

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

February 22, 2021

Those present at 7:00 p.m.:

Presiding: Mayor Jerry Clifton
Deputy Mayor, James Horning, District 1
District 2, Sharon Hughes
District 3, Jay Bancroft
District 4, Chris Hamilton
District 5, Jason Lawhorn
District 6, Travis McDermott

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

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1. Mr. Clifton called the meeting to order at 7:00 p.m.
 2. **SILENT MEDITATION and PLEDGE OF ALLEGIANCE**
Mr. Clifton asked for a moment of silence and the Pledge of Allegiance.

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

3. 1. **ITEMS NOT ON PUBLISHED AGENDA**
 - A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None
4. 1-B. **UNIVERSITY**
 - (1) Administration (5 minutes per speaker) (10 minutes):

2:33

Caitlin Olsen, UD Administration, commended City staff for handling the snow emergencies and thanked Ms. Gravell for forwarding information for community distribution on removing cars from the streets. She acknowledged that the Governor eased restrictions but emphasized that UD Communications clearly reminded students that the City had different, stricter rules. She assured that students were being tested and students in dorms received weekly testing. UD staff offered testing at various centers for convenience.

The Mayor opened the table to Council comments.

Mr. Hamilton thanked Ms. Olsen for the information and was pleased to partner with UD. He wanted Ms. Olsen to remind off-campus students of their responsibility to shovel snow, clear sidewalks, and be good neighbors.

Ms. Hughes asked for student COVID numbers and Ms. Olsen understood that the numbers the previous week were not high but admitted that the previous weekend was the first the students spent together and suspected the cases could change. She was hopeful that students were cautious and wearing masks but assumed there would be spikes and drops. She would investigate the number of cases and send her response in the chat function.

Mr. Clifton revealed that the Governor of Pennsylvania now allowed 15% capacity at outdoor sporting events and added that the Phillies season began on April 1st. He wanted to observe and learn from Pennsylvania's actions and noted indoor events were at 7% or 10% capacity.

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

7:44

Kerri Edwards, Student Government Association (SGA), echoed that students were back on campus and shared that the SGA was planning another town hall for the student body and she would keep Council informed. Mr. Clifton reminded he was slated to speak to one of the organizations in March and he was looking forward to the opportunity.

6. 1-C. CITY MANAGER (10 minutes):

8:50

Mr. Coleman informed Council that the winning bid for the Emerson Bridge was awarded to RE Pearson for \$250,000 under the engineers' cost estimate for the project. He admitted it was still early in the process and construction could be unpredictable. The project had a 180-day construction window and should be completed in 2021. He revealed staff issued warnings and citations over the weekend regarding snow removal, but the contractor was unavailable to clear the central business district. He hoped the citations would lead to better compliance and said that staff contacted business owners who needed to better clear downtown locations. He shared that the City received complaints about uncleared sidewalks in the Hunt at Louviers so staff would add the location to check during the next storm.

7. 1-D. COUNCIL MEMBERS (5 minutes):

10:29

Mr. McDermott:

- Asked to initiate the process to vacate Lawson Street and if he needed to request staff to prepare resolution for a public meeting. Mr. Coleman confirmed because Council needed to vote to direct staff to prepare a resolution for consideration of vacating the right of way at a future public hearing. He shared that Public Works and Water Resources (PWWR) staff supported Mr. McDermott's request.
- Informed that Lawson Street was a dead-end off of Annabelle Street and was never connected
- Stated the owners of the properties on the street wanted to absorb the area into their properties because it served no purpose to the City. Mr. Coleman confirmed and understood when the Mill at White Clay was built, the street was cut off and served no purpose except as a driveway for the houses.
- Asked for next steps to create a resolution to return for public hearing. Ms. Bensley explained City Code, Section 26-33, stated that Council shall, upon its own motion or upon the written petition of five or more freeholders of the City of Newark, adopt a resolution fixing a time and place for a hearing at which interested persons may be heard on the question of whether or not there is a necessity for the continuation of an existing public street. She recommended a formal motion. Mr. Coleman noted there was no resolution to adopt and Ms. Bensley said the motion would be for staff to return with a resolution to set the hearing date. Mr. Coleman supported Ms. Bensley's recommendation. Mr. Clifton asked Mr. Bilodeau if Mr. McDermott could make the motion and Mr. Bilodeau confirmed the motion could be to return with a resolution at an upcoming Council meeting.

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT THE CITY ADOPT A RESOLUTION FOR COUNCIL CONSIDERATION TO VACATE LAWSON STREET IN DISTRICT 6.

Mr. Clifton asked if a date was necessary and Ms. Bensley responded that since there was no existing legislation to postpone or table, no exact date was necessary. She needed to the opportunity to review the Council meeting schedule to determine a date for a public hearing.

MOTION PASSED. VOTE: 6 to 1.

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

Nay – Hamilton.

