

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

March 8, 2021

Those present at 7:00 p.m.:

Presiding:	Deputy Mayor, James Horning, District 1, Presiding District 2, Sharon Hughes District 3, Jay Bancroft District 4, Chris Hamilton District 5, Jason Lawhorn District 6, Travis McDermott
Absent:	Mayor Jerry Clifton
Staff Members:	City Manager Tom Coleman City Secretary Renee Bensley City Solicitor Paul Bilodeau Chief Purchasing & Personnel Officer Jeff Martindale Finance Director David Del Grande Electric Department Director Bhadresh Patel Purchasing Assistant Cenise Wright NPD Chief Paul Tiernan NPD Deputy Chief Mark Farrall NPD Deputy Chief Kevin Feeney Planning and Development Director Mary Ellen Gray Parking Supervisor Courtney Mulvanity Planner II Michael Fortner Planner II Tom Fruehstorfer Public Works and Water Resources Director Tim Filasky Public Works and Water Resources Deputy Director Ethan Robinson

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

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

Mr. Horning 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.

Mr. Horning revealed that a homeless resident passed away near Main Street at the end of January. The gentleman was later identified as Edgar Mack, a U.S. Army Veteran, who suffered from mental illness after active duty in Germany. Newark Police, Veterans Organizations, and UD Police honored Mr. Mack last Friday with military tribute. Mr. Horning asked that Mr. Mack be remembered and that residents recognize the homeless within the community as individuals with identities and often honorable backgrounds.

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

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):

3:34

Caitlin Olsen, UD Administration, shared that the day's COVID case was eight and was a major decrease from the previous week. She hoped that the trend would continue down and she would update Council on the coronavirus dashboard. She added that UD issued students a stern message the previous week and the weekend was quiet as a result. She revealed that as the weather warmed and Saint Patrick's Day approached, both departments would increase patrols in preparation.

Mr. Horning was encouraged by the case count and was pleased that UD was being proactive regarding the holiday celebration. He asked if UD's plan of quarantining COVID students was working well and Ms. Olsen confirmed. She explained that UD had quarantine and isolation procedures: quarantine was for students who had been exposed to someone who had tested positive and isolation was for students who tested positive. She stated that UD staff was keeping track of the cases on the coronavirus dashboard and she was hopeful that the situation was improving.

The Chair opened the table to Council comments.

Mr. Hamilton thanked Ms. Olsen for the update and for working with the City to help the community. He asked for an update on spring sports fan attendance, but Ms. Olsen had no further information. He acknowledged that all of the capital plans were on hold but wanted to know if the construction of UD South College dorms were on hold or had been canceled. Ms. Olsen confirmed that plans were currently on hold for capital projects and agreed that UD had planned and presented renderings of the South College dorms to the City, but she had not seen plans for any construction that had not already broken ground. She explained the upcoming, smaller construction projects would be supported by State bonds. Mr. Hamilton asked for the fall 2021 acceptance goals and Ms. Olsen said she had not seen a change in the goals but knew that there was difficulty nationwide with students finishing the application process. UD staff was working Superintendents and the Department of Education to ensure that overwhelmed students were submitting their applications. She informed that UD extended its application period to assist during the current climate and asked that Council remind potential students of the extension. She would further investigate and return to Council.

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

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

11:00

Mr. Coleman informed that staff would be hosting virtual workshops for the Comprehensive Plan (Comp Plan) refresh starting on Monday, March 8th. There would be five workshops over a ten-day period at a variety of times:

- Monday, March 8 - 10 a.m.
- Wednesday, March 10 - 3 p.m.
- Thursday, March 11 - 12 p.m.
- Friday, March 12 - 8 a.m.
- Tuesday, March 16 - 7 p.m.

Mr. Coleman informed the specifics of the meetings could be found at newarkde.gov/meetings.

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

11:59

Dr. Bancroft:

- Thanked Ms. Olsen for the update
- Attended the Comp Plan workshop, which he found to be very informative and thanked the workshop organizers
- Reminded COVID was still the #1 issue
- Noted Agenda Item 2H was a technical fix to the sunseting law and emergency ordinance. He thought the 1% test rate could be discussed later but suggested minor tweaking could be necessary. He was aware of the database integration issues with Newark boundaries and the Delaware Department of Health data.

- Referenced Agenda Item 2E, noted the City had few shootings and thanked community Policing efforts and public safety staff.

Mr. Hamilton interjected and stated that Council was not supposed to discuss items on the Consent Agenda. Dr. Bancroft understood and Mr. Horning confirmed that Mr. Hamilton was correct and explained that a Consent Agenda item could be removed at the request of an individual Council member. Dr. Bancroft did not want to remove the item but wanted to be clear to the public about what he understood the issues since there was no further discussion later.

Ms. Bensley explained that as far as the Consent Agenda, any Council member could pull any item with the exception of the first readings because they were only to be read into the record and staff advertised the public hearing for discussion and second reading. Mr. Horning thanked Ms. Bensley and reiterated that Dr. Bancroft could separate an item from the Consent Agenda for a separate discussion. Dr. Bancroft thanked Ms. Bensley for the clarification and noted that the last few items were first reading so he would defer to later discussion.

Mr. Hamilton:

- Noted the public interest in Land Use concerns and was pleased that there was interest but explained that there was a challenge when it came to a single project because there were rules and regulations and projects were subject to rules in the Comp Plan. He suggested it would be more effective for the public to attend as many Land Use meetings as possible to broaden knowledge and introduce their perspective into long-term conversation and hoped the meetings were listed on the City's website. He agreed with Dr. Bancroft that the meetings were very informative and emphasized that the Comp Plan was law and residents who wanted to make or suggest changes should attend the meetings. He believed Land Use was one of the most important topics Council dealt with in its legislative and judicial capacity

Mr. Lawhorn:

- Thanked Mr. Horning for his kind words regarding Mr. Mack and thought it was important to reflect on the impact that service could have on people's lives and that situations similar to Mr. Mack's were not often discussed. He admitted it was a difficult problem to address and solve.

Mr. Horning noted that Mr. Lawhorn was a Navy veteran and did not want to downplay the City's passion to help homeless residents. He agreed the situation was difficult, especially when individuals were not ready to accept help. He indicated the Newark Empowerment Center was a great resource and acknowledged that local citizens were trying to work with local hotels to assist the population.

8. 1-E. PUBLIC COMMENT (5 minutes per speaker) (10 minutes):

21:16

Mr. Horning reminded the public comment section was reserved for items that were not on the agenda and asked that comments remain respectful and civil. He informed that public comment was not a question/answer or debate situation and each speaker had five minutes to speak.

The Chair opened the floor to public comment.

Barbara Ward, District 3, was surprised to learn that Council passed a mask mandate for the Council election. She shared that she worked the primary election and workers were concerned when a judge ruled that it was unlawful to require a mask, but masks could be encouraged because the voting right superseded wearing a mask. She asked if Council had reconsidered the ruling. She did not want the City to encounter a lawsuit as much as she wanted everyone to wear a mask.

Mr. Horning understood that the City had a provision in place to provide voters without masks an absentee ballot so they could vote without entering the polling place. He continued that the Governor's mandate included masks in indoor situations. He explained the rationale was that the City would not be disenfranchising a voter because the voting would take place outdoors at the polling place using absentee ballots. He noted there was a distinction between the right to vote and the right to use a machine to vote. He reiterated that everyone and anyone could vote but those who did not wear masks could not use machines. Ms. Ward acknowledged that the City had a solution to accommodate all voters while protecting poll workers. She was unaware of any issues with non-masked voters during the last election, but she did not want the City to encounter any problems. Mr. Horning thanked Ms. Ward for the discussion and noted that Newark was a leader in developing some of the mandates because it had held a Council election prior to the general election. He thanked her for her comment.

There were no further comments and the Chair returned the discussion to the table.

9. 2. **APPROVAL OF CONSENT AGENDA: (1 minute)**
 - A. Approval of Council Meeting Minutes – February 22, 2021
 - B. Receipt of Planning Commission Minutes – January 5, 2021
 - C. Receipt of Taxable Assessment Changes for the Period of October 1, 2020 to December 31, 2020
 - D. FY2021 Budget Amendment for the Appropriation of Funds from the United States Department of Justice Federal Equitable Sharing Program
 - E. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark on Utilizing New Castle County Awarded Contracts for the Purchase of Ballistic Vests
 - F. **First Reading – Bill 21-07** – An Ordinance Amending Chapter 5, Animals, Code of the City of Newark, Delaware, To Allow a Partial Exemption from the Chapter for Agricultural and Farm Related Uses for Properties Comprising Ten (10) or More Acres – **Second Reading – March 22, 2021**
 - G. **First Reading – Bill 21-08** – An Ordinance Amending Chapter 13, Finance, Revenue and Taxation, Code of the City of Newark, Delaware, To Allow a Partial Agricultural and Farm Taxation as Permitted in New Castle County Pursuant to 9 Del. C. §8328 et seq. for Agricultural and Farm Related Uses for Properties Comprising Ten (10) or More Acres – **Second Reading – March 22, 2021**
 - H. **First Reading – Bill 21-09** – An Ordinance Amending Chapter 22, Police Offenses, Code of the City of Newark, Delaware to Extend the Provisions of Emergency Ordinance No. 21-01 – **Second Reading – March 22, 2021**

25:33

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton.

10. 3. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:** None
11. 4. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None
12. 5. **SPECIAL DEPARTMENT REPORTS:**
 - A. Approval of the 2021 Revenue Stabilization Adjustment (RSA) Rate – Finance Director (25 Minutes)

28:34

Mr. Del Grande explained the RSA was a component of the City’s electric rate and must be reset effective March 15, 2021 to reflect the City’s reduced cost of wholesale power. He continued that the RSA was comprised of three main components: the wholesale cost of purchase power, the cost of last year’s electric expenses, and the adjustment needed for the City to meet its budgeted operating margins. He revealed the RSA had a credit of \$2.3 million available as returns and was exclusive of the \$2.5 million staff withheld in 2020 due to the coronavirus pandemic.

Staff proposed to provide an RSA credit of \$0.00418 per kWh to refund just over \$1.1 million of the \$2.3 million over the next 12 months as a credit of \$4.18 for every 1,000-kWh used. Staff recommended moving \$1.1 million into the Substation Reserve to set aside additional funding for a second electric feed into the City. He informed the reserve’s newly revised total was \$3.1 million. Staff also requested that \$70,750 be moved into the Electric Department’s budget to restore an unfunded Electric Groundhand position in the 2021 Approved Operating Budget.

