

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

October 10, 2016

Those present at 7:00 p.m.:

Presiding:	Mayor Polly Sierer District 1, Mark Morehead District 2, Todd Ruckle District 3, Jen Wallace District 4, Margrit Hadden District 5, Luke Chapman District 6, A. Stuart Markham
Staff Members:	City Manager Carol Houck City Secretary Renee Bensley City Solicitor Bruce Herron Deputy City Manager Andrew Haines Communications Manager Kelly Bachman Community Affairs Officer Megan McNerney Finance Director David Del Grande Parks & Recreation Director Joe Spadafino Planning & Development Director Maureen Feeney Roser Public Works & Water Resources Director Tom Coleman

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1. Ms. Sierer called the meeting to order at 7:00 p.m.
 2. MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: TO REMOVE ITEM 4-B, APPOINTMENT OF DENNIS LAWSON TO THE DOWNTOWN NEWARK PARTNERSHIP TO COMPLETE THE CULTURAL COMMUNITY GROUP REPRESENTATIVE TERM TO EXPIRE JULY 15, 2017 AND ITEM 11-C, RESIGNATION OF DAWN CALZADA FROM THE DOWNTOWN NEWARK PARTNERSHIP, FROM THE AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.
Nay – 0.

3.
 1. **PUBLIC PRESENTATIONS:**
 - A. Proclamation Recognizing Jasella Ortiz for Bravery in Saving Her Father’s Life

02:56

Nine year old Jasella Ortiz was unanimously recognized by Council for her bravery and courageous actions in helping to save her father’s life during a medical emergency by calling 911 on August 7, 2016.

4.
 - 1-B. **ART SCULPTURE PARK PRESENTATION – DOWNTOWN NEWARK PARTNERSHIP DESIGN COMMITTEE**

05:47

Joe Charma, Chair of the Downtown Newark Partnership Design Committee provided an update on a project they had been working on for some time. The DNP with the help of the Design Committee was working on a new artpark/sculpture garden project for the past two years. The artpark/sculpture garden would not only beautify the site that it would occupy with sculpture and artwork installations, but through careful design and selection of ground cover, landscaping and plant materials it would minimize routine maintenance that would be required for this park.

The proposed project was located on a narrow strip of property adjacent to the north side of South Main Street between the CSX building near the Deer Park and the pedestrian tunnel to the former UD Rodney complex. The project was made possible by cooperation of the City, CSX Railroad Corporation and DeIDOT. It was hoped to install the first sculpture donated by local artist Dan Smokler in late October or early November with a formal dedication to follow. Other area artists and sculptors would be invited to submit their works which would be juried for selection to be installed in the artpark/sculpture garden.

The artpark/sculpture garden would be maintained with the City's Parks and Recreation Department and assistance from community volunteers. The annual maintenance cost for the City was estimated at about \$8,500. That cost would hopefully be brought down by volunteers (including Mr. Charma). In addition, the DNP would continue to raise funds, apply for grants and solicit donations to support the continued effort of this project.

The entire project's site preparation costs were estimated about \$47,500 and those costs covered landscaping, the landscape material, the preparation and installing of sculptures and all the smaller bits and pieces that would come together to make this project a success. The DNP would donate the first \$2,500 to prepare the first installation. This project showcasing the art and sculpture works of local area artists would beautify and create a sense of place and interest on the gateway to South Main Street. The DNP trusted the City would continue to support this project.

Mr. Charma then reviewed his PowerPoint presentation which contained photographs of the existing site location and conditions. The next slide showed the general layout of the artpark/sculpture garden which included the CSX building with parking on both sides. This would be a fluid process depending on the size and types of works and how they would be best displayed. In addition to sculptures and artworks the landscape material would, in itself, create visual impact and interest and that was what they were trying to accomplish. All native plant material would be used for seasonal color variation.

"Molecule" was the first sculpture and was welded steel. For the first installation the area was discussed with the artist, and he felt it was an appropriate location near the head of East Delaware Avenue.

The next sketch was an interpretive wall that would wrap around the corner by the wall that ran around by the UD that said University of Delaware. The wall would a very short "knee" wall 36" to 42" high that would echo the brick effect and include signage to the effect of "Welcome to Downtown" and may include some ornamental iron work on the top. This would anchor that corner and add interest to the parking area which may become a regular paved parking area for visitors.

The next slide showed a series of artpark/sculpture gardens, all which featured native plant material for their particular area.

Mr. Charma felt this would be a nice project and was an appropriate spot at the juncture of East, South and West Main Street and that it would begin a renaissance for artwork and sculpture downtown. He hoped Council would support the project.

Mr. Ruckle felt the City would support this and asked how well the art pieces would be anchored to the ground. Mr. Charma said they would be appropriately installed depending on the pieces, some might have a concrete slab cast with bolts, but safeguards would be created to keep them sturdy and not cause problems. The first piece was a donation and would stay in perpetuity while other artwork may be on display for a short term.

