

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES**

MAY 23, 2022

Those present at 6:00 p.m.:

Presiding: Mayor Stu Markham
District 1, John Suchanec
District 2, Corinth Ford
District 3, Jay Bancroft
District 4, Dwendolyn Creecy
District 5, Jason Lawhorn
Deputy Mayor, District 6, Travis McDermott

Staff Members: City Manager Tom Coleman
Deputy City Secretary Nichol Scheld
Administrative Professional II Danielle Mapp-Purcell
City Solicitor Paul Bilodeau
Deputy Planning Director Renee Bensley
Chief Purchasing & Personnel Officer Jeff Martindale
Chief Communications Officer Jayme Gravell
Finance Director David Del Grande
Planning and Development Director Mary Ellen Gray
Planner II Tom Fruehstorfer
Public Works & Water Resources Director Tim Filasky

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

2. **EXECUTIVE SESSION**

A. Executive Session Pursuant to 29 *Del. C.* §10004 (b)(4)(6) and (9) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to potential litigation when an open meeting would have an adverse effect on the litigation position of the public body and discussing 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)(6) AND (9) FOR THE PURPOSES OF A STRATEGY SESSION, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO POTENTIAL LITIGATION WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY AND DISCUSSING PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Creecy.

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 LEGAL COUNSEL TO RESOLVE THE EMPLOYEE'S PERMANENCY CLAIMS AS DISCUSSED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE 7 TO 0.

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

Nay – 0.

Mr. Markham requested that Agenda Item 5B be heard after Item 9C. He believed information in the Charrette would pertain directly to the discussion.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL MOVE AGENDA ITEM 5B TO FOLLOW ITEM 9C.

MOTION PASSED. VOTE 7 TO 0.

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

Nay – 0.

4. SILENT MEDITATION & 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.

5. 1. ITEMS NOT ON PUBLISHED AGENDA

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

8:49

Representative Paul Baumbach welcomed and congratulated Mayor Markham. He noted that he and Senator Sokola joined in commemorating honors earned by several members of the Newark Police Department. He noted that Rick Armitage and James DeChene would speak later about certain legislative issues and that the next four weeks would be relatively feverish. He continued that the Legislature worked with the City's lobbyists and Mr. Coleman on a bill about Police training and wanted to keep the lines of communication open. He thanked every Department in the City for its attentiveness and said that he was extremely appreciative of the response he received from staff. He believed that he spoke for the vast majority of City residents when he said that he loved the City; he thanked staff for the role they played.

Mr. Markham thanked Mr. Baumbach and appreciated the time and effort that he and Senator Sokola took to offer congratulations because staff worked tirelessly.

Mr. Markham overlooked the Silent Meditation and Pledge of Allegiance and asked all to stand in acknowledgment.

6. 1-B. UNIVERSITY

- (1)** Administration (5 minutes per speaker) (10 minutes): None

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

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

12:08

Mr. Coleman informed that staff held the ribbon cutting ceremony at the new reservoir solar facility off Old Paper Mill Road; the ceremony was a celebration of the entire Energy Savings Company (ESCO) project nearing completion. He shared that staff received feedback that the fence at the site was unsightly along Old Paper Mill Road and informed that landscape screening for the fence would be in place later in the summer/fall, depending on weather and staffing conditions.

Mr. Coleman announced that two of the City's line workers participated in the Light Up Navajo Initiative through the American Public Power Association. The workers flew out to the Navajo nation through funding by Delaware Municipal Electric Corporation (DEMEC) to help bring power to people who have never had power before. The workers remained for a week and helped run power lines to homes and returned on Saturday. He revealed that this was the third year of the project but was the first time the City participated. Once staff had the opportunity to speak to workers, he would provide more information about the program and experience.

Mr. Coleman reported that the electric rates would be a hot button issue over the next 12 to 18 months because the wholesale power markets were not in great standing. He pointed that the City's wholesale power increased at the beginning of the year for the first time in nearly a decade, and the increase was prior to the invasion of Ukraine. The price continued to increase and accelerate considerably since the beginning of the year, but the City's rate was fortunately locked in for the year. He warned that while the increase would not affect the City currently, there was the potential for significant increases in the wholesale power cost in the upcoming year which would have to be passed through to the retail rate. Staff was unaware of much the increase would be, and Mr. Coleman noted that the City used to pay \$40 per megawatt but the most recent was over \$120. He reminded that the City did not purchase everything on the market; it supplied its own power and had generation assets that were 50% of the supply but even that was subject to some price influences because the natural gas power and prices were nearly double from last year. Staff wanted Council to be aware of the situation.

Mr. Coleman informed that the Indian River Coal Fire Power Plant in Millsboro had been scheduled to be taken offline this year by its owner, NRG, but PJM issued NRG a reliability must-run (RMR) demand which meant that the plant needed to be able to run when necessary and called upon for grid stability on the lower peninsula. Mr. Markham asked Mr. Coleman to explain PJM's role for the record. Mr. Coleman explained that PJM was the market manager for the mid-Atlantic region's electrical grids; they set the market and were responsible for grid stability and load shedding to prevent brownouts. He continued that NRG was able to declare how much money was needed to keep the plant running and would be subject to audits; NRG estimated \$70 million a year to keep the plant running with DEMEC's portion at \$6 million of the \$70 million. Newark's portion of the \$6 million was \$460,000 a month but could increase to as much as \$1 million depending on actual running costs. He reported that the result would be a 6% to 7% impact to the City's electric rates at a minimum, effective July 1. He confirmed that staff would monitor the actual cost for a month or two using the Rate Stabilization Reserve with DEMEC, afterwards, he suspected a retail rate adjustment would be necessary or else the City would be considerably short on covering its wholesale power costs. He revealed that DEMEC filed an appeal with PJM on the City's behalf but even if the City won the appeal, it would only affect the cost on the margins and the City would be responsible for 80% to 90% of the amount, regardless of appeal status. Staff estimated that the City would be subject to the charge for 3 to 5 years, but the total time would depend on how quickly Delmarva could finish the transmission project to connect the portion of Maryland to the portion of Delaware that would alleviate the need for the RMR requirement. Delmarva indicated completion could be as soon as one to two years, but staff was skeptical based on other transmission projects. He reiterated that the issue was developing that staff learned of two weeks prior; he wanted to ensure that all were aware as soon as possible.

Mr. Markham thanked Mr. Coleman for the information and confirmed that Council and staff needed to plan accordingly.

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

18:38

Mr. Suchanec:

- Received a message from the Parks Department indicating that City parks were subject to increased vandalism that cost the City thousands of dollars in repairs and diverted employee time from routine duties. He shared that much of the damage was in Hillside Park including destruction of three lights posts, graffiti, destroyed plants, ripped up tree stakes, trash can damage, and stole letters cemented into the stone wall. He revealed the damage was not isolated to Hillside Park and seemed to be an escalating situation throughout the parks system; other parks received damage to horseshoe pits and graffiti. He informed that staff was in the process of installing new signs in all of the parks, but one was recently installed in Kells Park only to be stolen two days later. He asked Mr. Coleman to provide data on recent vandalism and an estimate for the cost of the City's response. He requested that Council consider supporting the increase of fines for vandalism in the City and adding community service as an additional punishment. He wanted to escalate the City's response and ensure that measures were addressed appropriately.

