

**CITY OF NEWARK  
DELAWARE  
COUNCIL WORKSHOP MEETING MINUTES  
March 2, 2015**

Those present at 7:35 p.m.:

Presiding: Mayor Polly Sierer  
District 1, Mark Morehead  
District 2, Todd Ruckle  
District 3, Rob Gifford  
District 4, Margrit Hadden  
District 5, Luke Chapman  
District 6, A. Stuart Markham

Staff Members: Deputy City Manager Andrew Haines  
City Secretary Renee Bensley  
Planning & Development Director Maureen Feeney Roser  
Development Supervisor Michael Fortner  
Planning Commission Chairman Alan Silverman

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1. The special Council meeting began at 7:35 p.m. in the Council chamber.
  2. Ms. Sierer gave an overview of the format of the meeting for the evening and opened the floor to Council for comments on Chapter 10 (Land Use).

Ms. Hadden asked if there was anything new that currently isn't in Code in Table 10-1. Mr. Fortner stated Table 10-1 is a Land Use designation, which are not in Code and that definitions are created for the Comprehensive Plan. Ms. Hadden asked what is new in Table 10-2 (Zoning Districts). Mr. Fortner replied all the Zoning Districts in Chapter 32 are listed.

Mr. Morehead asked for clarification in Table 10-1 for the STAR Campus designation. Mr. Fortner stated it should be defined under Zoning and Land Use as well. Mr. Morehead replied it is designated "STC" in Zoning but in the maps STAR Campus is referred to as a land use and felt that it should be listed in Table 10-1 as a land use. Mr. Fortner agreed.

Mr. Morehead requested that the introduction to Table 10-2 to be stronger regarding the precedence of the current Zoning.

Mr. Morehead noted that "STC" also includes Residential so it should be mentioned in Table 10-3 under Residential. Mr. Fortner added he will also include RM in low density. It was previously only included in high density.

Mr. Morehead clarified in Table 10-3 that utilities can be included in any Zoning classification. Mr. Fortner confirmed this. Mr. Fortner stated the definition is found in Land Use definitions (Table 10-1). Mr. Morehead stated he is concerned of the potential for a private company to purchase a property and put in a utility. Mr. Silverman stated the Comprehensive Plan is not a substitute for the implementation devices of the Comprehensive Plan, such as the Zoning Code which Courts have stated has priority. With respect to the force of law, the Delaware Courts have not defined how Comprehensive Plans have the force of law, but have defined where a plan says "you shall" means you are compelled to do so. Mr. Morehead suggested changing the word "shall" to "may" (in Table 10-1 and Table 10-3) to soften the definition as he was concerned about flexibility being taken away.

Councilmen Chapman, Morehead and Gifford expressed concern about the Zoning designation for the Newark Country Club property. Mr. Chapman wanted the property's Comprehensive Plan designation to remain Active Recreation. Additionally Mr. Gifford stated he was under the assumption that the existing Land Use was the current zoning and that was not the case. Council agreed there were numerous issues to address and would be brought to Bruce Herron, City Solicitor for his legal opinion before

proceeding. In addition to the Country Club property, Mr. Morehead asked that the City Solicitor add the E.L.I. block marked as University between Dallam and Hillside Roads, Old Oak Road and W. Main Street; as well as Rodney/Dickinson to give his opinion on as well. They are currently zoned UN.

Mr. Morehead noted the similar circumstance of Dr. Beste's office on Nottingham Road. The current land use is Commercial. In the future land use designation, it switches to Mixed Urban. He asked what the difference is between Commercial and Mixed Urban. It was Mr. Fortner's understanding Dr. Beste lives at and works at the location.

Mr. Silverman asked Council to keep in mind that Newark is one of the few jurisdictions that has zoning for recreation. Most jurisdictions in the state believed that recreation was a subset of the use. If there is land that can produce housing and it is kept it as grass and open space that is an economic decision being made regarding the land. If, however, the land is designated as recreation within 18 months, it has to be rezoned by Council to the recreation open space district that exists within the City of Newark. For example if an area is changed to a designated recreation area, then it should be shown as such on Comprehensive long range Capital Program. If it is designated as open space then DNREC's land and water conservation funds may made be available for the City's use.