Mr. Lawhorn:

- Recalled discussions about reviewing the zoning codes for downtown Main Street and asked how the zoning code review could be conducted as a public workshop. Mr. Clifton acknowledged the previous conversations and shared that Mr. Coleman took copious notes of Councilmember and public comments regarding developmental rules. Mr. Clifton revealed it could take one or two years to overhaul Code versus Mr. Lawhorn's suggestion of primarily addressing hot button issues. Mr. Coleman interjected that he and Ms. Gray had been discussing the issue over the last weeks and informed that a group met every second or third Friday to discuss the development plan process and improvements. He thought the key moving forward would be to focus on the BB zoning district because a complete overhaul would take years. Staff thought the best path was to hold an advertised workshop and presentation to build a consensus in the community on its desires for the BB zoning district and then move forward with the input. He wanted to structure the zoning on how the community wanted Main Street to look. He originally believed a good approach would be to first tackle the most pressing issues but then thought it made more sense to consider the whole issue in order to avoid making BB zoning a moving target and disenfranchising people.
- Thought there was support for a public workshop environment to discuss issues and develop a plan and asked if there would be a short-term and long-term plan. Mr. Coleman assumed the long-term plan would be to address other zones and short-term would be to address the BB zone. He admitted staff resources would be a challenge and pointed that the Planning Department staff was at capacity dealing with upcoming development plans, the Comprehensive Development Plan Review, and the parking consultant. He reiterated staff should first determine how BB should look, then create a plan to schedule and implement the new zoning standard for BB and determine the cost. He indicated the project would be involved and needed prioritization from Council.
- Agreed with Mr. Coleman's suggestions and that resources needed to be part of the discussion

Mr. Clifton interjected that Council agendas were scheduled until early June and acknowledged that moving to four meetings a month was controversial. He was pleased with the productivity within the confines and thought Council accomplished more than with the old schedule. He wanted to be completely transparent and acknowledge the issues of size, parking, and parking waivers. He agreed with Mr. Coleman that the issues were clear, and it was a matter of how Council would make changes and see resolutions on which the majority could agree. He wanted to address the issue before the election and suggested another weekday meeting in March and asked Ms. Bensley for confirmation that there was no meeting scheduled for March 29th. Ms. Bensley confirmed the 29th was the fifth Monday. Mr. Clifton suggested the 29th was ideal to set course for the next Council year. Mr. Lawhorn acknowledged the election was close at hand and he preferred to have the discussion after the election. He wanted to be sensitive to new Council and did not want to be counterproductive. He thought it was important to give staff time to properly plan and thought it was wise to address workshops during the Organizational Meeting after the election.

Mr. Hamilton stated he intended to be a part of the discussion, either as a Councilperson or as a resident. He often heard that the Planning Department was overwhelmed and wanted to address staffing. He did not support or propose a staff increase and acknowledged conversations about whether the City's fees were high enough. He understood many projects underwent various iterations and bounced between departments and wondered if the fees were enough to match staff's time. He felt that argument that fee increases would discourage developers from building in the City in favor of the County were proven untrue. He added the developers offered to pay more to be able to build in the City. He wanted to address staff shortages before discussing any changes to Code. He reiterated his concern that fees were not high enough and acknowledged that the iterations were overwhelming. He noted that Council had not received certain reports, such as the Parking Study, which was accepted by Council from Planning and Development but was not yet approved. He wanted the conversation to be broader and include solutions for freeing up staff time. He asked Mr. Coleman for his thoughts on fees.

Mr. Coleman thought it was unrealistic to complete the project prior to the election based on staffing and the number of meetings available. He recommended one or two public outreach sessions for staff to solicit feedback from residents prior to Council consideration. He wanted to reach a broader audience to allow more residents to contribute input and agreed with Mr. Lawhorn's suggestion of later implementation. Mr. Lawhorn interjected that the last discussion centered on identifying the issues, determining staff recommendations, and gathering opinions from Council to decide how to proceed. Staff could then return with recommendations. He pointed that the project was intermingled and if more staff was required then Council could consider raising fees. He reiterated that the project was a major undertaking and it was necessary to establish path forward. He appreciated the suggestions and repeated his initial inquiry on whether a workshop format was possible. Mr. Coleman supported a workshop to

determine the end product and informed Mr. Hamilton that the bi-weekly development plan review meetings investigated potential fee changes and staff intended to bring development review fees to Council. He informed staff was also considering process changes although he did not believe the changes would address the workload at the subdivision plan process level for the Planning Department but thought it was possible to ease the workload on Public Works. He continued that the City had been requiring actions at the subdivision level that were not required by Code at the subdivision level and he was unsure if they currently added value to Council. He commented that the developers' and staff's effort for the project at 132-136 East Main Street was wasted because the project was not approved. Staff would bring a discussion to Council on reasonable items to pare back at the subdivision level and push to construction plans to ensure projects came before Council sooner and before staff devoted too much time. He asked Ms. Gray to provide a staffing plan for what additional employees could accomplish and noted there was \$75,000 in the budget for contractual support in Planning for Plan Review that could be sourced to cover any employees hired traditionally or through a contractual agreement with an end-term of two or three years. He informed Council that there was contractual funding in Planning for a few years in anticipation of the discussion. He thought the project would be more efficient with an employee instead of a consultant. Mr. Lawhorn looked forward to the discussion and wanted Council to consider workshops prior to the Organization Meeting with new Council.

Ms. Bensley suggested it was possible to address singular topics as an agenda item on the first and third Mondays. She explained Council could advertise a workshop topic on one of the agendas and provide an opportunity for public comment as part of the meetings. Because the workshop would be part of the meeting, Council could make necessary motions for staff direction. She continued that staff needed advance notice on discussion topics and target dates based on staff's ability to accommodate in order to ensure nothing else was booked for the specified meeting. Mr. Lawhorn thanked Ms. Bensley for the information and supported the workshop format.

