

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**SEPTEMBER 13, 2021**

Those present at 6:30 p.m.:

Presiding: Mayor Jerry Clifton  
District 1, John Suchanec  
District 2, Sharon Hughes  
District 3, Jay Bancroft (arrived at 6:33 p.m.)  
District 4, Dwendolyn Creecy  
District 5, Jason Lawhorn (left at 7:06 p.m.)  
Deputy Mayor, District 6, Travis McDermott

Staff Members: City Manager Tom Coleman  
City Secretary Renee Bensley  
City Solicitor Paul Bilodeau  
Chief Communications Officer Jayme Gravell  
Chief Human Resources Officer Devan Hardin  
Chief Purchasing and Personnel Officer Jeff Martindale  
Clerk of the Court Terri Conover  
Finance Director David Del Grande  
Parks and Recreation Director Joe Spadafino  
Public Works and Water Resources Director Tim Filasky  
Public Works and Water Resources Deputy Director Ethan Robinson  
Field Operations Superintendent Jason Winterling  
Water Operations Superintendent Mark Neimeister

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

2. **EXECUTIVE SESSION**

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

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

MOTION PASSED. VOTE: 4 to 0.

Aye – Suchanec, Hughes, McDermott, Clifton.

Nay – 0.

Absent – Bancroft, Creecy, Lawhorn.

3. **RETURN TO PUBLIC SESSION**

A. Potential vote to give direction to the City Manager

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL DIRECT THE CITY MANAGER TO CONTINUE NEGOTIATIONS FOR POTENTIAL REAL ESTATE PURCHASE USING THE GUIDELINES AS DISCUSSED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

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

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

Mr. Clifton informed that item 3D needed to be added to the agenda.

MOTION BY DR. BANCROFT, SECONDED BY MR. LAWHORN: THAT COUNCIL ADD TO THE AGENDA ITEM 3D, APPOINTMENT OF LINDA SEQUEIRA TO THE DISTRICT 4 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

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 reminded that anyone wishing to comment on an agenda item should alert Ms. Bensley through the chat function and speakers would be limited to five minutes each. Ms. Bensley would inform speakers when speakers had 30 seconds left and he would alert speakers when their times were up. He noted that comments submitted in advance of the meeting would be read into the record first and individual who was signed up to speak would be recognized for their five minutes.

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

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

**6:58**

Representative Paul Baumbach thanked the City for joining with UD for the Patriot Day ceremony on Friday morning. He pointed that he worked with the Mayor and City Manager to address the concerns surrounding COVID and the Delta variant in and around the City and had a constructive call with UD. He reported that all parties hoped that the City would be able to take extra measures to help protect the greater community and thought the University was looking forward to partnering with the City. He thanked the volunteers in the Diversity Commission and the Reapportionment Committee.

Mr. Clifton thanked Representative Baumbach for attending.

**6. 1-B. UNIVERSITY**

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

**8:40**

Caitlin Olsen, UD Administration, thanked the Parks and Recreation Department and recognized that the decision to cancel Community Day was difficult but ultimately considered the safety of the community to be a greater priority. She thanked Parks staff for their teamwork and courteous demeanor and noted it was always a pleasure to work with the Department.

Ms. Olsen that as of September 10, all external visitors to UD-sponsored events were required to provide proof of vaccination against COVID-19 or a negative PCR test for attendees 12 and older. She noted that details, exceptions, and more information was available on UD's website and she believed the measures would go a long way in helping to keep the community safe. She referred to the Washington Post article and emphasized that UD staff was informing students if they were exposed to COVID in a systematic manner: Student Health was reaching out the students with information on quarantine, isolation, testing, and protocols. She confirmed that professors could move to online classes for students who were quarantining and had always been an option for the semester. She continued that UD would support, promote, and enforce any sort of ordinance Council set forth for private residences. She shared that she had only heard positive comments regarding the Police departments working together and there

was a definite decline from the past weekend in off-campus issues. She reported that the Drop/Add deadline was the next day which marked the end of the chance for students to decide on whether they would take classes for the semester. Drop/Add would provide UD staff a better percentage on knowing who was vaccinated on campus. She explained that students could be off campus for internships but listed as being on campus. UD staff would share the Drop/Add numbers with Council so City staff could plan for housing and the community at large. She confirmed there was an increase in admissions for the year because some students took the last year off.

The Mayor opened the table to Council comments.

Mr. McDermott read in the Newark Post that UD was running low on quarantine areas or isolation rooms and asked for an update on capacity. Ms. Olsen did not know the capacity number off-hand and explained that UD was suggesting it was better for local students to isolate at home but denied that UD was sending out-of-state students home. Instead, UD staff would try to find space for the students, but the reality was that there were less isolation spaces on campus this year because more people were living on campus. She would investigate the number and return to Mr. McDermott. Mr. McDermott asked if there were plans to house students in hotels and for a contingency plan if capacity was reached. Ms. Olsen replied that UD did not want to quarantine students in a space with other people and wanted students to remain in quarantine or isolation spaces, not a hotel like the Marriott that was open and functioning for other visitors. She confirmed that staff was investigating alternative spaces including dorms that had been shut down and was working with the Resident Life and Housing team to explore other spaces.

Ms. Creecy asked how many students were vaccinated and Ms. Olsen replied that 91% of the students were fully vaccinated. Ms. Creecy asked for reasons on why 9% of students were not fully vaccinated. Ms. Olsen replied that there were multiple reasons, so staff was trying to determine if the students were physically on campus and noted that students were required to upload all of their documentation by the next day. Afterwards, UD staff would begin enforcing measures where students would not be allowed to register for classes or receive a green check on their phones to enter a building. She was confident that the restrictions would increase the vaccination rate.

Mr. Suchanec was amazed that 91% of the students were vaccinated and asked for UD staff and faculty vaccination rates. Ms. Olsen replied that as of September 8, 85% of UD employees were fully vaccinated but emphasized that UD was trying to return to campus around mid-August when Delta hit and explained that she was not a student-facing UD employee, so she was still working from home. She explained that staff members working from home were not required to upload their vaccine cards and sometimes adjunct faculty were still in the system but were not teaching this semester. She would have better data as the deadline approached.

Dr. Bancroft thanked Ms. Olsen for UD's efforts and hoped the mandates were enforced. He asked how many students were living off-campus but in City limits. Ms. Olsen confessed that UD's system was limited in tracking local addresses because many students used their home addresses, but she would reach out to Student Life. She reported that by junior year, students typically wanted to live off-campus and she could share how many students UD had and how many were housed at UD to total out the difference.

Mr. Clifton noted that he had spoken to three of the City's major landlords over the last two weeks and found that all three had waiting lists.

**7. 1-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes): None**

**21:40**

Jamie Lee introduced herself as a junior Honors Political Science major with minors in Legal Studies, History, and English, and a governmental affairs senator for Student Government. She was pleased to represent the student body to the best of her ability and work with City Council. She noted that she and Jack Levine prepared a brief statement regarding goals for COVID.

