

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

MAY 9, 2022

Those present at 6:30 p.m.:

Presiding: Mayor Stu Markham
District 1, John Suchanec
District 2, Corinth Ford
District 3, Jay Bancroft
District 5, Jason Lawhorn
Deputy Mayor, District 6, Travis McDermott

Absent: District 4, Dwendolyn Creecy (Medical Leave)

Staff Members: City Manager Tom Coleman
City Secretary Tara Schiano
City Solicitor Paul Bilodeau
Deputy Planning Director Renee Bensley
Planning and Development Director Mary Ellen Gray
Administrative Professional II Danielle Mapp-Purcell
Deputy Director Public Works and Water Resources Ethan Robinson
Electric Department Director Bhadresh Patel
Chief Purchasing & Personnel Officer Jeff Martindale
Chief Communications Officer Jayme Gravell
Finance Director David Del Grande

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

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (9) for the purpose of strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and personnel matters in which the names, competency and abilities of individual employees are discussed

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 *DEL. C.* §10004 (B) (4) AND (9) FOR THE PURPOSE OF STRATEGY SESSIONS, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY AND PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED.

MOTION PASSED. VOTE 5 TO 0.

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

Nay – 0.

Absent – Creecy, Suchanec.

3. **RETURN TO PUBLIC SESSION**

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL AUTHORIZE THE EMPLOYEE DISABILITY PENSION AS OUTLINED IN THE EXECUTIVE SESSION.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.
Absent – Creecy.

4. SILENT MEDITATION & PLEDGE OF ALLEGIANCE

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

Mr. Markham explained the procedures for the hybrid Microsoft Teams Meeting 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 to offer their comments. If a Councilmember had additional comments to add later, they should signal the Chair to be recognized again after all members had the opportunity to speak. If members of the public wanted to offer comment and were attending in person, they should sign the sign-in sheet near the entrance to the Council Chamber to be called on to speak at the appropriate time. Members of the public attending virtually should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak or message the meeting organizer through the chat function with name, address or district, and the agenda item on which they would like to comment. He stated that all lines would be muted until individuals were called to speak, at that point, the speakers' microphone would be enabled, and they would need to unmute themselves in order to comment. He emphasized that public comments were limited to five minutes per person and all speakers were required to identify themselves prior to speaking. Comments in Microsoft Teams chat would not be considered part of the public record for the meeting unless they were read into the record as part of the public comment. He asked that all attendees keep cameras off until called on to speak.

5. 1. ITEMS NOT ON PUBLISHED AGENDA

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

6. 1-B. UNIVERSITY

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

6:13

Caitlin Olsen, UD Administration, shared that effective June 8, 2022, Laura Carlson would succeed Provost Robin Morgan, who would retire after decades of service. Ms. Olsen revealed that Dr. Carlson was a distinguished administrator, educator, and researcher, with more than 20 years of higher education experience at the University of Notre Dame. Dr. Carlson had been a member of Notre Dame's psychology faculty since 1994, served as Vice President, Associate Provost, and the Dean of the Graduate School since 2013.

Mr. Markham noted the recent rise in hospitalizations and COVID cases; he asked if UD had any changes in plans. Ms. Olsen believed the case number from the previous week had been 160 but included employees. She informed that UD never removed its mask mandate from the classroom, and it was still in place. Students could remove masks outdoors and inside when appropriately distanced; professors could remove masks while at the podium. She was unaware of any changes yet and would reach out to the Director of Student Health to verify any changes but did not foresee any stricter measures in the near future. Mr. Markham noted that graduation and Memorial Day were upcoming and asked Mr. Coleman if the City was coordinating with UD and Mr. Coleman confirmed.

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

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

9:16

Mr. Coleman informed that DelDOT updated and expanded the signage and striping at the railroad crossing that morning and would return over the next four days to finish. He added that the City was investigating additional signage on southbound New London Road to remind drivers that the road was one-way in the other direction. The Electric Director had staff perform light readings the previous week to get an idea of the existing lighting situation at night. Mr. Coleman revealed that DelDOT offered to incorporate any needed lighting upgrades in a future project and shared that he, the Newark Police Department (NPD), and Public Works met on the site with DelDOT and formulated an official letter requesting certain long-term upgrades from CSX; the State offered to fund the upgrades should CSX agree.

The Mayor opened the table to Council comment on the CSX issue.

Ms. Ford asked if CSX had come to the table with any dialogue. Mr. Coleman explained that CSX had not met with the City but was speaking with DelDOT. Ms. Ford asked what CSX was specifically offering to do and Mr. Coleman believed CSX was waiting on the City's specific requests.