Mr. Coleman revealed that over the last three years, 12 trees were destroyed on Main Street, costing \$11,000. Over the last year, staff had to repaint Marrows Road bridge five times due to graffiti which cost a minimum of \$250 each time depending on supplies, staff time, and number of coats. In the last three weeks, there had been vandalism at Handloff Skate Park, Hillside Park, Hall Trail: three light posts had been destroyed at Hillside Park and cost \$1,000 before taking staff time into account; one light was broken so badly that it was irreparable. He continued that a piece of playground equipment had been damaged which cost \$500 in parts and \$200 in staff time to disassemble the piece before a child was injured. The sign at Kells Park was only up for 48 hours before it was stolen which cost about \$2,000 for the sign, materials, and related staff time. He suspected that staff would support increasing fines, specifically for criminal mischief, which was currently only \$75 or \$150 with added court costs, and suggested that restitution could be part of the sentence if the vandal was caught. He informed that the graffiti fines were \$500 to \$1,000 and pointed that there was a dramatic difference in the fines between criminal mischief, vandalism, and graffiti, but indicated that criminal mischief was costing the City more than graffiti. Staff recommended that Council consider increasing the criminal mischief fines. He reiterated that graffiti fines could include community service and recommended that it be added to criminal mischief.

Mr. Suchanec added that aside from the costs in repairs and the expense of employee time taken from normal duties, the situation needed to be considered from the residents' point of view. He strongly supported Mr. Coleman's suggestion for increasing the criminal mischief fine and adding community service. He would support an increase in the graffiti fine but thought that \$500 was sufficient if community service was included.

Mr. Markham said that he would collect the items and revisit after Council had the opportunity to speak.

Ms. Ford:

- Supported Mr. Suchanec's recommendation in doubling the fines and requiring community service
- Attended Chapel Street Theater on April 30th and informed that the Police had to be called in the middle of the performance because of students lobbing empty beer bottles over the walls
- Cleaned litter and trash from Cleveland Avenue from Olan Mills to the Pomeroy Trail
- Wanted fines increased for litter because Cleveland Avenue was a "trash heap"

Dr. Bancroft:

- Echoed Mr. Coleman's comments that ESCO and DEMEC would be good supports for the community; Navajo Powers was inspiring
- Supported doubling the criminal mischief fine

Ms. Creecy:

- Supported doubling fines
- Shared that the horseshoe pit posts were stolen from her district. She informed that a retired veteran held a horseshoe tournament every year in Dickey Park for old members in the area. She asked Mr. Coleman if the camera at the beginning of Madison Drive was active between the 24th and 25th because it was likely that the vandal would be visible. Mr. Coleman would investigate.
- Asked Mr. Coleman if the electric rate increases would include solar energy customers. Mr. Coleman explained that the City's current rate structure provided a 1:1 credit for solar power so if the customer's solar array was large enough to cover their entire usage, there would be no change in the bill. If the customer's solar was underproducing and they received a bill at the end of the year, the bill would increase the same percentage amount, not dollar amount.

Mr. Markham clarified that if a customer took any power from the City, the customer would receive the higher rates. He explained that he had solar but still took power from the City.

- Supported increasing the fine to \$500 because it would make people think twice about vandalizing communal property

Mr. Lawhorn:

- Doubted increasing fines would prevent poor behavior but agreed it could be a way for the City to recoup costs. He asked that data be presented on the number of issued fines and how many individuals were charged with criminal mischief to determine how an increase would help. He clarified that he supported an increase in fines but doubted it would change behaviors and pointed that he supported adding community service for vandals to clean their own messes.

Mr. McDermott:

- Agreed with Mr. Lawhorn and the request to increase the fines for criminal mischief and vandalism. He noted that the situation depended on how many people were arrested to determine effectiveness because if no one was being arrested, the fine amount would be pointless. He wanted data on how many were arrested for the crimes mentioned. He emphasized the need for a good camera system throughout the parks because it provided more of a deterrent than fines. He asked if ancillary crimes that accompanied vandalism were being enforced, such as trespassing after hours. He suggested that if Police issued fines for being in the park after dark, then the word might spread throughout the City. He reiterated his support in raising fines to recoup costs and investigating other avenues of prevention.

Mr. Markham:

- Supported increasing fines for vandalism. He noted that if the City's cameras were not providing decent images then staff should investigate better cameras, otherwise, they were not useful.
- Shared that he had letters from Representative Baumbach and Senator Sokola congratulating Task Force Officer Maurer, Master Corporal Fountain, and Corporal Zappaterrini, Master Corporal Anderson, Master Corporal Potocki, Corporal Bystricky, and Private First Class Almonte for their work in receiving the 2022 Law Enforcement Award from the US Department of Justice. He asked that Mr. Coleman pass along Council's thanks and congratulations.

10. 1-E. PUBLIC COMMENT (5 minutes per speaker) (10 minutes):

36:12

Dr. John Morgan, District 1, assumed that most of the vandalism to the trees on Main Street were caused by intoxicated young people after midnight. He also assumed that much of the vandalism in Hillside Park was caused by the same sort of people who spent several hours in local establishments. He referred to when plans were being developed for the park where he attempted to draw attention to what he viewed as potential problems with a park that had a "swimming hole" a short distance away from bars and on the way home to apartments. At the time, he suggested to have a fence to enclose the water to discourage swimming. He agreed with comments made by Councilmen Lawhorn and McDermott about the low percentage of vandals being caught. He continued that cameras could be installed but believed that they would be unnoticed by intoxicated people and argued that the same people would notice a fence. He urged that Council to investigate the cost of installing a moderately high fence, similar to Oaklands pool, of eight feet which he predicted would greatly reduce vandalism after dark. He was not aware that it was illegal to be in a park after dark and did not know if it was in Code. He repeated that the City could install a fence and gate to be locked at sunset and unlocked at sunrise by a City employee after ensuring that no one was in the park. He continued that UD had rising COVID cases affecting students and employees. He reported 36 positive COVID tests among UD employees and noted that COVID seemed to be getting worse. He suggested that City staff make a list of businesses licensed to work in the City, such as contractors, roofers, handymen, and plumbers, available on the website. He continued that when he made inquiries several months ago, he was told that he would have to file a FOIA request which could take two to three weeks for process. He could not think of a good reason why the City should not have a list readily available on its website.

Mr. Coleman informed that UD reinstated its mask requirement for all indoor spaces effective 8 am the following morning.

