland which would connect existing borders along the Christina River, promote and provide direct access to trail networks, and provide additional maintenance access for the City. He confirmed that the project fit within the Comp Plan and was zoned BLR before the SFHA designation. He repeated that the project would be a mixed use of business and residential.

The Mayor opened the table to Council comment.

Ms. Hughes had no questions.

Dr. Bancroft thought it was sensible that there would be 48 units, and many were small that could be of modest rent for residents. He appreciated that the impervious layer would not be increased and asked whether the applicants would utilize native plantings to support the pollinator community. He thought the land dedication was a great deal and the zoning change was understandable. He appreciated the architectural details and the variation in the frontal façades as well as the bicycle spots. He asked what the companies or commercial interests were and for an estimate of how many would be located on the bottom floor.

Ms. Creecy noted the project was close to her neighborhood and asked if the property would still have a 1% chance of flooding even when it was raised to 103.2'. Mr. Parker confirmed that the parking lot and surrounding area would remain in the 100-year storm event zone but the main aspect of the project was that the finished floor spaced would be raised so that there would a minimum gain of 18 inches of clearance between the 100-year elevation to the finished floor of the building's slab elevation so there would be no impact any to residents or businesses. Ms. Creecy asked for clarification on the City taking over parking and Mr. Parker asked if she was referring to the land slot of 1.7 acres and Ms. Creecy confirmed. Mr. Parker clarified that in the rear of the parcel, around the Christina River, the applicants were dedicating 1.75 acres to the City because PWWR indicated that the land could be used for trails and dedicated green space.

Dr. Bancroft asked if the applicant could respond to his questions before moving on. Mr. Parker confirmed that after revisions following discussions with City staff and landscape architects, the project would incorporate a mix of native plantings (without Ginkgo trees) and would actually exceed the Code requirements for the site. Mr. Ramunno replied that the commercial occupancy was full prior to COVID and he assumed that some tenants would return and anticipated some synergy with the University given the project's close proximity. He continued that the current employment agency tenant was aware that they needed to vacate, and previous tenants had included those in the medical field as well as a call center.

Mr. McDermott asked Mr. Coleman if the area currently experienced flooding or if there were any stormwater management issues along that section of Casho Mill Road. Mr. Coleman replied that there was not necessarily flooding on South Main but acknowledged that the Christina did flood as a general rule and the project was along the river so the dedication of the land was a benefit to the City because staff could better perform maintenance along the stream. He noted there was flooding upstream as well as downstream, but the project should have no real impact on flood levels due to project engineering, the lack of net fill, and because the parking lot would remain unchanged. He reiterated that the only change was that the building would be constructed on a higher elevation and the applicants had netted the elevation out with grading elsewhere on the site. Mr. McDermott asked where the water would go, and Mr. Coleman asked if he was referring to the water that was displaced because the building would be higher. Mr. McDermott confirmed, and Mr. Coleman replied that the water would flow to where the applicants lowered the grading elsewhere on the site and near the stormwater facility. Mr. Coleman continued that the finished floor area was already above the 100-year flood elevation and the only thing that raised was the soil around the building and was a relatively minor amount that would be easy to balance out. Mr. McDermott asked if it was relatively certain that raising the parcel of land would not increase flooding along any of the City's roadways, adjacent neighborhoods, or adjacent structures. Mr. Coleman said it should not but deferred to the consultants' engineer on the specifics of the flood analysis.

Mr. Parker explained that there were two different analyses. In the first analysis, the engineers created a surface of the base flood elevation and compared it to the existing surface to determine how much volume was within the flood plain area. He referred to page 18 of the presentation and explained

that the blue area on the map would be storage that could be water in the 100-year flood event. He explained the red colored area was everything above the 100-year base flood elevation and noted that the existing building was 101.6' versus 101.5' elevation. In the second analysis, the engineers examined the base flood elevation compared to the proposed surface and determined there was more storage volume for flood waters compared to the proposed surface since the building footprint was reduced in the area closest to the river to accommodate a stormwater bioretention facility for additional water storage. He noted there was no net fill, rather there was cut from the overall area and since the project was not displacing any flood waters, there would be no adverse impact downstream. He informed that the applicants added stormwater to treat the proposed building whereas the existing building had none. Mr. McDermott asked if there had been any flooding issues with the existing parking lot where stranded motorists required rescuing and Mr. Coleman could neither recall nor confirm. Mr. McDermott appreciated the effort but wanted to ensure that the project would not create a situation that was already elsewhere in the City. Mr. Coleman replied that the situation would be no worse than doing nothing.