Ms. Wallace thought this was a great idea and appreciated the effort. She asked if the City would be expected to contribute to the funding. Mr. Charma reported that fundraising was not yet started since they were awaiting Council's approval for the project. The DNP would raise money and seek donations to fund the entire project, and businesses in close proximity already expressed interest in this project. The only request to the City was for maintenance by Parks and Recreation which would be in the 2017 budget at \$8,500. It was hoped to reduce that cost by getting volunteers to come out and assist with chores like pulling weeds, etc.

Mr. Morehead asked who the land belonged to. Mr. Charma responded it was CSX and there was an occupation agreement between DelDOT, the City and CSX to allow the DNP to go in there to place the sculptures and do the maintenance. CSX would get the benefit because they would not have to cut grass or maintain the property. Ms. Houck noted the agreement was ready to be signed pending tonight's approval by Council.

Ms. Hadden was excited that this area would be beautified and having a sculpture park would spruce up the gateway to South Main off of Main Street. She liked the plans and supported the project.

Mr. Spadafino added that pending Council approval \$13,500 was included in the beautification account for the installation of the landscaping and the art sculptures. The labor would be a big portion of the increase for Parks and Recreation once they take over the property.

The Chair opened the discussion to public comment.

John Morgan, District 1, thought it was a nice project. He asked if it became an area where children were playing, would there be a concern with the proximity to the train line and would there be a physical barrier between the park and the CSX line. Mr. Charma responded that was a concern, and the railroad was particularly apprehensive about that. That issue must be addressed and there was discussion about a physical barrier along the railroad's right-of-way line to prevent anybody from getting near the tracks.

The discussion was returned to the table.

Ms. Sierer offered her full support and thanked Mr. Charma and the many folks who worked on this project. She looked forward to this moving forward and planned to be out there helping.

Messrs. Markham and Chapman supported the project.

5. 2. ITEMS NOT ON PUBLISHED AGENDA

A. Public

24:43

John Morgan, District 1, read a prepared statement on parking rates (attached).

Helga Huntley, District 1, wanted to follow up on several items from the meeting on September 26. During the discussion of the Briarcreek North subdivision the Planning Director stated that the project was unanimously approved by the Planning Commission. This was wrong as the subdivision was approved by a narrow 3-2 majority with two Commissioners absent. She was not trying to revisit the decision but believed the error may have affected Council's consideration at the time. While she understood the necessity to restrict outbursts from the audience and disorderly side discussions, she suggested that Council come up with a method by which members of the audience can correct clear factual errors such as this or provide answers to questions asked from the dais when staff was unable to do so as was done at the last meeting during the Bike Committee discussion.

Regarding the legal requirements for open space for projects like the Briarcreek North development, nobody knew whether the 40% requirement applied, whether or not the developer took advantage of the density bonus. Both staff and the [Deputy] City Solicitor said this was how private open space was always handled instead of reading the actual text of the law where the conditions placed on the open space in a site plan subdivision can be found. She asked Council to provide clarity of the law. If they desired to follow the historic practice and not require private open space to meet the conditions stated in Appendix VI of Chapter 27, she asked that the Code Section 32-98.2 to remove the requirement that it does. Otherwise they should instruct City staff to follow the law as written. She realized the point was moot in the case of the Briarcreek North proposal since payment in lieu of open space was inserted so that the subdivision agreement did meet the conditions either way. The \$16,650 to be collected in lieu of open space must be spent on an improvement of a neighborhood park, playground or recreation area and must be used for facilities that would be available to and benefit the persons in said subdivision and be located in the general neighborhood of the subdivision. She wondered if any thought was given to how this money would be used. Ms. Houck indicated no information was available from staff at this time.

Steve Hudson, District 5, asked whether State funds may have been used by the University of Delaware for the development of Rodney Dorms in the 1960s. He thought when State money was involved, if the property was not being used for its original intent that it usually went back to the State so that any other State agency or municipality had first rights before it was sold. Ms. Houck was asked to get an answer for Mr. Hudson and Council.

Rob Gifford, District 3, shared his thoughts on the first budget meeting on October 3. He thanked the City for putting the budget together but once again found it focused on increasing revenue. From that meeting he hoped to gather more clarity around how the budget was justified and what was in it. There were mentions of what service cuts would have to be made if the budget was kept the same. He felt some of the residents would like to see what the consequences of not raising fees or taxes would be. He would like to see more of that. He referred to the GIS position. Based on his experience with GIS and his wife being involved with that software, he would hesitate to hire someone directly for that sole position. He suggested instead contracting the position out and hoped the City and Council could look into that further before hiring someone. At the end of the presentation five members of the public were present. He was surprised it was a difficult decision for Council to allow public comment. He thought hearing from the public in the workshop format was important and should be done in the future.