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

- A. Approval of Council Meeting Minutes – May 9, 2022
- B. Receipt of Planning Commission Minutes – March 31, 2022
- C. Receipt of Planning Commission Minutes – April 5, 2022
- D. **First Reading – Bill 22-09 – An Ordinance Adopting an Update to Comprehensive Development Plan V to be Known as the Comprehensive Development Plan V 2.0 for the City of Newark – Second Reading – June 27, 2022**
- E. **First Reading – Bill 22-10 – An Ordinance Amending the Comprehensive Development Plan by Changing the Designation of Property Located at 10 and 16 Benny Street – Second Reading – June 27, 2022**
- F. **First Reading – Bill 22-11 – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from RD (One-Family Semi-detached Residential) to RM (Multi-Family Dwellings – Garden Apartments) 0.595 Acres Located at 10 and 16 Benny Street – Second Reading – June 27, 2022**

Ms. Scheld read the consent agenda into the record.

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

MOTION PASSED. VOTE: 7 to 0.

Aye – Suchanec, Ford, Bancroft, Creecy, Lawhorn, McDermott, Markham.
Nay – 0.

12. 3. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:** None
13. 4. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None
14. 5. **SPECIAL DEPARTMENT REPORTS:**
 - A. General Assembly Update – Lobbyist (15 minutes)

43:20

Rick Armitage, Armitage DeChene & Associates, began with a recap of activity with the Legislature in recent weeks. The weekend prior, he shared the latest Delaware Economic and Financial Advisory Council (DEFAC) increased revenues for FY2022-2023 for \$1.3 billion, including an increase of \$184 million since its previous meeting. He continued that the Joint Finance Committee (JFC) would begin marking up SB225, the State’s Operating Budget, the next day and would hold it together for the upcoming two weeks. He explained that the JFC would initially receive an overview by the Office of Management and Budget and would begin the boilerplate epilogue. Once complete, the General Assembly would return for the remainder of June with 12 legislative working days, beginning on June 7th.

Mr. Armitage reported that House Substitute 1 for HB93 created a separate Grants in Aid Committee, which was where the appropriations for Newark’s in-lieu of PILOT funds had been located and had started to move. The bill had been introduced in previous Legislature, passed the House the week prior, and had moved into the Senate; it would allow better focus on all the agencies that received grant-in-aid funds. He continued that HB148 addressed Police training reimbursement for a four-year period for the first hire, passed the House and moved to the Senate; he anticipated that Senator Sokola would be helpful and add a cost-of-living adjustment (COLA) to the reimbursement amount over time. He explained that the current two-year period had not proven a deterrent to larger police agencies poaching trained officers from smaller agencies so the hope was that a four-year period would provide a positive impact. He explained that HB172, the Taxing and Framework of Regulations for Recreational Marijuana, failed in the House the week prior, and had been a 2/3 bill because it involved a tax. HB172 received 23 ayes, 15 nays, 1 abstention, and 2 absences. He and Mr. DeChene assumed that there was no consensus for the bill to pass and pointed that HB371, which authorized recreational use, had gone to the Governor’s Office. The Governor had until the end of May to choose to veto, sign it, or allow it to become law without his signature but Mr. Armitage revealed that the Governor had indicated he was not in favor of signing the bill but without the framework of regulations so the bill would likely be vetoed. Mr. Armitage continued that SB298, Net Metering, passed the House the week prior and Mr. Coleman had been engaged with the League and DEMEC to craft the bill; Newark currently supported the bill as presented.

Mr. Armitage explained that in speaking with the Comptroller General’s Office and members of Legislature, there was no way to partner with Cecil County to create a police range and allow Delaware money to leave the State to build the facility. As a result, staff created a new priority list; the lobbyists required Council’s guidance to focus on members of the Bond Committee to secure funding. He shared that the week prior, DEFAC indicated that the funding and bonding authority expected by the lobbyists to be included in the Bond Bill would be in excess of \$1.17 billion. He pointed that there would be money to address needs throughout the State and the lobbyists requested guidance on the prioritizations.

Mr. Markham requested staff responses before hearing Council comments.

Mr. Coleman explained that staff created the list with the first as the highest priority. He informed that a number of Police and municipal radios would soon be obsolete and required replacement, regardless of funding. He continued that the Newark Police Department (NPD) security upgrades included the fence around the NPD parking lot, recommended by the Marshal’s report, as well as paving. He explained that City Hall access, safety, and security upgrades included work to the interior and atrium in order to install a security station. He revealed that staff already had the x-ray equipment and clarified that the project was another recommendation from Marshal’s report and included flooring and more significant upgrades. He explained that the Public Services Warehouse Security Upgrades and useability improvements were for City storage at Olan Thomas Park. The College Park Neighborhood Street Park improvements included paving for Dickey Park, service roads, and Madison, and Lincoln Drive. He continued that the electric utility warehouse expansion at the Yard would allow staff to store all electric

equipment under roof to offer a longer useful life and comply with the EPA's and DNREC's preferences that transformers not be stored in the elements. He noted that historically, some transformers had printed circuit boards, but none of the City's ever had. The Energy Efficiency Initiatives were for another ESCO project, similar to the one recently finished, and would include new windows in the Police station and additional rooftop solar. The Historical Train Station repairs included windows and interior repairs for the train station which lacked funding, despite staff's frequent grant requests, including a recent denial from the Federal level. As a response, the City sought assistance from the State.

Mr. Coleman continued that in coordination with the NPD security upgrades to the parking lot, the VFW made a similar request for Bond Bill funding to pave its lot. If the VFW received funding, staff would look to partner under one contract to help the VFW get better pricing.

Mr. Markham asked if the only difference between the current list and the old was the removal of the firing range. Mr. Coleman explained that the range was removed, the energy efficiency initiatives were added, and staff reprioritized the order based on what the lobbyists felt was likely to be funded.

The Mayor opened the table to Council comment.

Mr. Suchanec withheld his comment until other Council members spoke.

Ms. Ford had no comments about the funding request and asked that the lobbyists track SB90, Source of Income Bill, which would prohibit a landlord from refusing to consider a rental application based solely on the applicant's source of income. She explained if an applicant used a housing choice voucher, the bill would strengthen the Section 8 Program to enable better access to affordable housing.

Dr. Bancroft supported Ms. Ford's request and found that the list was sensible and equitably spread infrastructure among the Departments. He was disappointed that the firing range was unable to get funding but understood that it was an expensive project with many constraints.

Ms. Creecy was also disappointed to learn about the firing range and noted that the funding seemed to be in order. She asked Mr. Armitage if Bill 148 would fail because there was no tax structure attached. Mr. Armitage clarified that he believed Bill 148 would move forward and Senator Sokola would add an amendment in the Senate that improved the reimbursements to municipalities who lost officers to recruitment from a higher paying Department. He reiterated that the bill had passed the House and he expected it to pass the Senate as well; he confirmed that the lobbyists would monitor SB90.