Mayor Sierer reiterated the purpose of tonight's workshop was intended to potential change land use not to changing zoning. She would recommend to make a list of possible land use changes and have Bruce Herron review prior to making any changes. In addition, Ms. Feeney Roser stated additional research is needed for former zoning of the University property (i.e. Rodney/Dickinson and other such properties) prior to the purchase of the land by the University. It is her understanding that the City of Newark had zoning on the parcel prior to the purchase by the University in 1966. Most University parcels have an underlying zoning identified with it. This property in question however, does not. Per Ms. Feeney Roser, research of this property will take some time.

Mayor Sierer asked that any Council member proposing any land use changes submit the request to Ms. Bensley. She is compiling a list and they will be forwarded to the City Solicitor.

Mr. Fortner noted an error in the land use map on the Gore property. It is marked Institutional in the land use. It should be marked Industrial.

Mr. Markham stated he had a few questions on Page 131 regarding location and conditions affecting development. The reference to Cleveland Avenue should state W. Cleveland Avenue. Additionally, Mr. Markham stated the section discusses conditions affecting development, but is not addressing how this should influence development in that particular area. Mr. Fortner stated they were generalizations regarding the big picture in that area and that more detail is discussed on page 132. Mr. Markham stated he wanted more detail on how it will be evaluated as traffic impact is a big issue in that area. He wants something of record in the Plan that can be referred to when a developments in the area come to Council and ask about the considerable traffic issues within that area.

Mr. Markham referred to page 142 (northern Newark) and noted an area off of Cullen Way where he believes Millcroft has expressed interest. He would expect the future land use in that location to be Institutional. To Mr. Markham's knowledge, Millcroft wants to build a memory care unit in that location. He suggested Mr. Fortner take off the Stonevale reference.

Mr. Morehead noted on page 121 referencing Core Principles that the first principle was in-fill and redevelopment, which he wanted qualified to designate the appropriate in-fill and redevelopment not just any in-fill and redevelopment.

Mr. Morehead noted several corrections including the placement of University Courtyard on page 123, requested that headers continue to the next page on Tables 10-1, 10-2 and 10-3, requested that the map on page 130 (existing land use and future use) use a different color border, asked that the map for B on existing land use and the commentary page list additional neighborhoods, requested that Blair Court be added to the CDBG eligibility list, asked that Hillside Road be mentioned in the TID and that the

ELI and Rodney/Dickinson properties be mentioned in the section on anticipated change of use.

Mr. Morehead referred to page 141 (Planning Section C) and stated that STAR Campus is not a recommended use, but a “colloquial name.” The subtlety was discussed in the recommended use of residential low/high density and isn’t included in page 127 (STC wasn’t included with any residential categories in Table 10-3). However, we know the STC wants residential so it needs to be included in some residential. Mr. Morehead would also prefer it be re-worded to indicate it be a “mix of uses” rather than “mixed use” so the whole property defined as “mixed use.”

Mr. Morehead referred to page 133. (Future Land Use for Section A). It was his understanding the Technology Park was located in College Square. Mr. Fortner confirmed there is a vacant parcel which is zoned UN.

Mr. Morehead referred again to Page 133 regarding vacant parcels in “Old Newark.” Mr. Morehead and Mayor Sierer concurred that “Old Newark” should be defined as the term was not listed elsewhere in the Plan.

Mr. Morehead asked for clarification between a principle and a goal? Mr. Silverman stated principles are policies and are interchangeable.

Ms. Hadden stated that Blair Court should be changed to Blair Village on page 135 and felt the reference to “contains” should be changed to “consists” regarding the City’s Zoning Code on page 125.

Ms. Hadden noted on page 126 under STC that the descriptions says processes or processes involving cleaning distribution and requested the addition of the words “light manufacturing” as it is mentioned on page 141. She wanted consistency and felt it was important to address what “type” of manufacturing is permitted. Ms. Bensley stated upon review of the Zoning Code it does specifically have a list of the types of manufacturing in the Zoning Code.