Jack Levine introduced himself as a junior Public Policy major with minors in Legal Studies and Political Science. He read a prepared statement as follows:

"My name is Jack Levine. I am one of the governmental affairs senators for the Student Government Association for the University of Delaware. My colleague, Jamie Lee, and I represent the 18,000 undergraduate students at the University of Delaware regarding all town government concerns. Jamie and I look forward to working with you all during the 2021-2022 school year. Being the governmental affairs senators for SGA, many students have expressed concern to us regarding the current COVID situation in the City of Newark. The student body understands that COVID regulations are

necessary for the well-being of everyone in Newark. That being said, students want to be able to operate as safely and as normally as possible. UD students have done their part. Students spent the 2020-2021 school years acting responsibly, keeping case counts low, and protecting the flock. Currently, the University of Delaware has 91% of its student body fully vaccinated against COVID-19. With the recent surge in cases, students are looking to the town to see if last year's implementation of gathering limits would be returning. There was some concern last year that restricting private gatherings only lead to a surge at bars and restaurants but now that restaurants were operating at full capacity, if the ordinance were to happen again, it would not significantly impact the public health situation. However, compared to other similarly sized college towns, Newark and the University are maintaining a relatively low positivity rate and exemplary vaccination rate. The UD student body believes it is vital that we have sensible and scientifically backed COVID regulations as we want to continue our in-person learning experience and have a safe and as normal college experience as possible. The current COVID ordinance was written in August of 2020, one year ago today. The current public health situation is drastically different today due to the wide availability of vaccines and treatments, as well as a better understanding of the virus. We propose that we bring together all stakeholders in Newark to discuss any new COVID legislation that will be put into City Code before any drastic measures are taken. The science is clear: COVID is an endemic virus with unknown long-term effects on the economy and the public health of our community. As scientists learn more about the virus, they become increasingly in agreement that the herd immunity is likely not possible. Generations of Newark residents and students will likely have to deal with COVID-19 for years to come. Although everyone would like to live as normally as possible with this virus, as students and citizens of Newark, we accept there are basic public health measures that have been proven to work and that the town has the legal authority to implement. Measures such as mask mandates for the City and requiring vaccination status to enter bars and restaurants would have little impact on the daily lives of full-time residents and students. These are scientifically backed measures that cities and towns nationwide have implemented in the last few months. These have allowed Americans from all over the country to operate as safely and normally as possible in a COVID recovering world. I strongly encourage the Council to take student concerns into consideration while making these decisions. Let's work together, let's sit down and work on legislation that will keep full-time residents and students safe from COVID while not interfering in the daily lives of individuals. Thank you for your time."

Mr. Clifton thanked Mr. Levine.

The Mayor opened the table to Council comments.

Ms. Creecy thanked the students for their presentation. She stated that if the students were willing to work with Council, Council would work with the students.

Mr. Clifton thanked Ms. Lee and Mr. Levine and appreciated the opportunity to meet and hold subsequent conversations. He appreciated that they were taking a definitive stance in their statement.

**8. 1-C. CITY MANAGER (10 minutes):**

**27:16**

Mr. Coleman informed that staff were making a slight modification to the Unicity bus route that would go into effect in the fall in a pilot format, similar to the last change, so that staff could evaluate the effectiveness. He explained the change would add a stop at Bloom Energy in the rush hours because a large contingent took the shuttle from Bloom to the train station.

Mr. Coleman noted that he had participated in a call that afternoon with the Department of Public Health (DPH) and UD to discuss the current spate of cases on campus that made news the previous week. He reported that cases were up with 369 current positive cases in the UD community and 15 students were quarantined due to being unvaccinated and direct exposure. He admitted that while the numbers were not great, there was important context to consider. He continued that UD completed over 3,200 screening tests the week prior (1/7 of the entire student body assuming 20,000 students) and reminded that 91% of the students were vaccinated as well as 87% of all employees currently on campus. He considered the numbers to be extremely high and informed that Newark as a whole was 50.4% and the State as a whole was 59.1%. For ages 18 and over, statewide vaccination rates were 77% and UD was 91%; he reiterated the assumption that UD's rate would increase the following day once the denominator was locked down. He reported that UD's test positivity rate was 2% lower than the State and trending downward while the State was still trending up but confirmed that staff would keep a close eye on UD's data. He informed that the City exceeded the values that triggered the local ordinance but following the last discussion, staff reviewed the existing ordinance with Solicitor Bilodeau and felt that it was unenforceable as written due to its reliance on a State of Emergency (SOE) declared by the Governor. Staff felt that there were three different options for Council to consider and each option had multiple permutations:

- Option 1 – Take no action and leave the existing ordinance in place so it could come back into effect if the Governor declared another SOE
- Option 2 – Modify the existing ordinance to remove the reference to SOE so it could be enforced once more. He recommended that Council consider revisions to thresholds that he would introduce later.
- Option 3 – Repeal the previous ordinance with no replacement. Council could pass an emergency ordinance in the future if needed.

Mr. Coleman recommended Option 2, modification of the existing ordinance in some fashion. He cautioned that there were some topics to consider with potential thresholds. He noted that last year, the vaccination rate was much, much lower than today's rate and while it could be assumed that for a similar level of spread, there would be many more severe cases of COVID, many current cases were with the unvaccinated and was not as big of a difference as one would think. He noted that at the peak of infections last winter, there were 474 hospitalizations concurrent in mid-January, the highest, and at the same time, there was an average of over 800 cases per day statewide or 0.59 people hospitalized for every daily case. He stated there were currently 266 hospitalizations with an average of 459 cases per day or 0.58 hospitalizations per positive case per day and emphasized the statistics were effectively the same. The statewide vaccination levels were low enough that a similar level of hospitalizations could be sustained because those getting sick were unvaccinated. He reported that Beebe Healthcare issued data that day that 95% of patients hospitalized were either unvaccinated or not fully vaccinated. He emphasized that the pandemic was one of the unvaccinated as far as those that were becoming significantly ill.

Mr. Coleman continued that UD indicated that contact tracing were showing that most positive cases were likely from off-campus parties and the nature of the parties made it very difficult to perform contract tracing because attendees often visited more than one party per weekend and, in one instance, a person had been to five. He noted it was nearly impossible to track with whom the person had been in contact. Mr. Coleman recommending having either an ordinance trigger on hospitalizations or a combination of positive cases "and" test positivity rate as opposed to the current ordinance that specified "or". He repeated the peak was 474 hospitalizations last year and he believed the Governor said that it was around 80 of statewide capacity. Mr. Coleman thought that a threshold of 300 to 400 would be reasonable and provided the context that if there had been a threshold of 300 in place last year, the restrictions would have been in effect from December 4<sup>th</sup> until February 3<sup>rd</sup>. If the threshold had been 400, then the restriction period would have been December 15<sup>th</sup> to January 22<sup>nd</sup>. He emphasized that there was not a huge difference between the two and both captured the peak with only about a ten-day difference on either end. He continued that for test positivity rates, if the 7% rate in the current ordinance had been used, it would have been in effect in effect from December 31<sup>st</sup> until January 7<sup>th</sup>. He pointed that the 7% was not very conservative and was a loose threshold. He continued that it was likely due to the high level of testing of surveillance testing done by UD which meant UD was staying in front of the issue catching it before there was an outbreak. He continued that if Council used a seven-day average of 125 cases per 100,000, the currently ordinance level, the ordinance would have triggered three times: September 5<sup>th</sup> through October 8<sup>th</sup>, November 4<sup>th</sup> through April 23<sup>rd</sup>, and August 29<sup>th</sup> through that day. Based on the information provided and the fact that COVID would likely be present forever, he recommended to focus on a replacement ordinance on hospital bed capacity because it provided a reasonable window of restriction in the 2020-2021 winter and guaranteed the ordinance was focused on preventing a situation where individuals did not have access to healthcare, as currently evident in some southern states. He read an article earlier that day where a man had a heart attack and staff had to check 43 hospitals before they could find one where he could be admitted, and he ended up dying. He recalled the concern at the beginning of the pandemic about flattening the curve to avoid overwhelming the hospitals and he thought it made sense to refocus the efforts once more.

Mr. Coleman informed that Beebe just announced a halt on elective surgeries that required an overnight stay and while the situation around the City was not as bad as the southern part of the State, it was creeping northward. He stated that the CDC reported that unvaccinated individuals were 4.5 times more like to contract COVID, 10 times more likely to be hospitalized, and 11 times more likely to die. He considered the current vaccination rates compared to the spring and last fall, he thought it was much less likely that people would hospitalized today than they would have been at the same time last year at the same numbers.

Mr. Clifton believed that Mr. Coleman was referencing all emergency ordinances and reminded that Council had discussed investigating the possibility of a permanent ordinance that would be a first a second reading so if staff got the parameters correct, then current or future Council would not have to deal with the same situation but the right actions would still occur. He asked Mr. Coleman if the option was still possible and Mr. Coleman confirmed that since the current ordinance was in Code, a first and second reading was required to make any change to the current ordinance. He suggested that an

emergency ordinance was a possibility to override the full ordinance, but eventually, the ordinance in Code would have to be addressed if Council wanted to make changes. Mr. Clifton surmised that no matter which path Council took, the ordinance would be permanent in perpetuity and Mr. Coleman confirmed unless Council struck the existing ordinance and replaced it with an emergency ordinance with an end date. Mr. Clifton wanted to be clear to Council as the discussions continued.