Mr. Lawhorn had no comments on the list and trusted staff's ranking. He asked if relaxing gas taxes had been discussed in the Legislature and pointed that it would be a good use of one-time funds to return money to residents given the current price of gas. He wanted to focus specifically on the summer months. Mr. Armitage confirmed that the House and Senate had a long discussion about some sort of action and pointed that Maryland suspended its gasoline tax for a month or longer. Delaware made the same consideration but when speaking with the Secretary of Finance Office, it was discovered that because so much of the gasoline tax was tied into repaying bonds, the result would have a negative impact on the State's bond rating. The decision was then made to spend \$300 million to send \$300 to anyone who filed a Delaware tax return within the last year. He noted that people should start receiving checks in the upcoming weeks.

Mr. McDermott asked if the security parking lot upgrades included fencing and Mr. Coleman confirmed. Mr. McDermott supported Ms. Ford's request. He also read a bill that passed the House in reference to a charter school's ability to get their students from a radius and felt that it had an effect on the City; he asked for an update. Mr. Armitage confirmed that the bill passed the House but could not recall the vote and noted that it generated some controversy, particularly for parents who had children in the charter school. He explained that the bill eliminated the five-mile radius and allowed others to be included in the lottery system to attend the school. He revealed that Mr. DeChene was a member of the charter board but withheld his opinion and confirmed that the lobbyists would monitor the bill. Mr. McDermott was unsure if the rest of Council was aware of the bill and asked that they investigate individually to form their own opinions for a future discussion. Mr. Armitage confirmed that he would add it to the table.

Mr. Suchanec agreed with the summary list and had no question about the priority. He was disappointed that the police training item fell to the wayside and hoped that interest would be generated if it was kept in Delaware. He suggested using open space along Elkton Road and suggested that the range could be a revenue producer. He referred to the ongoing complaints of UD's student housing problem and wanted to work with UD to reestablish providing student housing. The request was to stop mega

buildings on Main Street and changing its personality. He asked if there had been any restrictions placed on the University associated with State funding. Mr. Armitage confirmed and explained that for years in UD's appropriation, there was a large amount of funding that UD could use for whatever purpose and made up about 85% of the State funding. The other restrictions were on special lines specific to supporting agricultural programs or athlete scholarships; there were 25 or more special lines that identified a need requested by UD or a legislator. He revealed that currently, there was a specific amount of money designated for UD to support the master's program in speech pathology because Delaware lacked staffing in the profession. He continued that there were not necessarily restrictions as much as direction to work in a specific area. He pointed that similar actions were taken with Del State and Del Tech where they were able to fill a niche better than UD.

Mr. Suchanec clarified that his concern was housing and noted that the freshman class was slated to be bigger than ever, and UD would accept more students than it had beds. He hoped that the situation could be addressed some way and tied to State funding. Mr. Armitage pointed that it would be appropriate to have a discussion with Caitlin Olsen and reminded that the rule for freshman was to either live in a dormitory, commute from home, or live with an older, undergraduate sibling. He reminded that many times during the fall semester, students were housed three to a double room. He suggested that Ms. Olsen be asked for UD's solution to the issue. Mr. Suchanec revealed that when he was accepted as a student, he did not have a bed and had to bunk in the recreational lounge of a dormitory until a room became available. He felt there was a drastic difference between the number of admitted students and available housing and he doubted UD was focused on the problem and expected the public sector to solve it. He hoped that there was a way to convince UD that they needed to return to providing housing for students, either directly or in partnership with developers.

Mr. Armitage recalled that on campus housing broke down as 80% freshmen, 50% sophomores, 25% juniors and 11% seniors. Mr. Suchanec shared that he was required to live on campus as a student and was forbidden from bringing his car.

Mr. Markham agreed with the list and asked Mr. Armitage if the amount was \$1.17 billion. Mr. Armitage confirmed. Mr. Markham noted the City had a \$7 million request and asked who would receive the other 99.4%. Mr. Armitage revealed there was a long list in the Governor's suggested bond bill that he could forward but explained that much would go towards transportation, courthouse construction, and school construction. He informed that 60% of the cost of building a new school was paid by the State. Mr. Markham felt that the City's request was not large compared to available funding.

Mr. Markham informed that he was trying to work with UD to have the City and University lobby together for initiatives that were mutually beneficial. He believed that the City had UD's attention when it came to dorm rooms, and he preferred to see how the situation played out because he still preferred to lobby with UD.

Mr. Lawhorn supported Mr. Markham's suggestion and agreed that a combined lobbying effort would be much stronger. He believed that UD did not plan for taking some housing offline recently but there were details with the situation in UD's planning. He reminded that freshman had to live in dorms, but upperclassmen typically did not, and reminded that the City benefitted from private housing although it was currently a huge strain. He continued that the issue was complex and repeated that he agreed that combining efforts would create stronger front.

Mr. Lawhorn thanked Mr. McDermott for bringing up the charter school bill. He disclosed that he was a charter parent but was also a resident who had been very active in trying to improve the Christiana School District. He was a member of the Friends of Christiana School District and supported education across all of the public-school options in the Newark area. He informed that he was most passionate about changing the school lines for the Christiana School District because it was one of a handful of noncontiguous school districts in the State, the effects of which had existed when he was child. He explained that his sister-in-law lived on 3rd Street in Wilmington and was sent to Glasgow High School. She woke at 4 am and took an hour and half bus ride to Glasgow. She was unable to participate in sports and she had a horrible experience. He was amazed that 35 years later, the situation remained unchanged and was bad for the children in Wilmington and was not good for the school district in Newark. He continued that the proposed bill to eliminate the 5-mile radius would effectively put the same restrictions on the school and a main reason for the charter was that parents who were extremely involved Christiana School District created a new school as a response to make the district better. The proposed bill would eliminate a key charter decision: neighborhood schooling. He argued that other districts allowed for children to attend local schools, provided huge benefits, and allowed educational experiences to be tailored to what the area needed. He could not understand why anyone would force the worst policy of the Christiana School District on the local, successful charter school.

Dr. Bancroft understood that the five-mile radius was a reasonable argument and housing at UD was a tricky situation. He noted there was fluctuation in the market and there were commonalities between the City and UD; he wished the best of luck in stabilizing the market.

The Mayor opened the floor to public comment.

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

Mr. Coleman informed that the housing number published in the Newark Post was the number of deposits taken; it was the largest number of deposits taken after two years of down enrollments. He spoke with UD administration who estimated the number would be closer to 4,500 or 4,600 students instead of the 4,800 enrolled so far and assumed that the amount would be closer to the 2019 numbers of 4,600. After the last meeting, he met with UD Executive Vice President John Long and Ms. Olsen who proposed a meeting to discuss UD housing policy. He offered to schedule the meeting if Council wished. Mr. Markham confirmed that there was interest.

The Mayor opened the floor to public comment.