Mr. Suchanec received several calls and explained that there were concerns that people coming east on West Main Street but the people attempting to make a left hand turn into the roadway in front of Wonderland appeared to have a high risk of getting stuck on the track if the turn was not made correctly. He asked if more thought should be given to having more markings on that side, delimiters in the roadway, or eliminating the turn completely. Mr. Coleman agreed that the observations were accurate and explained that there were three movements that would result in drivers dropping into the lower section and getting stuck on the tracks:

- Mr. Suchanec' s scenario
- Heading west on West Main Street and making a late turn to New London Road
- Going up New London Road and making left to make a U-turn

Mr. Coleman recalled that the data indicated that 18 vehicles had been pulled off of the track since 2016 and 17 of the 18 had been in the center hole area between West Main and New London Road. He confirmed that there was discussion on eliminating the U-turn, but the concern was that more people would try to turn where the tracks were because the alternative was to turn right, head down South Main Street, turn left on Delaware Avenue, turn left on South College, and return to Main Street. Instead, staff requested to raise the ground elevation between the two roadways so that if a driver made the turn, they could drive off of it; instead of making it two crossings separated by a gap, make it one long crossing. He pointed that there were plenty of railroad crossings in the State that were longer than the combined long crossing would be, so it did not seem to be an unreasonable request. Staff also requested to have four more arms that would be perpendicular to the existing arms; when the arm was down on the road blocking oncoming cars, the arm that would cross the tracks would be raised and vice versa to prevent cars from turning left or right off of the road. He emphasized that both of the requests had been made to CSX in the past and were declined, he hoped that CSX would be more receptive. During the recent community outreach with the Police, Mr. Markham learned from a resident that many people went the wrong way down New London so Mr. Coleman would have Public Work investigate the signage to better ensure that people knew they were going the wrong way.

Mr. Coleman understood that residents were concerned about unattended kiddie pools left in front yards as a potential attractive nuisance and a dangerous situation for an unattended child. He informed that staff was working on an ordinance to address the situation shortly but because the ordinance was in the property maintenance section, staff would include four other items at the same time: kiddie pools, storage containers in roadways and driveways for extended time, removal of the bamboo ordinance due to unenforceability, measures to address light spillover from commercial properties, and address inappropriate outdoor furniture. Staff intended to have the ordinance before Council shortly.

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

17:50

Ms. Ford:

- Attended the Everyone Gets Home Safe Summit on May 3rd, sponsored by Bike Delaware and DelDOT. She reported 49 fatalities so far on Delaware roads, more than twice the number at the same point in 2021, most of which occurred at intersections. She noted there were several problematic intersections in and around Newark, especially the intersection at Cleveland, Woodlawn, and Capitol Trail. She explained that people making a right hand from Cleveland onto Capitol Trail ignore the no turn on red and noted that the sign was across the street in the trees, and not directly over the light. When drivers made the turn, there was a greenlight from Woodlawn to turn left. She reported several near misses, including herself while riding her bicycle. She assumed that people would run the light and several residents had complained. She explained that she had wanted an electronic red-light monitor installed to automatically ticket drivers who violated the no turn on red. She thought signage would also help but explained that Mr. Coleman believed doing so would require an amendment to the project charter. She reached out to Ed Osienski who believed City Council could proceed without enabling State legislation, so she requested that Mr. Bilodeau investigate. She wanted to know what steps the City needed to take to improve the situation before there was an accident.

Mr. Bilodeau would confirm whether the City needed a charter amendment or could proceed alone.

Mr. Suchanec:

- Referred to the recent announcement of a public/private partnership between UD and Buccini/Pollin Development Company which would bring the first apartment complex to the STAR Campus. He continued that there was an opportunity for similar partnerships that could also provide

student housing on the STAR Campus which he considered an ideal location as an alternative to student housing on Main Street and residential zoning. He wanted the City to consider partnering and requested that staff provide Council with a formal resolution to UD requesting that more student housing be constructed at the location. He thought the idea was worthy of concern because it was on the top ten list of resident concerns.

Mr. Markham would have Council finish their remarks and then return to Mr. Suchanec's request.

Mr. Markham:

- Reminded Council that the Memorial Day Parade would be on Sunday and asked for support.
- Informed that Bike to Work for Downes was chilly but was well handled
- Shared that NPD outreach at the George Wilson Center was attended by the NAACP, which highly supported the NPD, especially considering issues in recent years with other Departments throughout the Country.
- Concerned about spikes and upward trends with COVID. He did not recall that the City had any current emergency legislation. He wanted Council and staff to consider language now to have the best product and head off the curve.
- Reminded that the reassessment process with the County was ongoing. He pointed that Council might have to make a decision on how to set its tax rate and assumed it would have to be reset when the new assessments were completed. He wanted Council to be mindful and prepared for when the time came.

Mr. Markham invited Council to speak on Mr. Suchanec's request to ask UD for more student housing on STAR Campus.

Mr. McDermott:

- Supported the request but did not think it needed to be limited to STAR Campus. He supported UD developing more student housing on its other properties throughout the City. He wished that UD would be proactive but doubted the University would listen to Council's resolution. He thought the City should partner with State legislatures to force the University's hand. He reiterated that he supported the resolution and involving the State partners.

Ms. Ford:

- Supported the request beginning with STAR Campus and then elsewhere throughout the City because the present situation was intolerable. She agreed with Mr. McDermott on involving the State legislators. She believed the City needed to take responsibility for student housing.