Dr. Bancroft:

- Thanked staff for the coordinated and prompt efforts towards the recent snowstorms
- Did not think rank choice voting would affect the upcoming Council elections but thought it was a fairer way to conduct elections
- Acknowledged that Council was entrusted with public safety and wanted Council to build trust and strive towards attaining herd immunity through vaccinations. He also wanted City employees to remain healthy and wanted everyone, especially public-interfacing staff, to demonstrate civic responsibility and get vaccinated as soon as able
- Supported the BB zoning review/workshop plan, but did not feel near-term timing was critically important and wanted to consider ideas strategically
- Thanked staff for reaching out to him regarding development projects in his recent queries

Ms. Hughes:

- Asked if the zoning workshops would include parking waiver issues. Mr. Clifton confirmed.
- Agreed with previous Council comment on the City's snowstorm response and its prompt rescheduling and execution of trash removal

Mr. Horning:

- Agreed with fellow Councilmembers on snow removal response beginning with communications prior to the storm from Mr. Filasky and Ms. Gravel
- Commended field crews for reporting at 4:00 a.m.
- Commended electric crews and Code enforcement
- Received a sidewalk concern in the BB district which was promptly addressed by Mr. Robinson
- Understood the contractor for the business was unable to make it to the location
- Wanted to emphasize the information was being relayed to business owners
- Appreciated comments on zoning review

Mr. Clifton:

- Congratulated Lieutenant Chris Jones and Sergeant James Skinner for their promotions in the Police Department and noted both Officers were outstanding and had backgrounds as K9 Officers.

8. 1-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):** None

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

- A. Approval of Council Meeting Minutes – February 1, 2021
- B. Approval of Council Meeting Minutes – February 8, 2021
- C. Receipt of Alderman's Report – February 8, 2021

- D. Receipt of 2021 Conservation Advisory Commission Annual Report
- E. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark to Purchase a Refuse Collection Vehicle from North Fayette Township, PA
- F. **First Reading – Bill 21-04** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Creating a New RE (Single Family Detached Residential – Residential Estate) Zoning District – **Second Reading – March 22, 2021**
- G. **First Reading – Bill 21-05** – An Ordinance Amending the Comprehensive Plan by Changing the Designation of Property Located at 751 Paper Mill Road – **Second Reading – March 22, 2021**
- H. **First Reading – Bill 21-06** – An Ordinance Annexing and Zoning to RE (Single Family Detached Residential – Residential Estate) 13.49 Acres Located at 751 Paper Mill Road – **Second Reading – March 22, 2021**

45:00

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 7 to 0.

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

10. 3. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:

- A. Appointment of John Mateyko to the Vacant At-Large Position on the Conservation Advisory Commission for a Term to Expire March 15, 2023 (5 minutes)

46:55

Mr. Clifton informed that Mr. Mateyko was a District 4 resident and he found Mr. Mateyko to be a highly qualified and motivated individual who fit perfectly with the Commission.

The Mayor opened the table to Council comments.

Mr. Hamilton believed Mr. Mateyko was passionate and would fill the role well. He noted that Mr. Mateyko was a recent resident but was active in his previous community and had served on another Newark Commission. He welcomed and thanked Mr. Mateyko.

Dr. Bancroft, Mr. McDermott and Mr. Lawhorn thanked Mr. Mateyko for his willingness to serve.

Mr. Horning found Mr. Mateyko to be passionate and motivated and thought he would be a great fit for the CAC.

There was no public comment and the Mayor returned the discussion to the table. He informed that he would appoint another member for the Commission shortly and added that a Councilmember would also have an opportunity to appoint a member, which should bring them to a full commission.

MOTION BY MR. HAMILTON, SECONDED BY DR. BANCROFT: TO APPROVE THE APPOINTMENT OF JOHN MATEYKO TO THE VACANT AT-LARGE POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A TERM TO EXPIRE MARCH 15, 2023.

MOTION PASSED. VOTE: 6 to 0.

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

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

(Secretary's Note: The request for a healthcare partnership for The Newark Partnership employees postponed to the February 22 meeting for consideration was withdrawn.)

12. 5. SPECIAL DEPARTMENT REPORTS:

A. Resolution No. 21-__: A Resolution Establishing the 2021 Reapportionment Committee for the Purpose of Drafting the Updated City Council District Maps Based on the 2020 United States Census Data (15 minutes)

52:08

Ms. Bensley read the resolution into the record.

She reminded Council previously discussed the process for the upcoming reapportionment process for 2021. She revealed the Federal government would not have the Census data prepared until September 30th so the tentative timeline of having completed maps to Council by October for review was unlikely. In spite of the setback, she wanted to appoint and establish a Committee to be prepared if the data was released earlier. She continued that based on the timeline announced the by the Government, she expected the Committee would meet bi-weekly in the fall in order to meet the timeline necessary to approve the final districts for Council which would be in consultation with the availability of the Department of Elections. She continued that the resolution was similar to previous iterations and noted the structure of the Committee included as Exhibit A.

The Mayor opened the table to comments from Council.

Dr. Bancroft, Mr. Hamilton and Mr. McDermott had no questions.

Mr. Horning noticed the board report requirements would be submitted to Council for approval within six months of the receipt of the final census figures by the City and asked if it was necessary to amend Exhibit A since the data was expected in September. Ms. Bensley replied the resolution was drafted prior to the announcement and the reapportionments were supposed to be in effect for the 2022 election. She informed that the filing deadline for the election was the first or second Monday in February and the districts were reported to Council until the last week of January so residents would not know to which district they belonged. She continued that the Committee would have to finish the work in six to eight weeks to present the results to Council for first and second readings on the ordinance to adopt the new districts by the last meeting in December before the holiday break. She agreed with Mr. Horning that the timeline needed to be less than six months and an appropriate amendment was two months. Mr. Horning assumed the amendment was not substantial and was driven by the new Census data obtained that day. Mr. Bilodeau agreed.