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

- 15. 6. **FINANCIAL STATEMENT:** None
- 16. 7. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:** None
- 17. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None
- 18. 9. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:**
 - A. Request Of Fusco Management, Inc., For The Amendment Of The Approved Subdivision Plan With Site Plan Approval To Change The Approved Pharmacy With A Drive-Thru Facility To A Restaurant With A Drive-Thru Facility Located At Building "I" On Grove Lane At The Southwest Corner Of The Grove (Formerly Known As College Square Shopping Center)

1:19:40

Tom Fruehstorfer reminded that Council approved the major subdivision for the College Square Shopping Center in March 2019; construction was ongoing, and the applicant requested revisions to the approved plan. He explained that the provisional plan called for a drive-thru pharmacy on the southwest corner of the property but due to market changes, the applicant wished to change the pharmacy to a smaller drive-thru coffee shop and several additional rental spaces. The actual building footprint had been slightly reduced and the parking lot layout was altered to improve traffic flow. Because the request was a change to the approved use, the new drive-thru restaurant required a subdivision amendment and new special use permit as described in the report. Mr. Fruehstorfer then introduced Michael Hoffman, Tarabicos, Grosso, & Hoffman, LLP, to present the application and discuss specific project questions while Mr. Fruehstorfer would answer any general zoning questions.

Mr. Hoffman introduced Frank Vassallo and Matt Petrucelli, participating from Las Vegas, and Colm DeAscanis, CDA Engineering, the civil engineering firm that had been involved with the project from the beginning. Mr. Hoffman reiterated that the applicant was seeking a modification to the previously approved plan for The Grove, specifically for the corner of Library Ave and Wyoming. He reminded that the plan had been in the works for many years and when the process first began, Walgreens was interested in the space but were no longer interested due to unforeseen market changes. He revealed that the developer had spent the last 18 months working with pharmacy tenants to take over the space, ultimately to no avail. Due to the shift in the market, the developer considered other uses; there had been a great deal of interest from convenience stores with gas. Due to conversations with then Mayor Clifton as well as Councilwoman Ford, the developers pivoted away from that idea. The inline retail anchored by a nation brand coffee store with drive-thru was the plan that followed.

Mr. Hoffman referred to the presentation and reminded that the "The Grove" was previously the College Square Shopping Center and was a 46-acre site. The site was referred to as a typical 1970's-1980's suburban shopping center due to the amount of asphalt, parking, and inline retail. The intention behind the design was to introduce a walkable and bikeable community with amenities to make the site a destination. He explained that the buildings located where Delaware Avenue met Marrows Road were intended to become restaurants. The developer had plans to introduce a residential component as well

as many trees and landscaping that helped inspire the name. The property had been properly zoned as BB, or Central Business district, which was correct for the proposed mixed-use development. He presented artistic renderings of the intended development and stated the developers wanted to use landscaping to define spaces within the development. He briefly described more slides showing renderings of the proposed development and reminded that the signage was approved last year, and site work was believed to be completed this summer. He displayed a rendered picture comparison of the proposed site and the newly revised site and indicated that there was not dramatic change but noted the original proposal was for a stand-alone, 14,000 square foot pharmacy with drive-thru and the current proposal was for a 10,000 square foot site for inline retail, anchored by a national brand coffee shop with drive-thru. He emphasized that both requests included a drive through with the same general circulation but an important difference in the new proposal was an additional access point located by Library Avenue, which was stated to improve the traffic circulation. He maintained that the proposed revisions would not have any impact on the approvals of existing retailers and was also stated to be a boon in order to entice further retailers to become interested in the development. The addition of a national brand coffee chain was believed to help facilitate the addition of future retailers.

The Mayor opened the table to Council comment.

Ms. Ford was excited with the changes, and believed it was an improvement over the original. She had visited the site on her bike and stated that she was very much in favor of the proposal. She thanked Mr. Hoffman for being so responsive with the public.

Mr. McDermott had no questions.

Mr. Lawhorn asked if traffic entering from Library Avenue was one-way. Mr. Hoffman confirmed.

Ms. Creecy believed the site was beautiful and then asked if the shape of the proposed building would be more rectangular. Mr. Hoffman confirmed and reiterated that the building would be about 4000 square feet smaller.

Dr. Bancroft appreciated the effort of the developer to preserve the green space on the site.

Mr. Suchanec asked if the location was where Pep Boys had been located and Mr. Hoffman confirmed. He approved the change and suggested that the developer not deviate from the proposal overall due to the site's potential to become a new "Main Street."

Mr. Markham asked if there was a difference in traffic count between the two proposals. Mr. Hoffman confirmed that the traffic team investigated and determined a minimal change: the national brand coffee trips in the morning would have increased trips but the afternoon impact would be reduced. He continued that a site as large the proposal with as many access points actually distributed through the center. He informed that there would be about 37 additional trips in the morning but anything under 50 peak hour trips or 500 daily average trips were deemed de minimis by DelDOT. Mr. Markham was concerned that traffic could back up onto the roadway if the site became popular. Mr. Hoffman explained that queueing was more of a factor than trip generation and a conservative estimate was to provide 12 spaces. He noted that per DelDOT's conservative standards, the site had 13 or 14 spaces, but the standard measurement indicated the project had 16 to 18 spaces. He reiterated that the applicant's site had more than enough space to prevent the problem. Mr. Markham asked if there was a dedicated right turn lane into The Grove and Mr. Hoffman confirmed.

The Mayor opened the floor to public comment.

Ms. Scheld read a comment from Sasha Aber, District 5:

This is not in regard to the specific item, but the project as a whole: what size, height and maturity would the trees be that are being planted throughout The Grove.

Mr. Hoffman did not have the planting list available but would provide staff with a response later.

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

Mr. Suchanec asked if there would be enough parking for residents that would have to drive to the site. Mr. Hoffman confirmed there would be more than enough parking for both vehicles and bicycles and emphasized that the applicant ensured that the site could accommodate bike traffic from the Pomeroy Trail and the connections to the site.

Mr. Markham asked Mr. Bilodeau if both requests would be considered zoning votes and required a motion, second, and individual votes. Mr. Bilodeau confirmed that both were zoning votes and the first was for Site Plan Review because the drive-in was a bonus for the unique treatment of the parking and the included list. Mr. Markham reminded Council to provide reasons for their individual votes. Mr. Bilodeau pointed that the language was provided in page 4 of the memo.

MOTION BY MS. FORD, SECONDED BY MR. LAWHORN: THAT CITY COUNCIL APPROVE THE SUBDIVISION AMENDMENT OF THE MAJOR SUBDIVISION BY SITE PLAN APPROVAL OF THE GROVE AT NEWARK AS SHOWN ON THE CDA ENGINEERING INC. MAJOR SUBDIVISION PLAN, BUILDING "I", DATED FEBRUARY 28, 2022, AND DESCRIBED IN THE MAY 4, 2022 PLANNING AND DEVELOPMENT REPORT

MOTION PASSED. VOTE: 7 to 0.

Ms. Ford voted yes for the motion because the proposed plan fully complied with the subdivision ordinances, the building code, the zoning codes, and all other applicable ordinances of the City and the laws and regulation of the State of Delaware, and would not be in conflict with the purposes of the Comprehensive Development Plan of the City. She found that the plan met the criteria for Site Plan Approval because it showed distinctiveness and excellence in site arrangement and design, including common open space, unique treatment of parking facilities, and outstanding architectural design.