Mr. Lawhorn:

- Referred to his previous efforts in analyzing and presenting data to UD officials and the Board of Trustees. He supported the resolution but doubted it would be effective. He agreed that the City should lobby State legislators to tie student housing to the University's funding. He pointed that UD was growing and doing great things, but student housing was not on its priority list. He envisioned the City and UD as partners to address the issue and wanted to work together on similar interests to lobby Dover to help grow the City because the University was the City's industry and economic center of the community in many aspects. He found that the data indicated that it was an impossibility for Development to get the City where it needed to be and required UD to build more dorms, especially undergraduate, not just on STAR Campus.

Dr. Bancroft:

- Agreed with previous comments and wanted to see UD's data

Mr. Suchanec:

- Agreed with previous comments and thought the resolution would be useful for Mr. Coleman to possess. He thought partnering with the State legislature would be a key factor.

Mr. Markham:

- Generally supported the request but wanted to know what the City would lose control off and noted that the result could be similar to Christiana Towers, of which the City had no say. He thought there were some financial items and if UD built dorms, he wanted to know what it meant for the City. He understood there were some caveats and a public/private partnership differed from a strictly UD decision because it had different zoning and flexibility. He wanted to make sure that when Council completed the resolution, it had a clear understanding of what it would lose.

Mr. Suchanec asked if an apartment complex on STAR Campus would generate revenue for the City in terms of utilities and taxes. He also asked if the development of student housing, using the same partnership between UD and developers, be a source of revenue for the City. Mr. Coleman explained that the situation depended on the configuration. If the housing was on UD land that was leased to a third-party, and the third-party was using the apartments for the third-party's apartments, then they apartments would be taxable and subject to retail utilities. He noted that a large section of STAR Campus was Suez Water, so the situation was a little different. He continued that if UD participated in a public/private partnership for official, on-campus student dorms, they would not be taxable and, depending on the electrical load of the building, the dorms would have access to the City's contract rates with UD for large structures. He clarified that the land was leased to a third-party that then leased back to UD as a dorm, the dorms would be off of the tax rolls; if it was a UD building that was on non-UD land, then it remained on the tax rolls. He explained if a third-party built it for the third-party's use, then it was fully taxable with full utility rates.

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

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

- A. Approval of Organizational Meeting Minutes – April 21, 2022
- B. Approval of Council Meeting Minutes – April 25, 2022
- C. Receipt of Planning Commission Minutes – April 5, 2022

37:39

Ms. Schiano read the consent agenda into the record.

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

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Creecy.

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

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

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

- A. Council Prioritization List – Planning & Development Department (30-45 minutes)

38:36

Ms. Bensley presented the work plan for the priorities Council set for the Planning and Development Department (Department). She reminded that at the January 24th Council meeting, councilmembers each selected five projects from overall City project list that were their highest priorities. Mr. Coleman then weighted the seven lists to create an overall list of 17 projects and then requested that each department provide a work plan for Council on how the selected projects would be completed; Planning and Development was the first to present their plan. She continued that out of the 17 projects, eight were for the Department to complete and three were the top three priorities for Council. She confirmed that the Department recognized that the list was no longer comprehensive, and that the new Mayor did not have the opportunity to include his priorities in early discussions; staff fully expected to receive additional input that evening that might require future adjustments.

Ms. Bensley revealed that Department staff divided the projects into three tiers. Tier I contained the project that was at the top of the majority of Councilmembers' lists: the BB/RA zoning district changes. Tier II contained projects that had substantial work done and were the closest to completion including the five-year review of the Comprehensive Development Plan V, the Downtown Parking Strategy Implementation, Transportation Improvement District (TID) development and implementation, and the Chapter 17 Property Maintenance Code Updates and the Nuisance Property Ordinance Point System. Tier III contained projects that had not had substantial work done at the time of the Council prioritization exercise including the implementation of the Rental Housing Workgroup recommendations and the Rental Permit Database audit. The projects were classified by a hybrid of progress completed and weighted priority in order to work to bring nearly finished projects to completion before tackling projects with minimal progress which would create a snowball effect as more efforts could be concentrated to remaining projects as others were completed.

Recognizing that the Tier I BB/RA zoning district changes were Council's top priorities across the board and associated contractual funding had been allocated with the consultant on board to provide expertise and assistance, Ms. Bensley confirmed that the changes remained a high priority for the Department.

Mr. Markham interjected and informed that he preferred that the Director read a summary of the items from the report and asked Council for comments. Ms. Ford assumed that Council read the reports and all agreed. Mr. Markham asked Ms. Bensley to summarize what she felt were the highest points that Council needed from her presentation.