The Chair opened the table for Council comments.

Mr. McDermott summarized the presentation and asked for clarification on the fund. Mr. Del Grande replied the fund was for a Substation Reserve and the Capital Improvement Plan for 2024-2025 had \$15 million set aside for a secondary source of electric feed coming into the City. He explained that the City currently had one primary feed and wanted to increase reliability and dependability. Mr. McDermott asked what steps staff would have taken prior to COVID and if the funds would have remained with the residents. Mr. Del Grande replied that the RSA rate was zero which meant there was no

adjustment on the electric customers' bills and there was a credit the year before, as he was proposing that evening. He continued that the credit rate was set back to zero, so staff held onto the \$2.5 million to return to the RSA fund. He emphasized that if staff had not taken measures, he would have been requesting money that evening instead of returning it to customers.

Mr. McDermott asked for more information on the \$70,000 position and Mr. Del Grande replied that during the 2021 Budget process, staff made cuts everywhere possible in the face of uncertainty surrounding the pandemic. One of the budget cuts was funding for a position in Electric so staff requested \$70,000 for the Electric Department to fund the position for Director Patel. Mr. McDermott asked how the functions of the position were currently handled and Mr. Patel replied that the Department was down a person and were operating as best as possible but between COVID and differing schedules, projects were increasing, and the position needed to be filled. Mr. McDermott asked if staff was incurring overtime due to the unfunded position and Mr. Patel replied no but explained that the current team had encountered some injuries and were down two employees. He added that a second-class lineman left in March and the new hire would need to begin at the bottom of the hierarchy so the sooner the new position was filled, the sooner staff could train the person for junior, second and first class.

Mr. Lawhorn noted the substation projected cost was \$15 million and asked how confident staff was with the amount. Mr. Patel replied that staff had not yet performed the feasibility study for the substation but would do so when the time approached so the \$15 million was a rough number they put in. Mr. Lawhorn asked if the amount was a placeholder and Mr. Patel confirmed and emphasized that prices were increasing due to the pandemic. Mr. Lawhorn assumed the City could raise half of the funding and seek a loan option for the rest and Mr. Del Grande confirmed. Mr. Lawhorn asked how staff figured the \$1.1 million from \$2.3 million and Mr. Del Grande replied that it was a good opportunity to set funding aside and the City was also overdue for a rate study. Once the rate study was completed and City operations returned to a level of normalcy, the rates would be reset which would minimize the amount of funds returning through the RSA process. He continued that staff had the opportunity to reserve funding to assist with the future project and did not want to raise rates in the future if it was possible to save money in the present. Mr. Lawhorn assumed the rate study would provide a more accurate rate and it would be less probable to have gross overcollection which would then need to be returned in an RSA adjustment. He continued that if the characterization was done to indicate the cost of the substation, it would be part of the electric rate study so the funding necessary to save the target value would be incorporated into the electric rate study. Mr. Del Grande confirmed. Mr. Lawhorn explained that he wanted to return funds to residents but admitted that the project would have to be paid for one way or another and wondered if the \$1.1 million was enough and Mr. Del Grande thought it was fair to return funding to the customers because staff was already proposing to put money aside for the substation. He reminded that the rate was set to zero last year, which was unprecedented, so having a credit was a positive point. He was comfortable with putting the \$1.1 million into the reserve and returning the balance if Council directed. Mr. Lawhorn acknowledged staff's efforts.

Mr. Hamilton asked if the City overcharged and then made an adjustment and Mr. Del Grande clarified that the rates were set by the 2011 rate study as specified per Code and emphasized that "overcharged" was Mr. Hamilton's phrasing. Mr. Hamilton continued that the City overcharged and then voted yearly to return the funds to customers in one form or another. He shared that many customers complained about the electric rates and he thought that Council voted to move forward with the rate study and would work with a person who presented at DEMEC. Mr. Del Grande replied that preparations were nearly completed prior to the pandemic when it was shelved due to COVID. He explained that staff was not confident in some of the electric sales numbers but would have a more accurate gauge when some level of normalcy was reestablished. He did not want to have a study performed only to produce inaccurate figures and noted that many businesses were reevaluating practices and staff witnessed changes at the commercial level. It was unknown if the changes would be temporary or long-term and staff wanted the situation to settle before finalizing the rate study. He reiterated that staff was prepared to proceed a year ago but was halted by the pandemic. Mr. Hamilton appreciated the clarification and was anticipating that customers would not be pleased based on the DEMEC discussions relating to industry versus households.

Mr. Hamilton asked if the Electric position was new or one that was already on the books and unfunded. Mr. Del Grande confirmed the position was on the books but unfunded and revealed that the position became vacant last year and was unfunded into the 2021 budget. Mr. Hamilton noted that the crew was working on half-staff due to COVID restrictions and asked if the Electric Department was following suit. Mr. Patel confirmed and reminded that some of the CIP projects were paused so staff concentrated on priority emergency projects. He reiterated the decision to withhold funding in deference to the budget and repeated that two linemen were injured so the team was struggling. Mr. Hamilton asked if the position needed funding because the injured workers would be out longer, and Mr. Patel

replied one employee was returning to the doctor in April for evaluation and he would update then. Mr. Horning interjected and asked that questions regarding injured workers be answered without providing specifics. Mr. Hamilton was not interested in specifics and wondered if it was a short- or long-term situation but he believed it was necessary to add the position.

Dr. Bancroft thanked staff for the clarification on the position and thought the arithmetic regarding the RSA was reasonable.

Ms. Hughes had no questions.

Mr. Horning appreciated the discussion and wondered to what extent the pandemic would continue to provide financial uncertainty. He noted the assumptions in the pricing enabled the City to return credit and it was time to proceed. He initially wondered if staff should be more aggressive and not return as much of the overage, but he was in favor of the recommendations after hearing the Director's points.

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

Mr. Horning asked if all four motions could be heard together and Ms. Bensley confirmed.

MOTION BY MR. LAWHORN, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE THE 2021 GROSS AVAILABLE REVENUE STABILATION ADJUSTMENT OF \$2,341,500; AND MOVE \$1,100,000 TO THE SUBSTATION RESERVE; AND APPROVE A BUDGET AMENDMENT FOR THE ELECTRIC DEPARTMENT IN THE AMOUNT OF \$70,750 TO RESTORE AN UNFUNDED ELECTRIC GROUNDHAND POSITION BACK INTO THE FY2021 APPROVED OPERATING BUDGET; AND ADOPT THE RSA RATE OF $-\$0.00418$ PER KWH, WHICH IS A CREDIT ON THE MONTHLY ELECTRIC BILL, EFFECTIVE MARCH 15, 2021.

MOTION PASSED. VOTE: 5 to 0.

Aye – Bancroft, Hamilton, Lawhorn, McDermott, Horning.

Nay – 0.

Absent – Clifton, Hughes.

13. 5-B. RESOLUTION NO. 21-__ : A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF NEWARK, DELAWARE AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE WITH FULTON BANK, N.A. FOR THE ACQUISITION OF FOUR 2021 POLICE INTERCEPTORS (SEE ITEM 7-A) (15 MINUTES TOTAL FOR 5-B AND 7-A)

51:25

Ms. Bensley reminded that items 5-B and 7-A would be heard together. She read each item into the record.

Mr. Del Grande explained that staff wanted to purchase six 2021 Police Interceptors, which were Ford Explorers outfitted with a Police package. He continued that the Police currently had seven 2019 and 2020 model Interceptors that were performing well, with two additional vehicles on the way to total nine. He explained two of the units were hybrid models and, if approved, Public Works & Water Resources and the Police would incorporate the six new vehicles into active rotation and remove the poorest performing vehicles. He noted that four surplus vehicles would be sold at auction and staff's goal was to begin holding Police vehicles for no longer than five years in order to keep the vehicles under warranty, increase the resale value, and decrease the City's overall cost. Staff's hopes of adding two additional vehicles into the rotation would aid with the wear and tear of the remaining patrol cars since most ran 18 hours a day.

Mr. Del Grande was aware of the suggestions to purchase electric vehicles (EV) for the Police and confirmed the City was committed to evaluating the need to move towards an electric fleet when the opportunity presented itself. He explained that due to the nature and type of use the Police vehicles encountered, staff did not feel there were EVs on the market that met the demands of the fleet. He shared that current EVs in Police service were not used for patrol and noted that staff was in the process of acquiring three EVs to introduce to the Electric, Parking, and PWWR Departments because the nature of the work in the Departments was suitable for EVs. Mr. Del Grande admitted the fleet maintenance staff would have a learning curve in servicing the EVs, so the integration would begin with non-critical services and eventually migrate to critical services.

Mr. Del Grande informed that a fully outfitted marked patrol car cost \$54,302 while an unmarked unit cost \$50,904. He explained the two fleet additions each cost \$64,077 because they required roughly

\$13,000 in additional equipment to fully outfit a fleet addition. He explained equipment for an existing car would be transferred to the new vehicle. The total cost of the fully outfitted six Interceptors was \$338,566, as indicated in the table provided in the memo. He continued that four of the vehicles would be leased through Fulton Bank at \$210,412 and payback would be spread out over five years with bi-annual payments at an interest rate of 2.65%. The remaining \$128,154 would come from the U.S. Department of Justice's Federal Equity Sharing Program. Staff proposed that the Police vehicles be purchased through the State of Delaware contract and provided an attachment on pricing from Winner Ford.

In order to proceed with the acquisition of the vehicles, it was necessary for staff to amend both the 2021 Approved Operating Budget and the 2021-2025 Approved Capital Improvement Program. The Operating Budget required spending authority be increased by \$18,606 and the funds would be derived from the sale of the decommissioned Police vehicles. The Capital Budget would be amended by increasing the spending authority of the Capital Plan by \$128,154.

The Chair opened the table to Council comments.