Mr. McDermott voted aye for the reasons stated by Ms. Ford.

Mr. Lawhorn voted aye for the reasons stated by Ms. Ford.

Ms. Creecy voted aye for the reasons stated by Ms. Ford.

Dr. Bancroft voted aye for the reasons stated by Ms. Ford.

Mr. Suchanec voted aye for the reasons stated by Ms. Ford.

Mr. Markham voted aye for the reasons stated by Ms. Ford.

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

Nay – 0.

19. 9-B. REQUEST OF FUSCO MANAGEMENT, INC., FOR A SPECIAL USE PERMIT FOR A RESTAURANT WITH A DRIVE-THRU FACILITY AT BUILDING "I" ON GROVE LANE AT THE SOUTHWEST CORNER OF THE GROVE (FORMERLY KNOWN AS COLLEGE SQUARE SHOPPING CENTER)(AGREEMENT AND RESOLUTION ATTACHED) (SEE ITEMS (9A & 9B))

1:44:20

The Mayor stated that the discussion and comments were made for this section in the previous section and asked for a motion.

MOTION BY MS. FORD, SECONDED BY MR. MCDERMOTT: THAT CITY COUNCIL APPROVE THE SPECIAL USE PERMIT FOR A RESTAURANT WITH A DRIVE THRU AT BUILDING "I" ON GROVE LANE IN THE GROVE.

MOTION PASSED. VOTE: 7 to 0.

Ms. Ford voted yes for the motion because the proposed use did not affect adversely the health or safety of person or persons residing or working within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the state of Delaware; would not be detrimental to the public welfare or injurious to property or improvements within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware; and would not be in conflict with the purposes of the Comprehensive Development Plan of the City. She made the findings due to the reasons outlined in the Planning and Development Department's report.

Mr. McDermott voted aye for the reasons stated by Ms. Ford.

Mr. Lawhorn voted aye for the reasons stated by Ms. Ford.

Ms. Creecy voted aye for the reasons stated by Ms. Ford.

Dr. Bancroft voted aye for the reasons stated by Ms. Ford.

Mr. Suchanec voted aye for the reasons stated by Ms. Ford.

Mr. Markham voted aye for the reasons stated by Ms. Ford.

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

Nay – 0.

The Mayor requested a brief recess.

20. 9-C. NEWARK CHARRETTE: PLANNING OUR DOWNTOWN TOGETHER: FINAL REPORT AND NEXT STEPS – PLANNING AND DEVELOPMENT

1:53:09

Chris Rogers and Ryan Mawhinney, AECOM, presented the results of the Charrette that took place during the week of March 21st to March 25th. He reminded that Council was considering amendments concerning the Central Business District and the Multifamily High-Rise District because of the nature of the developments occurring on Main Street so a Charrette was held in order to inform the zoning update by way of public outreach to ensure the City was on the right path to detailed code reform. The outreach process was aggressive and worked with the City Communications Officer: all roles were planned, and the Charrette's date and purpose were distributed via social media, stakeholders were identified and grouped into various categories for logistics reasons, and interviews were held, and the purpose was to assist in getting the word out to the community.

Mr. Rogers stated the Charrette was based on the National Charrette Institute's strategies for an educational, interactive, and multidisciplinary process that was in an expedited and condensed format. There were 8 events over 5 days that provided the opportunity for people to attend in person or virtually over Zoom. He explained that the first day began with a virtual tour of Main Street involving eight stops where the context and character of Main street were observed. The stops focused on the architecture, building height, scale, and massing of older buildings as well as new buildings and proposed buildings. Current zoning requirements were also discussed. On the second day, the findings of the previous day were discussed and then the priority topics were built upon. During Event 5, the existing zoning requirements were explored in detail and the need and options to amend the requirements were discussed.

Mr. Rogers then referred to the presentation displaying a list of key topics developed by stakeholders and then built upon with feedback from participants. Examples of key topics included keeping higher density downtown, keeping and improving the ability to walk and bike downtown, increase affordable housing, and improving the function of the streetscape. Summaries of existing zoning requirements were presented at each of the Charrette events. In the BB district the base floor height is 35 feet; four additional floors up to 78 feet are permitted for each floor that has 60% of its area use for parking mechanical equipment and terrace space. Three additional floors are permitted if more than half of the units are no more than 2 bedrooms and no more than 4 unrelated occupants. The front set requirement is 0 feet for floors below 35 feet and 20 feet for floors above 35 feet. The maximum densities are 20 units per acre for units with 3 or more bedrooms, 50 units per acre for 2 bedrooms or less and no more than 4 unrelated occupants, and 90 units per acre with condominium units that have no more than 2 unrelated occupants. In the RA district the base floor height is 7 feet, 7 stories or 80 feet. Three additional floors are permitted for each floor that has 60% of its area used for parking mechanical equipment or terrace space. The front setback is 30 feet from the street, the maximum densities are 36 dwelling units per acre for high rise apartments, 16 dwelling units per acre for garden apartments which are townhouses. There is a 5% bonus density allowed for each building type if there is improved open space that achieves excellence in design at the discretion of the City. There is a 10% bonus density for garden apartments if the development provides covered parking.

Mr. Rogers continued that Day 3 was devoted to evaluating and refining potential solutions and outlining the tenets. At Event 6, the existing zoning requirements were clarified, and scenarios were tested. At Event 7, the ideas were refined further, and the potential zoning revisions were outlined. At each event, visualization exercises were held to evaluate the existing development, test the regulations, and then solicit feedback. Based on this feedback, more detailed recommendations were created with visual concepts under various scenarios. On Day 4, no public events were held but the team met to prepare materials for the final presentation. Meetings were held internally to refine ideas and test the feasibility of potential revisions and potential incentives for increasing building height were of special interest. On Day 5, the team presented a final presentation that recapped the findings from over the week,

summarized the City's plans and policies that were already in place, and then presented and discussed the basic tenets for revisions.