Ms. Bensley said that she would highlight the changes made in the presentation from when the memo was put forward regarding progress made. She shared that Council had questions on the BB/RA zoning district related to the notation about the delays in the request for proposal (RFP) process and COVID-related delays affecting the timeline for completion. She pointed that the two items had already occurred and were provided as an explanation for the updated project timeline, not additional roadblocks that staff expected for the project. She revealed that staff anticipated the project would be completed in February 2023. She continued that there were some delays with the Comp Plan V, but the Comp Plan Review Steering Committee signed off on March 16th, the Planning Commission signed off on April 5th, and the Department presented to the Diversity and Inclusion Commission on April 26th which planned to continue discussions at the May meeting and would provide Council with comments prior to the second reading discussion. She informed that the Department was scheduled present to the Conservation Advisory Commission on May 10th but it was cancelled due to no quorum; staff would present to the Commission on June 14th. The final comments from both commissions to be sent to Council as part of the second reading packet for the Comp Plan V adoption for the June 27th agenda. Once completed, the Plan would be sent to the State and completed once the State signed off.

Ms. Bensley continued that staff met internally on May 4th for the Downtown Parking Strategy and had another scheduled for May 24th to continue the review on Council feedback. Staff anticipated the work plan and timeline for execution would be before Council by July 2022 for review. She reported no changes in the Transportation Improvement District since her original memo; staff was tracking Council's final approval by the end of 2022. The Chapter 17 Property Maintenance Code and the Nuisance Property Ordinance point system were intertwined; the point system was tracked to be in place by the beginning of the next academic year with the full Chapter 17 Code revisions completed by mid-2023.

Ms. Bensley informed the Department was progressing with the implementation of the Rental Housing Workgroup recommendations and had presented accessory dwelling units (ADU) to the Planning Commission on May 3rd for the first step of a three-step process. Staff had an initial presentation and solicited the Commission's desired research topics for a future ADU ordinance. The same conversation was scheduled to happen with Council on May 16th to elicit the same; upon receipt, the Department planned to hold public meetings in the first half of June to solicit feedback. The purpose for all of the meetings was to gather the information on questions that the Planning Commission, Council, and the Public wanted answered as the Department developed the ordinance prior to staff returned with a full policy brief with potential ordinance language to be discussed by all three groups again in round two before presenting Council with a final ordinance. She informed that staff planned to present the inclusionary zoning portion of the Rental Housing Workgroup recommendations in the same three-step format following step two of the ADU ordinance. Once both were in process, staff would provide a timeline for presenting the additional recommendations of the Rental Housing Workgroup to Council. She informed that the Rental Permit Database audit had not changed since she issued her memo to Council.

Ms. Bensley continued the additional projects section included other projects where the Department was either the lead or a contributor; the Department was the lead on five projects on the list that had not been consolidated into other projects. She admitted that while the EnerGov project was not chosen by Council, it was funded by the American Rescue Plan Act (ARPA) so the project had a timeline and would be a focus point for staff. She revealed that the Newark Transit Improvement Partnership was paused largely because DeIDOT chose to focus on micro-transit in other areas of the State but there had been small improvements underway for Unicity, as outlined in the memo. She shared that staff was looking to create a proposal for a larger study of the Unicity system in fiscal year 2023 which would include public outreach to determine what would make the system more usable for residents and potential larger scale improvements. Staff held internal discussions to host roadshow discussions in communities that would be system users but not have the means to participate in Council meetings to solicit feedback to then formulate a plan for larger scale improvements to present in fiscal year 2024. She pointed that the project was not specifically on a prioritization list, but staff thought it was a worthwhile undertaking to increase transit options for City residents, advance the goals of the Sustainability Plan, and better utilize funding currently used to run the program. Staff also recognized that the increased bandwidth within the

Department was temporary with the two planner positions and wanted to leverage the bandwidth as best as possible to offer improvements to a program that had long term issues.

The Mayor opened the table to Council comment.

Mr. Suchanec enjoyed the summary and hoped it would be the format for future presentations. He considered anything on the page as mission critical and the Planning Department was in the spotlight. He referred to the changes in Code for Chapter 17 and was frustrated when the City responded to situations that could not be corrected because of one reason or another; Police and Code Enforcement had to repeatedly investigate properties. He wanted to something about the fact that it seemed that the City needed some way to get evidence to confirm the violation in order for the Code to be enforced. He asked that the Chapter 17 updates be more efficient for Code Enforcement and the measures included ways of helping the enforcers to be able to validate violations and include some measure to make the process quicker to resolve. He also thought there should be meaningful consequences for non-compliance. He described a scenario on Church Road that box trucks were continually delivering boxes at a residence that was clearly being run as a business, but the City was unable to shut it down. He was sure that the operation had been in another location in the City and moved on to another location once staff started issuing citations. He reiterated his desire to have regulations in Code that helped validate complaints that could be quickly enforced with significant consequences. He was also concerned that the tasks were overwhelming, and he had often asked questions about timelines and the Department's answer was always bandwidth which he interpreted that there were more tasks than resources. He thought the workplan was properly prioritized but he was concerned about the timelines and completion dates because they were out so far that interest would be lost, or Council would forget why certain items were requested. He wondered whether Council ought to investigate the Planning Department and determine if it was properly staffed so that the Department could accomplish Council's goals. He emphasized the importance of Planning's role in the City and thanked staff for their efforts.