Mr. McDermott asked how the ADT study numbers were determined. Mr. Parker replied that the figures were based on DeIDOT's Land Use Code for the existing medical office. The proposed use was for 48 apartments and non-medical office use, so the medical use was calculated to have more ADT than the timing of the residential and office use which reflected the net reduction in trips. The applicants provided the information to DeIDOT who accepted the trip generation. Mr. McDermott stated that it was still unknown what type of businesses would be at the location so the number could not be confirmed and was only an estimate. Mr. Parker noted the results were an analysis based on DeIDOT's Land Use Codes.

Mr. Clifton appreciated the reply on the ADT and understood that although the figures were legitimate from DeIDOT, he equated them to new math. He was comfortable with the parking lot flooding and thought it was commendable that smaller units were always mentioned and now there was a complex where the largest unit would be a two-bedroom unit. He hoped the new, smaller one-bedroom and studio units would equate to more affordable housing and noted they were outside the current mainstream housing complexes closer to campus. He asked Ms. Gray if the restriction on ground level units only applied to the BB zoning district and Ms. Gray confirmed. Mr. Clifton doubled-checked the engineering plans and did not find a true landscaping plan so he assumed that there would be mature trees along the Casho Mill side, the South Main Street side, on the property and to the western end of the property. Mr. Parker confirmed that the larger circles on the last slide of the presentation represented canopy trees and some trees under the utility lines were designed and selected to be small so as not impact the lines. Mr. Clifton asked if the trees selected for under the electric lines would reach a maturity height of 18 feet and Mr. Parker confirmed. Mr. Clifton preferred that the applicant commit to having more trees than presented and Mr. Parker explained that what was presented in the slide was reflective of the landscape plan that was provided to the City.

The Mayor opened the floor to public comment.

Ms. Bensley read a statement from Linda Stapleford, District 1:

"Newark City Council members, I strongly object to the request in item 9B and associated items 8A and 9A re: "Request of [Liborio, L.P.] for the Major Subdivision of 6.7 +/- Acres in Order to Demolish the Existing Structure, Fill in the Flood Plain"

I have a BA in Biology, MAS in Environmental Engineering and decades of experience in environmental education and conservation work with the Delaware Nature Society and White Clay Wild and Scenic River program. My major field of expertise is stormwater and watershed management. The purpose of a designated flood plain is to both to prevent property damage and costly remediation and protection of the natural resources within a watershed. To fill in the floodplain totally negates the purpose of floodplain designations. And to do this right in a section of the Christina River that already experiences flooding problems seems to me nonsensical.

Even if the changes seem to provide minimal impact, it is precisely the accumulation of minimal impacts upstream that have resulted in the existing flooding issues. How can you allow this in one instance and deny the next? I sincerely ask that you deny this request. There is no legal or environmental reason that this should be granted. To grant this will be unleashing a complete reversal of progress in flooding protection."

Ms. Bensley read another comment from James Ardors, representing Gateway Village Condos, located across the street from the project:

“Will bars be allowed in the retail commercial space? Do you expect that residents will primarily be students? Also, how will this project impact home values in the immediate area? Thank you very much to all.”