Mr. Rogers then stated that all events were held hybrid; both in person and virtually. There was a team member managing the public participation process and they received a good turnout. The main output of the charrette was to come up with the basic zoning tenets that would then be undertaken after getting consensus from the Council. There were no changes to lot coverage, lot area, or lot width. For building height, the team wanted to get more information together for their proposal. The proposed density incentives were to be proportionate to the height incentives. The team investigated removing density from the requirements. They proposed keeping the building setbacks the same below 35 feet and to have a 15-foot setback above 35 feet. Additionally, above 60 feet there will be another setback. No changes to side setbacks were proposed. Base height was to be kept at 3 stories or 35 feet. Thoughts on changing the base height to 5 stories were fielded but consensus was against this change due to the character of Main Street. A proposed change was to do away with incentives using the number of bedrooms in units that encouraged apartments. They wished to change the incentives to encourage plaza space along the building frontage. Another proposed incentive was to offer additional stories if the developer provides more affordable housing than included in future zoning requirements. An additional proposed incentive was to add a height story incentive if the units were owner occupied. A seventh story was to be available if all the proposed incentives were exceeded by certain percentages. Mr. Rogers then referred to a slide presenting a visualization of the setbacks shown during the charrette. The RA district currently allowed for two types of dwellings: high rise apartments and garden style apartments. The minimum lot sizes are restrictive towards other dwelling types. A proposed change to the zoning requirements was to allow for other types of dwellings by changing lot coverage from 20% to 30%-35%. The existing densities were geared towards the current dwelling types and the new proposed densities were to be changed in order to allow for more varied dwelling types such as detached duplexes. No changes were proposed to required distance between buildings. They proposed discontinuing the incentive to change max story height from 7 stories to 10. Discussions regarding front setbacks culminated in a proposal to reduce the setbacks to 20 feet given the types of spaces and access to emergency vehicles. Existing guideline languages were determined to be tricky with the use of the words "may" or "should." Proposed changes to the language of the zoning requirements were to codify some standards in order to emulate the Street's character. Codifying the breaking up of mass with required recesses every 35 feet was also proposed. The charrette expressed interest in simplifying the downtown parking plan developed for Main Street. The parking requirements for residential zones were proposed to be changed to require one parking space for units up to three bedrooms and one additional space for units over three bedrooms. Mr. Rogers referred then to visuals of the setbacks that was developed towards the end of the charrette. The proposal for plaza space incentives on Main Street was derived from public sentiment that stated there was nothing to do on Main Street for anyone other than students. These visuals concluded the summary of the 5-day charrette. Mr. Rogers concluded that work had to be done with the City in order to make up more draft revisions to then propose these changes to the Council.

Mr. Coleman asked the Council to come up with recommendations, questions, concerns, etc. regarding any issues they may foresee with the revisions ahead of their formal presentation when the final draft is complete.

The Mayor opened the table to Council comment.

Dr. Bancroft started off by saying that he believed the parking plan was good. He also liked the idea of looking at what other cities and regions do and improve on those ideas.

Mr. Lawhorn shared his thoughts on the goal of the project; he believed that increasing density in the Main Street area would be positive, but everyone should keep in mind the competition downtown, The Grove and STAR Campus specifically, had when thinking of revisions. Mr. Lawhorn then had issues with the proposed changes to housing affordability and inclusionary housing. He asked for a definition for inclusionary housing to which Mr. Rogers responded that a certain percentage of units in a development would have to be affordable to the Area Median Income (AMI). His concern regarded the offer of affordable housing and instead believed that this issue could be tackled by increasing the housing supply. Plans to develop this line of thinking had been to partner with nonprofit housing groups, such as Habitat For Humanity, to help facilitate this type of program. Mr. Lawhorn then asked for clarification of revisions made to the BB district regarding bottom floor retail requirements. Mr. Rogers responded that the first floor could either be retail or parking but not residential. Mr. Lawhorn also questioned the identity of the stakeholder groups to which Mr. Rogers responded that a list of the stakeholders was included in the report. Mr. Lawhorn then stated that his constituents cared more about fewer rentals around their residences than the building height on Main Street; he believed that a 3-story building was too small and that a 7-story building was too large. Mr. Lawhorn shared his dislike of the plaza space idea and believed

that the changes regarding parking requirements were fairly similar to current. He wished to see less parking spaces required by Code and instead manage them on a case-by-case basis. Mr. Lawhorn also objected to owner occupied incentives on Main Street; he believed that it would be hard to police such a policy. He doubted that not many people would want to live next to large groups of students in an area such as Main Street. He asked about benches that were to be put out on Main Street by Park Place. The benches had yet to be delivered due to how the project was being funded. Afterwards, he voiced his dislike of granting different bonuses, stating that the process gets too complicated.

Ms. Ford indicated she did not like many of the revisions presented but did like the plazas and codifying window space. She requested the attendance figures from the Charrette and an analysis of attendants because she presumed that the plan catered to stakeholders who were developers and not City residents. She also believed that 7- and 10-story buildings were too high. She assumed the intent behind overhauling the BB zoning was to halt the type of development recent to Main Street, not encourage more of the same. She contradicted previous Council comment and stated that she received no positive feedback regarding 141 Main Street; she claimed it was dubbed “the Horror on Haines Street”. She insisted that she would resist anything approaching the proposed heights and recalled consensus among Council in support of capping the height at 5-stories. She thought the parking plan was fine but did not like the idea of reducing the RA acreage requirements from 2 acres for high-rise apartments and one acre for garden style apartments to 0.25 or 0.5 acres. She took no issue with encouraging condominiums for owner occupancy and was intrigued by inclusionary housing but believed it would be too hard to codify. She believed that the plan was far too complicated and would end up with more wrangling and negotiating than anything. She reiterated that she wanted the height cap set much lower and repeated that she would not support any proposal for 7- or 10-stories. Mr. Rogers clarified that the only 10-story reference included was to remove it from the RA zone and reminded that the height could be obtained if the floors were associated with parking or mechanical equipment from 7 to 10; the suggestion was to cap at 7 stories in the RA. He informed that the list of stakeholders was included in the report provided to Council and staff directed the team to reach out to as many stakeholders as possible and not just the usual participants. He revealed that the team reached out by telephone and email to remind interested parties of the interview times. He explained that the suggestion to reduce lot sizes in the RA was to allow other dwelling types; there was currently no provision in the RA for a semi-detached or duplex home and it was unnecessary to require an acre for a duplex in the neighborhoods where RA existed. He clarified that the change was not to fit a high-rise on a quarter acre, it was to allow a few duplexes on a half-acre lot.

Mr. Suchanec appreciated the team’s effort in bringing the revisions forward but cautioned them to not deviate far from the current version. He found the idea of incentivizing public spaces and affordable housing percentages laudable but is unsure if those ideas could be enforced. He referenced Washington House specifically, stating he was not sure if there was a market for similar condos given the make-up of Main Street right now. He was in favor of changing the parking plan from suburban to urban because the developer should be responsible for the parking they provide. He also liked how this change would eliminate parking waivers. He also believed that the max height of buildings on Main Street should be five stories. He reiterated his fellow Councilmember’s sentiment regarding 141 Main Street, calling the building an “abomination,” with terrible design. He commended the team for what they were able to achieve in five days but also stated that it needed to be tweaked before he would be fully comfortable with the plan.

Mr. McDermott agreed with most of the Council and believed five stories was an appropriate size for buildings on Main Street. He believed the incentive ideas made the process too convoluted and messy. He maintained that desired Main Street elements, such as plazas or glass fronts, should be a requirement in Code. He agreed with Mr. Lawhorn about commercial parking and stated that he did not believe the City should tell developers how much parking to build into their plans. He shared personal confusion on where RA districts were, which Mr. Rogers then clarified to be the areas of University courtyards, the Heights on South Chapel Street, and a new building on Haines Street. He would investigate the subject more and stated he would like to codify a standard for materials used by developers to prevent buildings from falling into disrepair.

