

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

February 10, 2020

Those present at 7:01 p.m.:

Presiding: Mayor Jerry Clifton
District 1, James Horning
District 2, Sharon Hughes
District 4, Chris Hamilton
District 5, Jason Lawhorn
Deputy Mayor Stu Markham, District 6

Absent: District 3, Jen Wallace

Staff Members: City Secretary Renee Bensley
City Solicitor Paul Bilodeau
Assistant to the Manager Jeff Martindale
Parks and Recreation Deputy Director Paula Martinson-Ennis
Planning and Development Director Mary Ellen Gray
Code Enforcement Officer Tim Poole
Planner II Tom Fruehstorfer
Public Works Water Resources Director Tim Filasky

1. Mr. Clifton called the meeting to order at 7:01 p.m.

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

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

00:43

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: THAT COUNCIL REMOVE ITEM 5C, ADDITIONAL SCHOOL RESOURCE OFFICER POSITION – NEWARK POLICE DEPARTMENT, FROM THE AGENDA.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

Sheila Smith, on behalf of the Conservation Advisory Commission, had nominated Carol Post, 69 Kells Avenue, as the recipient of A Better Newark Award. Ms. Smith explained that the CAC had been bestowing the A Better Newark Award for over 25 years and had been originally created to recognize property owners, homes, and businesses for improving the appearance of their properties. She stated that in the 1990's, the criteria expanded to recognize water and energy conservation measures which included rain barrels, insulation, and solar panels, as well as environmentally beneficial landscaping. Ms. Smith said that Ms. Post had created an extensive, certified backyard habitat by landscaping with a wide variety of native trees, shrubs, and perennials, including a large organic garden with composting bins and a pond. She stated the home was a favorite stop on the Newark Arts Alliance Garden Tour and explained that Ms. Post partnered with the Christina River Watershed 'Catch the Rain Program' and installed a rain garden and replaced her asphalt driveway and concrete walk with pervious pavers. Ms. Smith revealed the improvements helped to reduce rainwater runoff to protect streams, allow for groundwater recharge, protect the river, provide habitat for native species, and were aesthetically pleasing.

Mr. Markham read the A Better Newark Award proclamation and Mr. Clifton presented Ms. Post with the A Better Newark Award. Mr. Clifton thanked the CAC for their work and remarked that Ms. Post's property was beautiful. He thanked her on behalf of Council, staff, and the CAC for her conservation efforts.

Ms. Post stated that her husband, Steve Dentel, had been the longtime chair of the CAC and had helped her install the vegetable garden. She accepted the award on behalf of his memory.

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) (3 minutes)

7:14

Caitlin Olsen, UD Administration, wanted to clarify and expand on the comments made during the Joint Finance Committee Hearing. She thought they may have been misinterpreted as critical of the efforts being made to prepare students to succeed at the collegiate level. She remarked on the concern of the legislators about the percentage of UD undergraduates from Delaware. She claimed that nearly 90% of the Delawareans who applied as first year students were admitted to either the Newark Campus or an Associate in Arts Program (AA) and stated the out-of-state acceptance rate was 68%. She disclosed UD had a total of 7,480 Delawareans currently enrolled as undergraduates, an increase of 16% over the last decade. She asserted that all Delawareans were welcomed to enroll at UD and the University was actively engaged in working with the Education Department to prepare more Delawareans for college success. She noted that each college had a center and programs dedicated to supporting Delaware public education and claimed that UD's Professional Development Center for Educators aided schools throughout the State to improve classroom instruction, teacher qualifications and administrative resources. She indicated UD had partnerships with K-12 schools throughout the State and non-profits to improve education for all students. She explained that high school pipeline programs, preparation programs for incoming students, and advising services helped students succeed and graduate. She said the Early College Credit Program was the latest effort in accelerating access to UD by providing free college courses to eligible juniors and seniors in every Delaware high school. She declared that enhancing opportunities for access was a priority and UD's AA program was available in all three counties and enabled guidance and support to get students on the path to earn a UD bachelor's degree. Ms. Olsen offered to send Council statistics on Delawarean admissions and rates over the years versus out of state.