Ms. Hughes asked if the intent was to introduce three EVs and Mr. Del Grande confirmed and reiterated they would be for Electric, Parking, and PWWR, not for the Police fleet. Ms. Hughes asked if EVs were currently inappropriate as Police vehicles because of how long they took to charge. Mr. Del Grande confirmed and reiterated that the current Police vehicles were in use 18 hours a day and were not in the lot long enough to receive a full charge. He added that no charging stations were set up so in order for the City to move into a full EV fleet, staff needed to begin with a small-scale introduction. He reminded that the intent was to purchase three EVs last year but was postponed because of COVID and said that the charging stations still had to be installed at City Hall and the Yard. He admitted there were still obstacles to overcome and staff was uncertain that there were EVs suitable for the Police force. Ms. Hughes assumed that the EVs were not cost effective because of the added cost of the charging stations and Mr. Del Grande agreed but noted that part of the installation would be grant-funded. Ms. Hughes asked Mr. Del Grande for a time estimate on EV integration and Mr. Del Grande thought the City was a few years out. He reiterated that most EVs used for Police purposes were used by community policing groups and not for patrol cars. Ms. Hughes asked for a cost estimate of an EV Police vehicle and Mr. Del Grande assumed it could be an additional \$20,000 per vehicle. Ms. Hughes admitted her questions were subjective and thought staff had a good start. Mr. Del Grande confirmed that the market was favorable for EV sedans and pickup trucks, but Police vehicles were too new to the market for staff to feel comfortable. Ms. Hughes asked how long an average charge lasted and Mr. Del Grande replied the charging times varied depending on battery sizes.

Dr. Bancroft disputed the statement that technology was not up to par and shared that he got a Prius in 2002 and it lasted 15 years. He assumed that other regulations and market forces were at play but admitted it was complicated. He was pleased there were two hybrid Interceptors and understood they were the first model year and were not outfitted for regular patrols. He supported staff's persistence in considering EVs for patrol. He understood that asset seizure funding was available to purchase two new units that could not be part of the replacements. He did not see reasons for a long analytical discussion and offered to speak offline to anyone interested. He thanked Mr. Coleman and others for looking into hybrid alternatives.

Mr. Hamilton thanked Mr. Del Grande for the extensive information, and he received inquiries to investigate EVs for City use. He asked Mr. Del Grande if the vehicles considered for purchase had long, successful track records and if there were extensive reports on how well the cars performed. Mr. Coleman replied that staff previously used Tahoes and said the more popular Ford Interceptor model recently purchased were performing better in drivability and maintenance. He believed the Interceptors had a much larger installed base and a better maintenance record than the Tahoe. Deputy Chief Feeney confirmed and added that staff marked the Tahoes' deficiencies quickly and had not encountered the same issues with the Interceptors. He revealed that other agencies in the tri-state area used Interceptors with good results and agreed they were more stable vehicles. Mr. Hamilton appreciated the insight and supported staff's judgement on EVs. He hoped more studies would be available.

Mr. Lawhorn also received emails from constituents and the Conservation Advisory Commission (CAC) encouraging the City to move towards EVs. He supported the migration but understood the reasoning for not doing so with Police vehicles and reiterated that staff was working towards the goal with Council's support. He reinforced that the City supported the move but was doing so in the most responsible and cost-effective way.

Mr. McDermott agreed with previous Council comments that it was necessary to consider the technology. He had managed a Police fleet for many years and understood that any type of vehicle required a workflow analysis to indicate how the vehicles would work with the operators in day-to-day activities. He acknowledged that all of the major Police Departments in the State had at least considered EVs but did not think they were yet appropriate. He added that prisoner cages were not available for EVs in a price point that would be suitable for the City. He could not foresee that an EV would be capable of handling the power drain of multiple hours of simultaneous equipment usage.

Mr. Horning appreciated the cross section of expertise and the engaged Councilmembers who received input from constituents. He asked if the State contract offered an electric option. Mr. Coleman replied no and informed there were electric sedan options for the Nissan Leaf and the Bolt, but he was unaware of fully EVs in the Interceptor model. He did note that Tesla had an SUV model but emphasized that non-luxury models were unavailable and reiterated that staff would continue to monitor. Mr. Horning deferred to staff expertise.

The Chair opened the floor to public comment.

Andrew O'Donnell, District 3, previously presented to Council and the CAC in 2019 about EVs where he pledged to save over \$830,000 on the five-year CIP, with \$531,000 for the Police Department. He continued that his plan would have saved 1,000 tons of CO₂ and 100,000 gallons of fuel but acknowledged there were concerns about how aggressive to be when switching to EVs. His presentation led to Council's agreement to use EVs when sensible. He thanked everyone for their support and believed the City was heading in the right direction. He shared that six hours was enough time for an EV to charge and informed that the current long-range Tesla Model Y was \$48,900 and the range was 326 miles. He did not know how long a Police vehicle drove in a day and did not think units would have to be charged daily. He agreed that the expense was more upfront but thought it was worth investigating to discern savings because maintenance and fuel were less expensive. He noted the high maintenance cost of the Tahoes was an indicator that the City needed different vehicles. He believed the concerns could be answered with effort and suggested that Council vote no to waive the bidding process and hear other proposals before deciding. He recommended that Council lean towards at least one EV purchase and offered to update his two-year old presentation. He informed that the Fremont Police Department had been using a Model S EV for a few years, Spokane was ordering three EVs, and a location in New York was using a Model Y. He said that staff could learn how other locations performed modifications and, if staff was still hesitant, he suggested pushing heavily to use EVs as Police administrative vehicles. He assumed there would be savings of nearly \$1 million because the Tahoe only got 15 miles per gallon. He agreed that safety was the first priority and fully supported the Police Department. He spoke to a few officers who were concerned about breathing in emissions while sitting idle.

Helga Huntley, District 1, reiterated Mr. O'Donnell's comments about the purchases. She referred to the concerns of whether EVs could perform to City standards and affordability and said the questions could be easily answered. She took two hours to research and confirmed there were several cities already using EVs as patrol cars and the patrol officers were pleased with the vehicles' performance. She shared that Spokane used EVs for all but three to four hours a day and claimed the time was sufficient for charging. She encouraged Council to task City staff with researching EVs and seriously investigating the possibilities because other cities found that the EVs had the capabilities necessary for their Police Departments. She pointed that the City was committed to electrifying its fleet and said it was past time for starting slowly. She emphasized that the City only had about ten years before it had to be carbon neutral and needed to aggressively move forward on electrifying the fleet. She was pleased there were some EVs already in possession but argued that staff should not purchase any more vehicles that were solely combustion engines. She suggested that if staff investigated and determined that the EVs currently on the market were not a viable option for the Police Department's needs, then all new vehicle purchases should be hybrids because they had the same capabilities of solely combustion engine models and were more environmentally friendly. She continued that although an argument could be made about cost, the savings in maintenance and fuel outweighed the additional cost of the initial purchase of the EV. She concluded by encouraging staff to thoroughly investigate and move forward as aggressively as possible in electrifying the City's fleet.

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

Mr. Horning asked if staff knew how other Police departments were using the EVs and hybrids, if sufficient research was conducted, or if there was a plan to continue progressing towards EV. Mr. Coleman replied that the only patrol vehicle he saw in use was a Model S by the Los Angeles PD which was now discontinued. The LAPD then opted to purchase the BMW I3 for non-patrol operations. He was unaware of EVs involved in significant patrol use and reiterated the issues of fitting in a cage. He noted the Model

S was considerably more expensive upfront, and while the City owned two Interceptor Hybrids, it was the vehicle's first model year. He explained that staff preferred not to purchase many first model year vehicles. He referred to the point that the City needed to be carbon neutral in ten years and shared that the vehicles would be replaced twice in that timeframe and in five years, when the vehicles were up for replacement, there would be a considerably different discussion because staff would have experience in electrics and the infrastructure would be in place. He pointed that PWR added a section to the Vehicle Replacement Form where the requestor had to acknowledge any investigation into whether an EV could fulfill the role. He emphasized that the City was serious about EVs but were not comfortable with them in a patrol role at this time. Mr. Horning appreciated the additional information and asked if the CAC could provide input on EVs and Mr. Coleman confirmed that Council could request feedback. Mr. Horning suggested a separate motion for a CAC recommendation for available hybrids and EVs to replace the fleet.

Mr. Lawhorn suggested that the City monitor Spokane as a case study. He noted the Spokane City Council wanted to move forward with EVs, but the Police Department wanted to run a pilot program. Instead, Spokane City Council directed the Police Department to purchase multiple new Model Y EVs in December 2020. He repeated Spokane was a good case study to consider when moving forward.

Dr. Bancroft agreed that staff should continue to monitor Spokane and thought the CAC could provide a follow-up on which types of vehicles should be considered. He thought the Interceptors were the last of the line and reiterated that staff would continue investigation.

Mr. Horning informed that he reached out to various cities and Police Departments and found them to be forthcoming with their experiences. He suggested reaching out directly for specific input. He asked if all four subsections could be voted on at once. Ms. Bensley replied that there should be motion for the resolution and then a motion for the remainder of the recommendation and Mr. Bilodeau agreed.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL ADOPT THE RESOLUTION AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

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

(RESOLUTION NO. 21-D)

14. 6. **FINANCIAL STATEMENT:** None

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

A. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark on Utilizing State of Delaware Awarded Contracts for Six Police Interceptors and a Budget Amendment to Provide for the Payment of Equipment Through Lease/Purchase of Four Police Interceptors and to Purchase Two Additional Police Interceptors Through the United States Department of Justice Federal Equitable Sharing Program ***(See 5-B)***

1:29:18

MOTION BY MR. MCDERMOTT, SECONDED BY MR. HAMILTON: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF SIX 2021 FORD POLICE INTERCEPTORS FROM WINNER FORD OF CHERRY HILL, NEW JERSEY FOR THE AMOUNTS INCLUDED IN THE ATTACHED DOCUMENTATION AND; THAT COUNCIL APPROVE THE BUDGET AMENDMENT TO AMEND THE 2021-2025 CAPITAL IMPROVEMENT PROGRAM FOR PROJECT CEQSF IN THE AMOUNT OF \$128,154 FROM THE UNITED STATES DEPARTMENT OF JUSTICE FEDERAL EQUITABLE SHARING PROGRAM TO PURCHASE TWO 2021 POLICE INTERCEPTORS AND THE REQUIRED EQUIPMENT FOR THE TWO FLEET ADDITIONS AND; THAT COUNCIL APPROVE THE BUDGET AMENDMENT TO INCREASE THE CITY'S REVENUE BUDGET BY \$18,606 AND EXPENDITURE BUDGET BY \$18,606 TO FUND THE LEASE AGREEMENT WITH FULTON BANK N.A..

MOTION PASSED. VOTE: 6 to 0.