- 6. 2-B. **ELECTED OFFICIALS WHO REPRESENT CITY OF NEWARK RESIDENTS OR UTILITY CUSTOMERS:** None
- 7. 2-C. **UNIVERSITY**
(1) Administration: None
- 8. 2-C-2. **STUDENT BODY REPRESENTATIVE:** None
- 9. 2-D. **LOBBYIST:** None
- 10. 2-E. **CITY MANAGER:** None
- 11. 2-F. **COUNCIL MEMBERS:**

37:05

Mr. Morehead

- Already spoke to the City Manager about his concerns about the information promised to be on Budget Central not being there.

Ms. Hadden

- Attended the Financial Workshop and thought the presentation went well and that Council was pretty thoughtful in their participation.
- Attended the Institute for Local Government leaders in Dover last week and was presented with a planning certificate she worked on since 2013 and obtained a year's membership in the Delaware Chapter of the American Planning Association.
- Attended a Warriors Helping Warriors fundraiser held Friday at the VFW where money was raised to rehab a house in Middletown for a homeless veteran.
- Expressed her condolences to Ms. Houck on the passing of her father.

Mr. Markham

- Regarding the budget workshop – when it came back to Council, he asked that it be very clear what required State action and what was in the purview of the City itself. He had comments such as, “Why doesn’t the City consider several different things?” when he knew they would require State actions either on taxes or other fees. He would like some general way of people knowing the difference between what the City could and could not do.

Ms. Wallace

- The Special City Council meeting regarding a Stormwater Utility would be held on October 12 at 7 p.m. following the 6 p.m. Executive Session.
- Regarding the budget presentation from last week, the timeline said the draft CIP would be on Budget Central on October 4. Ms. Houck expected it to be up the next morning.
- Requested parking meter data such as how long were the meters in use, how long were people staying in them, etc. This was key to helping Council understand parking, particularly when talking about changing parking rates during the budget process.
- Requested an update on the City’s stormwater plan. She was confused about creating a utility before seeing a stormwater plan. Ms. Houck would provide an update to Council.

Mr. Chapman

- Requested Council discussion to address snow removal plans and adjustments for the upcoming winter season prior to the end of the year. He had some feedback and ideas to share. Ms. Houck would follow up, her last recollection was that there were not too many changes to be made.

Mr. Ruckle

- Reported that the double left on Woodlawn and Cleveland Avenue would start on October 11. He was concerned with visibility for traffic coming around the right-hand turn off of Kirkwood Highway since the trees on Porter’s property had not been cut down ahead of time. He requested that the City get agreement from Porter to get that done as soon as possible.

Ms. Sierer

- Had a very successful Main Street Mile thanks to Nic of Fusion Fitness, his staff and volunteers.
- Had third monthly first Friday bike ride and every time there were more people and all age groups.
- Congratulated Ms. Hadden for her certificate of completion – it was dedication to be taking all these classes.

12. 3. ITEMS NOT FINISHED AT PREVIOUS MEETING: None

13. 4. APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS

- A. Reappointment of Kevin Hudson to the Board of Adjustment for a Four-Year At-Large Term to Expire September 15, 2020

46:52

Ms. Sierer said Mr. Hudson lived in the Newark community for 37 years. He was a member of the Board of Adjustment for seven years and wished to continue to serve the City in that capacity.

There was no public comment.

MOTION BY MS. SIERER, SECONDED BY MS. HADDEN: TO REAPPOINT KEVIN HUDSON TO THE BOARD OF ADJUSTMENT FOR A FOUR-YEAR AT-LARGE TERM TO EXPIRE SEPTEMBER 15, 2020.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.

Nay – 0.

14. 5. SPECIAL DEPARTMENTAL REPORTS:

- A. Special Reports from Manager & Staff:

1. The Big Jump Application – Megan McNerney, Community Affairs Officer

48:34

Megan McNerney offered a PowerPoint presentation about The Big Jump application. The City was currently in the process of filling out this application and part of it was getting support from the public, local leaders and the Mayor and members of Council. The Big Jump was run by the national organization *PeopleforBikes* which did initiatives and projects across the country to make biking more of an everyday thing in people's lives. This specific project was a strategic three year effort to increase biking, and ten cities would be selected across the country out of almost 100 cities applying.

The purpose of The Big Jump was to put bikes at the center of connecting people to the places where they live, learn, work and play.

The benefits of The Big Jump – the City would get a leadership support program. Representatives from the *PeopleforBikes* organization would come to Newark, work with The Big Jump team and would offer support with travel, taking them to different conferences, provide technical support and access to meetings and workshops. Ms. McNerney attended the Pro Bike Pro Walk Pro Place conference in Vancouver a few weeks ago where there were different ideas about place making and different biking initiatives – those opportunities would be available if Newark was selected for this program. There would also be community outreach and community assistance, small target grants for activities and national media exposure.

The goals and objectives of The Big Jump as stated by the *PeopleforBikes* organization were:

- Significant increase in bike use over a three year period – that could double or triple if the City would do this the way they think it could be done.
- Reduction in serious crashes – the goal of the organization was to have zero bike fatalities and limited bike accidents as part of this program.
- Improved perception of bicycle use and safety – sometimes perception was reality.
- Greater access to jobs and schools to get people where they need to go as quickly as possible.
- Improved community health and positive environmental impacts.