The Mayor opened the table to Council comment.

Mr. Lawhorn was not available for comment.

Ms. Creecy thoughts were similar to the SGA's as far as making sure that the students and the residents were protected. She supported modifying the existing ordinance to make it permanent because society would be living with COVID for years to come. She admitted it was unknown if another strand would appear and emphasized the need for some type of permanency to which Council could refer in order to protect everyone in the situation. She repeated that she wanted to modify the existing ordinance to make it permanent, so Council did not have to repeatedly make revisions. She ended by stating that she wanted to protect everyone.

Dr. Bancroft thanked Mr. Coleman and thought the information made sense. He admitted he was not clear on the units but referred to Mr. Coleman's suggestion of 300 hospitalizations and agreed if it would be easier to get ahold of percent positivity when it could be lowered to 5% or 6% if that would be helpful. He was unclear on whether Council could repeal the old ordinance and start with a clean slate by basically getting rid of the emergency declaration needed by the Governor. He suggested the threshold could work on its own and then live in perpetuity.

Ms. Hughes recalled that when the pandemic first hit, the City was unusually quick to address the issues and she did not witness the same action in other towns and cities. She believed that one of the reasons the City was so prepared was because Newark was hardwired to be proactive. She preferred to keep the ordinance as is and keep the SOE in place because it was generally acknowledged that there were individuals who would choose to remain unvaccinated which made her uncomfortable. She recalled that vaccinations were mandatory when she was a child and there were no exceptions; children were not permitted entry to schools without vaccinations. She did not understand why the rules had changed and there was too much freedom to make decisions that affected the health of others. She wanted to keep the SOE and remove it when people came to their senses.

Mr. Coleman clarified that the City's ordinance required a Governor-declared SOE which ended at the beginning of June so matter what, if Council wanted to have an ordinance in place, the existing ordinance would need to be modified to remove the SOE requirements. He explained it could be done via an emergency ordinance or with a permanent ordinance but an emergency ordinance, Council would eventually have to create a permanent ordinance, or the existing ordinance would remain after the emergency ordinance expired. Ms. Hughes stated that the existing ordinance was not currently in position and Mr. Coleman confirmed because the SOE had ended. Ms. Hughes asked Mr. Coleman to explain Council's next steps. Mr. Coleman reiterated that if Council wanted the exact same ordinance in place, it could be done by removing the reference to a Governor-declared SOE in the existing ordinance but he stressed that using last year's metrics now might now be the best choice because while the case numbers were higher, they were mostly in vaccinated individuals that would not experience the same level of sickness. The data he received from UD that day inferred that 6 out of 7 cases were breakthrough so those people had a high level of immunity and were 10% as likely to go to the hospital and 8% or 9% as likely to die from the virus as someone that was unvaccinated. He noted that the students were also much younger so the issue was to determine how likely the students would spread the virus to unvaccinated individuals (those who were generally hospitalized) or immunocompromised individuals. He stated that the unvaccinated in the Newark area were largely 12 years old or under and elderly people who were immunocompromised. Ms. Hughes agreed and reiterated that the City was prepared last year, and it should also be prepared this year even more so because of the children.

Mr. Suchanec referred to Mr. Levine's comment that the students wanted to return to a safe and normal environment. Mr. Suchanec was unsure that society would ever return to normal as it had been known. He stated that he had been overwhelmed with 9/11 shows that reminded him of how much things would never be the same after the tragedy and he thought COVID would be in existence for a long time and the City needed to take the appropriate measures to assure the residents that they were living in a safe and as normal an environment as possible. He continued that City residents were not only those who lived in the town full-time, but the students were also residents while they lived in Newark and Council had to ensure that any measures taken addressed the needs of both populations. He acknowledged that some measures were necessary because individuals would not police themselves and if a person attended

one party, they would definitely attend another. He asked how fast Council could have something in the books that the City could enforce if the ordinance was repealed. Mr. Coleman recommended that both be done simultaneously and asked Ms. Bensley for the first possible day to hold a second reading. Ms. Bensley replied that she tentatively slotted space for second reading on the October 25<sup>th</sup> agenda, but it could be moved up with Council direction. She added that staff slotted space on the 25<sup>th</sup> based on the confines of the agenda time limits. Mr. Coleman stated that the second reading could be heard sooner but the meeting would have to be extended because it would be difficult to rearrange the budget schedule. Ms. Bensley confirmed and explained the earliest would be to have the first reading on September 27<sup>th</sup> and a second reading on October 11<sup>th</sup>. Mr. Coleman noted the only possible way to address the issue sooner would be via an emergency ordinance and then a repeal and replace with a permanent ordinance at a later date. Mr. Suchanec supported the strategy.

Mr. McDermott did not support any time of emergency ordinance because he did not view the situation as an emergency as Mr. Coleman indicated that UD's numbers were trending downward. He was confused at the use of "pandemic of the unvaccinated" while Council wanted to enact legislation to target a population that was 91% vaccinated and hope for a result. He claimed that the initial ordinance was to target large gatherings of UD students and the current discussion was another attempt to target large gatherings with the hope mitigate the virus. He referred to another Councilmember's comments that DU should require mandatory vaccines for students and he argued that UD did require mandatory vaccines for students, and they had a vaccination rate of 91% so the ordinance, with that logic, would do nothing. He continued that it was incredulous that hospitalization rates were discussed but the State had over a year to increase their capacity and their knowledge with handling the pandemic. He asked if the State had not increased their ability to handle hospitalizations based up on the pandemic and asked Mr. Coleman if they were at the same level. Mr. Coleman replied that the State had not been forthcoming with what the upper limit was but would investigate at Council's request. Mr. McDermott wanted to have the data before picking an arbitrary number about hospitalization rates because he believed that if the State had not increased the ability to hospitalize or take in patients based upon the pandemic, it would be a real shame. He did not think it was sensible to enact an ordinance to target a vaccinated population and absent the Governor declaring an SOE, he did not support any type of legislation coming from Council.

Ms. Creecy interjected that her mother suffered a stroke a few weeks prior and she was rushed to Christiana Hospital where she sat in the lobby for over 13 hours. She emphasized there was a definite problem with the situation and understood Mr. McDermott's intent, but she did not believe that protecting people should be considered targeting people or a particular person. She emphasized the protection was for everyone, not just the students. She was a mother and viewed the students, many of whom were her constituents, as her own children. She maintained that COVID was not a person, not a political issue, and had no party; it only attacked. She encouraged people to leave their bubbles and realize that COVID did not care about opinions or affiliations, it only attacked and wanted to kill. She maintained that everyone needed to be protected, not just the students. She did not want to target students and reiterated that she wanted to protect all of her constituents: students, the elderly, and other residents.

Mr. McDermott asked for an opportunity to respond and Mr. Clifton acquiesced and added that he also wanted to speak. Mr. McDermott felt that some of Ms. Creecy's statements were directed towards him. Mr. Clifton replied that he would also have comments directed towards Mr. McDermott's statements as well and suggested that he wait until after Mr. Clifton spoke. Ms. Creecy replied that not all of her comments were directed towards Mr. McDermott. Mr. McDermott maintained that if the students were not in the City, Council would not be having the discussion, so the issue was directly related to the students. He reiterated that students were 91% vaccinated and it was a pandemic of the unvaccinated. He claimed the ordinance would do nothing to stop the situation described by Ms. Creecy. Ms. Creecy replied that 50.4% of Newark was vaccinated.