Mr. Suchanec pointed that the downtown parking strategy had a completion date of July 2022 and maintained that it had been influenced by the Charrette which had a completion date of February 2023; he thought the timeline was out of synch. Ms. Bensley noted the downtown parking strategy implementation timeline indicated that staff would have a workplan to Council by July 2022, not that all elements of the plan would be completed. When staff returned with the outline for the workplan, they would also provide a timeline for the implementation of all of the strategies. Mr. Suchanec asked if the downtown parking strategy deliverables would be more tied to the February 2023 date. Ms. Bensley explained that staff was currently working through the comments from the March 7th Council discussion and was on both the recommendations within the plan itself and all of the research for the effects of the various additional Council suggestions from that evening.

Dr. Bancroft had no specific questions and thanked Ms. Bensley and was pleased that Council was kept informed. He was appreciated the information on the ADUs.

Mr. Lawhorn was pleased with the plan overall and how the prioritization was laid out. He shared Mr. Suchanec's desire for fast-tracking but reminded that the Department had been understaff so three positions were added (two were temporary) and further measures were necessary to fully staff the Department for more effectiveness. He believed that staff, with Council's participation, had done a great job of prioritization and it was now time to execute. He wanted high priority items to be completed on time, even if lower priority items had to be sacrificed because some of the items on the list had been there for years.

Ms. Bensley pointed that while additional resources were approved for the Planning Department in June 2021, the Department had only been fully staffed since February 14, 2022 which she wanted Council keep in perspective when considering what had been accomplished with the resources provided. She also pointed that when staff was reviewing the timeline for the projects, a distinct effort was made to under promise in order to over deliver. She was confident that staff had done their best to work through potential delays or issues and maintained that the Planning Department was cognizant of the timeline presented and had every intention of meeting the deadlines.

Ms. Ford was disappointed with report and did not want to wait until February 2023 for the zoning changes because Council had been discussing them for years while continuing to approve developers' requests; she wanted the date to be moved up. She was dissatisfied with the percentages of what had been completed and did not understand what it meant; she wanted a workplan with tasks, target dates, and regular status reports that would be monitored on a regular basis in order to make dates. She repeated that the February 2023 needed to be improved upon but admitted that she was glad to learn of the long-term plan to improve service on the Unicity bus.

Mr. McDermott asked when the two temporary workers were hired, and Ms. Bensley informed that they were hired at the end of November 2021. Mr. McDermott noted there was a delay in the RFP and asked for details. Ms. Gray asked if Mr. McDermott was speaking to the delay in the RFP for the Charrette. Mr. McDermott prefaced that when Council added the Deputy Planning Director and two temporary positions, staff provided a timeline. He was apprehensive about creating the new positions in the middle of the budgetary cycle, but Ms. Gray had maintained that staff would be able to meet the timelines and the new hires were the resources necessary to do so. He pointed the timelines had not been met and the excuses given were a delay in hiring the consultant and COVID-related delays; he asked for specific reasons for the delays and the reasoning for pushing the timeline out. Ms. Gray wanted to be correct in her response and asked if Mr. McDermott was asking about the timeline for the Charrette and Mr. McDermott confirmed. Ms. Gray explained that she was responsible for writing the RFP and had limited resources to complete it. Once the RFP response was received, the proposal moved rather quickly for Council approval. She explained that a Charrette was typically held in-person and when the consultants began with the City, the Planning Department was organizing to host in-person meetings but were unable to proceed due to the Omicron spike because staff could not find a suitable venue outside of Council Chambers that would allow in-person meetings. Staff then had to provide a hybrid meeting format, but the technology had not been completed in Chambers and neither staff nor the consultants had held a Charrette in a hybrid virtual format. Staff had to investigate how to properly set up the Charrette so that it was executed properly and took a month to properly publicize the meetings.

Mr. McDermott asked how long it took to typically write an RFP. Ms. Gray explained that the RFP was very specific to a Charrette so staff needed to research appropriately and explained that as a Director, she had many duties and could not dedicate a full week to a single task. Mr. McDermott emphasized that he appreciated Ms. Gray's efforts and explained that he was trying to get a grasp on how to relay specific reasons to his constituents. He referred to the length of time that Council had been discussing the nuisance property ordinance and noted that he had emails from October 2020 and former-Councilman Hamilton had also discussed the issue during his term. Mr. McDermott did not think that 10% completion was acceptable but admitted that he did not work in the office with the Department and could not pretend to know what happened day to day; he only knew the deliverables. He found that it was difficult to relay the various timelines to residents and with how long it took to complete projects. He maintained that if the Department needed more resources other than the Deputy Director and two temporary employees, staff would need make Council aware. He reiterated that he believed the Department did great work but there was a disconnect in bringing the project to fruition and items needed to be completed.