What it takes to get this project off the ground:

- On-the-ground infrastructure
- Smart outreach
- Community engagement and support

The City of Newark application was currently in the draft stages. They wanted a focus area, but they would focus on the entire City. Places as large as Philadelphia and Boston were applying for this and were obviously much bigger than Newark. Ms. McNerney said the thought was that the whole City of Newark could be the focus area, and changes could be made across the board. They were highlighting Newark's strengths – from attendance in bicycling events as noted by Ms. Sierer, the first Friday rides, commitment to bicycle safety, low-stress bicycle infrastructure plans that were already in the works,

robust partnerships with the different biking organization already in the City and a vibrant community including the students that could get involved in these programs.

Potential projects already in the works for the City that could be grouped in to this program:

- Protected bike lanes
- Buffered bike lanes
- Bike boulevards
- Bicycle-specific traffic signals
- Bike share program

Specifically, they were talking about the Delaware Avenue cycle track, the two-way bicycling on Delaware Avenue, a bike lane on Apple Road, the bike share program that was in talks at the University of Delaware and bike-specific traffic signals that were also in talks.

As part of this application, the City was required to have a Big Jump Leadership Team and City staff and elected officials were a vital part of that team. The team would also include different organizations from around the region including the Newark Bicycle Committee, the Newark Bike Project, DelDOT, Newark Police Department, Downtown Newark Partnership, stores Wooden Wheels and Newark Bike Line. Ms. McNerney hoped to get anybody on board who had anything to do with biking or support biking to show the organization that the City meant business and would be able to make a difference if Newark was selected for this project.

The application was due on October 28 and awardees would be notified in early January 2017. The support and backing of Council was requested. They needed to submit letters of support with the City's application and would be greatly appreciated.

Ms. Sierer was involved in this process and believed it was a great opportunity for the community. She thought Newark had a great chance to be awarded. She hoped Council members would be interested in sending their support via a letter and encouraged letters. She asked that anyone who was interested reach out to Ms. McNerney.

Mr. Morehead would be happy to write a letter but asked it made more sense for Council to unanimously approve some sort of resolution to express their support directly. Ms. Sierer thought it was important that Council vote tonight because that was part of the application process.

The Chair opened the discussion to the public.

Susan Grasso, District 4, hoped Council would move forward with an application for The Big Jump Program offered by *PeopleforBikes*. She believed Newark was an ideal candidate for the project. It had a favorable climate and topography, had an appealing physical layout with a vibrant downtown, a beautiful classic college campus contiguous to one another, great proximity to local and regional public transportation and a supportive State Department of Transportation. She thought The Big Jump project would help the City safely fit bicycles into the transportation system so that all users of the roads would feel confident and comfortable when using them. She believed the community would be an even better place to live when anyone could easily get anywhere by bicycle because it would help to replace car trips with clean and quiet bike trips which created more opportunities for people to connect out on the street, and she thought those connections were essential to a community.

Steven Hegedus, District 3, rode his bike around Newark for 35 years, rode to work every day despite the weather, rode to Main Street and on Main Street. When he tried to encourage people to do more biking he always heard they would like to ride their bikes more but they were afraid. They did not trust the cars, inattentive driving and that sort of thing. As Ms. McNerney stated, perception was important – if people did not feel safe regardless of what you told them, they would not ride. He agreed with Ms. Sierer that Newark had a very strong partnership already which was what they were looking for between the City staff, the Police, the Newark Bicycle Committee, the Bike Project and the bicycling community here. He thought Newark was a good candidate and hoped Council would support this going forward. It was the type of thing that could take the City to that next step and make Newark a very bike-able City. He thanked Council for their vote last week to keep the Newark Bike Committee functioning in its current form. It was a good partnership and he thought it was a very effective group who got things done because of all the people being in the same room at the same time. He never saw a conflict of interest – he saw convergence of common interests.

Joel Schwaber, a UD graduate, lived in close proximity to the University for several years. He said bicycling to work was part of his life since he was an undergraduate and still was today. He realized that

even though Newark had many facilities, there was always room for growth and more riders in the City. He thought the proposal was a great idea.

John Morgan, District 1, lived in Newark for 35 years. He did not disagree with anything that was said so far and thought it was a good idea to apply for the grant. He also felt that a lot more should be done to improve the safety of the sidewalks around the border of the UD campus and the campus walkways. Observing at night, there were lots of young people riding bikes without lights which he believed was illegal. He also witnessed a lot of inattentive bicycle riding by young people when instead of focusing on what was ahead of them, they were looking at their electronic devices. He thought the University should require all students to register their bikes. In order to do so there should be a bicycle safety course where they learned safe biking practices, were required to have headlights, etc. He thought it was a serious problem to be addressed soon, regardless of whether or not this grant was successful.