Mr. Clifton interjected that the discussion would not devolve into an argument and Council would maintain a level of decorum. He explained that Mr. McDermott had a right to respond and he hoped that Council would be able to direct the City Manager to act. He agreed that it was an impassioned issue and he felt the same way. He hoped that Council could come together with a solution for the sake of the neighbors that had a workable matrix and made sense going forward. He wanted a matrix that used hospitalizations as well as some levels within the matrix that could consider the SGA's suggestions of vaccination cards, masks, and so forth. He maintained that businesses had rights to demand safety precautions, particularly if the precautions came in under governmental mandates. He also wanted Newark's data to be compared to the State number and agreed that 91% of students were vaccinated but it really meant that 9% were unvaccinated or nearly 1 out of every 10. He thought it was possible that the unvaccinated students were those that were acting more irresponsible. He wanted the emergency ordinance to end and for Council to craft a permanent ordinance. He referred to Mr. McDermott's comments that Council acted and crafted the first ordinance without knowing what the parameters

should be. He continued that with four or five days of data from UD and reviewing local data, he did not know that Council had qualifiable information even if an emergency ordinance was desired and the empirical data was not available to substantiate actions.

Mr. Clifton emphasized that the gathering ordinance applied to students and non-students and both applied for permits to host gatherings. He described the applications as a tool that ensure that even though permits were granted to expand attendance, it was done in a controlled manner. He believed the student body was more likely to host open door gatherings than non-student residents and stated it was a dynamic that only occurred with the student body which was a concern. He did not see how Council could obtain the necessary parameters, based on proper data, to do an emergency ordinance that would expire after only 60 days. He thought Council could use more time to collaborate and create an ordinance that would live in perpetuity and made sense because it was based on qualifiable information. He admitted that he was concerned about the hospital issue and he believed that it was just north of 600 ICU beds that had been expanded to 800 beds; he cautioned that 476 or 479 beds was right on the cusp of 600 beds. He informed that other states had used the med units from the National Guard to augment for triaging and makeshift emergency rooms and he did not want return to maximum capacity and overburden the healthcare system. He confirmed it was an absolute travesty to wait in a lobby for 15 hours because of the influx of people. He thought that the City had a responsibility to put something in place that would be permanent with a sensible matrix as it applied to Delaware and, more specifically, Newark, and would be something that current or future Council could modify. He lived by the mantra for years that Council could opt to change, modify, or eliminate. He understood from his 21 years of service to the City that Council expended too much time crafting a perfect ordinance rather than accepting a good one with the understanding that it could need to be modified in the future.

Dr. Bancroft agreed with Mr. Clifton that the ordinance should be redone. He asked Mr. Coleman for assistance on how to remove the emergency ordinance portion and suggested using a threshold of 300 hospitalizations.

Ms. Bensley stated that she was receiving requests for public comment and asked if wanted to hear them before giving final direction to Mr. Coleman.

Council did not object to opening the floor to public comment. The Mayor informed that public speakers would have two minutes to state their case and Ms. Bensley would time each speaker. He reminded each speaker to state their name, address, or Council district.

Dr. John Morgan, District 1, was a faculty member at UD but was speaking mainly as a resident. He stated that there were two widespread myths about coronavirus which originated several months prior and might have been applicable to some of the earlier variants that were circulating in the springs. He continued that one myth was that people who were doubly vaccinated did not need to worry about contracting coronavirus and shared that a study in England over the summer revealed that among doubly vaccinated individuals, there was a 20% chance of having a breakthrough infection, a 12% chance that the infection would include serious symptoms, and a 4% chance that the infection would lead to hospitalization. He noted another widespread myth was that if vaccinated people were outdoors, they did not have to worry about contracting coronavirus even if they clustered close together. He emphatically stated the myth was untrue and he would forward Ms. Bensley documentary evidence for his statements and asked that it be sent to all Councilmembers.

Jack Levine, SGA, reiterated that the student body wanted Council to modify the current ordinance. He thought there were great points made during the debate about switching the parameters to hospitalizations. He reminded that the original intent with initial restrictions was to bend the curve to make sure hospitals were not at capacity, but the reality was that breakthrough vaccinated cases of younger individuals would not be clogging the hospitals. He also encouraged Council to investigate other COVID implications prior to implementing a gathering limit including a mask mandate and vaccine passport for all bars and restaurants on Main Street. He wanted Council to view a gathering limit as a last resort and the situation was too far out of hand. He cautioned that if there was a gathering limit in private residences, students and full-time residents would likely attend bars and restaurants on Main Street that were not currently regulated.

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

Mr. Clifton asked Mr. Coleman if he had gotten a sense of direction. Mr. Coleman confirmed that he would reach out to UD, DPH, and the SGA representatives to set up discussion on bringing another ordinance forward focusing on hospitalizations. He did not believe there were enough votes for an emergency ordinance so staff would craft a permanent ordinance that would look to strike the SOE

reference and establish a threshold for hospitalizations. He suggested that the cases in New Castle County might be significantly different than in Sussex County based on vaccination rates. Mr. Clifton apologized to Sussex County but hoped staff would not use it to determine the City's benchmarks.

**9. 1-D. COUNCIL MEMBERS (5 minutes):**

**1:11:31**

**Dr. Bancroft:**

- Noted COVID vaccines were still available and wanted to encourage vaccinations. He thought City dis- and incentives were a good idea and pointed that the new variant was causing trouble and evading the vaccine. He suggested that misinformation could be cleared up by recent studies and cautioned watching younger children. He appreciated staff's efforts and noted that he did not want the future ordinance to have a religious exemption and wanted to address the exemption for people under 17. While he understood the concern from families, he thought there was a great potential for many children to die.

**Mr. Clifton:**

- Was honored to attend the 9/11 Ceremony on Friday at the UD Mall and noted that Senator Sokola, Representative Baumbach, Mr. Coleman and Mr. Suchanec also attended. He expressed that he hoped the ceremony was available online and explained that testimonies were given from two individuals who were impacted in very different ways – one person had PTSD from being in New York City and the other was a flight attendant who was listening to the chatter between the hijacked Flight 93, the tower, and the other aircraft. He also informed that the VFW held a ceremony on Saturday evening at 6 pm and was an equally moving ceremony and reported that Newark had well recognized the 20<sup>th</sup> anniversary of 9/11.
- Participated in a ribbon cutting ceremony at the Shoppes of Louviers for a new, minority-owned, high-end boutique and welcomed the proprietor to the City.

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

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

- A. Approval of Council Meeting Minutes – August 16, 2021
- B. Approval of Council Meeting Minutes – August 23, 2021
- C. Approval of Council Meeting Minutes – August 30, 2021
- D. Receipt of Planning Commission Minutes – August 3, 2021
- E. Recommendation on a Change Order for Contract No. 20-03 Rodney Complex – Park and Stormwater Facilities
- F. Recommendation to Fund College Park Service Road Maintenance – Trees and Brush
- G. **Resolution No. 21-\_\_**: Approving Issuance of up to \$1,925,000 Principal Amount General Obligation Bond, Series 2021-DWSRF to the Delaware Department of Health and Social Services, the Delaware Drinking Water State Revolving Fund, as Registered Owner, to Finance the Laird Tract Well Restoration Project of the City of Newark, as Approved by the Electors; Setting Forth the Form and Details of the Bond; Determining that the Bond Will Be Sold By Private Sale and Authorizing Execution of a Financing Agreement; Pledging the Full Faith, Credit and Taxing Power of the City; and Authorizing Other Necessary Action
- H. **First Reading – Bill 21-26** – An Ordinance Amending the Amended Pension Plan for Employees of the City of Newark, Delaware, By Modifying the Benefits Received by Fraternal Order of Police Employees to More Closely Match Those of the State's County and Municipal Police and Firefighter's Pension Plan – **Second Reading – September 27, 2021**
- I. **First Reading – Bill 21-27** – An Ordinance Amending the Comprehensive Development Plan by Changing the Designation of Properties Located at 28-32 Academy Street, 116 Amstel Avenue, 111 Smyth Court, 47 West Delaware Avenue, 53 West Delaware Avenue, 58-60 West Delaware Avenue, 61 West Delaware Avenue, 81 West Delaware Avenue, 103 Hillside Road, 36 East Main Street, 42 East Main Street, 51 East Main Street, 19 South Main Street, 21 Winslow Road and 27 Winslow Road – **Second Reading – October 11, 2021**
- J. **First Reading – Bill 21-28** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from UN (University) to PL (Parkland) 7.24 Acres Located at 103 Hillside Road – **Second Reading – October 11, 2021**

**1:16:56**

Ms. Bensley read the consent agenda into the record.