The Mayor offered the floor to the applicants to respond to the questions. Mr. Parker believed that Ms. Stapleford’s comment missed that the existing building was lower and more subject to flooding and the site was already in the situation for potential flooding. He confirmed that the applicants proposed fill to the building itself but overall, were not proposing fill that would lead to any adverse impact elsewhere downstream, nor would the proposal disturb the wooded area or the area of biological habitat of the site. He reiterated that the paving would remain as-is and eventually, the applicants would demolish a building that was lower within the flood plain and raise it so there was a building higher than the flood plain while providing for additional stormwater onsite to manage and reduce the net runoff from the site. Mr. Ramunno believed that the project would positively impact neighboring property values as it would replace an older, single-story building with a more modern structure which would increase tax rate and provide more funds for the City. The intent for using small units was to allow for nicer amenities in the units themselves and would be targeted to grad students and those who were more focused on studies. He emphasized that the space would not include any bars and would be used for offices. Mr. Parker confirmed that the proposed first floor use was for offices and there had been no discussion on bars or commercial things of that nature. Mr. Kondraschow said that the intent was reflected on the plan as well.

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

Ms. Creecy asked for specifics on the foundation materials. Mr. Parker replied that the existing concrete slab would be demolished, and the area would be raised with fill dirt, compacted, and have a new concrete slab placed on top. The sides of the building would have grass sod with landscaping, and he reiterated that there would be fill soil under the foundation.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: TO ADOPT BILL 21-18 AS PRESENTED.

Mr. Clifton instructed that reasons must be given for all three items.

Mr. McDermott, Ms. Creecy, Dr. Bancroft, Ms. Hughes, and Mr. Clifton voted yes for the reasons stated in the Planning Department’s report in reference to the project.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

(ORDINANCE NO. 21-21)

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

- A.** Request of Liborio, L.P. for a Special Use Permit for the Grading of Lands and Filling of Soil to Raise the Proposed New Structure Above the Base Flood Elevation in the Special Flood Hazard Area at the Property Located at 1501 Casho Mill Road **(See Items 8-A and 9-B)**

1:43:24

(Secretary’s Note: The public hearing for this item took place under item #20.)

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL APPROVE A SPECIAL USE PERMIT FOR THE GRADING OF LANDS AND FILLING OF SOIL TO RAISE THE PROPOSED NEW STRUCTURE ABOVE THE BASE FLOOD ELEVATION IN THE SPECIAL FLOOD HAZARD AREA AT THE PROPERTY LOCATED AT 1501 CASHO MILL ROAD.

Mr. Bilodeau reminded that the motion was for a Special Use Permit and instructed the members to refer to page 6 of the Planning Department’s report and noted that the factors A through N needed to be considered when granting a Special Use Permit to allow grading in SFHA. He reminded that the report confirmed that every factor had been met.

Mr. McDermott noted there was an existing structure and the proposal would have no impact on the overall flood zone and surrounding area. He would vote yes based upon the Planning Department’s report and the considerations that were addressed in lines 218 through 247 and lettered A through M.

Ms. Creecy, Dr. Bancroft, Ms. Hughes, and Mr. Clifton voted yes for the reasons stated by Mr. McDermott.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

- 22. 9-B. REQUEST OF LIBORIO, L.P. FOR THE MAJOR SUBDIVISION OF 6.7 +/- ACRES IN ORDER TO DEMOLISH THE EXISTING STRUCTURE, FILL IN THE FLOOD PLAIN AND CONSTRUCT A THREE-STORY MIXED USE BUILDING INCLUDING 19,387 SQUARE FEET OF OFFICE SPACE AND TWO RESIDENTIAL UNITS ON THE FIRST FLOOR AND 46 RESIDENTIAL APARTMENT UNITS ON THE UPPER FLOORS FOR A TOTAL OF 48 RESIDENTIAL APARTMENT UNITS (AGREEMENT AND RESOLUTION ATTACHED) (SEE ITEMS 8-A AND 9-A)**

1:47:54

(Secretary's Note: The public hearing for this item took place under item #20.)