Mr. Coleman referred to Mr. McDermott's comments and explained that staff was going through the exercise for those exact reasons. He reminded Council of the prioritization discussion in the fall where staff had a list of 184 items that increased over time which was why nothing was getting completed; staff would start a project and then the priority would change, over and over. He likened the scenario to boiling the ocean because staff was attempting to do everything at once and nothing was getting done in the process. He reiterated that the point of the exercise was to identify the most important projects because staff had been concentrating on whatever the last complaint had been. He continued that the exercise was to fine tune on which items staff would focus for efficient completion. In the interim, staff would try to provide accurate timelines based on current resourcing. He emphasized that the initiatives were those that staff worked on outside of their normal tasks such as plan reviews and personnel management so while there were now added resources in Planning, the reality was that the Department was approaching where it needed to be for the long term. He explained that while Director Gray was writing the RFP, she did not have any additional staff, and reiterated that the current staffing situation was wholly different than last fall. He wanted to investigate the original advertised timeline for the BB/RA zoning rewrite because he did not believe staff was far off, even given the late start. He recalled that the original plan was to be completed in the first month or two of 2023 so staff might be slightly off but not far. He reminded that there was also the pandemic and a dramatic COVID spike right when staff was attempting to proceed with the first public outreach portion, which he considered justified. He clarified that staff was present to solicit Council's feedback on the timelines and if they did not meet expectations, then staff would create a strategy. The process was the next step to attempt to provide Council with something to manage expectations.

Mr. Markham noted that BB/RA zoning was one of his high priorities but pointed that when completed, it would not affect any project in the queue and projects submitted before the ordinance took affect would not be subject and Ms. Gray confirmed. Mr. Markham reiterated that the queue needed to be cleared before any of the Charrette would take effect unless a developer opted in or Council was successful in negotiations. He asked if the five-year Comp Review was a minor clean-up and not a ten-year plan. Ms. Bensley confirmed that the review was not a complete rewrite and was between what it was required to be and what the ultimate ten-year plan would be. She explained that staff had done a deep

dive to make sure that items were updated appropriately and reiterated that the review was the less intense of the two types of reviews. Mr. Markham revealed that he did not expect any major changes to how development occurred throughout the City and asked if two of the three stages in the parking strategy were completed, and Ms. Bensley confirmed. He continued that many things interjected with the project, including Council, and stressed that Council needed to be mindful what it added to the plate. He admitted that it was easy to make a request because he did not have to do the work, but he did need to recognize how a request could delay other projects. He was curious what Ms. Bensley and Ms. Gray's required tasks were on a daily basis and asked what time was available to do the work. Ms. Bensley replied that staff presented Phase I and Phase II of the parking plan to Council on March 7 and staff was currently in the process of taking the provided feedback from Council's additional requests. Mr. Markham noted that Council had changed and also made changes and Ms. Bensley confirmed. She continued that if everyone agreed that the plan was sufficient then staff could have an ordinance to Council the following week however, Council reviewed the consultant's recommendations and provided additional requests so now staff was working to provide the research necessary for Council to make determinations. Mr. Markham admitted he was guilty of seeking perfection versus getting work done and then making changes. He asked that Council consider moving objectives forward and then return to staff with changes just to be able to progress, otherwise, the process was stagnant.

Mr. Markham supported EnerGov because it was useful tool for staff to work and for residents to view the processes, but he was concerned that it was lower on the list because if it was not implemented, it would not be used as intended. He wanted to be able to direct residents to electronic resources whenever possible so that staff could have an interrupted workflow. He wanted to know the timeframe because he believed the system would be beneficial.

Mr. Markham recalled discussions of an Uber-lite program that would replace Unicity; he supported a more on-demand service versus a circle circuit and asked if the program was still an option. Ms. Bensley explained that he was referring to micro-transit and confirmed that staff was investigating but it had initially been sidelined because staff was looking to partner with the State on a pilot program and the State opted to focus more on southern Delaware communities. She reported that staff recently met with UD professors who were performing related research and she believed there might be an opportunity for grant funding. She revealed that ridership had decreased dramatically since COVID which left the per-person-per-ride expense much higher and for the price the City was paying to have the buses, a micro-transit option could possibly be done at a comparable, if not lower, rate. She explained that micro-transit was part of staff's additional projects as far as performing researching, formulating a plan, and providing cost options and multiple scenarios for Council review to help improve a service that was not functioning at its maximum capacity. Mr. Markham noted that Unicity had been deficient as long as he could remember. He also thought there should be similar programs instituted by other cities and wanted staff to utilize existing research. Ms. Bensley reminded that the report stated that the Department was leveraging its temporary expanded capacity with its two planner positions.

Ms. Bensley reviewed the schedule originally presented to Council last June for the BB/RA zoning and pointed that there were two six-week blocks that were specifically for stakeholder and public outreach so twelve weeks of the remaining timeline was focused on getting input from the public and stakeholders so that staff could ensure that the final product presented to Council was reflective of the community. While staff appreciated that there was a desire for expediency, the reality was that compressing the timeline would inevitably cutout some of the public discussion process which would provide a poorer product.

The Mayor opened the floor to public comment.