Ms. Hughes had no comments.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: TO APPROVE THE RESOLUTION.

MOTION BY MR. HORNING, SECONDED BY MR. MCDERMOTT: TO AMEND EXHIBIT A, BOARD REPORT REQUIREMENTS, TO READ "RECOMMENDATIONS TO BE SUBMITTED TO COUNCIL FOR APPROVAL IN TWO MONTHS OF RECEIPT OF THE FINAL CENSUS FIGURES BY THE CITY".

MOTION PASSED. VOTE: 7 to 0.

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

MOTION TO ADOPT THE RESOLUTION AS AMENDED PASSED. VOTE: 7 to 0.

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

(RESOLUTION NO. 21-B)

13. 5-B. DISCUSSION AND DIRECTION TO STAFF REGARDING PAID PARKING IN CITY PARKS – PARKS AND RECREATION DIRECTOR/PARKING MANAGER (60 MINUTES)

1:01:18

Mr. Spadafino explained that the Newark Reservoir was one of the most visited trails in the State with over 100,000 visitors each year. He revealed the parking lot was filled on evenings and weekends and frequently overflowed to non-parking areas and along Old Paper Mill Road. Since of the vehicles were out-of-state, during the 2021 Budget Hearing, Council considered the possibility of charging non-residents for parking at the reservoir and other popular parks and asked staff to investigate possible solutions for overcrowding in the lots. He revealed that the Parking Division and the Parks and Recreation Department

held multiple meetings to discuss parking management for the City's parks, establish equipment options, and potential implementation processes for charging parking fees in City parks.

The Mayor opened the table to Council comments.

Mr. Hamilton asked if the City still intended to spend \$600,000 to expand the Reservoir Park and Mr. Spadafino confirmed the plan was to expand Old Paper Mill Park, across from the reservoir, but reminded the project was pushed to the 2023-2024 budget. Mr. Hamilton noted the large expense and hoped for grant funding but felt the City was a victim of its own success. He acknowledged the lack of parking created dangerous situations and cars were unable to drive on the road. He understood there were plans to expand the park and parking area but did not want the expenses to fall solely on the residents. He stated that NBC10 reported on the already overflowing trashcans. He hoped more people would visit the park but thought it was a challenge when residents were unable to park. He assumed there would be another issue at the former Dickinson Dorm site because the park would be close to the UD Arts buildings and the Alfred Lerner Business School. He thought it would be easy for students to park for free at the lot and admitted he was unsure of staff's original thoughts but wanted to head off the problem. He reminded Council was persuaded to approve expenditures for high-tech parking meters because there was a possibility that residents would be given discounts, but Council had not been provided a proposal to return the benefit to residents even though the point was made during the presentation. He reiterated the intent was for residents to pay less for parking downtown and assumed the concept would be expanded to the parks. He continued that if he were a student, he would blatantly advertise that there was free parking available at the City parks. He hoped that Council could determine a solution to benefit taxpayers to help defray costs and free up spots for residents.

Mr. Lawhorn believed that paid parking had a negative connotation and he would need justification to support more paid parking anywhere in the City. He acknowledged that the City parks were mentioned on the news and he received an overwhelming amount of feedback in opposition of parking fees for parks. He did not feel there was a strong enough driver to raise the money but thought he might be able support the issue if the problem was significant enough. He recalled earlier discussions on limited staff resources and acknowledged the substantial amount of work required for enforcement and the associated costs. He felt that staff resources would be better sourced working on labor-intensive projects such as the Parking Subcommittee recommendations. He noted that the components of the parking plan included variable parking rates and the potential to raise rates in certain areas downtown that could significantly increase parking revenue more than the addition of meters in City parks. He understood that some State Parks charged parking fees but argued that the funding was used for massive projects, like beach restoration and wildlife programs, and the comparison between State Parks and City Parks was unfair. He continued that there were many well-attended State parks that did not charge parking fees, including Glasgow Park and Delcastle Recreation Center, which also had a trash problem. He wanted to invite people to the City and admitted the parks appealed strongly to visitors. He argued that the Reservoir saved the City millions of dollars and funded itself. He reiterated that he did not want to attach a negative connotation to City parks by charging for parking and rather wanted to encourage visitors to spend money at restaurants and shops. He supported expanding Old Paper Mill Park and welcomed funding ideas but did not want to charge visitors. He agreed that more parking was necessary and wanted to consider using the current parking fund. He did not want to devote time to discuss parking issues at the Rodney Dorm site because the parking lot did not exist but understood it could become a problem. He wanted the opportunity to consider the best solution to a problem and not try to predict the future. He reiterated the negative feedback he received and did not think there was budget issue that needed funding. He thought voluntary contributions were a reasonable suggestion but reiterated he did not want to expense staff time when efforts could be made in other parking scenarios that would yield greater financial revenues.