Mr. Markham shared his support for the proposed parking plan changes and stated that capping the maximum building height at five stories would be ideal. He also wanted to find more information before speaking on the subjects more.

The Mayor opened the floor to public comment.

Chris Locke, District 1, explained that he had been a developer for 20 years with Lang Development, owned a business on Main Street for over 33 years, and a citizen and resident of the City for 47 years. He thanked the City and AECOM for doing a phenomenal job in trying to reach out to the

public but pointed that there were 10 stakeholders throughout the process, but he was the only person present that evening. He was disappointed to see the recommendations because parking and two-bedroom units were good incentives for developers and had been requests from Council for the last 15 years. He argued that recommendations to remove the incentives combined with including affordable housing, plazas, and owner/occupants was devoid of the economic reality of the downtown community. He revealed that the hypothetical building in the presentation was a minimum \$50 million building, and no money could be made by including affordable housing. He estimated that the building would include at least 65 units and would require 65 parking spaces, but the developer would be unable to build the parking garage to get a bonus and it would cost a fortune to build a parking garage. He emphasized the need to make changes to the recommendations. He continued the discussion for the RA zoning height should include consideration for how competitive the City wanted to be with STAR Campus because STAR was able to build 10 story buildings. He agreed with Mr. Rogers that some of the architectural elements should be codified to simplify the process for developers but admitted it was a slippery slope and Council needed to be mindful that it did not become a double-edged sword. He explained that the best way to get a good product was for Council to be direct in its desires because developers first presented to City staff, then Planning Commission, then the public, and finally Council, who could vote the project down. He admitted that by-right was the exception but maintained it was extremely rare.

Mr. Locke explained that he served on the Parking Subcommittee which provided a report in May 2017 that recommended that the City get away from parking in the downtown community because it was the downtown. He noted that there were requirements for one parking space for three or less units and two parking spaces for more than three units; he revealed that if the Council limited to three- or five-stories, then every developer would return to building four-, five- and six-bedroom units because it made economic sense. He continued that by allowing developers to make smaller units, then Council would make apartments available to the general public in the future and if the heights were limited to three-stories, the situation would be set back 15 years and the housing market would have huge units one more; it was the economic reality of developing properties.

Mr. Locke declared that STAR Campus was a complete threat to the downtown community and referred to President Assanis's comment that he wanted to build 1 million square feet more; STAR Campus was building 220 apartments and would continue to build. Mr. Locke cautioned that STAR would create an exodus from the downtown and the City would be left with vacant lots, buildings, and apartments. He emphasized the need to be cognizant of the threat that STAR Campus had to the City because the types of developments the City permitted paid back in three years and were the reason that the tax base was kept low for residential owners. He revealed that the City made more money when private developers provided student housing and if the City pushed UD to increase housing, the City lost a tremendous tax base. He offered to provide an analysis of all the properties Lang had developed over the years and show how much tax revenue had been provided to the City through the projects. He reiterated that if the City forced UD to provide housing, the City would lose out. He informed that he performed an analysis of 16 properties that had either been approved or were in the pipeline: in three years, all would provide an additional 3,600 beds and exceeded the increases seen at UD. He maintained that the developers would meet the housing needs because 85% to 90% of freshman lived on campus as did 52% of sophomores, 11% of juniors, and less than 8% of seniors. The reality was that students did not want to live on campus and wanted to enjoy the downtown. He asserted that Council needed to consider the argument when investigating UD housing versus private.

Mr. Locke revealed that he was very concerned about the affordable housing and reminded that the fee-in-lieu of parking was intended to be put into a fund to build a parking garage. He explained that millions of dollars had been given to the Fund over the last 20 years which had gone to the General Fund, not into building a parking garage for municipal use. He believed that an Affordable Housing Fund was extremely dangerous and asked if the City intended to become developers for affordable housing, how it would be regulated, and what staff would be tasked with monitoring. He pointed that the City used to have DuPont, Avon, and Chrysler but was now a single company town with UD. He continued that the secondary business was the developers who built and invested a ton of money in the town so that the residential owner/occupants could keep the tax base down. He hoped Council kept his comments into consideration when discussing the Charrette.

Ms. Scheld then read a comment from Sasha Aber into the record:

Thank you so much for hosting the Charrettes. I was able to attend every one and enjoyed the information and dialogue. Everything was presented in a very clear format, and the moderators made the shareholders feel heard. I love what came out of the meetings, including clear recommendations on designated parking spaces per business as well as how to make downtown more visually pleasing - utilizing open space in building design and using tiered buildings to decrease the immediate height of buildings as

they touch Main Street. I think giving developers a clear path for how to continue the growth of our downtown in a way that is still inviting, yet at the same time, still feels approachable and like a small town, is crucial.

As I was reflecting on this, one area that I believe wasn't addressed during the Charrette is the University's ability to purchase land/ buildings that encroach on downtown or are on Main Street themselves. Once U of D owns the property, there isn't any going back. I do not see the University turning around and selling the parcels back to individual owners. I think we can all agree that the University is an integral part of our city and our downtown. It is one of the reasons that our city is so vibrant. At the same time, the City and its residents face challenges that come along with cohabiting with both students and the University itself.

I am proposing that this Council make a motion that the appropriate City personnel or Department begin the large task of preserving our downtown as a business/residential district, not a University run area. My understanding is that the Legislature in Dover would need to address this and make a ruling if they wanted to designate our downtown area for businesses and residences only. My concern is that one day the University will purchase more and more in our downtown area until there aren't any spaces for independent businesses left. I understand that the University already has some offices and businesses downtown, and I am not asking for the removal of them. Instead, moving forward, I would like to see Council designate Main Street over to Cleveland Avenue as an area unavailable for University ownership, plus any side streets on the Delaware Avenue side of Main St. that council feels is appropriate. Delaware Avenue itself, seems to be primarily University property already, with only a little residential remaining. I would love to hear from the Council if there is interest in protecting a designated area downtown, that will in turn help ensure our city's future.

Mr. Markham asked Mr. Bilodeau if Ms. Aber's requests would be legally feasible. Mr. Bilodeau explained that it would be very difficult to legally tell someone that they were not allowed to buy property. He stated they would need the legislature to restrict how the University could spend their allocated state funds.

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

Mr. Markham asked Mr. Coleman and Ms. Gray if they would like to try for a motion today or come back with a revised plan based on the feedback given from the Council. Ms. Gray wished to continue with the process by starting revision work on their plan with considerations made to specific Council feedback.

MOTION BY MR. MARKHAM: TO EXTEND THE MEETING PAST 10 PM.

MOTION FAILED FOR LACK OF SECOND.

21. 5-B. **COUNCIL DIRECTION/STAFF DISCUSSION ON DETAILED TASKS FROM THE PRIORITY LIST**
22. **Meeting adjourned at 10:26 p.m.**

Tara Schiano
Director of Legislative Services
City Secretary

/ns/pm