Mr. Hamilton asked for clarification on the 90% Delawarean rate and Ms. Olsen explained that the students were either accepted at UD's main campus or the AA program at the Del Tech facilities with UD instructors and UD program. She stated the degree was from UD and could be used to earn a bachelor's degree during the third and fourth year. Mr. Hamilton asked how many Delawareans were accepted into the regular program. Ms. Olsen replied that of the 3,746 first-time, first-year admissions for the 2018 academic year who applied for the Newark campus, 2,449 were offered admissions to the Newark campus. She explained there were two additional categories: students who applied to main campus and would be better served at other campuses, and students who applied directly to the AA Program because SEED funding from the State helped cover most of the funding. Mr. Hamilton asked if UD had enough time to determine how many AA students made it to the main campus to finish a bachelor's degree and Ms. Olsen said she would send him the information. Mr. Hamilton thought if 90% of the AA students earned a BA then it should be noted as a success but if the program culled students and then did not earn a BA, he did not think it made sense to include the numbers in the "accepted" statistics.

Mr. Markham read an article that pointed out the lack of preparedness and asked if she would return with UD's official statement on the students coming out of K-12.

Mr. Horning asked if she could forward her comments to Council and she confirmed she would do so. He revealed that teachers in District 1 were insulted by the comments and looked forward to UD's follow up comments. He acknowledged that UD did reach out to local city schools with the HERO program to earn free football tickets and the Bookworm Program.

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

6. 1-C. **CITY MANAGER (2 minutes):** None

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

16:50

Mr. Hamilton:

- Noted the lack of student representatives present at the meeting on the first day back from winter break.
- Thanked the Electric Department for fixing a downed line on Sunset and Public Works for clearing downed trees on the area streets of Grantham, Beverly, and Winslow.

Mr. Markham:

- Noted the storm drains continually had debris and asked to trace the source to prevent clogs.
- Asked Ms. Bensley for the election updates as the filing deadline had passed. Ms. Bensley said that there were races in Districts 3 and 5 and District 6 only had one filed candidate because another withdrew. Per City Code, the District 6 candidate would be named by the Board of Election as the winner of the race and be sworn in at the April 23 Organizational meeting. She notified Council that Districts 3 and 5 would have an election on Tuesday, April 14, polls would be open 7 am to 8 pm, and the polling places were on the agenda for approval. She said that the information would be posted as soon as Council approved and indicated that absentee ballots would be available shortly. She was aware that the election fell during a holiday week and expected an increase in absentee ballots.
- Encouraged the District 6 candidate to talk to constituents to gain a better view of representation.

Mr. Horning:

- Thanked Communications staff and PWWR for proactive measures during the last storm.

Mr. Clifton:

- Acknowledged the work by staff to avoid flooding and addressing the flooding on Julie Lane with a long-term plan.
- Noted that the City Manager and PWWR were working on a final game plan for Abbotsford Lane and additional areas.
- Stated Senator Jack Walsh and Representative David Bentz would host a meeting on February 11 at 6:30 pm at Robert S. Gallaher Elementary School with representatives from the Delaware Election Commission to discuss the new voting booths. Mr. Clifton said they were the same booths used in the school elections last year.

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

23:19

Nick Wasileski, District 3, stated he attended a DNREC event where he learned FEMA was going to recalculate the floodplain for Newark, the results of which were available on January 22. He stated that the FEMA publication declared the map to be a 1 in 500-year flood event map. He listed the number of homes in the new floodplain map and their locations. He suggested that over-development of the floodplain areas in the City contributed to the rise in the floodplain. He understood that there were three legal criteria for development and if a builder met the criteria, Council could not say no. He suggested adding a fourth criteria regarding whether new building and new impermeable surfaces added to the floodplain risk.

The Mayor returned the discussion to the table.