Mr. McDermott was opposed to having City residents pay for parking in City parks. He acknowledged concerns that City parks were funded by State grants from State taxpayers and not necessarily Newark residents. He was more receptive to charging out-of-state visitors and inquired about the legality of only charging non-Delaware vehicles. Mr. Bilodeau responded that he briefly researched the question and revealed there were some places in the Country that charged different rates for residents and non-residents. He wanted to investigate further but said he read an opinion from the Florida Attorney General that differential rates were possible if there was a rational basis. He repeated that his research was preliminary, and he wanted the opportunity to create an ironclad basis that would withstand challenge. After Mr. Hamilton made his initial allegations, Mr. McDermott frequented the Reservoir Park to count the license plates and reported that each time, over 50% of the vehicles were out-of-state. He agreed there was an issue with parking and non-residents consuming City resources. He revealed that New Castle County expended many resources handling the parking situation at County parks and County employees had the same discussions as City Council in reference to parking fees as a potential solution to the problem. He asked if it was possible to implement a fee program using mobile apps without installing

physical meters. Mr. Spadafino replied that staff needed to first consider logistics, especially with resident versus non-resident. Mr. Mulvanity informed that out-of-state plates could be handled through the G2 Kiosk system with a physical payment and/or the Passport/Newpark smartphone application. He stated that license plate readers would simplify the process but noted that there were questions on whether the City wanted to include out-of-state students renting in the City which would make the job more cumbersome. Mr. McDermott wanted to review State code but recalled that new residents had 60 days to register their vehicles in Delaware and he did not think there was an exception for students. He referred to concerns on the time it would take Parking Ambassadors to get to the parks and asked if the intent was to only concentrate on the reservoir. Mr. Spadafino explained that staff discussions included the Reservoir because of the severity of the parking issue, Curtis Mill Park because of visitors avoiding fees by parking on Paper Mill, and the Rodney Dorm site because of the proximity to campus. He explained that overcrowding problems in other parks were limited to sports leagues or programming, so consideration was necessary for people who paid for programs. Mr. McDermott clarified that the discussion was with three parks and asked if the locations could be added to the routine patrols for the Parking Ambassadors. Mr. Spadafino said that staff discussed the burden of adding the parks to the patrols and whether the generated fees would cover the expense to manage and implement the program. Mr. McDermott was receptive to charging out-of-state vehicles.

Mr. Horning detailed the issue in his newsletter and said that his constituents did not support parking charges. He explained the genesis for the idea was driven by Capital Expenditures and \$91,000 in 2021 was for the master plan for the expanded parking area and new park in the vicinity of the reservoir. He wanted to account for City residents funding the capital improvements and received feedback that the fees would create an administrative burden as well as a negative connotation for public relations. He commented that the City's parks were an enjoyable and free activity open to all residents. He reminded Council of the tremendous private fundraising effort for Preston's Playground and understood it was the first 100% all-inclusive playground in the State. He added that the Can-do Playground in Alapocas Park was an alternative in north Wilmington but charged for parking. He suggested soliciting donations through smartphone applications to use for funding new parking and noted that he did not carry cash to pay for parking. He revealed that Boy Scouts cleaned the islands in Nottingham Green as a fundraising activity and residents were extremely appreciative to be able to contribute to the community during the pandemic. He agreed the issue needed to be addressed but thought individual contributions were a more palatable option. He received feedback that some out-of-state vehicles belonged to students who were City residents and/or utility customers and indirectly paid taxes through rent. He wondered if those students were exempt, then how many out-of-state vehicles belonged to true non-residents. He did not think the administrative cost was worth the negative connotation from constituents. He wondered if the problem was related to overturn or volume and suggested timed, free parking. He wanted to have further staff discussions on the former Rodney Dorm site and whether there could be an option for a private-public partnership with Oaklands Pool where the City could rent spaces for overflow parking during the offseason. He suggested the partnership could also be a possibility with College Town Communities during summer break when residents left town. He admitted he unsure of staff's confidence on parking availability for the site and recalled parking meters were used for the area in the past at Forest Lane. He understood residents of Oaklands had permitted parking for residents, so parking was easy to enforce.

Ms. Hughes did not fully support the idea and understood there was a parking problem but asked why the first suggestion was to charge visitors. She asked how charging would address the issue of overflow parking if nothing would be done until 2023 or 2024. She thought the fees would be a deterrent for potential visitors to the City who could chose to frequent other areas. She wanted to avoid additional charges and was concerned with resident student issues. She thought the optics were unfavorable and was concerned that the fees would drive visitors away and local businesses would lose patrons. She appreciated Mr. Hamilton's idea but did not think it was in the true spirit of the City.

Dr. Bancroft acknowledged that the trend to charging fees for everything and agreed with Mr. Lawhorn's comments that the countervailing cost of enforcement and effort lessened the revenue benefit and would greatly annoy City residents. He suggested surge demand pricing to decrease the overflow problem and safety issue crossing Paper Mill Road. He thought there were creative ways to regain revenue and thought the proposal for overnight parking also seemed to countervail the idea that the problem was crowding. He agreed the issue was complicated, especially with out-of-state fees, and thought students would be greatly affected by the administrative scheme. He did not think the proposal was supported by City residents.

Mr. Clifton first addressed the comments regarding the Rodney complex and reminded that part of the funding was from the referendum which was overwhelmingly supported by the residents. He agreed that the location had the potential to be a parking problem given its close proximity to campus and wanted a workable resolution to afford everyone the opportunity to enjoy the park. He considered