Joel Schwaber said it was illegal to ride a bike without any lights or to operate without reflectors. The Newark Bike Project had a grant to give out free bike lights and exhausted their supply. He did not agree that Dr. Morgan's suggestions would help grow bicycling or sustainable transit or reduce traffic. He personally felt there were more pressing problems and said everybody had a certain responsibility for their own personal safety and to follow the law. They could be ticketed by the police for violating the law.

The discussion was returned to the table.

Mr. Markham supported applying for the grant but pointed out that Council did not have a resolution in front of them tonight. He asked if the suggestion was to come back to Council with a resolution for a formal vote.

Ms. Hadden supported the application 100%.

Ms. Wallace supported doing what we could for bicycles in the City but asked what applying for this grant obligated the City to. Ms. McNerney responded there was no financial obligation. *Peopleforbikes* was willing to offer about \$250,000 worth of services per year for three years or a total of \$750,000. This was the first year they had done this. There would be ten different cities selected and no two cities would have the same program. Ms. Wallace asked if staff would come back at a later time with suggestions – Ms. McNerney said many of the projects that would be included in the application were already projects in the works. This would help Newark get a boost on getting them done a little quicker or more efficiently.

If Newark was chosen (awards would be announced in January 2017), staff would work with the *peopleforbikes* organization through the winter to determine how to move forward, and those plans would then be presented to Council.

Council members expressed no objections to proceeding with this application.

15. 6. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Request to Waive the Bid to Purchase Used Street Sweeper from Bridgeville

1:05:36

Mr. Coleman presented the request to waive the bid to purchase a used street sweeper from the Town of Bridgeville. Staff was contacted by the town regarding a 2007 street sweeper which was the same model sweeper body on a different chassis as the City's current model that had very few hours (600 vs. 9,700) and very few miles (53,000 vs. 242,500). The City's current chassis was manufactured in 2003 and was discontinued and over the last five years since the City pushed off replacing it initially, over \$78,000 worth of repairs were performed to the body alone. It was in desperate need of replacement.

The City had an agreement with the Town of Bridgeville assuming Council and Bridgeville approved this recommendation tonight to purchase the unit for \$75,000. In the process the City would retain its existing unit and the \$78,000 worth of improvements done to it for parts that could be swapped off as things failed on the new unit over time.

Ms. Wallace commented in her short time on Council she saw a lot of requests to waive the bid. In this situation it seemed warranted but she wanted to point out she was not generally comfortable with the concept. Mr. Coleman pointed out that they reached out to some manufacturers for prices of new equipment. To purchase a new version of what the City had now would be about \$260,000.

Mr. Morehead commended Mr. Coleman for looking at good used equipment rather than always going with new. It was good to see the City doing it when it made sense to do so. In regard to Ms. Wallace's

concern, Mr. Morehead said the law was there for a reason as she was aware. The law had several situations where, when it made sense, Council had the ability to waive the quoting requirements in public.

Mr. Markham asked whether there was a network for sharing information with the other cities regarding equipment and other ways in which they could help each other out. Mr. Coleman said this proved to be a useful process and had come through the League of Local Governments. Mr. Markham suggested that they establish that network now to be prepared for future needs.

There were no comments from the public.

MOTION BY MR. MOREHEAD, SECONDED BY MR. RUCKLE: THAT COUNCIL WAIVE THE BID PROCESS AND PURCHASE A USED 2007 INTERNATIONAL 4200 CHASSIS, SCHWARZE A7000 STREET SWEEPER FROM THE TOWN OF BRIDGEVILLE PENDING APPROVAL OF THE CONTRACT BY BRIDGEVILLE'S TOWN COUNCIL FOR THE AMOUNT OF \$75,000.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.
Nay – 0.

16. 7. **FINANCIAL STATEMENT:** None

17. 8. **ORDINANCES FOR SECOND READING & PUBLIC HEARING**

A. **Bill 16-26** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Clarifying the Procedure for Making Residential Density Determinations

1:11:17

Ms. Bensley read Bill 16-26 by title only.

MOTION BY MR. RUCKLE, SECONDED BY MR. MOREHEAD: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 16-26.

Ms. Feeney Roser summarized the ordinance on how to codify residential densities for Zoning Code and Comp Plan compliance. At present and as far back as she was able to research, the Planning and Development Department used standard math in rounding whole numbers. In other words if the per acre density of a development resulted in a fractional number that any fraction under one half was disregarded, and any fraction one half or higher was rounded to the next highest whole number. For example, if a development calculated to 10.4 units per acre they called it 10 units per acre. If on the other hand it calculated to 10.6 units per acre they called it 11.

When considering the Barksdale Green project which calculated to 10.1 units per acre a member of the Planning Commission questioned the appropriateness of the department's rounding practice and asked if it were codified. As it turned out the Code was silent on the matter of rounding and therefore rounding was simply an administrative practice of the department.