Leanne Moore, Executive Director of The Newark Partnership (TNP), informed that a number of business owners, real estate brokers, and City staff meet to bring forward some of the existing barriers to welcome more small and medium-sized businesses to Newark as well as expanding existing businesses. She shared that the responses echoed what she heard on an anecdotal basis from many small business owners: tax abatements for 12-24 months, utility abatements for 12 months at cost, and low-interest business loans. She continued that suggestions also included eliminating or modifying the special use permitting based on the actions of other municipalities. She suggested that staff investigate how and why the City had a special use permit process and if it was a potential barrier for small businesses to consider coming to the City. The final suggestion was to decrease the overall development review process, but specifically focusing on improving the time for permit and inspection processes, by starting with debunking some of the myths by sharing existing data on the average time to complete the aforementioned processes. She acknowledged the timeline depended on the type of business, permits needed, or development but pointed that having the data ready to share would be helpful in persuading potential businesses to choose Newark. She informed that she would review the economic development

discussions more fully at the next Council meeting, but she wanted to bring the issues to Council's attention because they fit into that evening's discussion with the Charrette.

Mr. Markham noted that Ms. Moore had provided the minutes from TNP's last economic development meeting and asked if they could be share with all of Council. Ms. Moore had no issue with sharing but informed that they would be included in the summary at the upcoming meeting. Mr. Markham explained that once a document was sent to the Mayor, it was in the public domain. He asked that Ms. Schiano forward the minutes for review and explained that he requested that Ms. Moore create an executive summary for the items that she wanted people to remember.

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

Mr. Markham thanked Ms. Bensley for the presentation.

15. 6. **FINANCIAL STATEMENT:** None

16. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:**
A. Recommendation to Award Contract No. 22-03 2021 ADA Transition Plan Improvements – Public Works Director (15 minutes)

1:27:42

Mr. Robinson presented the recommendation to award Contract 22-03, Americans with Disabilities Act (ADA) Transition Plan Improvements. He explained that every year, Public Works strived to make the City's sidewalks and streets safer, more walkable, bikeable, and accessible. The presented contract focused on accessibility, primarily in the public right of way or City properties. He informed that staff was looking to repair and upgrade curb ramps typically at intersection, and sometimes at mid-blocks. The contract had a total of 34 curb ramps proposed for repair or replacement which were included in the Council packet. Staff solicited for bids and received four; the lowest qualifying bidder was Jaquez Concrete for \$148,045.00. The bid was \$52,000 cheaper than the next so staff investigated and determined that Jaquez was able to bid so low because they were also contracted with Brandywine Construction Company, who were performing the City's water main improvement project. As such, Jaquez would already be in town and were able to keep prices relatively low. Staff also researched Jaquez's workmanship and work quality throughout the City and determined that it was acceptable. Mr. Robinson recommended that the contract be awarded to Jaquez Concrete.

The Mayor opened the table to Council comment.

Mr. Lawhorn asked Mr. Robinson to repeat the amount and he did.

There were no further Council comments.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL AWARD CONTRACT NO. 22-03 TO THE LOWEST RESPONSIBLE BIDDER, JAQUEZ CONCRETE, LLC. IN THE AMOUNT OF \$148,045.00.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Creecy.

17. 7-B. **RECOMMENDATION TO WAIVE BID REQUIREMENTS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO PURCHASE TRANSFORMERS FOR THE BRIARCREEK NORTH PROJECT - ELECTRIC DIRECTOR (15 MINUTES)**

1:31:47

Mr. Patel presented the recommendation to waive the bid requirements to purchase transformers for the Briar Creek North Project. He explained the purchase was mainly for the Briar Creek Project and staff had to purchase nine transformers. Previously, staff purchased 50 kVA transformers in October 2017 for \$1,698.00 each and followed the normal RFQ process for bidding. Four vendors were invited to send proposals and staff received two bids, but the price exceeded expectations, so staff contacted the project manager who recommended to honor Anixter's bid in deference to the project timeline. Staff did not feel there was sufficient time to undergo a normal bid process because of the time crunch and were afraid that the price would increase while soliciting more proposals.

The Mayor opened the table to Council comment.

Mr. McDermott asked if staff was foregoing the bid process based on the timeline. Mr. Patel confirmed and reiterated the concern that the formal process would take a few more weeks. Mr. McDermott asked if the request was legal, and Mr. Patel confirmed with Council's approval. Mr. McDermott asked if Council had the legal authority to waive the bid process based on the timeline. Mr. Bilodeau confirmed. Mr. Patel revealed that staff also spoke with the developer who wanted to proceed with the process. Mr. Markham pointed that the City was not paying for the contract and was serving as a pass-through; Mr. Patel confirmed. Mr. Coleman interjected that the City was able to purchase the transformers because it was a utility; the developer was unable because it was not.

Mr. Suchanec was concerned that the unit cost increased 500% and asked if the City was purchasing the transformers and would then be reimbursed. Mr. Patel confirmed.

There was no further Council comment.