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

Mr. Horning was confident the CAC would continue to investigate and share recommendations with Council.

16. 7-B. RECOMMENDATION TO AWARD CONTRACT NO. 21-01 – NORTHWEST BOOSTER STATION GENERATOR (10 MINUTES)

1:31:31

Mr. Filasky referred to the recent issues in Texas and revealed that while the power outage received most of the press, the effect on the water system could not be ignored. He was confident that the City's excellent electric service indicated that long term outages were unlikely and shared that most of the water systems had backup generators so customers could continue to receive water. He revealed that during outages, the station lacked the safeguard and would affect a number of residents in the northwestern portion of town. He informed the City received a \$99,000 grant through FEMA with a 25% local match to pay for the project and staff was able to complete the design in-house, thanks to the Electric Department's expertise and Mr. Robinson's project management skills. Staff counted the effort towards the local match reducing the out-of-pocket costs.

The Chair opened the table to Council comments.

There were no questions from Council and Mr. Horning complimented staff on the work in-house and the grant match. He was interested to know how much annual grant funding the City received.

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

MOTION BY MR. MCDERMOTT, SECONDED BY DR. BANCROFT: THAT COUNCIL AWARD CONTRACT NO. 21-01 TO THE LOWEST RESPONSIBLE BIDDER, VENTRESCA BROS, INC., IN THE AMOUNT OF \$104,500.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton.

17. 8. ORDINANCES FOR SECOND READING & PUBLIC HEARING: None

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

- A.** Review of the 55 Space Parking Waiver (16 Space Reduction in Required Parking Space Size Waiver and 39 Space Reduction in Required Number of Parking Spaces Waiver) at 94 East Main Street by the Planning Commission for the Major Subdivision Application at 94 East Main Street at the Request of the Mayor (*See Items 9-B, 9-C and 9-D*) (90 minutes total for Items 9-A, 9-B, 9-C and 9-D)

1:35:20

Ms. Bensley informed that items 9-A, 9-B, 9-C and 9-D would be heard together as one public hearing. She read the requests into the record.

Ms. Gray understood it was Council's intent to consider the parking waiver first and Mr. Horning confirmed. Ms. Gray listed the items included in the Council packet and explained that Chapter 32, Article 14, Off-street Parking and Loading Requirements, Section 32-45 (b) in City Code indicated the review and approval of a request for a parking waiver was the purview of the Planning Commission. She continued that Subsection (b)(4) indicated that the Planning Commission shall approve, approve with conditions, or disapprove an application for a parking waiver under the guidelines articulated in the same section provision of the Code and included in the March 1 memo in the Council packet. She continued that Subsection (b)(6) in the provision indicated that within 45 days, Council could review, modify, or deny the Planning Commission's decision upon recommendations from a member of Council, Planning Director, or the City Manager. She reminded that on February 14, 2021, Mayor Clifton requested that Council review the Planning Commission's decision on the parking waiver, which was within the 45-day timeframe. She continued that the parking waiver request was for 55 spaces: 39 for off-street and 16 in the size of off-street parking spaces. She informed that a fee-in-lieu payment was required for Subsection (b) of the parking waiver Code for off-street parking standards that were reduced or waived as per Subsection (b)(1) of the parking waiver Code.

Ms. Gray explained that on February 2, the Planning Commission voted 5-0 to approve a 39-space parking waiver for the number of spaces at 94 East Main Street with the associated cost of \$181,263. The

Planning Commission also voted 5-0 to approve the 16-space size parking waiver in consideration for access to the hotel parking, access to parking between the two lots (Lot 3 east and west), and the applicants' incurred costs for trash removal.

Upon further consideration, Mr. Horning suggested to hear the entire presentation so all comments could be consolidated and there would only be one public comment session.

Ms. Gray then listed the additional items in the Council packet and repeated the request as stated by Ms. Bensley. She noted the plan had been revised from the original plan approved on March 25, 2019, for a hotel and retail and office space at the same location. She stated that construction began with the demolition of the buildings on 92 East Main Street, partial demolition of the structure at 94 East Main Street, and some site and infrastructure work in late 2019. The project was halted by the applicant in May 2020 and Council was considering the revised plan that evening. She informed that the property was zoned BB in the central business district and the uses were allowed in the zone.

Ms. Gray revealed that the property at 96 East Main Street had historical significance and was commonly known as the Green Mansion. She noted that the building was included in a list of Newark's Historic Buildings and Sites in City Code and, as a historic structure, the entirety or a significant part of its exterior architectural façade was protected from destruction without showing economic hardship. She stated the plan preserved a significant portion of the building and met the Code requirements for historic building preservation. She noted that 34 feet of the 70-foot-deep building was being retained as part of the new structure. She confirmed the proposed plan conformed to the Comprehensive Development Plan V and would not require any amendments. The project included a hotel and apartments which both required special use permit approvals in the BB district.

Ms. Gray continued that the design was also subject to the requirements of Chapter 27, Appendix 13, Design Review for Downtown Commercial Properties, and explained the review standards were included Section D and included appropriateness of design elements and general architectural character. She reminded that the Design Committee was not currently meeting so the Planning and Development Department conducted the design review. While the provisions of Chapter 27 were required by Code, the design guidelines for downtown Newark were not currently part of the Code and were advisory. She informed that while the project met the Code and guidelines for most of the provisions, it did not meet the guidelines for pedestrian access and connectivity and the applicant submitted plan revisions to address the concerns. She stated that the proposed development met all of requirements detailed in Municipal Code, Chapter 27, Subdivisions. Following the Subdivision Advisory Committee Review of the proposal as presented to the Planning Commission on February 2, the Planning and Development Department suggested the Planning Commission recommend approval of the project. At the same meeting, the Planning Commission voted 5-0 to recommend that Council approve the major subdivision plan, the special use permit for the hotel, the special use permit for the apartments, to approve the 39-space parking waiver with the associated cost of \$181,263, and to approve the 16-space size parking waiver in consideration for access to the hotel parking, access to parking between the two lots (Lot 3 east and west) and costs already incurred by the applicants for trash removal. She noted the revised project plans were dated February 8 and the applicant submitted revisions to the Fire Marshal plans on February 26 in addition to a list of changes described in the plans.

Mr. Horning introduced Jeff Lang and Christopher Locke, applicants, to present. Mr. Lang thanked Ms. Gray for the presentation and appreciated Council's time. He reiterated that the project was started in 2019 and dynamics in the market and the pandemic forced the applicants to halt the project prior to ground and steel work. He explained that the viability of hospitality investment was marginal at the time the project was halted and the applicants took the opportunity to reassess because the bank was hesitant to loan money for a hotel during the pandemic and there were also concerns regarding the commercial office market.

The applicants understood their commitment to the City and thought the property was a great opportunity for a hotel however it was not economically feasible given the market's financing limitations. Mr. Lang reminded that the hospitality industry had severely declined so the applicants returned to Hyatt, with whom they had a franchise agreement, and asked for assistance to redesign the project. He continued that Hyatt considered resizing the project because the building had begun to exceed the room number of a typical Hyatt property. Hyatt staff suggested a more simplistic design which triggered the applicants to create a 104-room hotel.

Mr. Lang stated the applicants were committed to maintaining the historic Green Mansion and wanted to incorporate some of the concerns from the previous approval. During the previous approval process, the applicants met with various local groups and historic preservationists to discuss the dynamics

of how an older building meshed with a new development. He shared that the group wanted to consider how to accentuate the building and not replicate it in the other structure, and the preservationists suggested that the building stand alone with a backdrop.

Mr. Lang reminded the original building design was a 104,000 square foot hotel with 144 rooms, 10,000 square feet of amenity space, 20,000 square feet of office space, a large parking garage connecting the spaces, and the intent to use the Green Mansion as an independent retail building. He noted that in the original plans, the Green Mansion was not connected to the balance of the project. The new design called for a smaller hotel of 65,000 square feet and 104 hotel rooms, which was more typical for the brand and marketplace as other hotels in the Newark area had between 95 and 120 rooms. He explained the 2000 square feet of amenity space was smaller because of the compact construction and, when considering the redesign, the applicants spoke with their lender about the dynamics of finance-ability and decided to construct another building so the project would be two buildings. He noted that office space was not a viable option in the marketplace and the potential long-term trend for offices would be directed towards converting to other uses. The applicants then decided to build residential units to mirror the front building, both of which would be 65 feet by 125 feet. The front building would be a hotel and the back building would be 48 residential units. Through the redesign, the applicants were able to incorporate the Green Mansion as a viable component of the hotel so it would be used for a meeting space on the first floor which balconied suites on the second and third floors facing Main Street.

Mr. Lang continued that the redesign process was lengthy and had to be approved by Hyatt as the applicants were franchisees and emphasized that they spent time and effort to create the best product for the community. He described the site as bordered by 102 East Main Street, formerly Catherine Rooney's, and Caffé Gelato, and noted the connectivity of Lot 3 was directly related from Center Street to the M&T Bank. He reminded that the project had already gone through the DeIDOT process and the applicants agreed that a new redesign would have to use the old entrance and exit so as not to impact any of the new Main Street construction. He reminded that the original parking plans called for a three-story structure and the revised parking was on the lower level with a small parking area above. He pointed that the revised parking had nearly the same amount as the previous design and allowed open access between both sides of Lot 3. He emphasized that the overall massing of the project was greatly reduced and acknowledged the concerns of many residents that the original building of seven stories was too big.

Mr. Lang displayed the original designs side-by-side and explained how the new design allowed for more open space and was pedestrian friendly. He illustrated how the original parking plan was confusing, how the new parking plan allowed connectivity between the public lots and added that City staff was pleased with including the connectivity to the project. He displayed a side-by-side of the old and new plans and noted the new design would have a patio with landscaping and would be more appealing for pedestrians and the community. He listed the project attributes as improving efficiency, accentuating the Green Mansion's presence, increasing open space, and providing an economic driver for the downtown area.

Mr. Lang then showed slides depicting the elevations of the building and the massing of the project. He reiterated that the project was for two similar buildings with a plaza between for parking, pedestrian use, and landscaping. He then showed an illustration of the similarly designed residential building and explained the building was planned with the consideration of its use over the next 50 to 100 years. He noted that if the hotel market improved, the residential building could be converted to hotel suites and would look the same as the Hyatt hotel, and, if the hotel industry did not change, the design allowed for reusing the building in a different form. He reiterated that the new streetscape plans softened the building structure, accentuated the Green Mansion, and included landscaping. He reiterated that the back plaza allowed for parking and pedestrian use between the two buildings.