Ms. Hadden noted on page 147 (Conditions Affecting Development) The Cottages at the Plaza is listed “under construction” which should be updated, asked that the word proactive be removed and preferred it to read “Plan for Sites Expected to develop or redevelop,” and wanted Goal 2 to say “plan for future growth.”

Mr. Gifford noted the need for proofreading the Plan for grammatical content and typos prior to distribution and recommended explicitly stating in the introduction which map is being used for what purpose. The Zoning map needs to compare existing/future zoning clearly.

Mr. Gifford requested clarification regarding the meaning of “Special Study Areas” on page 121. Mr. Fortner stated this reference was included at the recommendation of the Planning Commission to be proactive and add areas that need special attention (i.e. Newark Country Club). Mr. Gifford suggested remaining consistent and changing “Special Study Areas” to “Focus Areas” which is mentioned and means the same thing.

Mr. Gifford suggested streamlining the paragraph on Land Development Core Principles on page 121 and removing multiple references to “Healthy Sustainable Inclusive Community.” He found the references to “Existing Land Use Pattern” in text to be extremely difficult to read through and felt it wasn’t very useful in this context. He preferred to use the maps rather than the long text.

Mr. Gifford noted on Map 10-1 some of the street names do not appear and the ones that do appear are difficult to read so he suggested removing them.

Mr. Gifford said on page 130 (Maintenance Yard) shows as Active Recreation. Mr. Fortner replied it as dual purpose as Philips Park is included on the parcel. Mr. Fortner will review the map that references it as it is shown all green and does not include the maintenance yard on it.

Mr. Gifford asked for confirmation on page 132 (Bus Depot – Wyoming Road) that it is institutional. Mr. Fortner replied it was as it is owned by the school district. Mr. Gifford

asked for the institutional future use on S. Chapel Street (near the Depot). Mr. Fortner will clarify what is located there but thought it might be a daycare.

Mr. Gifford confirmed the train station on STAR Campus should be zoned STC on the future land use as it owned by the University. Mr. Fortner confirmed that was the case.

Mr. Gifford asked if there was a single family house on the “old” S. Chapel and that it appeared on the map. Mr. Fortner replied it was on the map and it was zoned RS.

Mr. Gifford and Mr. Morehead stated there are numerous grammatical issues and typos on page 141 (Planning Section C) and asked they be corrected.

Mr. Silverman wished to add that with the addition of the Cottages at the Plaza (now known at the Retreat) the whole “complexion” of that area has changed. Rather than it be a commercial center exclusively it is now a major residential/commercial center. There are additional parcels (noted on the Annexation Plan) near the Maryland side. It has opened up the area for a potential residential expansion.

Mr. Gifford asked if the term “Form Based Codes” should be explained prior to its reference in Action Item #1 under Goal #1. Mr. Fortner stated is an emerging trend in planning to use form based Codes. Mr. Gifford would like more detail on this concept. Mr. Gifford asked if the City of Newark is slated to spearhead the master plan for the Newark Country Club site as referenced in Action Item #2 under Goal #2. Mr. Fortner replied the owner/developer would be approached to participate but the City would proceed regardless. Mr. Morehead wished to add the same action item and goal for the ELI property and the Rodney/Dickinson dormitories. Mr. Gifford wanted detail on Action Item #1 under Goal #3 regarding site plan approval for cluster developments. Mr. Fortner stated cluster developments, which permit smaller lot sizes clustered together, are located in RS zoning. In return more open space is allotted. An example of a City property that utilized this concept is Evergreen in District 5, which Mr. Gifford suggested be added.

Mr. Gifford asked for clarification on which trash compactors are being referred to in this section. Ms. Feeney Roser stated the reference is being made to compactors on private dumpsters in public lots, which Mr. Gifford would like added.

Mr. Ruckle thanked the Planning Department and Mr. Fortner for putting the Plan together, asked to add a reference that the City of Newark is always looking for the highest and best use of the land (under the current applicable Zoning), and thought it should be one of the City’s core principles.

Ms. Hadden stated the Chapter 10 summary on page 34 states, “effectively managed neighborhood preservation and high quality development and re-development that meet the City’s housing employment transportation and recreational needs,” which she believed mirrored what Mr. Ruckle would like to say.