the possibility that residents could register their vehicles with the City and be excluded from paying parking fees at the location. He felt that if a person resided in the City, they were a resident and admitted he was unsure about State registration. He recalled that in the early 1990s, voters overwhelmingly supported a referendum to purchase parkland and the City acquired several smaller parks which gave credence that residents put their funds into building a tremendous parks network in the City. He revealed that the State granted \$3.4 million for the Reservoir and was still a point of controversy because of caveats included by then Senate Pro Tempore Thomas Sharp but Senator Steven Amick worked with the State for \$4.4 million to help fund the reservoir. Mr. Clifton emphasized the funds were for building the reservoir, not for paving a parking lot, and though State funds were involved, a park of its sort was ever included in the original plan. He understood that parking overflowed onto Old Paper Mill Road but stated that Old Paper Mill was a no parking zone, so it was a matter of enforcement. If he were to support any measure, he wanted to ensure that City residents were exempted. He compared the park system to other City amenities and believed residents expected to have access to a well-maintained park system as part of their tax base. If Council moved forward, he hoped to have a rational basis to avoid a lawsuit. If the City was going to pay Parking Ambassadors to continually monitor the area, he wanted to consider if the return on investment was great enough to make the effort. He added that if there was a good return on investment, he wanted the revenue to be placed into a separate fund for the purchase of smaller properties to create open space and did not want the revenue included with the General Fund. He believed the separate fund could be used as argument towards non-residents that the City was using profits to better the parks system. He commended Mr. Hamilton for bringing the issue forward and raising the awareness of alternative solutions. He asked if Council could proceed as a home-rule government or if the City required enabling legislation from the State.

The Mayor opened the floor to public comment.

Ms. Bensley read a statement from Nic DeCaire, President of Fusion Racing and Co-Founder of Preston's Playground, into the record:

"Dear Council, While I understand the need to potentially charge for parking in the City Parks due to overcrowding and as another stream of revenue, I have to say that I am 100% not in favor of this for one reason. Preston's Playground. This playground, which is located at the base of the Newark Reservoir was a gift to the city from Fusion, Preston's March for Energy, numerous grants and hundreds of donations from local residents. Charging nonresidents to enjoy this amazing all-inclusive playground would be a total slap in the face for anyone who spent time or money on this project. In fact, it would not make it an inclusive playground anymore. Most families who have children with special needs cannot afford to pay for a park that we built specifically for them. I could have built this playground anywhere in Delaware. I purposely chose Newark because of my love for the city. I was a small business owner in Newark at the time and I wanted to help drive new traffic to our community. I am not a Newark resident nor was I when we built this playground. If this passes, then I would now have to pay to bring my children to a playground that I helped raise over \$500,000 towards and donated hundreds of hours of my time. I hope you can see my frustration with this. I urge you to figure out another way to fix the problem you are facing with the parks. This is not good for the Newark community."

Ms. Bensley the read a comment from Deb Buenaga:

"Dear Council, it has come to my attention that it has been brought up to potentially charge for City Parks. This would be sad because our favorite park in the WHOLE world is in the City of Newark and that is Preston's Playground. Twenty-one years ago, my son, Preston was diagnosed with Mitochondrial Disease, which leaves him with low muscle tone and developmental delays. Growing up was not easy for Preston. He didn't walk until he was 4 and has delays in speaking. When we went to the playground to play, I had to be with him as he was slower than most kids and needed help with most of the equipment. It was sad when other children would not include Preston in play because he was not "like" them. At times I would even hear their parents tell them not to play with Preston because he might get hurt. Heartbreaking for a parent.

When I was talking to my dear friend, Nic DeCaire, about a playground in Virginia, that was totally inclusive and all the equipment was for everyone and Preston felt included for the first time, he said "let's build one here!" With the support of the entire community and local businesses Preston's Playground became a reality and a place to play for everyone! EVERYONE! Not only children who can climb rock walls, swing on monkey bars, and may live within the Newark city limits, but EVERYONE! Children who need an assistive swing, children who need a rubber flooring so their wheelchair will roll, or children who live in Wilmington (like Preston) or anywhere else!

If you charge for parking, you are not including EVERYONE to play at Preston's Playground. If a family is a low-income family and cannot afford to pay, they may have to tell their child they cannot go to play because they cannot afford the parking fee. I am the Executive Director for a nonprofit that provides adaptive bikes to children with special needs. We do not ask for financial support from the families because we know families with children with special needs have enough financial worries, they do not need to pay to have fun!

I was telling Preston about the plan to pay for parking and he said "*that makes me sad mommy! Some of my friends won't be able to go.*" This will be sad for many of Preston's friends. Especially those who travel to Newark to play with him. We have to pay for so much why do we need to pay to play? I hope you consider my thoughts about why you should not charge to play and come up with another idea to fix the financial situations. Thank you for your support!"

Ms. Bensley then read a comment from Joe Charma, District 1:

"I am writing to oppose charging for parking in our City parks. Citing the example of Preston's Playground, the majority of the construction costs for the project were privately fundraised or donated by companies with little cost to the City to create a magnificent, all-inclusive playground. It's my opinion that the cost for parking improvements or any improvements in City parks which primarily serve the citizens of Newark should be a budgeted expense in the Parks and Recreation Department's budget covered by Newark taxpayers.

Why the taxpayers - Granted, that not everyone uses every park in the City, and not everyone uses every road in the City, but all Newarkers pay taxes to cover the Public Works Department's annual road maintenance costs. It shouldn't be any different for park expenses. If this is a large capital expense, consider holding a bond referendum. The City of Newark and its citizens are very proud of the great public parks we have. Let's not do something that may tend to limit their use."

Ms. Bensley then introduced Rob Gifford, District 3. Mr. Gifford did not feel that parking meters and the accompanying complications would add to the park system. He was intrigued by some form of donation, either through a smartphone app or a kiosk, but wondered if it would help alleviate the problem. He cautioned that if no action was taken, the problem would remain until the budget was more favorable and the parcel across the street was an active project. He encouraged Council to consider the donation aspect because it was almost free to try, and the result would be interesting. He commented that there were many suggestions of what to do but not about the problem. He noted that it was unknown who was parking at the reservoir and suggested that a volunteer could survey the lot to see which vehicles were sitting or were not for park use.