Mr. Lang maintained that the project was Code compliant, other than the request for a parking waiver, and required no other accommodation. He noted the plan provided 171 parking spaces, which were adequate for the hotel use, and provided at least one space per apartment unit. He reminded there were other units downtown that did not provide parking, but the applicants felt that if the apartments did not have at least one space, then it would be a detriment to the marketability of the unit. He added that there would also be enough spaces for some units to request a second, depending on circumstances. He admitted the project needed the Code-required 39 space waiver and reiterated there were enough spaces for the hotel use and Hyatt was comfortable with the amount of parking. He shared that the applicants were working with Hyatt to include EV charging stations and EVs to service hotel clientele. He explained that the applicants were willing to pay the cost of the parking waiver. He continued that the project increased the real estate tax base, lodging revenue, utility income, as well as ancillary business income, and added that the project would initially provide income in permit and use fees. He reiterated that the applicants felt the project would be a fantastic driver for the business community. He next

presented the applicants' analysis of the City revenue for an annual basis and credited Mr. Locke for the research.

Mr. Lang reiterated that the project's redesign was an internal renaissance for the applicants to consider how to reuse the property and added that several Planning Commissioners preferred the project's redesign. He summarized that the project would maintain a great hotel brand, allow local ownership and management, create jobs, increase the tax base, and connect the parking lots as a bonus for the City. He thanked Council for its time.

The Chair opened the table to Council comments.

Dr. Bancroft supported redevelopment where green space was not in question. He pointed that the project included student housing needs and was pleased with the proposed electric charging stations. He noted there was public interest in the project and appreciated the developers' general expertise in design. He admitted parking and traffic were real issues and while he did not feel as strongly as others about parking downtown, he pointed that the City was assessing the strategic parking report from last summer and Council was considering revisiting zoning. He supported Mr. Lawhorn's request to further investigate. He recommended that staff reassess the downtown parking plan prior to granting more waivers and admitted he voted in favor of a smaller waiver for a much smaller project. He felt that parking should not be worsened without further strategies in place.

Mr. Hamilton asked how downtown parking issues would be made better by granting parking waivers. Ms. Gray requested clarification on Mr. Hamilton's question. Mr. Hamilton stated that the City had a downtown parking problem that staff was unable to solve and single-digit parking waivers were granted in the past. He asked Mr. Coleman for the cost of replacing parking spots by building a garage. Mr. Coleman replied that it cost anywhere from \$25,000 to \$30,000 per space depending on the garage and thought the applicant had a more accurate idea of the expense. Mr. Hamilton argued that the theory of a parking waiver was that the money would go to the City to build parking elsewhere if the applicant was not providing sufficient space for parking. He asked Mr. Coleman what the City charged for parking waiver spots and Mr. Coleman replied waivers were around \$6,700 per space. Mr. Hamilton emphasized the difference between the waivers and the cost of a parking garage, noted that the project would have visitors bringing vehicles, wondered how parking waivers improved the issues and why the project did not need the parking spaces as indicated in Code.

Ms. Gray understood that the parking waiver fee was to help maintain parking infrastructure and not to build new spaces. She explained that the guidelines to grant a parking waiver were in Code under Section 32-45 (b)(2):

- Whether the applicant has demonstrated that the proposed use does not conflict with the purposes of the Comprehensive Development Plan of the City
- Whether the applicant has demonstrated that the proposed use conforms to and is in harmony with the character and development pattern of the central business district
- Whether the applicant has demonstrated that the proposed use is not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business
- If the proposed use will not adversely affect the health or safety of persons residing or working in the vicinity, will be detrimental to the public welfare, or injurious to property or improvements in the vicinity
- The Planning Commission may also consider the availability of off-street parking facilities, the availability of nearby adjacent public parking facilities (within 500 feet) that may be shared by the applicant, and an existing or proposed use. In considering this subsection, the Planning Commission may require that the applicant submit an appropriate deed restriction, satisfactory to the city, that ensures either the continued validation of and/or the continued use of shared parking spaces in connection with the uses and structures they serve
- The Planning Commission shall consider the advice and recommendation of the planning director.

Mr. Locke, General Counsel and Senior Vice President of Lang Development Group, thanked Ms. Gray for the synopsis of the Code and explained that parking waivers could be used when the applicant showed an economic driver to the community. He and Mr. Lang were experienced developers who had seen the full cycle of the conversation and lived in the area for over 45 years. They were firsthand witnesses during the 1970s and 1980s when people drag raced down Main Street, which had few businesses, and when the downtown area was revitalized in the mid-1990's and parking waivers first came into play. He noted that developers targeted Main Street properties which encouraged residents to return

to the downtown area for the first time since the 1950s and 1960s. He reminded that ten years ago, there was a move to make parking available for all of the apartments. He served with Ms. Gray and community members on the Parking Subcommittee and crafted recommendations showing that a downtown area should not be parking centric and was a great way to reduce the carbon footprint. He argued that the project warranted a parking waiver because hotels did not use all of their parking spaces as they were not always at 100% capacity. He revealed that a successful hotel was usually between 65% to 80% occupied so the parking requirement for hotels was a type of requirement that was not used on a regular basis. He admitted that the hotel could be at capacity on homecoming and graduation weekends but would not be the case for the remainder of the year. He pointed that that the construction on Main Street and COVID decimated the City's commercial retail downtown area and revealed there was currently over 80,000 square feet of retail space available on Main Street, the highest rate since the mid-1980s. He reiterated that the hotel was a great driver to the community and added that development projects in Cecil County would bring additional visitors to the area. He added that the applicants wanted to balance Council's position on parking waivers to at least provide one parking space for each of the residential apartments and reminded that other parking was available in the City lot adjoining both properties. He refuted Mr. Hamilton's claim that the City had a parking problem and did not think the project that evening or more recent projects would make the parking issue worse or better; the projects would have a neutral effect. He argued that the project was truly unique and would generate tremendous revenue to the City and invigorate the downtown area.

Mr. Lang interjected that his concerns with the parking requirements was that the City had a suburban parking code for an urban setting. He hypothesized that if Taverna was built in the middle of a suburb, the developers would need 100 parking spaces. He wondered how many parking spaces a restaurant typically needed in a code-compliant world. He continued that if each project was going to be considered as a stand-alone development and not as an accumulation of the total, then the entire downtown area would be parking and would have no businesses or residences. He wanted the remote locations to be reserved for parking and the downtown to be for the City's urban, dynamic commercial and residential settings. He noted the applicants provided more spaces than was typical for a similar project and the 171 spaces was enough for the hotel use. He pointed that the hotel project met City Code and franchisor requirements, and provided at least one space for every apartment, more than many other places around town, and even had extra spaces upon request. The developers wanted to build a beautiful project in the downtown area and were very close to being Code-compliant in parking. He added that hotels were often built in urban settings and relied on municipal lots for clientele, but the revised project provided parking for 80%.

Mr. Locke added that he had been a merchant on Main Street for over 32 years serving thousands of customers and never once received a parking complaint. He reiterated that the parking issue was simply a perception and added that the applicants agreed to allow the public to utilize the parking garage which provided quality spots directly downtown. He addressed Dr. Bancroft and understood the dialogue of parking waivers in the future but pointed that if Council stopped issuing parking waivers until they could be discussed in the fall, there would be a moratorium on all development projects until then. He doubted that the decision would be welcome given the dire economic situation downtown. Mr. Hamilton appreciated the information.

Mr. Lawhorn thought the most important factor was that the hotel met its parking needs and he believed it was probable that the hotel would actually generate parking downtown for non-hotel occupants. He agreed with Mr. Locke that there was a perception that the City had a parking problem and stated that the Parking Subcommittee believed it was possible there was enough parking downtown, but the City did a poor job on educating the public on the locations. He reiterated that the hotel met its parking capacity and was likely to generate extra parking downtown. He reminded that the Parking Subcommittee recommended that the City could go so far as to not require parking for student apartments because students were not parking in downtown City lots. He noted that UD had parking lots for students and that if parking downtown did become an issue then it was an opportunity for the City to generate revenue. He recalled previous Council discussions evaluating parking garages and the City received two bids that were virtually free and provided years of revenue. He argued that parking demand created opportunity and meant that the downtown area was vibrant and successful. He noted the project added 171 parking spaces which would be available for extra downtown parking when the hotel was not at capacity.

Mr. Lawhorn believed downtown strongly needed a hotel and thought it was odd that there was not one already. His biggest concern was the threat of outside areas and their possible detrimental effect on the downtown district, specifically STAR Campus. He added that the City had less control of what happened on STAR Campus and understood there were plans for restaurants and entertainment to support the growing business environment. He was happy for the City but did not want the development to destroy Main Street. He believed a downtown hotel would be useful during the school year and also

during the summer when local events could bring visitors to area businesses. He believed Council extensively discussed how the demand for student housing drove up the cost of housing. He noted the concern regarding student rentals in residential neighborhoods and acknowledged that the City had no control over whether UD built dorms and it would likely take years before there was any progress. He thought the project addressed the need for downtown apartments and was pleased that the hotel was flexible and could be converted.

Mr. McDermott asked if Lot 3 was managed by the City and owned by the developer. Ms. Gray explained the lot owned by the developer was leased to the City, but the City owned the lots on the east and west side. Mr. Coleman clarified that the City leased the left side. Ms. Gray confirmed that the City owned the right side and leased the left and middle where the current project was located. Mr. McDermott asked for the lease pricing of the project and Mr. Locke asked Ms. Bensley to display slide seven. He explained that the applicants gave the property at Finn McCool's to the City and the property in question was not under a lease with the City as it terminated in 2019. He continued that the property to the west was also a leased property that the City had with various property owners. Mr. McDermott asked how the parking spots at the rear of the project would be handled and Mr. Locke explained the 16 spaces would be used for the property's residential tenants and would be assigned accordingly. Mr. McDermott asked if the public would have access to the adjacent lots and Mr. Locke confirmed and explained a benefit of the redesign was the eastern lot would be connected to the western lot with an entrance and exit on Center Street. Mr. McDermott noted the parking garage could be used by the public and asked who would manage the garage. Mr. Locke replied the applicants would manage the garage using sign counting machines similar to those used in City lots and would change each day based on the availability of the parking garage. Mr. Lang added that hotels did not typically utilize parking during the day and were generally empty between 10 a.m. and 4 p.m. He noted that the public could use the lot when the hotel was not full and emphasized that 80 or 90 spaces would be available during the day during peak lunchtime hours.