**3.** Ms. Sierer opened the floor to public comment on Chapter 10.

Ms. Helga Huntley, District 1, commented on the extensive description of every use, felt it was difficult to follow and unnecessary. Ms. Huntley provided her suggestions in writing to Mr. Fortner. She asked the updates be put on the website noting the changes and edits. It is her opinion not to rezone the Country Club property as RS zoning permits active recreation or the ELI and the Rodney/Dickinson properties. She recommended the Millcroft parcels be marked as the expected/intended land use that is permitted under the current zoning. She suggested Mr. Fortner go to IPA to request changes to the map colors. She believes it is not important to notate “old Newark” as other neighborhoods are not being defined.

Ms. Huntley asked Mr. Fortner why less specific categories are being used for land use than previously used in 2008? Mr. Fortner stated the categories have been simplified as other cities follow a less complex category system. It was also a recommendation of the State Planning Commission per Ms. Feeney Roser.

Ms. Huntley pointed out that under high density residential it is specified that dormitories, group homes and nursing homes are not included in high density areas and felt it may be helpful to specify which categories the dormitories do fall under. She asked that laboratories be included as a use under University, noted a typo and suggested

updating references for OFD to SFHA. She suggested the same order in Table 10-3 as used in 10-2. She asked for more detail on long term off campus housing and the Transportation Improvement District. She asked for delineation of the targeted area for the Community Development Block Grant and an update to a Transportation Improvement District reference. She noted that the University needs to be noted as a recommended use for Planning Section A. She felt that the two recommendations listed of extending Delaware Avenue to Marrows Road and making it more pedestrian/bicycle friendly were contradictory goals. She noted two typos and asked that "other University use" be added to the "STAR Campus" designation as that area includes the UD Farm.

Ms. Hadden asked STAR Campus/South Campus should read University South Campus and STAR Campus.

Ms. Huntley stated the map on page 146 labels Elkton Road as a Service Road. It needs to be changed. On page 147 it describes the location as going from the south side of the CSX right-of-way to Casho Mill. She believes it goes from the south side of CSX right-of-way to north of the Amtrak right-of-way. She suggested the Cottages at the Plaza not be used anywhere anymore as it has been renamed. She noted that the following recommended uses are missing on page 149: Mixed Urban, Residential and Institutional.

Ms. Huntley said on page 155 (Policy Recommendations) for Goal #3, it recommended utilizing Site Plan approval for cluster developments and requested it be described. She asked that Council consider adding a requirement for new residential developments to include low income housing. Mr. Silverman stated the current Newark population a large number of individuals qualify as low income (students). Mr. Fortner suggested an Ordinance may be required to include such requirements.

Ms. Huntley stated it was her opinion the rationale for how the City wants the future land use to be is not just how it currently is.

Mr. Kevin Mayhew, 103 Elma Drive, stated it was his opinion any analysis and changing of Zoning should be done before the Comprehensive Plan is adopted. He pointed out that his project Campus Walk, the first seven parcels on New London Road should be marked high density. The district is zoned RM which permits 16 units per acre and should be identified as a high density potential. He asked Council to consider labeling it as high density.

Ms. Margaret Cassling, District 1, suggested the proposed copies of the proposed Comprehensive Plan be printed and made available to the public. She is concerned about the amount of student housing still unoccupied. She was concerned about the Country Club property and would like to encourage open space to remain. She asked if there would be another meeting and asked to receive a copy of the Plan. Mr. Gifford stated it was linked to the agenda.

4. Ms. Sierer stated that the discussion of Chapter 10 has concluded.

Mr. Morehead asked Mr. Fortner to respond to Mr. Mayhew's request. Mr. Fortner stated he would work with Martin Wollaston, follow up with Mr. Mayhew and keep Council apprised.

Mr. Gifford suggested an appendix with a list and the proposed Zoning change.

5. Mayor Sierer suggested with Council's approval, Chapters 11 and 12 would be covered at another workshop. The date selected was Monday, May 18<sup>th</sup> at 6:00 p.m.

6. **Meeting adjourned at 10:10 p.m.**

Renee K. Bensley  
Director of Legislative Services  
City Secretary