The Solicitor was consulted and he opined that while the long-standing practice of using standard rounding to determine density should apply to that particular project under review, going forward the practice of rounding should be codified. As a result the department drafted a Zoning Code amendment codifying the standard rounding practice that was used. At the August meeting the Commission reviewed the amendment and decided that instead they should not round down but only up when dealing with densities. In other words when a calculation for the purposes of density per acre results in a fractional unit, any fraction shall be rounded to the next highest whole number. From the earlier example both 10.4 and 10.6 would result in 11 units per acre. The Department did not object to this alternative approach to calculating density and were happy to have any practice codified so they could follow the Code. They thought it was a bit counter intuitive though so they would want to make sure that if Council was to agree with this and adopt the ordinance that they would be very clear to applicants and to the public from the very beginning how density in Newark was calculated.

Mr. Morehead's interpretation of the zoning laws was when it said up to a certain number that it rounded to zero. Ms. Feeney Roser said that was the point the Commission was making. He liked this way of doing it.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT SECTION 32-53 BE AMENDED TO INCLUDE A DENSITY CALCULATION WITH THE WORDING "DENSITY CALCULATION TO DETERMINE COMPLIANCE WITH COMPREHENSIVE DEVELOPMENT PLAN AND ZONING CODE. WHEN THE CALCULATION OF UNITS PER ACRE FOR PURPOSES OF DENSITY RESULTS IN A FRACTIONAL UNIT, ANY FRACTION SHALL BE ROUNDED TO THE NEXT HIGHEST WHOLE NUMBER."

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.
Nay – 0.

(ORDINANCE NO. 16-30)

18. 8-B. AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING THE COURT SECURITY FEE AND REMOVING THE SUNSET PROVISION

1:16:11

Ms. Bensley read Bill 16-27 by title only.

MOTION BY MS. HADDEN, SECONDED BY MR. RUCKLE: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 16-27.

Mr. Haines reported that this bill was discussed last week at the budget workshop. In summary, three years ago when this was put into place it was not established, there were questions of how it would be applied and whether it would be effective. Three years later they were fighting the sunset provision of this that would eliminate it by the end of the year and providing some feedback on the effectiveness from the previous Court Clerk and from Judge Hatfield and the effectiveness that the bailiff provided to the Court operations. A few challenges were outlined using the third party provider for the bailiff services, and it was staff's recommendation to be able to increase the fee to \$10 over the \$5, eliminate the sunset provision and incorporate that as a permanent regular part-time civilian employee within the City to provide those services to the Court and provide the opportunity for revenues to do additional security enhancement to Court operations not fully realized that were provided in response to the review from the U. S. Marshall's office of the Court. The bailiff provided an escort to the judge after Court to his or her car, so those were certain features this would provide consistency on in order to meet the intent of where the U. S. Marshall's reported wanted Newark to be for safety.

Mr. Morehead commented that in the budget material he saw a proposed number this would amount to – Mr. Haines estimated an additional \$40,000.

Ms. Wallace asked what would happen if someone was unable to pay their Court fee. Mr. Haines said that was worked out between the individual and the judge. The judge was able to make payment arrangements and had done so over the years.

The discussion was opened to public comment.

Rob Gifford, District 3, referred to when Council voted on this initially and asked if anyone remembered the discussion around the sunset provision – was it that the City would just raise enough money for security improvements. Mr. Chapman thought his comments were somewhere along the line if this made sense now, just do it. It felt silly to him to have a sunset provision, but he did not remember what everyone else said. Ms. Houck said it was three years ago and she thought because it was so new and the City had never had a bailiff. If she recalled correctly the sunset provision was included so Council could revisit it, take a pause and see how it went and whether it was beneficial. That was what was heard from the Court operations and was something they were benefitting from. It was primarily for the bailiff and some other improvements made to the facility itself.

AMENDMENT BY MR. MOREHEAD, SECONDED BY MR. RUCKLE: TO INCLUDE THE WORD "COURT" IN THE LAST SENTENCE TO SAY "RESERVED FOR EXPENDITURES RELATED TO COURT SECURITY IMPROVEMENTS."

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.
Nay – 0.

MOTION BY MS. HADDEN, SECONDED BY MR. RUCKLE: THAT BILL NO. 16-27, AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING THE COURT SECURITY FEE TO \$10 AND REMOVING THE SUNSET PROVISION, BE APPROVED AS AMENDED.

MOTION PASSED. VOTE: 6 TO 1.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer.
Nay – Wallace.

(ORDINANCE NO. 16-31)

19. 8-C. BILL 16-28 – AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING THE FINE STRUCTURE FOR CELL PHONE VIOLATIONS TO MATCH THE STATE OF DELAWARE FINE STRUCTURE

1:23:28

Ms. Bensley read Bill 16-28 by title only.

MOTION BY MR. RUCKLE, SECONDED BY MS. HADDEN: THAT THIS BE THE SECOND READING AND PUBLIC HEARING OF BILL 16-28.

Mr. Herron reported this was a proposed amendment recommended by the Police Department to raise the City's fines for use of a cell phone while driving so that the City matched the recent increase in the state law.

Mr. Morehead pointed out this typically was called housekeeping.