Mr. McDermott asked what type of legal agreement would keep the cooperation in effect. Mr. Locke replied that the applicants entered a subdivision agreement with the City which specified that the applicants had to adhere to the guideline and the only way to the end the agreement was to return to Council to approve the amendment. Mr. McDermott asked what would happen if the property was sold and Mr. Locke informed the subdivision went with the property, not with the owner. Mr. Lang likened the arrangement to a deed restriction but reiterated it was a subdivision agreement that ran with the property. Mr. McDermott asked how the project was not significantly dependent upon vehicle traffic. Mr. Locke replied that the hospitality industry had changed tremendously, and clientele now traveled by Uber and noted that many local hotels had fairly empty parking lots most of the time. He continued that Mr. Danneman owned a successful hotel down the street and one of the issues that the applicants encountered with the first project was refuting the assumption that Mr. Danneman's hotel was operating poorly because the parking lot was so empty. He reiterated that the clientele changed from how they traveled from the airport to the hotel. Mr. Lang added that the applicants fulfilled the single space requirement for the residences and felt that any more spots would encourage more cars in the downtown area. He thought one car for one unit was reasonable and likened the situation to supply and demand and its impact in the local marketplace. Mr. Locke reiterated that he served on the Subcommittee during the parking analysis and informed that many of buildings did not have parking and were still successful rentals. He believed the policy change led the tenants to expect parking and thought the project presented the opportunity to change their expectations. He agreed with Mr. Lawhorn that the parking problem was a perception because if there was such a demand for parking, then the rates would have increased over the last 20 years. He informed the private spaces he rented were never 100% full and the parking problem was a non-critical perception that never affected the success of Main Street businesses.

Mr. McDermott asked if the building would be the tallest that fronted Main Street and Mr. Locke thought that One Easton could be higher, but the project was at 74 feet and Washington House was around 68 feet. He continued that it was difficult to tell the difference when the buildings were so close and understood there were yet unapproved projects with the potential for greater heights. Mr. McDermott asked how guests would use the patio and Mr. Locke replied that the hotel had a small hospitality area on the first floor with a small bar, but the patio was for guests and the public. He described the patio as a gathering point for visitors and informed there was no full-service restaurant or dining in the hotel to encourage clients to patronize other businesses, as pledged at the last approval. Mr. Locke interjected that the height of the project was Code compliant and agreed with Mr. Lawhorn that STAR Campus should be viewed as competition to the downtown community. He pointed that STAR did not have height restraint because it was part of the University and made the distinction that any successful city built upwards when real estate was no longer available so he believed the project's height was a testament to the City's success and was necessary to stay competitive.

Mr. Horning referred to the average daily trips analysis by DeIDOT and asked if the Traffic Impact Study (TIS) was still in process. Mr. Locke replied no and explained that the applicants spoke to DeIDOT who determined that a TIS was unnecessary. He reiterated Mr. Lang's points that the applicants were not changing the entrance and exit to the hotel. Mr. Horning asked if last year's consultant analysis would address relaxation of the parking requirements. Ms. Gray replied that the consultant study received the recommendations from the Parking Subcommittee and would further investigate and recommend parking regulations throughout the City. She confirmed that the consultants were considering fewer requirements for parking. Mr. Horning asked for a timeframe and Ms. Gray replied that the consultants completed a draft for Phase 1 of the study - an analysis of the regulations. The first series was completed prior to COVID and included a sequence of stakeholder and public meetings to gather input on parking regulations. She would send the consultants her comments on the analysis who would present to Council after the report was finalized and the next step would be to consider possible changes to the regulations.

Mr. Horning asked if urban apartment would be a new zoning code and Ms. Gray confirmed that the zoning code considered a reduction in parking as part of the code. Mr. Horning asked if there was a preview of the potential impact and Ms. Gray replied that she did not want to speculate on a future policy that had not been presented but confirmed that staff would investigate a reduction of parking spaces. She continued that the Parking Subcommittee considered reducing all parking requirements for residential uses downtown, but she could not guess the outcome. She noted that staff performed a technical analysis of the Parking Subcommittee's report that determined the City's current parking standards were more suburban so staff would seek to transition into an urban standard used nationwide that allowed less parking than was currently in Code. Mr. Horning appreciated the reply and agreed it was an evident pattern. He referred to comments about how Mr. Danneman's hotel at Springhill Suites could be used as a real-time case study in terms of how full the lot was for a well-occupied hotel.

Mr. Horning referred to page 13 of the Planning Department's report where the Fire Marshal indicated the truck could not get out of the lot between the buildings and asked if the situation was resolved. Mr. Locke confirmed the issues were resolved. Mr. Horning acknowledged that the City required positive redevelopment and economic investment for a vibrant economy and needed processes and clear parameters for investors. He wondered what would happen to the design if the waiver was not granted.

Ms. Hughes asked if the picture displayed on the screen was a real time photo. Mr. Locke replied that the building to the west of the Green Mansion had been demolished so the land was now vacant, a portion of the Green Mansion was demolished, and the space behind the building was actually a big hole because the construction had already begun. Ms. Hughes said she did not see one open parking space and Mr. Locke explained that the picture was taken during the day at the beginning of 2017 or 2018. He explained that the picture was a depiction of the greatest time of use for the spaces which coincided with the applicants' claims that a parking garage would be a benefit as it would provide parking. He noted that seven or eight spaces would be immediately available behind the Green Mansion and four spaces behind 102. He thought there were 20 spaces available in the picture. Mr. Lang added that the project would increase the availability of daytime spaces because of the hotel use. Ms. Hughes was concerned that more spaces were needed at night when the restaurants needed customers. She shared that her constituents' main complaints were parking and traffic and she did not want to pretend that the project would not make both more difficult. Mr. Locke asked why so many restaurants wanted to be on Main Street if parking was such an issue. He noted that some of the best restaurateurs in the State were and had been on Main Street for a long time and would have been unable to survive if parking and traffic were dire issues. He believed if parking was such an issue then no one would lease space and clarified the current vacancies were due to the pandemic. He pointed that there were few vacancies prior to the pandemic when the City supposedly had a parking problem. He explained that prior to the Main Street construction and pandemic, any vacancy had three or four restaurateurs outbidding one another to get a location on Main Street. He reiterated his argument that if parking was such a problem then there would not have been so many bidders for vacant spaces. Ms. Hughes agreed but said she traveled down Main Street at night and found it to be a problem based on her own experience. Mr. Locke replied that the Parking Subcommittee recommended to reduce the downtown parking requirement in order to reduce traffic because there would be less cars on the downtown area and he would be shocked if the consultants did not make the same recommendation.

Ms. Hughes asked how the plans changed from the original submission. Mr. Lang repeated the changes previously stated and Mr. Locke revealed the information was listed on slide 5. Mr. Lang continued that the project was scaled down and thereby reduced traffic because there was less demand and no office users. He explained that 20,000 square feet of office space could translate to 60 or 70 cars and the proposed 48 apartments only had one car per unit which were not likely to move often. He reiterated that the traffic, parking, and massing were reduced in the revised plan. Mr. Locke informed that Lot 1 had numerous spaces available at 7 or 8 in the evening and reminded that the parking waiver was

for the apartments, not the hotel. He emphasized that requiring more spaces for a residential unit was actually a requirement for more car storage on Main Street because the spaces would be for private residential use, not public use. Ms. Hughes asked how the project would adapt when the pandemic lifted, and Mr. Locke asked for clarification. Ms. Hughes noted the plans were changed because of the pandemic and asked what would happen when the pandemic was under control. Mr. Lang responded that the proposal was to redesign the project to make it more attractive to the community and informed that the long-term viability of office space in the downtown area was debatable because the office market would take a tremendous time to rebound. He explained that the original hotel design with 144 rooms was deemed too big by Hyatt and 104 rooms was the proper size to compliment the City. Mr. Locke added that the applicants thought it was important to return with a redesign that included a hotel and explained they could return with a by-right apartment complex in the middle of downtown and would likely be approved. He emphasized that the applicants promised the City a hotel to benefit the businesses and every single business, except one, supported the original hotel project. The applicants redesigned the patio to incorporate a community space into the project.

Ms. Hughes said that she received many comments on the project and the most consistent one was regarding the hotel's size. She said that none of the comments supported the hotel and asked how the applicants would respond to the claims that the hotel was too big. Mr. Locke reminded that the project had already been approved for a 144-room hotel and if the new design did not get approved then the applicants still had an approval for the original design. He restated that the applicants felt the new design was better, reduced the footprint of the building, gave access to parking in the back, and changed the utilization of the Green Mansion to a focal point of the hotel. He continued that reviving the Green Mansion was important to himself and Mr. Lang. He suggested that Ms. Hughes tell her constituents that the applicants already had approval for the larger hotel, but the new plans were a better design for the community. Mr. Bilodeau interjected and reminded Ms. Hughes that the size of the hotel and the apartment building were Code compliant. Ms. Hughes thanked Mr. Bilodeau and the applicants for answering her questions.

Mr. Horning referred to Exhibit J of the Planning and Development Report, Design Review Criteria, and asked if the pedestrian accessibility for ramps had been addressed. Ms. Gray confirmed that the applicant provided a revised plan that showed how handicapped access worked from the street, but staff had not yet fully assessed the plan to determine compliance. She reiterated there was an accessible route shown on the plan. Mr. Horning asked if the plans were ADA compliant and Ms. Gray assumed so. Mr. Horning asked if the building materials would be synthetic and Mr. Lang replied that the project would be brick and stucco. Mr. Horning asked if any of the auto and bicycle parking on page 5 of Mr. Fortner's analysis of the design review criteria was changed. Mr. Locke confirmed that changes were made, and the applicants agreed to provide 30 bike parking spaces around the City. Mr. Lang added that the City requested the spaces and the applicants would install them where the Department determined. Mr. Horning asked for the total number of bike spaces in the current proposal. Mr. Lang replied there were 16 spaces but required 42 to 46. Mr. Locke explained that people did not bike to hotels, but the applicants were still held to the biking requirement. Mr. Lang confirmed there were enough bike spaces for the apartment building which were located under the building in a sheltered enclosure near the vehicles. Mr. Horning thought the bikes were important to discourage residents from bringing vehicles. He then referred to comments on page 4 regarding the pedestrian connections from Main Street to the apartment building. Mr. Locke confirmed that the concerns had been addressed.