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

Mr. Hamilton interjected and asked for additional comments. He thanked everyone for the feedback and clarified that Newark residents would not be charged. He agreed with Mr. McDermott to start with out-of-state plates because it would be easier for the system and he assumed that only he and Mr. McDermott had gone to investigate the situation. He argued that the park visitors were not going to Newark restaurants and the trash in the area was from fast food locations. He asked Mr. Coleman if the City charged for handicapped parking on the streets. Mr. Coleman confirmed there was an exception for streets, but parking lots had a fee. Mr. Hamilton assumed exempting handicapped vehicles would be a simple solution and acknowledged that Preston's Playground was an attraction. He found some of the objections to be off-the-cuff and were not researched. He appreciated Mr. Gifford's comments and agreed it would be nice to have more information aside from his informal observations.

Mr. Hamilton was unsure how fees could be illegal and previously spoke to Mr. Bilodeau about charging out-of-state vehicles. He reminded that State parks charged non-residents a higher fee. He presumed there was confusion in the feedback and suggested to FOIA some of the communications to verify how many and why residents objected. He claimed not to have received any objections and presumed his district was more tuned-in to City expenses. He said if Council did not act then he did not know why the City even bothered with parking and noted that the Parking Office was five minutes from the reservoir and doubted enforcement was a problem. He repeated that objections from Council could be addressed by gathering more information, as suggested by Mr. Gifford. He reiterated his support for beginning with out-of-state plates. He referred to Dr. Bancroft's frequent support of charging those who used the services and thought it was a perfect solution for the situation.

Mr. Lawhorn acknowledged that Preston's Playground was a significant effort and clarified that the park was an all-inclusive park, not a handicapped park. He agreed with public comments and

recognized the park was a tremendous accomplishment where more than \$500,000 was donated from various locations and thousands of manhours were put in by volunteers. He agreed charging for Preston's Playground would be an insult for those who worked for its development and understood and supported the need for more parking. He thought there were better ways to fund the project and was unsure that the Parks and Recreation Department were in a terrible revenue situation. He agreed the lack of parking needed to be remedied and Council could discuss funding at the appropriate time. He understood the issues out-of-state parking and said he spent many hours at the reservoir and witnessed the issue firsthand. He thought it was probable that many of the vehicles belonged to students and was pleased that some Pennsylvania residents visited the park. He was unsure of the legalities on students changing vehicle registrations. He thought the simple solution was to fix the parking problem. He asked how many activities were left in the world that were free and said he simply wanted to enjoy time with his family at a park. He did not think charging fees was worth taking away the opportunity of enjoying outdoor activities. He emphasized that children were more digitally connected now, and society wanted to encourage the use of open space. He repeated he did not want to tie fees to the parks.

Mr. Horning asked that Mr. Bilodeau verify the home rule authority issue as it could moot the whole argument although he believed the conception made sense. He agreed that it was necessary to discern if the root cause was volume or turnover. He supported soliciting donations to gauge responses and agreed with Mr. Hamilton to exempt handicapped spaces and reiterated his support for investigating legalities and the root cause of the issue.

Mr. Clifton wanted to seriously consider parking at Rodney because he thought it would be a critical issue. He shared that Fountainview residents were using the White Chapel Park parking spots and he was confident that it was happening elsewhere in the City. He thought spaces so near to campus were sure to be used and in order to be fair and equitable, he wanted staff to consider parking options for the site. He was not sure if it was wise for the City to approach legislatures to craft enabling legislations for the issue because of the complexity and controversiality. He agreed with Mr. Gifford that staff needed hard data. He asked if it was possible to add signage at the reservoir requesting support via donations and asked if it was possible for the parking app to have a donation option. Mr. Coleman confirmed the donation option was possible through the application via a specific code for the park to track the donated funds. He directed Mr. Spadafino to investigate different options and would return with options for crowdfunding, which he thought would be successful. He assured Council that there were parking options for Rodney and staff could present Council with a stepwise approach including a two-hour maximum, signs restricting parking for park visitors, and charging options. Mr. Clifton asked for a time frame and Mr. Coleman replied that finding time on the agenda was a larger issue and expected the presentation would be after the election. Ms. Bensley informed agenda availability depended entirely on the time needed for discussion. Mr. Clifton estimated 45 minutes and Mr. Coleman added that any discussion on Rodney parking needed to include scaling back or eliminating special residential parking on Forest Lane. Mr. Coleman reminded that early Rodney discussions included the spaces on Forest Lane in the parking numbers for the future park site. He continued that staff had other low-cost ideas to increase parking in the area and would reveal more in future discussions. Ms. Bensley informed time was available on the March 15th agenda but admitted there were other competing items and she did not want to commit to that date that evening. She continued that the next likely agenda was on May 17th. Mr. Clifton asked Council if there were any objections for moving forward. Mr. Lawhorn asked if Mr. Clifton was proposing moving forward with having discussions for parking at Rodney. Mr. Clifton clarified the discussion was not strictly for the Rodney and would also include home rule authority versus enabling legislation, potential legal pitfalls, donation possibilities, and collection of empirical data. Ms. Bensley explained if the discussion was intended for the March 15th agenda, the packet items would have to be ready in two weeks and she cautioned that the weather might prohibit accurate data collection and May might be a better option. Mr. Clifton agreed and thought the data portion could wait because it was important to move forward with some direction on the rest of the issues. He agreed with Mr. Horning that legal pitfalls could moot the issue.