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL APPROVE A MAJOR SUBDIVISION OF 6.7 +/- ACRES IN ORDER TO DEMOLISH THE EXISTING STRUCTURE, FILL IN THE FLOOD PLAIN AND CONSTRUCT A THREE-STORY MIXED USE BUILDING INCLUDING 19,387 SQUARE FEET OF OFFICE SPACE AND TWO RESIDENTIAL UNITS ON THE FIRST FLOOR AND 46 RESIDENTIAL APARTMENT UNITS ON THE UPPER FLOORS FOR A TOTAL OF 48 RESIDENTIAL APARTMENT UNITS.

Mr. Clifton asked Mr. Bilodeau if the vote required reasons and Mr. Bilodeau confirmed that the vote required standard reasoning for Special Use Permits. Ms. Bensley interjected that because the project was not located within BB, the vote did not require a Special Use Permit for apartments. Mr. Bilodeau thanked Ms. Bensley for the correction and clarified that the vote did not require stated reasons.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton congratulated the applicants and looked forward to the project.

(RESOLUTION NO. 21-M)

- 23. 8-B. BILL 21-19 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY UPDATING THE RECRUITMENT AND SELECTION PROCESS FOR POLICE OFFICERS (10 MINUTES)**

1:50:00

Ms. Bensley read the ordinance into the record.

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

Chief Tiernan explained that for over a decade, the Newark Police Department (NPD) had been in a continual hiring process for the position of Police Officer and was currently short one Officer position with second position opening on July 25th due to retirement. He informed that several other current Police Officers mentioned their plans to retire next year. Amending the ordinance to remove the requirement of a written exam for Delaware-certified Police Officers would allow the City to advertise and possibly hire current Delaware-certified Officers, pending background investigation, medical, psychological and interview processes. He continued that if a successful certified candidate was selected, it would allow for a quicker hiring instead of requiring a candidate to wait for the next scheduled Police Officer examination.

The Mayor opened the table to Council comment.

Ms. Hughes and Dr. Bancroft had no questions.

Ms. Creecy asked if the request was due to the psychological portion of the application and Chief Tiernan corrected that the Officer would have already been certified and hired as a Police Officer in Delaware. He explained that the current requirement was that if an Officer wanted to transfer to the NPD,

they would have to wait until the next scheduled written examination. By changing the ordinance, the NPD could advertise for a Delaware-certified Police Officer who would not have to wait to take the exam but would still be required to fulfill the rest of the processes of medical test, psychological test, background check, and interview. He reiterated the only change would be that the Officer would be exempt from the written exam.

Mr. McDermott considered the request to be standard throughout law enforcement in Delaware and explained that most Police entrance exams were aptitude tests to evaluate a person's ability to perform the job. He continued that because the person would have already been performing the job at a different Police Department and had already obtained their COPT certification, Newark's testing would be redundant. He thought the request was sensible.

Mr. Clifton had no questions and believed that once the applicant had satisfied their ability to proceed forward, everyone went through one of the same three academies, so the training was unilaterally consistent throughout the State. Chief Tiernan confirmed there was the same basic grading to be certified by the Council on Police Training and then, when the applicants were hired by the NPD, they would undergo the City's field training and be trained with the City's policies and procedures.

The Mayor opened the floor to public comment.

Pastor Hackett referred to the current and anticipated openings asked if Officers from other cities or States could apply or if they had to be from Wilmington or New Castle County. He referred to the current and future openings within the next year. Chief Tiernan confirmed there would soon be two openings and more in the near future and reiterated that they would be open to any Delaware-certified Police Officer. Pastor Hackett assumed there would be no new hires for the City's academy for interested younger individuals that were not previously Police Officers. Chief Tiernan corrected that the City would continue to offer tests and admitted it was currently difficult to recruit Officers and shared that the recent test only had 19 people whereas previous tests would have seen 100 people. He admitted the Police Departments in the State and across the Country were scrambling for candidates and the measure was for Officers from a different agency who wanted to transfer to the City's Police Department. He confirmed that the City would continue with the entrance exam for any interested, untrained individuals who would then go through the certification process. He explained that the City had previously hired Officers from other Departments who had already taken the test but noted that there were some that the City had not hired because the applicants had issues with their previous Departments. He repeated that the City performed background checks and interviewed all applicants. He noted the action would only apply to a small pool and even if the City advertised for Delaware-certified Officers for the two open positions, there was a chance that none would apply. He informed that the PD was performing background investigations for the individuals who passed the last round of exams and, once that was exhausted, the PD would hold another round of exams. He assured that the ordinance did not mean that the City would solely hire certified Police Officers and confirmed that the NPD would continue with its tests and provide an opportunity for all interested applicants. Pastor Hackett asked for the age requirement and educational level necessary to apply. Chief Tiernan replied that applicants must be 21 years old and he needed to confirm the number of college credits but said it was usually equivalent to the number of credits for an Associate Degree.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: TO ADOPT BILL 21-19 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