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

- A.** Approval of Council Meeting Minutes – January 27, 2020
- B.** Receipt of Planning Commission Minutes – December 3, 2019
- C.** Receipt of Planning Commission Minutes – January 3, 2020
- D.** Approval of Polling Places for the April 14, 2020 Council Elections
- F.** Approval of Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark For the Purchase of a DOD/ATF Approved 20’x8’x8’ Explosives Magazine for Ammunition and Target Storage
- H.** ***First Reading – Bill 20-07 – An Ordinance Amending Chapter 31, Weapons, Code of the City of Newark, Delaware, By Deleting Provisions Regarding Stun Guns and Taser Guns to Comply with Delaware Code Acres – *Second Reading – February 24, 2020****

28:50

Mr. Horning requested items 2E and 2G be removed from the consent agenda for further discussion. Ms. Bensley read the remaining consent agenda items into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: TO APPROVE THE CONSENT AGENDA AS READ INTO THE RECORD WITHOUT CONSENT AGENDA ITEMS 2E AND 2G.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

10. 2-E. APPROVAL OF RECOMMENDATION TO WAIVE BIDDING IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF AND INSTALLATION OF CIVICREC RECREATION MANAGEMENT SOFTWARE FOR CIP I1703

30:32

Mr. Horning asked if the CivicRec Recreation Management Software integrated better with the rest of the software systems. Mr. Martindale confirmed and explained that CivicRec was part of CivicPlus, which ran the City website. Mr. Horning asked if the costs offered the City any chance to reallocate labor resources or opportunity cost savings. Mr. Martindale explained the current system, MaxGalaxy, was bought out by another vendor and was no longer supported and was not PCI compliant. He revealed that staff had been looking for a new system since 2017 and wanted to move forward with the purchase to be compliant. Mr. Horning asked if part of the funding would be from increasing Parks and Recreation program fees and asked if it was to be paid by people using the programs. Mr. Martindale confirmed that it was an increase of \$4,654 per year and raised the annual price from \$7,293 to \$11,947. Mr. Horning asked what the impact would be on individual program fee and Ms. Ennis estimated there were 7,000 participants registered annually for programs and calculated one to two dollars as an increase in fees. Mr. Martindale added that CivicRec's credit card processing fees were 1.99% per transaction versus 2.6% of other vendors which would have been extended to residents.

Ms. Hughes asked if staff was purchasing two credit card readers to be the primary source of paying fees and Mr. Martindale explained that it allowed for additional methods for staff to take payment. Ms. Ennis stated the credit readers made the City PCI compliant so staff would no longer be physically handling customer credit cards. Ms. Hughes asked what PCI complaint was and Mr. Markham answered it was Payment Card Industry and Data Security Standard. Ms. Hughes asked if there was a fee if the City was not involved in handling the cards and Mr. Martindale reiterated there would be a 1.99% transaction fee per swipe, but staff would not be physically handling the cards.

Mr. Horning asked if staff budgeted \$88,500 and Mr. Martindale confirmed for the CIP. Mr. Horning asked why the user fees were increased and Mr. Martindale answered it was to sustain the cost over time because it was an on-going annual fee. Mr. Horning asked if there were scholarships for attending camps and how much the amounts were depleted each year. Ms. Ennis answered there were two scholarships; one through the Community Development Block Grant called the Fee Assistance Program, specifically for Newark residents, and the James Hall Scholarship Program for residents and non-residents based on annual income. She revealed that the resources were never exhausted in the years the City had applicants.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH CITY CODE FOR THE PURCHASE OF AN INSTALLATION OF CIVICREC RECREATION MANAGEMENT SOFTWARE IN THE AMOUNT OF \$21,450 AS WELL AS AN ANNUAL FEE FOR 2020 OF \$11,947.50 ALONG WITH A ONE-TIME PURCHASE OF \$998 FOR TWO ADDITIONAL CREDIT CARD READERS FOR THE MUNICIPAL CENTER PARKS AND RECREATION OFFICE IN THE GEORGE WILSON CENTER.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

11. 2-G. APPROVAL OF RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF ELECTRIC VEHICLE SUPPLY EQUIPMENT (CHARGING STATIONS)

38:57

Mr. Horning asked if the intent was to impose a fee for charging vehicles. Mr. Martindale confirmed and explained the City wanted to recoup the electricity used, the cost of the infrastructure installation, and the revenue lost from using parking spaces for the chargers. Mr. Horning asked if Tesla and NUVVE chargers were unsuitable for the City's needs and Mr. Martindale explained that NUVVE was not compatible with the fleet and Tesla moved from a free model charge to more costly installations that were geared toward Tesla vehicles and not compatible with the City's fleet.