Mr. Lawhorn supported moving forward with discussions on the Rodney parking lot, legal impacts, and donations. He did not support using staff time to investigate license plates at the reservoir because he assumed Council did not want to charge at the site anyway. Mr. Clifton repeated that Rodney, legal ramifications, and the potential for donations were the three issues he wanted staff to investigate and return to Council on March 15th. He wanted Council to have the opportunity to make informed decisions because he suspected residents would continue to offer feedback. Mr. Lawhorn asked when the park at the Rodney site would be finished and Mr. Spadafino said the park was tentatively scheduled for a summer opening. Mr. Lawhorn asked because he wanted to help with prioritization and did not see the need to fast track the discussion if parking would not be available for several months. Mr. Clifton understood Mr. Lawhorn's point and generally agreed but noted the discussion was pared down to three simple items. He

acknowledged the idea was Mr. Hamilton's and the conversation should continue out of respect and to determine whether the City would move forward.

Mr. Hamilton believed that cutting off the discussion when so many questions were answered was "pathetic". He acknowledged the information at hand and did not think it would take Mr. Bilodeau long to research home rule. He wanted to proceed and commented that there were people on Council who claimed to want to collect information and then changed their minds.

Mr. Lawhorn injected a point of order. He emphasized that no one was arguing against gathering information and he had had enough of Mr. Hamilton directing negative comments towards Councilmembers. Mr. Lawhorn said that he was trying to determine the best way to move forward. He pointed that Council had quietly suffered Mr. Hamilton's insults and Mr. Lawhorn was fed up with the disregard. He continued that Council had decorum rules and if Mr. Hamilton wanted to speak, he should treat other Councilmembers with the same respect he requested. Mr. Lawhorn refuted the idea that his own points were "pathetic" because he was trying to be considerate of staff's workload. He agreed with Mr. Clifton's point that the project should be considered because Mr. Hamilton brought it forward and reiterated his first concern was staff's priorities and how best to help them proceed with their tasks. He said that he would appreciate if Councilman Hamilton would show other Councilmembers the same respect he had been shown.

Dr. Bancroft thanked Mr. Lawhorn for defending for civil decorum.

Mr. Clifton returned the discussion to the table and reminded there were three issues that were possible to address on March 15th and added that there would also be conversation that night on the process of how development projects were brought to Council. He pointed that projects underwent staff and Planning Commission review and then came before Council with some major pitfalls. He reiterated his support for the conversation.

Ms. Bensley explained that with the amount of time for either of the discussions, the proposition for the March 15th agenda was either/or unless Council decided to extend the meeting past the two-hour limit. She noted there were other items already scheduled on the agenda that had timeliness factors and needed consideration that evening. She asked if it was Council's will to have the first round of discussions added to the March 15th agenda to consider staff's internal meetings regarding improvements to the development process. She continued that staff intended to present its first pass of possible internal actions to improve the processes without needing Code changes, but Council could choose to have a more extended discussion on parking. She was unsure if both discussions could take place without Council choosing to extend the meeting. Mr. Clifton viewed both topics as looming issues that he wanted address and thought that finding a resolution was important to the public and he did not anticipate the conversation would be overly long. He had no problem with extending the meeting duration from two to three hours on March 15th and asked if there were issues or objections with the directions and prolonging the meeting.

Mr. McDermott acknowledged the multiple repetitive discussions that evening and replied that if Council could be more concise with statements, it would be possible to have shorter meetings. He noted that Executive Sessions sometimes prolonged meetings to five hours. He did not support extending any meetings because Council was already committed to meeting every Monday evening. Mr. Clifton took the lack of response from other Councilmembers as an agreement to extend the March 15th meeting to a three-hour meeting and asked if an Executive Session was scheduled that evening. Ms. Bensley replied there was not. Mr. Clifton confirmed that the March 15th agenda would include the review of the three components for the parking issues at Rodney and the Reservoir and the legal review as well as the processes for Plan Review. Ms. Bensley clarified that the expectations on the development discussion would investigate the process between the Planning Commission to Council and was not considering the earlier plan review process. Mr. Clifton thanked her for the clarification.

- 14. 6. **FINANCIAL STATEMENT:** None
- 15. 7. **RECOMMENDATIONS ON CONTRACTS and BIDS OVER \$75,000:** None
- 16. 8. **ORDINANCES FOR SECOND READING and PUBLIC HEARING:** None
- 17. 9. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:** None

(Secretary's Note: The major subdivision with site plan approval, special use permit and parking waiver review for 141 East Main Street and 19 Haines Street advertised for this meeting has been removed from the agenda by request of the applicant.)

18. EXECUTIVE SESSION

- A. Executive Session pursuant to 29 Del. C. §10004 (b) (4) and (6) 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 the discussion of the content of documents, excluded from the definition of "public record" in §10002 of this title where such discussion may disclose the contents of such documents

2:37:52

MOTION BY MR. HAMILTON, SECONDED BY MR. LAWHORN: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (4) AND (6) 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 THE DISCUSSION OF THE CONTENT OF DOCUMENTS, EXCLUDED FROM THE DEFINITION OF "PUBLIC RECORD" IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS

MOTION PASSED. VOTE: 7 to 0.

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

Council entered into Executive Session at 9:40 p.m.

19. RETURN TO PUBLIC SESSION

2:39:10

Council exited Executive Session at 10:08 p.m.

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: THAT COUNCIL DIRECT SPECIAL COUNSEL TO PROCEED AS DIRECTED IN EXECUTIVE SESSION.

MOTION PASSED. VOTE: 7 to 0.

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

20. Meeting adjourned at 10:09 p.m.

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

/ns