The Chair opened the discussion to the public.

John Morgan, District 1, asked if it was illegal to use a cell phone while riding a bike on a City street. Mr. Herron would get back to Dr. Morgan.

Rob Gifford, District 3, asked if this ever reset – once the first ticket was received, would additional offenses always be counted as a second offense for the rest of someone's life. It was a rather large number for the second offense every time. Mr. Herron said as written there was no time limit so it was for the rest of your life. Mr. Gifford did not know if Council wanted to consider an expiration at some point.

MOTION BY MR. MOREHEAD, SECONDED BY MS. HADDEN: THAT BILL 16-28 BE APPROVED TO AMEND CHAPTER 20, MOTOR VEHICLES, CODE OF THE CITY OF NEWARK, DELAWARE, BY INCREASING THE FINE STRUCTURE FOR CELL PHONE VIOLATIONS TO MATCH THE STATE OF DELAWARE FINE STRUCTURE.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.
Nay – 0.

(ORDINANCE NO. 16-32)

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

- A. Request of Church of Nazarene for a Minor Subdivision to Insert a Lot Line Between the Existing Assembly Hall Building and the Existing Church Building on the Site to Create Two Lots at the Property Located at 357 Paper Mill Road (*Subdivision Agreement and Resolution Attached*)**

1:26:57

Michael Hoffman, Esq., reported this was a proposed minor subdivision to facilitate the sale of a to-be-created lot. There was no new development proposed as part of this plan. Representatives from both churches were present as well as the project team.

The property was slightly under seven acres of land and contained two existing structures. Mr. Hoffman referred to a PowerPoint presentation showing the one area which was in unincorporated New Castle County and the subject property located in the City of Newark. The property was currently owned

by the Church of Nazarene which occupied the front structure which was the church hall. They leased to Grace Church the back assembly hall space.

The proposal was to subdivide the property into two lots. After the property was subdivided, Grace Church would occupy the church hall and own lot 2 while the Church of Nazarene would occupy the existing assembly hall and own lot 1. When the property was subdivided, lot 1 would be about 5.6 acres while lot 2 would be about 1.4 acres of land. These were two legal lots as required by Code, so both lot 1 and lot 2 would have the Code required parking. Lot 2 would have 72 spaces designated to its use, lot 1 would have 108 spaces designated to its use.

In order to make both lots legal lots a variance request was submitted to the Board of Adjustment from the maximum lot coverage requirement. The lot currently allowed only a 50% lot coverage. They sought and obtained a variance to increase that to 55% to make lot 2 Code compliant. There would be an easement or a declaration of cross easements to allow cross access through a common driveway. There were also utilities that ran through the property for which there would be associated easements. Stormwater management was currently handled primarily in the back corner and maintenance responsibilities and use would be addressed through that declaration of cross easements.

Mr. Markham asked for confirmation that there were no development plans. Mr. Hoffman said not through this plan and he was not aware of any future development plans right now. Mr. Markham noted there had been rumors before about developing the back property along with the County property and asked if that was in the works today. Mr. Hoffman said no and Mr. Markham was correct that the property owned by the Church of the Nazarene had been marketed as a whole for sale or development. Mr. Hoffman referred to the PowerPoint and said the piece was also owned by the Church of Nazarene but it was located within unincorporated New Castle County. What they actually ended up coming down to was the Grace Church needed its own worship space and the conclusion for selling the property for development as it was marketed was to come before Council to subdivide the property and so Grace Church purchased a piece of the property toward the front and occupied it.

As far as development and having this be a property that was primed for development, typically was contrary to common practice to subdivide and sell a developable or a prime developable piece of the property if, in fact, that was the intent. He did ask that question of the Church of Nazarene and was informed there were no current plans for development.

Mr. Markham asked if there was an agreement for the driveway. Mr. Hoffman confirmed there was and it was reviewed and approved by the City Solicitor. Mr. Markham referred to an agreement for maintenance of the grassy area which was important to the City's drinking water supply. Mr. Hoffman said in fact there was double protection – actually back in 2001 when the Church of Nazarene did some improvements to the property and that carried with it an agreement with the City that required them to maintain the stormwater management facility. In the event that they did not maintain the stormwater management facility they gave the City the right to come upon the property and maintain it for the property owner. That agreement was still intact. It was referenced in the declaration of cross easement as far as still applying, and the declaration itself reinforced this concept of (a) requirement for maintenance, but (b) allowing the City to step in and conduct maintenance if necessary. Mr. Markham assumed there were restrictions on what could be built there in the stormwater area. Mr. Hoffman said the facility had to be maintained as is and could not be interfered with.

Mr. Markham thanked the Church for allowing the City to use it as a polling place and for letting them hold meetings there.

Mr. Morehead asked if the agreement that allowed the City to do the work if necessary also allowed the City to bill and place a lien on the property if needed. Mr. Hoffman confirmed that was correct.

There were no public comments.