Mr. Markham remarked that the Tesla chargers could be used with adapters for other brands and asked if ChargePoint had the ability to adapt with fast-charge and the universal charge. Mr. Martindale replied no and explained the DC fast charge was a level two charger which were consistent with most other chargers, including some of Tesla's other non-DC fast charging station. He said they would be compatible with Tesla models because Tesla typically gave consumers an adapter cord to use on a

universal cord to connect to the car. Mr. Markham remarked that the City was ending up with a benefit by breaking even and not subsidizing charging cars or using tax dollars. Mr. Martindale stated it was a tentative decision and staff would be open to discussing other directions once they reached the implementation stage of the project. Mr. Markham asked if the City qualified for the rebate through the State and Mr. Martindale confirmed.

Mr. Hamilton appreciated that staff decided to implement a fee for charging.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF ELECTRIC VEHICLE CHARGING STATIONS FROM LILYPAD EV OF OVERLAND PARK, KANSAS, IN THE AMOUNT OF \$30,117 OFF SOURCEWELL CONTRACT 051017-LPE.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

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

- A.** Appointment of Paul Tillman to the Vacant Mayoral Appointment on the Newark Housing Authority for a Three-Year Term to Expire February 10, 2023 (5 minutes)

45:22

Mr. Clifton introduced Paul Tillman, District 2, and noted Mr. Tillman’s passion was housing for at-risk and at-need citizens. He appreciated Mr. Tillman’s willingness to serve on the Housing Authority.

Mr. Markham said Ms. Jordan would welcome another passionate member to the Housing Authority.

There was no public comment.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO APPOINT PAUL TILLMAN TO THE VACANT MAYORAL APPOINTMENT ON THE NEWARK HOUSING AUTHORITY FOR A THREE-YEAR TERM TO EXPIRE ON FEBRUARY 10, 2023.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

13. 3-B. APPOINTMENT OF JIM PARKS TO THE VACANT POSITION ON THE ELECTION BOARD FOR A THREE-YEAR TERM TO EXPIRE JANUARY 15, 2023 (5 MINUTES)

48:25

Mr. Hamilton introduced Mr. Parks and described him as a reasonable and sharp-minded person who would ask the right questions and do the right work.

There was no public comment.

MOTION BY MR. HAMILTON, SECONDED BY MR. LAWHORN: TO APPOINT JIM PARKS TO THE VACANT DISTRICT 4 POSITION ON THE ELECTION BOARD FOR A THREE-YEAR TERM TO EXPIRE ON JANUARY 15, 2023.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

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

15. 5. SPECIAL DEPARTMENT REPORTS:

- A.** 2019 Year End Pension/OPEB Report – Finance Director/Vanguard (15 Minutes)

50:50

Mr. Martindale presented the 2019 Year End Pension/OPEB Report on behalf of the Finance Director, David Del Grande, and introduced Joe Wolfram, of Vanguard, and Andrew Zimmerman, of DT Investment Partners. Mr. Wolfram pointed out that the 2018 fourth quarter equities and fixed income were negative, and the pension return and OPEB return were negative 5.5%. He revealed that the Federal Reserve had increased rates nine times since 2016 and then decreased them three times in 2019, in July, September, and October, to drop the federal rate down 75 basis points. He explained that as a result, every month, except for May and August, had positive equity returns. He reported the differences in return for the pension and OPEB plans were due to cash flow timing which caused slight variations. The returns, net of expenses and advisory fees, were 20.98% for the Pension Plan Portfolio and 20.93% for the OPEB Portfolio. The Pension Plan started the year at \$63.9 million and ended at \$76.3 million for an increase of \$12.4 million, and Mr. Wolfram reported that at EOB on Friday, February 7, the amount increased to \$77.4 million. He announced the OPEB started the year at \$9.4 million and ended at \$12.2 million for an increase of \$2.8 million. He continued that every asset class for 2019 was a positive, domestic fixed income over six years and returned 9%, with real estate returns of 29%. He explained that total fees could be broken out into expense ratios, with \$180,000 annually, and advisory fees, \$62,000 annually.

Mr. Wolfram noted that volatility was a big issue in 2018 but not so in 2019 and revealed that he did not expect the types of returns in 2019 to show in 2020 which he anticipated to be muted. He expected more uncertainty in 2020 of geopolitical issues, elusive inflation considerations, and a continued reliance on monetary policy. He indicated there were true unknowns such as the Coronavirus that could not be forecast but would be considered at expectations going forward. He illustrated some sources of policy uncertainty likely to persist and presented the downside, best case and upside scenarios for US/China trade tensions, Brexit, US/EU trade tensions, and USMCA.