(ORDINANCE NO. 21-22)

24. 8-C. **BILL 21-20 – AN ORDINANCE AMENDING CHAPTER 13, FINANCE, REVENUE AND TAXATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY PERMITTING THE CITY TO AUTHORIZE THE STATE OF DELAWARE TO COLLECT CITY LODGING TAXES (10 MINUTES)**

1:59:27

Ms. Bensley read the ordinance into the record.

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

Mr. Bilodeau worked with Mr. Del Grande and explained that the City had the opportunity to use the services of the State to collect the hotel lodging tax which would allow the City exercise the discretion to allow the State to collect the tax on the City's behalf as long as State protocols were followed. He reiterated that using the State to collect the tax was the City's discretion. He referred to Mr. Del Grande's memo that revealed it would be easier for the hotels to file the tax in one location on the State's website, allowed the State to audit and review the hotel's filings, and would save City staff roughly 8 hours a month in the administration of the program. He thought the action was mutually beneficial for the City and the hotels and confirmed that the City could return to its current system if the collection process was flawed.

The Mayor opened the table to Council comments.

Ms. Hughes, Dr. Bancroft, Ms. Creecy, Mr. McDermott, 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 DR. BANCROFT: TO APPROVE BILL 21-20 AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

(ORDINANCE NO. 21-23)

25. 9-C. REQUEST OF MICHAEL AND JENNIFER PETRUCCI FOR A SPECIAL USE PERMIT FOR AN IN-HOME DAYCARE CENTER AT THE RESIDENCE LOCATED AT 901 KENILWORTH AVENUE (15 MINUTES)

2:03:24

Ms. Bensley read the request into the record.

Mr. Fortner presented the Department report on Jennifer Petrucci, a property owner of 901 Kenilworth Avenue, for an in-home daycare for up to nine children. He informed that the property was zoned RD, single-family with a 6,250 square foot minimum lot size and that daycares were permitted in Code 32-10(b)(8). He admitted the memo had a typo where he mistakenly referenced the Code as 32-9, which referenced RS zoning, but confirmed that the text following the typo on page 1 and onto page 2 were from the correct portion of Code. He revealed that the applicant met all of the requirements to have up to nine children on her property and noted that page 2 included the Special Use Permit requirements. He informed that page 124 of the Comp Plan stated that uses such as churches, schools, and daycare centers were compatible and got along satisfactorily within the residential zoning and adjacent to residential zoning characteristics depending on the design characteristics and other amenities on the site. He explained that Council could pass conditions in connection with the use.

Mr. Fortner noted Department comments were included on page 3 where the first comment addressed the applicant's qualifications and the site's desirability. He continued that the Department suggested that the approval of the Special Use Permit be limited to a maximum of nine children and Ms. Petrucci anticipated a maximum of six children that were full time and the remaining children would only require before- and after-care. Ms. Petrucci also had a two-year old daughter who counted towards the cap. He informed that in-home daycares were essentially a home occupation and he included references to 32-10(b) about keeping the character of the property residential in character and not commercial, which could be conditions that could be included in the recommendation. He noted the Planning Department also recommended that the Special Use Permit be limited to the current owner-occupant of the property so, if the owner moved to another property, she would be required to apply for a different Special Use Permit or, if she moved and a new owner or renter took over the property, they would have to apply for a Special Use Permit; the permit would not stay with the property. He confirmed that Ms. Petrucci would undergo Building and Fire Code inspections.