MOTION BY MR. SUCHANEC, SECONDED BY MR. MCDERMOTT: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF NINE (9) 50 KVA TRANSFORMERS FROM ANIXTER, INC. FOR THE TOTAL COST OF \$128,268.00.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Creecy.

18. 7-C. AFSCME 1670 MOU FOR CUSTODIAN RATE STRUCTURE – CHIEF PURCHASING & PERSONNEL DIRECTOR (20 MINUTES)

1:36:38

Mr. Martindale presented the recruitment plan to raise the starting rate for the custodial staff to \$17.01 per hour and noted the current rate was \$13.01 per hour. He explained that hiring custodians had been difficult prior to the pandemic but now that starting rates in the area exceeded the City's offer, the hiring attempts proved fruitless over the last two years. He reported that only five of the eight positions within the custodial team were filled and one of the remaining five was scheduled to retire in July. He continued that with the exception of one week in the previous month where a new hire stayed for four days and left with no notice, there had been two vacancies within the Department since 2021 which placed strain on the custodial staff who had been under additional workload since COVID. The employee count also put a strain on staff's ability to keep up with facility needs.

Mr. Martindale confirmed that staff worked with temp agencies to fill the void since last year, but many candidates could either not pass the Delaware Justice Information Systems (DELJIS) clearance process that was a requirement to work in the NPD or left for better opportunities elsewhere shortly after starting. Staff believed that the rate increase would improve the odds of attracting qualified applicants without incurring a monumental impact on City finances. He informed that the rate change had been discussed with AFSME Local 1670, which represented the custodians, and was approved by the membership last month. Council's approval was the last item required to enter into the Memorandum of Understanding (MOU) with the union.

The Mayor opened the table to Council comment.

Ms. Ford asked if the union approved removing the position. Mr. Martindale confirmed and explained that there was currently a lead custodian, but it was undetermined why the position was originally created because there was no real distinction between the lead and the other custodial positions. He assumed the position was an effort for retention from a previous administration but informed that the employee would remain with the union as a custodian and fill in at a higher pay grade. The elimination would consolidate the position and keep everyone in a more equitable field. Ms. Ford asked if the union approved. Mr. Martindale confirmed.

Mr. Lawhorn asked how staff arrived at the amount and how it was known that the number was not too high or low. Mr. Martindale explained that he and Mr. Del Grande went back and forth over a month to sort out where the rate would best fit and \$17.01 was in line with the other part-time positions within the union pay scale. He noted the position was less skill-intensive than the street sweeper or carpenter positions, so staff wanted to leave room between the two but get the amount closer to the rest

of the rates. He informed that most of the part-time positions within the CWA union matched a rate within the full-time structure; the custodians seemed to be the one group that was outside the norm for City processes. Mr. Lawhorn asked if staff performed any type of benchmarking and Mr. Martindale confirmed that staff investigated other custodial positions and reported that the amount seemed to fall mostly in line with other custodial jobs and other organizations. Mr. Coleman interjected that the NPD side was the wildcard. Mr. Martindale agreed and continued that contractual custodians through a temp agency or contractual services were at a premium. He reiterated that the custodial position had an additional background process and staff was unable to solicit qualified applicants with the lower rate; it was hoped that the higher rate would account for the additional processes and attract more applicants. Mr. Lawhorn thought it would be helpful provide Council with some benchmarks so that they were confident in the number. He acknowledged the position had an added complexity that did not exist in most other janitorial positions.

Mr. Martindale added that staff recently raised the rate for some temporary Parks positions up to \$16 an hour. He explained that the custodial position was a regular City position and staff wanted the rate to be above and beyond a temporary employee.

Mr. Suchanec asked for clarification on the New Custodian Hourly Rate Chart Structure included in the memo and which labor grades were being discussed. Mr. Martindale explained that the increase would have a cascading effect so increasing the starting rate would impact the steps beyond. Mr. Suchanec asked if the chart compared the custodial rate of \$17.01 an hour with the carpenter and street sweeper. Mr. Martindale explained that as outlined in the AFSCME 1670 contract, the part-time labor scaled was lumped together so the chart reflected what the part-time scale would look like in the contract given the MOU. Mr. Coleman interjected that the employee would start at the \$17.01 rate in 2022 and, in 2023, the union would receive a 2% across the board increase which meant the employee would still be a step 1 making \$17.35 until their anniversary date, when they would move to step 2 at \$17.87. Mr. Suchanec thanked Mr. Coleman for the clarification.

Mr. Markham thought that the increase was only the beginning when considering issues with retention and recruitment and budget time would be a challenge.

The Mayor opened the floor to public comment.

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

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT COUNCIL AUTHORIZE THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH AFSCME 1670 FOR THE PURPOSE OF MODIFYING THE PAY SCALE FOR CUSTODIAL STAFF AS OUTLINED AND REMOVE THE LEAD CUSTODIAN POSITION FROM THE CONTRACT EFFECTIVE MONDAY, MAY 16, 2022.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Creecy.

19. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None
20. 9. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:** None
21. Meeting adjourned at 8:43 p.m.

Tara Schiano
Director of Legislative Services
City Secretary

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