MOTION BY MR. MARKHAM, SECONDED BY MR. RUCKLE: THAT THE REQUEST OF THE CHURCH OF THE NAZARENE BE APPROVED FOR A MINOR SUBDIVISION TO INSERT A LOT LINE BETWEEN THE EXISTING ASSEMBLY HALL BUILDING AND THE EXISTING CHURCH BUILDING ON THE SITE TO CREATE TWO LOTS AT THE PROPERTY LOCATED AT 357 PAPER MILL ROAD.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye: Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.

Nay: 0.

(RESOLUTION NO. 16-X)

21. 10. ITEMS SUBMITTED FOR PUBLISHED AGENDA
A. Council Members: None

22. 10-B. OTHERS: None

23. 11. APPROVAL OF CONSENT AGENDA

1:35:16

Ms. Bensley read the Consent Agenda into the record.

- A.** Approval of Council Minutes – September 26, 2016
- B.** Receipt of Alderman’s Report – September 26, 2016

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: THAT THE CONSENT AGENDA BE APPROVED AS PRESENTED.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Chapman, Hadden, Markham, Morehead, Ruckle, Sierer, Wallace.
Nay – 0.

24. Meeting adjourned at 8:42 p.m.

Renee K. Bensley
Director of Legislative Services
City Secretary

/av

REMARKS ON PARKING RATES BY JOHN MORGAN AT THE NEWARK CITY COUNCIL MEETING (OCTOBER 10, 2016)

I attended the City Council meeting on October 3 devoted to our city's budget for 2017. I'd like to begin by expressing my agreement with Mayor Sierer's comment that it is now time to re-examine our city's parking rates, which have not been changed in the past dozen years, with Councilwoman Wallace's comment that the City should not discourage people from driving downtown to do some quick shopping by charging them for a full hour if they have parked in a City lot for less than half an hour, and with Councilman Markham's comment that more be done to encourage people to drive downtown to patronize restaurants or transact business.

The counts of vacant parking spaces in City-owned lots made by Katie Gifford and me since the middle of June have revealed that Lot #1 usually had many vacant parking spaces throughout the summer, but after the beginning of UD's fall semester in late August it was often very nearly or completely full during the days Monday through Friday. There is plenty of anecdotal evidence from recent years which confirms the result of a survey conducted in 2001 that almost half the people who park in Lot #1 are going to UD's campus, not to the businesses on Main Street. It is easy to understand why, since UD's parking permits cost several hundred dollars per year and it costs \$2/hour to park in UD's parking garages, but only \$1/hour to park in the City's parking lots. As long as it is much less expensive to park in Lot #1 than in UD's parking garages, many UD students will continue to park in Lot #1, which makes it much harder for patrons of Main Street businesses to find parking there during the daylight hours from Monday through Friday during the regular semesters. The proposal by the City's staff to continue to charge people \$1 per hour to park in Lot #1, but to eliminate the charge of only 50 cents to park there for up to half an hour, will do nothing to discourage UD students from parking in Lot #1, but it will discourage people from driving downtown to make quick shopping trips in Main Street businesses. It would be much better to raise the rate for parking in Lot #1 to \$1 per half-hour from 8 AM until about 6 PM, Monday through Friday, during the fall and spring semesters. This would match UD's hourly rate, but would not be unduly expensive for people who want to transact business within a half-hour on Main Street. The rate could be left where it is now on evenings and weekends and throughout the summer, so as not to discourage people from driving downtown to patronize Main Street businesses when Newark is half-empty because most of the students are away.

Of course, it wouldn't make sense for parking at meters along Main Street to be much less expensive than off-street parking in City lots, so the rates for parking at meters along Main Street should also be raised to at least \$2/hour between 8 AM and 6 PM, Monday through Friday, during the fall and spring semesters. The rates can be left unchanged from their present values during evenings and weekends and throughout the summer.

The same should be done for parking at the meters along Amstel Avenue, which is even further from Main Street businesses. In the fall and spring semesters, during the 15-minute intervals between class periods, there usually is considerable traffic congestion along Amstel Avenue, as students who have classes nearby park at the meters there. They do so because it would cost them \$2/hour to park in the Roselle Center's parking garage half a block away, but it costs only \$1.25/hour to park at the meters along Amstel Avenue. The bad traffic congestion near the intersection of Amstel Avenue and Orchard Road, with some students pulling out of parking spaces into the road, while other students try to parallel park their cars, while still other students dash across the intersection or jaywalk nearby, results in a dangerous situation. Raising the rates to park at the meters along Amstel Avenue from 8 AM to 6 PM Monday through Friday would motivate students to park their cars instead in UD's nearby parking garages, and thus would alleviate much of this congestion and reduce the likelihood of accidents happening there.

I hope you find these remarks helpful as you consider how to construct our city's budget for 2017. Thoughtfully adjusting the rates for off-street parking in City lots and at meters along Main Street and Amstel Avenue at times of higher usage can not only help balance our city's budget, but also alleviate the ongoing problems we have experienced with traffic congestion and difficulty finding parking places.