MOTION BY MR. MCDERMOTT, SECONDED BY MS. HUGHES: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

Mr. Suchanec referred to the August 16<sup>th</sup> minutes where he compared assessments versus on-going fees and made a reference to the fact that he was aware of assessments because he belonged to a yacht club and a country club. He explained that he belonged to a yacht club but never owned a yacht; he owned four kayaks, two canoes, and a standup paddle board. He continued that this was his second experience with a Consent Agenda, and he did not realize that the vote was for the entire agenda the first time he voted. He explained that it was in reference to the August 23<sup>rd</sup> minutes because he wanted to bring an item up for a separate discussion and vote, but the time had passed. He asked if Agenda Item 2E was reverting and being added back in because it was included originally. He asked if anything was changing as far as timelines or completion of the project. Mr. Coleman replied that that it was in the original design, staff removed it ahead of bidding because it was thought that funding would be short, the bids came in, and staff realized there was enough money so they were looking to add it back.

Mr. Suchanec noted there were three bids for 2F and asked if one would be chosen. Mr. Coleman replied that staff collected three quotes and would choose the lowest quote. Mr. Suchanec was shocked because the lowest quote was considerably lower than the other two. Mr. Coleman replied that the lowest quote was in line with staff's expectations and the other two were higher.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

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

- A. Appointment of Marihelen Barrett to the District 1 Position on the Diversity and Inclusion Commission for a Term to Expire July 15, 2023 (5 minutes)

**1:22:50**

Mr. Suchanec appreciated that Ms. Barrett accepted his invitation and believed that she would be a great addition to the Commission. He noted her extensive experience and that she was highly recommended by her references. He hoped that everyone agreed that she would be a good addition.

Ms. Barrett was not in attendance and there was no Council comment.

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

MOTION BY MR. SUCHANEC, SECONDED BY MS. HUGHES: TO APPROVE THE APPOINTMENT OF MARIHELEN BARRETT TO THE DISTRICT 1 POSITION ON THE DIVERSITY AND INCLUSION COMMISSION FOR A TERM TO EXPIRE JULY 15, 2023.

MOTION PASSED. VOTE: 5 to 1.

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

Nay – Bancroft.

Absent – Lawhorn.

**13. 3-B. APPOINTMENT OF ROY LOPATA TO THE DISTRICT 1 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT (5 minutes)**

**1:25:27**

Mr. Suchanec noted that Mr. Lopata had served the City as the Director of Planning and Development, provided tremendous support to the recurring Reapportionment Committee tasks, helped with the Census to ensure all were counted, and personified the Reapportionment Committee because he had done it so often. He did not think anyone was as qualified as Mr. Lopata and thanked him for accepting the invitation.

The Mayor opened the table to Council comment.

Ms. Hughes commented that Mr. Lopata had been a fixture in the City for many years and he replied that he had been a resident since 1970. Ms. Hughes stated that he had been in municipal government for 37 years with 35 years as Director of Planning and Development.

There were no further Council comments.

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

MOTION BY MR. SUCHANEC, SECONDED BY MS. HUGHES: TO APPROVE THE APPOINTMENT OF ROY LOPATA TO THE DISTRICT 1 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

**13. 3-C. APPOINTMENT OF CORINTH FORD TO THE DISTRICT 2 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT (5 minutes)**

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**1:30:28**

Ms. Hughes appointed Ms. Ford because of her extensive background, knowledge, and experience. Ms. Hughes stated that Ms. Ford had a college education, including political science and statistics classes, spent 30 years as a project manager, demonstrated organizational skills and the ability to collaborate with others, worked for several nonprofit organizations, and numerous political campaigns. She continued that Ms. Ford was abundantly qualified and would do an excellent job.

Mr. Clifton agreed that Ms. Ford had been a great friend to the City over the years and he often sought her insight on various topics because he held her opinion in high regard.

The Mayor opened the table to Council comment.

Dr. Bancroft asked if Ms. Ford was in attendance and Mr. Clifton confirmed.

There were no other Council comments or questions.

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

MOTION BY MS. HUGHES, SECONDED BY DR. BANCROFT: TO APPROVE THE APPOINTMENT OF CORINTH FORD TO THE DISTRICT 2 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

**13. 3-D. APPOINTMENT OF LINDA SEQUEIRA TO THE DISTRICT 4 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT (5 MINUTES)**

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**1:33:41**

Ms. Creecy stated that Ms. Sequeira was more than qualified for the position and she often sought her assistance regarding the City's landscape. She continued that Ms. Sequeira held a degree in biochemistry from Trinity College in Washington, D.C., had experience in biomedical research for a range of medical issues, and served on various nonprofit committees.

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

MOTION BY MS. CREECY, SECONDED BY MR. MCDERMOTT: TO APPROVE THE APPOINTMENT OF LINDA SEQUEIRA TO THE DISTRICT 4 POSITION ON THE REAPPORTIONMENT COMMITTEE FOR A TERM TO EXPIRE UPON COMPLETION OF THE 2021 REAPPORTIONMENT.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

Mr. Clifton thanked Ms. Sequeira for coming forward and thanked all of the appointees for their willingness to serve the City. Ms. Bensley informed that the Reapportionment Committee would hold its

first meeting on Wednesday at 6 p.m. in Council Chambers and encouraged any interested parties to attend.

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

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

**A. FY2022 Legislative Budget Presentation – City Secretary (30 minutes)**

**1:36:22**

Ms. Bensley thanked Mayor and Council for the opportunity to present the 2022 Fiscal Year Proposed Budget for the Legislative Department. She also thanked Mr. Coleman, Mr. Del Grande, and the accounting team for their efforts. Due to the meeting running behind, she said that she would briefly present the executive summary and open the floor to any questions. She stated that on page 11 of the presentation, the full-time wages had 3.9% proposed increase for contractually obligated step increases and advancements for 2021-2022 for CWA employees. She explained that part-time wages included two part-time staff members: the Administrative Professional I part-time position (approved for funding earlier in the year for the second half of 2021) was included in the proposed budget for full funding for 2022 and the part-time Secretary position in the Records Division. She added that part-time wages also included Council salaries which made up half of the total.

Ms. Bensley acknowledged that other wages included an increase that looked substantial at 49% but was primarily due to an overtime increase, which was not as large as it seemed. She explained that while the 2021 budget was originally approved for \$13,000 of overtime, the 2022 request was \$15,000 to help cover the new Diversity and Inclusion Committee that the Department would be staffing as well as bringing back additional staff to in-person Council meetings. She reported that the \$9,000 in the budget packet was due to a budget amendment that was approved as part of the funding for the part-time Administrative Professional I because the position was funded through transfers within internal lines.

Ms. Bensley paused her presentation to request that meeting participants mute themselves as it created feedback on the recording. She continued that 8% increase in benefits was largely due to increases anticipated for benefits such as Social Security taxes, City pension, group hospitalization insurance, and other post-employment benefits. She reminded that staff had made changes in order to increase savings and that the pension and OPEB numbers were for a single legacy employee prior to the implementation of the new retirement system, the other employees were in the 401(a) and retirement savings account (RSA) plans. She clarified there were five employees in the 401(a) and RSA and one in the pension and OPEB number. She noted that the overall change in personnel services was proposed for 7.85%.