Mr. Fortner continued that because the proposed Special Use Permit would not conflict with the purposes of the Comprehensive Development Plan V, because the proposed use, with the Departmental recommendations, would not be injurious to property or improvements in the surrounding area, and

because the use could meet all Zoning and Special Use Permit requirements, the Planning and Development Department recommended Council approve the Special Use Permit for a home occupation - home day care - with Departmental conditions at the property at 901 Kenilworth Avenue in Newark.

Mr. Fortner introduced Jennifer Petrucci. Ms. Petrucci confirmed her address and explained that she and her husband purchased their home four years ago and they loved the City. She had her daughter two years ago and had been employed as a teacher with the Colonial School District for the last six years. She hoped that she could be home with her daughter for the upcoming year and begin a small, in-home daycare. The daycare would enable Ms. Petrucci to make an income while caring for her own child. She continued that she had extensive experience in childcare and teaching, including nannying, teaching special education, and elementary art, but she was especially excited about the opportunity for the daycare because she believed it would be the most important work she had ever pursued. She considered the opportunity to invest in children as they learned about the world and grew to be a privilege and understood that there was much for children to learn before they entered school. She hoped that Council would consider her application and make it possible to take care of children in her home, as they had always been her passion, and she had spent her life learning how to care for and teach them how to live up to their potential.

The Mayor opened the table to Council comments.

Ms. Hughes asked how many children she would take care of and how long Ms. Petrucci expected the endeavor to continue. Ms. Petrucci wanted to offer the best care possible and said the maximum number she could keep by law was nine, but she intended to have six fulltime children, including her daughter. She thought it was possible to have three other children part-time for before- and after-care because her home was two blocks from Downes Elementary. Ms. Hughes asked if Ms. Petrucci would run the daycare throughout elementary school and Ms. Petrucci replied that she was unsure. Ms. Hughes admitted the question was subjective and was more out of curiosity. Ms. Petrucci reiterated that she had been employed as a nanny for many years and she had always taken part in childcare and teaching. She was unsure how long she would continue but emphasized that the daycare was currently the best path for her family. Ms. Hughes wished Ms. Petrucci the best and welcomed her to the City.

Dr. Bancroft wished Ms. Petrucci success.

Ms. Creecy thanked Ms. Petrucci for taking care of the children. She reviewed Ms. Petrucci's plan and believed that all of the issues had been covered.

Mr. McDermott had no questions.

Mr. Clifton thought it was important to have home-based daycares because it was convenient for the neighbors and was a more friendly and inviting environment.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MS. CREECY: THAT COUNCIL APPROVE A SPECIAL USE PERMIT FOR A HOME-OCCUPATION IN-HOME DAYCARE, WITH DEPARTMENTAL CONDITIONS, AT THE PROPERTY LOCATED AT 901 KENILWORTH AVENUE.

Mr. McDermott voted yes because the request would not adversely affect the health and safety of persons residing or working within the City of Newark boundaries or within one mile of the City of Newark boundaries, and within the State of Delaware, and would not be detrimental to the public welfare or injurious to the property or improvements within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware, and would not be in conflict with the purposes of the Comprehensive Development Plan of the City.

Ms. Creecy, Dr. Bancroft, Ms. Hughes, and Mr. Clifton voted in favor for the reasons stated by Mr. McDermott.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton asked Ms. Bensley to share Council's upcoming schedule. Ms. Bensley informed that because of the Special Election scheduled for July 20th, Council would not have meetings on July 19th and July 26th, and noted that the August 2nd meeting had been previously cancelled so the next scheduled Council meeting would be on Monday, August 9th. She continued that there would be swearing in of the new Councilmember on Thursday, July 29th. (*Secretary's Note: The swearing in of the new District 1 Council member was postponed until Monday, August 16.*)

26. Meeting adjourned at 9:17 p.m.

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

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