The Chair opened the floor to public comment.

Ms. Bensley introduced Alex Toth, Newark Charter School sophomore. Mr. Toth was interested in the project as a history buff and wanted to preserve Newark's history as much as possible. He understood that development was necessary, and the City needed to allow for new development. He thought that sacrificing historical landmarks was unacceptable. He created a petition on Friday that had over 400 signatures from students at UD and Newark Charter School. He explained the students were concerned about the issue because Newark was their home and the intrusion of the project was significant. He refuted Mr. Lang's claim that the project highlighted the Green Mansion and believed that the project overshadowed the Green Mansion. He understood that nothing could be done at this point, but he was concerned because the project opened the floodgate in terms of new developments that did not allow for preserving the City's charm as a small town. He said that he sent the petition to the Councilmembers and read off comments at random:

I don't want Newark to lose its charm.

This building will be ugly.

This is the heart and soul of Newark.

Try preserving and repurposing buildings instead of knocking them down.

Mr. Toth was thankful to Mr. Lang for not demolishing the Green Mansion because he thought it would be an atrocity. He continued to read:

Keep Newark beautiful.

We don't need more apartment buildings, there are two that I currently know of in construction.

Not interested in the demolition with a cheap replacement simply for capital gains.

Please save this mansion.

Mr. Toth agreed that not all of the messages went to his point and explained the petitioners were trying to become invested in the issue as young citizens. They wanted to preserve the town and make sure that it was not exploited in any way. They did not want to look back in the future with regret that they did not act to preserve. He referred to the destruction of the Newark New Century Club and the Stone Balloon, both which he claimed could have been preserved but were not. He acknowledged the structures suffered damage but maintained that it was shame that the actions took place. He shared that he and his friends were planning on attending zoning meetings to help reform the City's zoning laws to make sure that the City allowed for new development but were also able to protect Newark's history as much as possible.

Ms. Bensley introduced Melanie Milburn. Ms. Milburn, District 2, appreciated the connection of the parking lots in the new design. She asked if the parking garage would be free parking and wondered if she would be ticketed if she parked in the afternoon and stayed through dinner. She referred to slide 14 which compared the front of the building in both versions. She appreciated that the Green Mansion would be more pronounced in the new designed, but she preferred the white coloring of the old design because it was softer. She described the new design colors as flat, dark, and generic and reiterated her preference for the previous color scheme. She appreciated the outdoor space but thought the wall was not aesthetically pleasing. She reiterated her preference for the white colored building next to the Green Mansion. She appreciated aspects of the new plan but thought the frontage of the old design was more appealing.

Mr. Horning interjected that the applicants and staff would have the opportunity to reply after public comments.

Ms. Bensley introduced MaryClare Matsumoto, District 6. Ms. Matsumoto liked the changes and was previously concerned that the original design was too big. She said that she had experience in bicycle touring and believed that cyclists preferred to stay downtown. She was pleased that the new design included charging stations and asked if the stations would also be in the apartments. She liked that each apartment would have one parking space and thought it could discourage students from bringing a car. She asked if apartment residents could receive a discount if they did not need the parking space or if the parking could be a separate charge per unit. She noted some apartments might need additional spaces. She was pleased that the new design incorporated the Green Mansion better than the previous version. She suggested more bicycle spaces for the apartments.

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

Dr. Bancroft explained that the current zoning was set up for parking storage which indicated that the parking zoning needed revision. He supported Mr. Horning's comments appreciating the finer attributes of the project and echoed the concerns Ms. Hughes had for parking. He often had to use outlying establishments because City lots were completely full. He noted the restaurant turnover and assumed they were the last commercial brick and mortar standing on Main Street. He was pleased that bike parking was considered and agreed that they would be utilized. He recognized that if the project was not passed then it was a waste of many people's efforts. He was not opposed to all development and said that Council considered each project with respect to its merits and the Code and were consistent with the accordance to the parking waivers that were granted. He did not believe that many experts anticipated that parking waivers would be routinely granted downtown. He thought a main issue was the building's uncharacteristic frontage and he thought the previous design looked nicer and received many comments regarding the general size of the towers. He agreed the project represented a boost in money and noted the City could potentially receive \$700,000. He commented that the City had other hotels in tower form and did not know if the Washington House was set back further but heard many comments regarding the project's height. He noted that UD would develop STAR Campus at its discretion and could present competition. He agreed with residents who wanted to preserve the City's character.

Mr. Horning gave the applicants the opportunity to address concerns. Mr. Locke commended Mr. Toth's civic engagement as a young citizen. He informed that Lang Development was one of the greatest

supporters in preserving historic buildings in the City and had spent almost \$19 million in the effort, exclusive of the Green Mansion purchase. He reiterated that the applicants were residents and could remember how historic buildings were used in the past. He looked forward to continuing the conversation with Mr. Toth's group and wanted to be an active participant. He appreciated Ms. Milburn's comments and explained the parking garage would not be free but would be available to the marketplace. He appreciated Ms. Matsumoto's comments on bicyclists and would take them into consideration. He informed that there were 16 bicycle spaces and many tenants would choose to store bikes in their apartments by using the elevator. Mr. Lang added that if the students were encouraged to not bring vehicles, the parking spaces could be converted to bike parking with City approval. He shared that electric charging stations would be provided for the apartment residents and the applicants were considering the amenity for other properties they owned. Mr. Locke explained that if vehicle spaces were required, then tenants usually brought cars. He revealed the Washington House was roughly 67 feet high and did not have as big a setback as the proposed project and was closer to the curb. He continued that the project would be setback further and the height would not be as noticeable as the Washington House. Mr. Lang added that the Washington House complied with Code and was 20 feet off of the property line and the applicants' project was over 60 feet, for comparison, and the massing of the building would be behind the Green Mansion. Mr. Locke asked if the City preferred visitors to stay on 896 to patronize TGI Friday's or to stay downtown and frequent local vendors and restaurants. He revealed that the applicants received inquiries from businesses who were considering Main Street as a potential location pending the hotel's completion. He wanted to consider how similar projects would continue to impact the City's economy long after the developers passed. Mr. Lang acknowledged that design was subjective and explained that the applicants considered many variations in the redesign and included both the City and Hyatt in discussions. The applicants had to meet the criteria of the franchisor as well as the City and settled on a happy medium for the design. He appreciated the comments and reiterated that the redesign was Code compliant in every component other than the parking consideration. He thought the parking waiver request was warranted given the dynamics of the apartment parking market. Mr. Locke referred to the economic impacts listed on slide 27 of the presentation and noted the revenue would keep property taxes and utility rates down. He wanted to consider the totality of the project and understood that no development project could please all of the residents.

The Chair returned the discussion to the table.

Mr. Hamilton supported the project and thought a downtown hotel was an excellent idea. He thought downtown businesses performed poorly because of the student population. He believed the hotel had the opportunity bring a different clientele downtown, including professors and visiting speakers. He noted that Fair Hill intended to hold an event that would bring 60,000 people to the area who would want to stay in downtown Newark. He supported the hotel, did not mind the size, and noted the applicants were preserving the main part of the Green Mansion. He repeated that Mr. Lang and Mr. Locke were local residents whose projects were always clean and efficient. He elaborated on his reason for asking the parking waiver question because he had been on Council for four years and parking problems were continually discussed. He was in the meetings with Mr. Locke and believed the parking issue was a perception. He noted the hotel could charge whatever it wanted for parking and acknowledged the City had not raised parking fees. He shared that businesses claimed expenses were too high and employees could not afford parking. He believed the hotel could boost downtown businesses and thought STAR Campus would be a small town because UD was designing the campus for professionals. He cautioned that Main Street needed to compete with UD's 100-year layout regardless of UD's claims to the contrary. He noted that STAR Campus would cater to professionals and the City would have the students so he hoped the hotel would balance the situation. He appreciated the petition and encouraged residents to vote and participate in meetings in order to make a real change. He leaned in favor of the project and thought the applicants were resolving the parking because the business was unique. He noted that hotel visitors used various modes of transportation from airports and that the younger generation was moving away from vehicles. He doubted there would be a parking problem in 20 years. He appreciated the applicants' redesign.

Ms. Hughes thanked Mr. Lang and Mr. Locke for the presentation.

Mr. Lawhorn commended Mr. Toth for joining the meeting and recommended that he continue his involvement. He was comfortable with the height of the building but thought it was important to consider each project individually and have a strategy to address desired architecture on Main Street. He admitted there were certain exceptions and while he did not want to have buildings of similar height along Main Street, the project was a special case and brought significant economic impact to the City. He admitted he spoke extensively about parking and reiterated that parking generated around \$4 million for the City. He noted that if developers were forced to create and independently manage their own parking, the City's parking revenue would be absorbed and would have to be made up by the residents. He agreed

with Mr. Hamilton's statement that the parking issue was more perception than reality and improvements needed to be made as suggested by the Parking Subcommittee. He repeated that parking was an important revenue source for the City that he wanted to protect when his constituents balked at property tax increases.

Mr. McDermott had no additional questions.

Mr. Horning asked if the design review criteria was advisory and Ms. Gray confirmed but noted the Design for Commercial Properties downtown in Chapter 27 were required by Code. Mr. Horning asked if the height was allowed because the City was providing the special use permit for the apartments and Ms. Gray explained that the hotel and apartment building were considered one building. The apartment building was allowed seven stories because more than 50% of units were two-bedroom units and one story was allowed for parking use. Mr. Horning asked if the buildings had a common foundation and Ms. Gray confirmed. Mr. Horning asked if Council had to approve the special use permit in order for the building to get the additional height. Ms. Gray replied that the special use permit was for the hotel use and was not for the height of the hotel. Mr. Horning clarified his question and asked if the extra floors were allowed because the City allowed the apartment use. Ms. Gray confirmed and explained if the City allowed the apartments and the hotel by special use permit then the apartments received the height bonus. Mr. Horning asked if the allowable height then went from three floors to seven floors and Ms. Gray confirmed. Mr. Horning emphasized the project had a baseline approval for a 144-room hotel and asked for the height. Ms. Gray replied that the project was totally new, and the 144-room hotel was a separate project. Mr. Locke replied the original project was 78 feet and the revised project was 74 feet. Mr. Lang repeated that both of the buildings were code compliant and the applicants needed a special use permit for the use and not the height. He repeated that the applicants were not seeking a waiver or special consideration not allowed per Code. Mr. Horning commented that three stories by-right could still be 78 feet and the applicants confirmed.