Ms. Bensley continued that materials and supplies increased by 9%, or \$1,100, due primarily to an increase rate in the legal books provided to the City Solicitor and \$400 added to the election supplies line to cover the needs for two potential City-wide elections. The \$89,000 increase (12%) in contractual services was due to an increase in the advertising line for \$7,000. She explained that staff anticipated a rate increase for legal ads for the Newark Post in 2022 and noted the rate increase was originally proposed to go into effect in 2021 but the Post extended an honor rate for a period of time. She expected the rate to be renegotiated in 2022. She informed the increase of \$4,200 in IT contractual was because the reallocation of software costs within the entire City, as well as the addition of scanner maintenance funding for the Records staff. The \$25,000 increase to the City Solicitor line got the Department back to the 2020 budgeted figure. She informed that the City Solicitor voluntarily cut the amount in 2021 to aid the City with the budget deficiencies during COVID so staff wanted the number to return to its regular amount. She clarified that the increase would be partially offset with ARPA funds as any ARPA-related legal compliance work would be charged to those accounts. She continued that the \$1,000 increase in the lobbyist line was contractually obligated as part of the Council-approved contract, \$2,000 for codifications of ordinances were due to the anticipated updates in the City Code for property maintenance and the zoning codes. She explained that staff anticipated fairly large ordinances and reminded that for every single change that Council made to City Code the cost to the City was \$18. She clarified that every change within a bill incurred that \$18 charge so that when there was a large bill that made many changes or an entire chapter was rewritten, then the City incurred substantial costs. She noted that the \$31,200 increase was enough to cover the election expenses if staff had to run two City-wide elections. She informed that the City was due for a mayoral race in 2022 and staff budgeted for the possibility of a referendum. She said that while staff did not necessarily anticipate having a referendum for new funds, it was still unknown how the State would allocate ARPA funds and if it was decided to allocate the funds as loans, the City could need to hold a referendum to increase its borrowing power through those projects.

Ms. Bensley explained that depreciation was a Finance calculation based on internal spreadsheets and other expenditures was a \$17,500 increase which would return the Department to the amount approved for the 2020 training line and would be used for travel so that each Councilmember would be

able to attend a conference for educational purposes. She informed that interdepartmental charges were the cost share of what the Department received from other City Departments versus what was given and noted the \$52,107 increase to the allocation. The proposed total operating budget increase was 10.37% with no additional proposed changes for full-time positions. She continued that the Department currently had 6 full-time positions charged to the Department, a 7<sup>th</sup> full-time position in the Records Division charged to Utilities because the position serviced the Utilities, and two part-time positions.

The Mayor opened the table to Council comment.

Mr. McDermott had no questions and thanked Ms. Bensley for the presentation.

Ms. Creecy reviewed the sick pay on page 14 and asked if the increase was due to COVID. Ms. Bensley replied that full-time employees who reached the maximum level of allowable accrued sick time of 90 days, the City paid out a 1 for 3 rate for any sick time accrued in excess of the 90 days once a year. She explained the line was the payout for individuals who did not use sick time and were at the maximum, so a portion was paid out per year.

Dr. Bancroft and Ms. Hughes had no questions.

Mr. Suchanec asked his questions previously and was satisfied with the answers. He had no further questions.

Mr. Clifton had no questions.

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

**13. 5-B. FY2022 JUDICIAL BUDGET PRESENTATION – CLERK OF THE COURT (15 MINUTES)**

**1:47:50**

Ms. Conover referred to the executive summary on page 11 and reported that the Department remained relatively flat with a total increase of 3.56%. She reported an increase of 1.54% in personnel services due mainly to contractually obligated annual step increases, benefits, and sick pay. She noted a 31% increase in materials and supplies because the bailiffs' vests were due to expire in 2022 and needed to be replaced for approximately \$1,000. She continued that the Department's amount basically remained the same and there were some increases in contractual expenditures due to IT.

Ms. Conover reminded that the Department only had two part-time bailiffs who had manned the municipal building foyer since June 2021. Because the positions were part-time, there was limited bailiff coverage in the courtroom. She was requesting the addition of a third bailiff and emphasized that there would be no increase personnel expenditures to services because she increased the uniform line in materials and supplies to cover some of the equipment and added that the court security fee would also cover some equipment. She explained that the three bailiffs would work 20 hours per week and noted the two bailiffs currently covering the atrium and Court worked more than 20 hours per week. She reiterated that the bailiffs would return to working 20 hours each week and would provide coverage in the courtroom. In order to have security in the atrium to ensure that visitors were masked, had their temperatures taken, and that everyone was properly distanced, staff limited the bailiff in the courtroom. She repeated her request for a third bailiff and pointed that there would be a minimal increase because of the increase in total hours worked. She reiterated that the budget remained nearly the same and the overall increase was 3.56%.

The Mayor opened the table to Council comment.

Ms. Creecy had no questions and thanked Ms. Conover for the presentation.

Dr. Bancroft, Ms. Hughes, and Mr. Suchanec had no questions and supported the additional bailiff.

Mr. McDermott asked for clarification on the 18.3% pay raise for the Customer Service Clerk I. Ms. Conover stated that the Clerk also received a service award, step increase, and sick pay. Mr. Del Grande replied that the Clerk I was based upon the scheduled step increase and COLA. He said he would need to investigate but assumed that the prior budgets could have been less than needed which made the 2022 more than what it should be. Mr. Coleman explained the employee came from PUBS and had several years of service already. Staff budgeted for an entry level, but the result was an internal posting which was why there appeared to be a large increase but was realistically three or four years of seniority showing up in the budget. Mr. McDermott asked if the employee went from one position in the City to another and the

benefits followed. Mr. Coleman confirmed that as a result, there would be similar decrease in the position because of the drop from seniority to a new hire.

Mr. Clifton had no questions.

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

Mr. Clifton thanked Ms. Conover and agreed that the third bailiff was critical to keeping the court safe and visitors to the building safe.

**13. 5-C. FY2022 PUBLIC WORKS AND WATER RESOURCES BUDGET PRESENTATION – PUBLIC WORKS AND WATER RESOURCES DIRECTOR (85 MINUTES)**

**1:55:02**

Mr. Filasky presented the Public Works and Water Resources (PWWR) 2022 proposal for its seven divisions, including three separate utility funds (water, sewer, and stormwater) balanced out by the other divisions (refuse, street, engineering, and fleet maintenance). He was pleased to represent the Department's senior management team: Deputy Director Ethan Robinson, Field Operations Superintendent Jason Winterling and Water Operations Superintendent Mark Neimeister.

Mr. Filasky reported that the team provided excellent day-to-day service while also completing several major capital projects including the over \$4 million upgrade to the South Wellfield Water Treatment Plant under the supervision of Mr. Neimeister. He noted that if the Department was complacent, lacked innovated though, or failed to properly invest in upgrades, the City infrastructure would continue to deteriorate. He asked if he should proceed with the presentation or pause at each division to allow for Council questions and Mr. Clifton suggested he present the entire report and Council could ask questions at once.

Mr. Filasky stated that the water division was the largest department and report that contractual services were up 7%. He noted that staff undershot the decrease in extracting the City from the Honeywell contract as shown in contractual services. When staff first installed Smart Meters, the City had a contract for meter verification and staff decided last year that it was unnecessary to determine if the meters were still functioning properly and the task was better handled by hiring a contractual tester. Contractual services were also increased due to the required various motor and valve services that were beyond the scope inhouse crew capability. He continued that well maintenance had increased by \$10,000 because staff discovered that one well pump/motor combination could cost anywhere from \$15,000 to \$20,000 for an install so having a budget line that was less than the cost of one replacement was not sensible. He reiterated that the Honeywell contract was terminated but staff still needed to test the meters.

Mr. Filasky explained that interdepartmental charges appeared to be a 36% increase but were on-going calculations so any change in the budget in any other Department which was back charged or charged to the Water Department affected the number. He clarified that a calculation was not complete, so most things were charged to utilities, but the amount was now spread out and the total interdepartmental charges were now more within the traditional range of \$600,000 to \$700,000 range. He added that the situation would also be true for sewer, stormwater, and electric.

Mr. Filasky reported that several new CIP water projects came as a result of the list that PWWR created for Council to discuss for potential ARPA funding. He pointed that W2201, W2202, and W2203 predominantly dealt with facility and security upgrades and staff were only looking to fund security upgrades in FY2022 with the others funded in the outyears. He explained that staff rarely had projects that were funded in the outyears and typically found a project that needed to be funded in the current year and added it to the budget. If the project did not get funded, it was pushed to the outyears. He continued that staff created a comprehensive list of projects that needed to happen to ensure they were budgeted to allow for a realistic discussion. He progressed to W2204, Curtis Water Treatment Plant Unit 4 and 5, and explained that the plant was built with five units but only three came online when the plant came online in the 1990s and the other two came online later. In 2013, staff rehabbed the first three and the fifth unit failed last year so staff performed an inhouse temporary repair. He emphasized that staff needed to return to redo the other two units. He informed that having South Wellfield back online enabled staff to shut off one or two of the units at a time and still supply all City customers.

Mr. Filasky continued that W2101, W2102, and W1602 had been in the previous budget and were all either booster stations or upgrades to booster stations, constructs that would boost water to the tops of hills. He explained that one booster was debated in 2016 and two were added to the plan last year, so staff wanted to package the design and put them out for one bid to start in 2022 with completion in 2023. He explained that staff needed to add chlorine to the system in W2103, New London Tank, so there was

sufficient disinfection in the system throughout the usage cycle. He said that staff added money to the design estimates, the plans were roughly 95% complete, and the job would go out for bid in late 2021. He reported that the design for W1703, Laird Tract Wells, would be underway in late 2021 and was a two-phased project; staff needed to first determine if the wells could be turned back on and used functionally and then would design for conveyance and treatment. He informed the project would add 1.5 million gallons a day, depending on the test results, and would help supplement the water going to the reservoir and extend the amount of time that the City could operate in a drought. He added that the project was from the referendum and staff recently closed on the loan.

Mr. Filasky informed that ARPA funding had required criteria for any project and one of the very clear items that could be funded using ARPA funding were water, sewer, and stormwater projects. He assumed that using ARPA for water projects would likely delay the need to return to referendum for at least the next cycle. He shared that one project staff suggested was for an interconnection with Suez Water at the Academy Street interconnection but noted the priority had decreased due to the availability of a new connection and rental pumps to tie in. He described W9308, Water Main Replacements, as the Department's large project. He recalled Mr. Coleman's presentation during the lead up to the 2018 referendum and reminded that in fifteen years, over half of the City's pipes, or 50 miles, would be beyond their use life, and equated to over \$50 million in replacement cost. He continued that if the State provided additional funds as indicated, staff could make progress with \$6 million ARPA funds. Staff was hopeful that State ARPA funding would also be available to municipalities to leverage funds in order to complete bigger and better projects. He explained that the City would contribute \$1 million and receive \$4 million. Staff was currently evaluating W8605 to determine if a new tank was feasible and where to put it. He believed the study should be complete in 2021 and noted the City received a grant through the State Revolving Fund (SRF) Program for tank evaluation. He explained that study included a large amount of data and it was imperative to have confidence in the model to build a \$1 million to \$2 million elevated tank at the correct height and proper storage amount.

Mr. Filasky progressed to the sewer presentation and stated that the wages had decreased because some higher paygrade employees transferred. He congratulated Anthony Gatta for becoming the City's Water and Sewer Supervisor and reminded that as new people came in, they started at a lower rate. He indicated that over-time increased in most of the divisions and cautioned that waiting to address sewer issues generally resulted in worse outcome. He pointed that PWWR was always on call and an employee was available 24 hours a day so that staff attended to downed trees or flooding or other disasters. He explained that any time there was an increase to the salary, there was an increase to over-time and admitted that while PWWR was pleased to provide its services, a cost was associated. He agreed that most of the percentages were up for sewer but only marginally and the overall Op/Ex was similar to 2021. He reported that the sewer revenue was \$7.1 million and the bill to the County was \$5.2 million and explained that the City ran the sewer department leanly, at \$1.9 million which only left \$250,000 for capital improvements each year and explained why the ARPA funds were so important to the division. He revealed that staff had anticipated going to a referendum in the next year or two but with the correct amount of funding, ARPA State funding, and municipal funding, staff was hopeful to avoid a cycle of referendum.

Mr. Filasky then stated that the new sewer CIP included S2201 was a FOG (Fats, Oils, and Grease) program and explained that the City's largest pipes were 36 inches with pipes around 15 inches to 18 inches on Main Street and staff were able to clear the pipes from any large fat deposits. He stated the ultimate goal of a FOG program was to keep the materials out of the sewer line using education, inspection, and maintenance log reporting. He instructed that household grease should be thrown away instead of flushed down the drain because water was not hot enough. He explained that S2202 was a sewer backup pump so if the City lost a pump at any station, a portable pump could be available within two hours, but staff only had about an hour and half before the situation got out of hand. Staff felt that having the pump ready for deployment would help avoid any overflow situations. He continued that any sanitary sewer repair or inspection fell under the major project S0904 and informed that staff was making great progress with a line in contract in upwards of \$1 million that should be submitted the following day for Council presentation later in the month. He continued that a 2007 or 2008 vehicle needed to be replaced and staff recently demoed a less expensive version with a pickup truck and a trailer with a camera in order to inspect lines. In order to proceed, staff pushed out the truck purchase and were looking to only purchase the camera in 2022 so the number in the presentation would decrease for 2022 but funds would be moved to 2023.

Mr. Filasky reported a wage increase in stormwater due to the reinstatement of the part-time street sweeper. He confessed that the position had been missed and commended John Bello for doing a great job with cleaning up Main Street. Due to COVID, staff decided to remove the funding for the position in 2021 but wanted to reinstate the part-time position to help rejuvenate the downtown. He pointed

that contractual services had increased because staff anticipated the new MS4 permit and would require contractual assistance. He admitted that the Department had been waiting on the permit from DNREC for five or six budget presentations, but he was assured that it would arrive in 2022. He continued that debt services had significantly increased by 135% and staff anticipated completing the Rodney Project in 2021; once the project was complete and the bills were paid, debt services began with both principal and interest. He proposed a reserve fund for stormwater to create a fund to help purchase properties that would help mitigate flooding and drainage issues but clarified that it could be part of a broader City-wide open space preservation plan. He stated the rain barrel program was popular and part of the grant funding as was design and construction assistance but admitted that it had not taken off as much as he would like. He reported one new CIP for 2022, Q2201 Outfall and City owned stormwater facility repair, and explained that staff performed yearly inspections on 300 facilities within the City, including private facilities, and owners were sent a list of efficiencies. He continued that the City did not historically have enough funding or staff to perform anything more than minor repairs so the project would allow staff to catch up on years of deferred maintenance.

Mr. Filasky reported that good progress was being made for Q1802, the Rodney Regional Stormwater Park, after some setbacks due to weather but revealed there were some material and delivery issues. He anticipated substantial completion by the end of the month and informed that two of the pavilions were backordered but were expected by the end of the year. He explained that Q1301, Storm Drainage Improvements, had the most impact and staff focused on corrugated metal pipe replacements over the last two years. Focus had now shifted to Julie Lane, Fremont Road, Rahway Drive, Timberline Drive, and other areas that experienced issues with rain; he acknowledged that it was frustrating for residents waiting for a solution, but staff wanted to take measures to properly correct the issues. He informed that Q0101 was a water quality project and staff would put a project to retrofit the Abbotsford Pond out to bid within the month. He continued that there were no new vehicles for the year, but staff wanted to evaluate how much could be saved from the rental budget by purchasing a mini excavator and return with a possible budget amendment. He explained that between the streets and stormwater divisions, the City rented a mini excavator each year for a few months and the cost over recent years was beginning to approach purchase cost.

Mr. Filasky reported little change in refuse except for the slight increase in cart costs. He shared that the City was contractually obligated to take its waste to the DSWA (Delaware Solid Waste Authority) and shared that the base rate remained at \$85 per ton for trash with a rebate of \$15 per ton, which was \$3 cheaper than 2020 rates. He elaborated that recycling remained free but DSWA implemented an auto program for recycling so if recycling contained excess contamination, the City would be charged as if it were trash. Staff was actively working to ensure that residents were recycling properly, and he revealed that if there was grease in a pizza box, it was trash, but the top could be recycled if it was free of grease. He shared that the City was able to reinstate bulk collection midway through 2020 and reported that staff had worked through the backlog and residents were now able to have pickup within the week. He informed that there were 3,800 bulk pick ups year to date, an average of over 100 collections per week. He informed that staff would add roll-off dumpsters to save money on rentals for field operations and special events. PWWR staff was coordinating with Finance on the purchase and turnover of a refuse fleet which would allow PWWR to reduce the fleet by one and turn them over on a lease program and would likely be included in the final budget numbers. He revealed there was a 14- to 18-month lead time on orders so the earliest realistic delivery was the end of 2022. He referred to the interest in EVs and staff believed that turning over refuse trucks would help the City reach its goal. He informed that electric refuse trucks were 3 to 5 times the price.