Dr. Bancroft interjected and stated if Council did not approve the plans then the applicants could choose to build a bigger structure. Mr. Locke confirmed that it was an alternative. Mr. Lang informed that as long as a project met Code, anything could be built. He continued that as long as a project was Code compliant in theory, it met the property rights of the owner and if waivers or variances were required, then concessions were necessary in special accommodations during Site Plan Approval. He repeated that the proposed project was Code complaint as confirmed by Ms. Gray and the Planning Department. He reminded the last Lang project was also Code complaint.

Mr. Horning asked for the parameters of the Springhill Suites parking waiver. Ms. Gray replied that the waiver was approved before her time with the City and Mr. Horning reiterated that the proposed project had the required parking for the hotel and the waiver was for the apartments. Mr. Lang confirmed and repeated that the project had enough parking for the hotel per Code, as well as per the franchisors, so the accommodation was for 39 spaces of the 48 additional that the applicants would need if the requirement was for two spaces per apartments. He clarified that the apartments had 57 spaces and Code required 96. He felt the request was reasonable given the use and tendency of the tenants in the marketplace and various Council comments indicating the direction of parking downtown for the residents. Mr. Horning asked if the revenue for the lots open to the public would go to the City and Mr. Locke informed that the lot would be privately managed. Mr. Horning said the extra available public parking was a positive and hypothesized that the apartments could be used for senior living if the student population decreased.

Mr. Bilodeau confirmed that the building was Code compliant but explained it was also dependent upon the approval of the special use permit for the apartments because that was how the project was given the additional floors. He informed that the Planning Commission ordinarily made recommendations about parking waivers on which Council would vote and the Planning Commission had the power to issue parking waivers and either the applicant or Council had the right to review. He explained there were two motions about the parking waivers from the Planning Commission: the first motion was for a 39 space parking waiver in return for the associated cost of \$181,263 and the second motion was for a waiver for 16 smaller spaces, that were not Code complaint, in return for access for the parking garage and cross access between the two sides of Lot 3. He informed the Planning Commission voted 5-0 so if Council voted 3-3, the Planning Commission's votes would be upheld, and if Council wanted to override the Planning Commission, they would need to vote down the parking waiver by a 4-2 vote.

Mr. Horning repeated that the Phase 1 recommendations from the parking consultant were expected in May or June for stakeholder input and later for potential changes and Ms. Gray confirmed. Mr. Horning again asked the applicants how waiting for the consultant's report would affect the project and Mr. Locke replied that the applicants would lose thousands of dollars a day and the delay would have

a tremendous economic impact on the project. Mr. Lang added that the applicants had a half-developed project with a hole in the ground in the middle of downtown and hoped to have an orderly redevelopment and created a project that could be financed in the current economic climate. He noted that the economic viability of projects was rarely discussed during meetings and the applicants wanted to ensure that the project before Council were economically viable in the current fiscal world. He admitted it was possible that when the parking study was done later in the year, the economic climate could be completely different. He reminded that the project was halted when the economy started to turn, and the future was uncertain as was the impact to the community when a project with such great benefits was delayed. He reiterated that the project was a lifeblood to the downtown community, restaurants, and other retailers.

Mr. Horning asked for the necessary motion and Ms. Bensley replied the first motion would be to uphold the Planning Commission's vote for the parking waiver.

MOTION BY MR. LAWHORN, SECONDED BY MR. HAMILTON: TO UPHOLD THE PLANNING COMMISSION'S APPROVAL OF THE PARKING WAIVER.

Mr. Bilodeau reminded Council to state their reasons for the vote which could be for the reasons set forth in the Planning Department's report.

Mr. Lawhorn voted in favor of the motion for the reasons stated in the Planning Department's report.

Mr. McDermott voted in favor of the motion because the applicants demonstrated that the proposed use conformed to and was in harmony with the character and development pattern of the central business district.

Mr. Hamilton voted in favor of the motion for the reasons stated by Mr. McDermott.

Dr. Bancroft voted against the motion because it did not conform with the character of the business district.

Ms. Hughes voted in favor of the motion for the reasons stated by Mr. McDermott.

Mr. Horning voted in favor of the motion for the reasons stated by Mr. Lawhorn and Mr. McDermott.

MOTION PASSED. VOTE: 5 to 1.

Aye – Horning, Hughes, Hamilton, Lawhorn, McDermott.

Nay – Bancroft.

Absent – Clifton.

19. **9-B. REQUEST OF LANG DEVELOPMENT GROUP FOR THE MAJOR SUBDIVISION OF 1.15 +/- ACRES IN ORDER TO CONSTRUCT TWO STRUCTURES ON ONE FOUNDATION CONNECTED BY A SUBGRADE PARKING STRUCTURE - A SEVEN-STORY, 104 ROOM HOTEL IN THE FRONT OF THE PARCEL AND A SEVEN-STORY STRUCTURE WITH FIRST FLOOR PARKING AND 48 TWO-BEDROOM APARTMENT UNITS ON THE UPPER FLOORS IN THE REAR OF THE PARCEL LOCATED AT 94 EAST MAIN STREET (AGREEMENT AND RESOLUTION ATTACHED) (SEE ITEMS 9-A, 9-C AND 9-D)**

4:08:16

MOTION BY MR. LAWHORN, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE THE GREEN MANSION (94 EAST MAIN STREET) MAJOR SUBDIVISION PLAN AS SHOWN ON THE KARINS AND ASSOCIATES SPECIAL USE PERMIT, PARKING WAIVER, AND MAJOR SUBDIVISION PLAN DATED SEPTEMBER 8, 2020, REVISED DECEMBER 1, 2020, JANUARY 27, AND FEBRUARY 8, 2021 AND FIRE MARSHAL PLAN DATED SEPTEMBER 8, 2020, REVISED DECEMBER 1, 2020, JANUARY 27, 2021 AND FEBRUARY 25, 2021, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS DESCRIBED IN THE JANUARY 29, 2021 PLANNING AND DEVELOPMENT REPORT.

MOTION PASSED. VOTE: 5 to 1.

Aye – Hughes, Hamilton, Lawhorn, McDermott, Horning.

Nay – Bancroft.

Absent – Clifton.

20. 9-D. REQUEST OF LANG DEVELOPMENT GROUP FOR A SPECIAL USE PERMIT FOR A 104 ROOM HOTEL IN THE BB DISTRICT AT THE PROPERTY LOCATED AT 94 EAST MAIN STREET (SEE ITEMS 9-A, 9-B AND 9-C)

4:10:53

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL APPROVE THE GREEN MANSION (94 EAST MAIN STREET) SPECIAL USE PERMIT FOR THE 104 ROOM HOTEL AS SHOWN ON THE KARINS AND ASSOCIATES SPECIAL USE PERMIT, PARKING WAIVER, AND MAJOR SUBDIVISION PLAN DATED SEPTEMBER 8, 2020, REVISED DECEMBER 1, 2020, JANUARY 27, AND FEBRUARY 8, 2021 AND FIRE MARSHAL PLAN DATED SEPTEMBER 8, 2020, REVISED DECEMBER 1, 2020, JANUARY 27, 2021 AND FEBRUARY 25, 2021, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS DESCRIBED IN THE JANUARY 29, 2021 PLANNING AND DEVELOPMENT REPORT.

Mr. Lawhorn voted in favor of the motion as it would not have a negative impact on adjacent and nearby properties or those within one mile of the City, would have a positive economic impact on the City, and was not in conflict with the Comprehensive Development Plan.

Mr. McDermott voted in favor of the motion for the reasons stated by Mr. Lawhorn.

Mr. Hamilton voted in favor of the motion for the reasons stated by Mr. Lawhorn.

Dr. Bancroft voted no because it conflicted with the purposes of the Comprehensive Development Plan.

Ms. Hughes voted in favor of the motion for the reasons stated by Mr. Lawhorn.

Mr. Horning voted in favor of the motion for the reasons stated by Mr. Lawhorn.

MOTION PASSED. VOTE: 5 to 1.

Aye – Hughes, Hamilton, Lawhorn, McDermott, Horning.

Nay – Bancroft.

Absent – Clifton.

21. 9-C. REQUEST OF LANG DEVELOPMENT GROUP FOR A SPECIAL USE PERMIT FOR 48 TWO-BEDROOM APARTMENTS IN THE BB DISTRICT AT THE PROPERTY LOCATED AT 94 EAST MAIN STREET (SEE ITEMS 9-A, 9-B AND 9-D)

4:13:06

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL APPROVE THE GREEN MANSION (94 EAST MAIN STREET) SPECIAL USE PERMIT FOR THE 48 UNIT TWO-BEDROOM APARTMENTS AS SHOWN ON THE KARINS AND ASSOCIATES SPECIAL USE PERMIT, PARKING WAIVER, AND MAJOR SUBDIVISION PLAN DATED SEPTEMBER 8, 2020, REVISED DECEMBER 1, 2020, JANUARY 27, 2021 AND FEBRUARY 8, 2021 AND FIRE MARSHAL PLAN DATED SEPTEMBER 8, 2020, REVISED DECEMBER 1, 2020, JANUARY 27, AND FEBRUARY 25, 2021, WITH THE SUBDIVISION ADVISORY COMMITTEE CONDITIONS AS DESCRIBED IN THE JANUARY 29, 2021 PLANNING AND DEVELOPMENT REPORT.

Ms. Hughes voted in favor of the motion because it would not affect adversely the health or safety of person or person 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; 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 be in conflict with the purposes of the comprehensive development plan of the city.

Dr. Bancroft voted against the motion because it conflicted with the purposes of the Comprehensive Development Plan.

Mr. Hamilton voted in favor of the motion for the reasons stated by Ms. Hughes.

Mr. Lawhorn voted in favor of the motion for the reasons stated by Ms. Hughes.

Mr. McDermott voted in favor of the motion for the reasons stated by Ms. Hughes.

Mr. Horning voted in favor of the motion for the reasons stated by Ms. Hughes.

MOTION PASSED. VOTE: 5 to 1.

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

22. Meeting adjourned at 11:17 p.m.

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

/ns