Mr. Filasky reported that the street division swapped \$15,000 from contractual money to materials and supplies due to the growing capabilities of the crew who hoped to return to pre-COVID production. Supervisor Dan Zebley was confident that the City's crew could take on the additional projects while still assisting every division every day. He added that personnel increased due to contractual obligations or insurance. He informed that the Annual Street Paving Program and the ADA Accessibility Transition Plan were administered by the engineering division but were housed under streets for budget purposes. He thanked Representative Baumbach and Senator Sokola for their continued support through community transportation funds and stated that while Municipal Street Aid was appreciated, the City needed to continue to invest its own money to smooth its roads and avoid damage causing potholes. He repeated that the ADA Accessibility Transition Plan was housed with the street CIP and confirmed that staff would investigate the downtown area in order to ensure that the City was addressing issues such as pitch points and upgrading sidewalks that bordered DelDOT roads but were not maintained by DelDOT. He shared that UD students performed an inventory over the past year and staff would look to address issues through the program. He continued that staff was hopeful to repave the City Hall Parking Lot, H2203, and noted that the project had been in and out of the budget for nearly 15 years. He admitted the parking lot was in poor condition and the lines were difficult to see. He pointed that many old street and

ADA programs were still included in the presentation as punch list items but would drop off as soon as the contractor signed off on the work and was paid. He explained that HEQSF was as dump truck purchased in 2003.

Mr. Filasky continued that the engineering division was relatively unchanged save for the wages and personnel increases. He reported that the small increase in fleet maintenance was due to over-time incurred over snow and storm events to keep the fleet running. He confirmed that staff always stayed aware of tire and fuel costs and hoped that as the City migrated from gas and diesel engines to EVs, the fuel costs would shift to electric costs which the City purchased at wholesale rates and would present a decrease in cost. He shared a CIP in the fleet maintenance division was for In-Ground Vehicle Lift Replacement and informed that the City was able to certify the lifts for another full year so staff might be able to push the purchase of the lifts to 2023 to help balance the 2022 budget.

The Mayor opened the table to Council comment.

Dr. Bancroft and Ms. Hughes had no questions.

Mr. Suchanec posed his questions to staff prior to the presentation and asked them if it was possible to create a water utility flow chart that would show the water utility network, how the major components linked to one another, the primary and secondary components, and try to identify what staff considered to be failure points in the network based on risk factors to service. Staff replied that it would be better suited if there was an overall presentation made to Council to address the topic. He supported the discussion and believed it could benefit Council as a whole.

Mr. McDermott had no questions.

Ms. Creecy met with Mr. Filasky earlier in the day and was satisfied with his responses.

Mr. Clifton referred to W1602, Roseville Park Pressure District, and understood that the City's water service, in tying with United, went to the south side of Kirkwood Highway to Harmony Road. He pointed that Roseville Park was on the north side and asked if the City served the area as well. Mr. Filasky confirmed that the City served all of Roseville Park and nearly to Polly Drummond Road, and then Artesian started service on the northside and proceeded northeast. Mr. Clifton noted that the City served the southside a little further to Rite Aid and Mr. Filasky repeated that the City served to Harmony Road. Mr. Clifton informed Council that Julie Lane had suffered flooding issues in backyards and basements, but several dynamics contributed to the problem. He explained that as the creek went by the ball field at Casho Mill and Barksdale, there were many downed trees in the creek that ended up jamming the grate. He informed that the last few storms had been uneventful because staff worked at keeping the grate open, but he looked forward to a long-term solution. He asked if the current parking spaces at City Hall were 10' x 20' spaces or 9' x 18' spaces. Mr. Filasky said that staff had not measured all and the sizes varied but staff would reconfigure the lots and consolidate spaces for motorcycles. Mr. Coleman interjected that a surveyor observed the lots and explained that if the lots were restriped, there would not be enough space to provide more parking. Mr. Clifton understood that larger tire manufacturers had tire lease programs that were based only on mileage asked if the tires would fall under commercial truck size. Mr. Filasky confirmed that most of the tire costs resulted from the larger commercial truck tires and staff currently used a recapping program but revealed that Dave Vispi, Senior Mechanic II, briefly discussed leasing and Mr. Filasky would investigate. Mr. Clifton appreciated the measure and explained that he found the cost of the program to be minimal compared to the cost of replacing the tires. He thanked Mr. Filasky and his team for the presentation.

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

**13. 5-D. RESOLUTION NO. 21-\_\_ : A RESOLUTION IN SUPPORT OF THE OUTDOOR RECREATION PARKS AND TRAILS (ORPT) GRANT APPLICATION ON BEHALF OF THE CITY OF NEWARK TO ASSIST IN FUNDING THE DICKEY PARK BASKETBALL COURT RESURFACING AND DRAINAGE IMPROVEMENTS (5 MINUTES)**

**2:38:09**

Ms. Bensley read the resolution into the record.

Mr. Spadafino explained that staff was applying for funding through the DNREC ORPT Grant Program to repair the basketball court at Dickey Park. The grant would assist in funding the resurfacing of the court and drainage improvements. Staff intended to request \$30,000 from the grant fund and abide by all requirements of the program, including a required 50% match. He pointed that the funding was currently included in the CIP, K1301 Hard Surface Improvements.

The Mayor opened the table to Council comments.

Ms. Creecy met with Mr. Spadafino earlier and he answered all of her questions. She thanked Mr. Spadafino for his work and everything he did for the children and the Parks and Recreation Department.

Mr. McDermott, Mr. Suchanec, Ms. Hughes, Dr. Bancroft 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 MS. CREECY: THAT COUNCIL ADOPT A RESOLUTION IN SUPPORT OF THE OUTDOOR RECREATION PARKS AND TRAILS (ORPT) GRANT APPLICATION ON BEHALF OF THE CITY OF NEWARK TO ASSIST IN FUNDING THE DICKEY PARK BASKETBALL COURT RESURFACING AND DRAINAGE IMPROVEMENTS.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

**(RESOLUTION NO. 21-R)**

13. 5-E. **RESOLUTION NO. 21-\_\_ : A RESOLUTION IN SUPPORT OF THE OUTDOOR RECREATION PARKS AND TRAILS (ORPT) GRANT APPLICATION ON BEHALF OF THE CITY OF NEWARK TO ASSIST IN FUNDING THE OLD PAPER MILL PARK DESIGN, ENGINEERING AND CONSTRUCTION PHASE MANAGEMENT (5 MINUTES)**

**2:42:08**

Ms. Bensley read the resolution into the record.

Mr. Spadafino explained that staff was applying for funding through DNREC for the ORPT Grant Program for Old Paper Mill Park development to assist in funding the design, engineering, and construction management of the park. He continued that staff's intent was to request \$62,500 from the grant fund and abide by the requirements of the program, including a 50% match. Staff currently included funding for the project included in the CIP for K1203, Old Paper Mill Park Improvements.

The Mayor opened the table to Council comment.

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

Mr. Suchanec asked if the land was under the shadow of the reservoir. Mr. Spadafino confirmed.

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 MS. CREECY: THAT COUNCIL ADOPT A RESOLUTION IN SUPPORT OF THE OUTDOOR RECREATION PARKS AND TRAILS (ORPT) GRANT APPLICATION ON BEHALF OF THE CITY OF NEWARK TO ASSIST IN FUNDING THE OLD PAPER MILL PARK DESIGN, ENGINEERING AND CONSTRUCTION PHASE MANAGEMENT.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Lawhorn.

**(RESOLUTION NO. 21-S)**

15. 6. **FINANCIAL STATEMENT:** None
16. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:** None
17. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None

19. 9. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT: None
20. Meeting adjourned at 9:48 p.m.

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

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