Mr. Wolfram indicated it was an election year and many of his clients asked if there was a way to move from activity during an election year and stated there was not. He revealed that volatility was expected in the 100-day period prior to an election and tended to stabilize post-election. He expected one or two more rate cuts by the end of 2020 and inflation to be less than the Fed's target of 2%. He forecasted muted returns for the next ten years and informed Council of the appendix available online.

Mr. Markham noted the .07% was the management fee and was acceptable as a 1% for an individual was outstanding. He saw uncertainty as an opportunity to buy and asked if the manager had the same view. Mr. Wolfram admitted there was some truth to the statement and revealed Vanguard balanced periodically and if the allocation got out of balance with respect to fixed income and equities, they used cashflow opportunities to rebalance the portfolio. Mr. Markham stated that Brexit was not an effective change until the end of 2020 and Mr. Wolfram expected that it would not come to fruition until the end of 2020 and would extend to 2021.

Mr. Clifton asked if the investment in real estate was a small portion of the portfolio. Mr. Wolfram said the allocation was 8% in both funds and stated that real estate was considered a return-seeking asset.

Mr. Markham asked if everyone knew what a real estate investment trust (REIT) was and Mr. Wolfman explained that REIT traded like equities on the equity market such as commercial assets like strip malls, apartment buildings, condominiums, and hospitals.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE 2019 YEAR END PENSION/OPEB REPORT.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Horning, Hamilton, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

16. 5-B. GENERAL ASSEMBLY UPDATE AND ASSOCIATED REQUESTS FOR COUNCIL DIRECTION – LOBBYIST (25 MINUTES)

1:10:28

James DeChene updated Council that HB 264 was to be signed by the Governor on February 20 at 2 pm in the Carvel Building and Mr. Clifton revealed he would join Mr. Coleman at the signing. Mr. DeChene said he would inform the Governor's staff that Mr. Clifton and Mr. Coleman would attend. Mr. Markham asked what the bill was for and Mr. DeChene replied it was to change the credit for local

services. Mr. DeChene revealed that the Governor dropped his recommended budget that contained \$10 million for Municipal Street Aid and had \$50 million for water infrastructure investment and \$50 million to rehab some Wilmington schools and to build a new school in Wilmington. He noted the General Assembly was back in session mid-March. He asked Council for direction in the amount needed in PILOT funding or other ways to have legislation crafted to get the City renumeration from the State. Mr. Markham felt that the lobbyists should be able to judge the room to determine what to request and Mr. Clifton agreed. Mr. Lawhorn asked for the history of a proposed bill that would change the structure from the current distribution of giving money to each county with Wilmington, Dover, and Georgetown. Mr. Clifton recalled it was from 2005 or 2006 and was supposed to be three county seats and Newark because Newark had the most untaxed property. Mr. Armitage interjected that there was a bill introduced at the beginning of the 150th General Assembly that was still sitting because there were not enough votes and Senator Sokola withdrew the bill. Mr. Armitage did not think there were enough votes to change the formula associated with the county seats and revealed it began as an attempt to help Wilmington as its budget was similar to Newark's with a continually eroding tax base. He noted that Newark's tax base was crippled because of the tax-free properties which were supplemented by utilities. Mr. Lawhorn explained that residents asked him how they could help and support the bill. Mr. Armitage thought if they changed the formula and added Newark, the other three jurisdictions felt as though they would lose money during the decreased revenue years and would block the progress for Newark. Mr. Markham asked if the latest argument was long term commitment and Mr. Armitage confirmed. Mr. Lawhorn asked if the fear was that the City could not fund the pot when the economy turned and Mr. DeChene stated the current administration shied away from long-term funding and wanted one-time extras to be used for one-time projects which was why the Bond Bill was the highest ever at nearly \$900,000,000. Mr. Lawhorn understood the argument but felt that it was inherently unfair that the City got nothing compared to the other municipalities. Mr. Markham thought it was clear that everyone agreed it was unfair, but they did not represent the City. Mr. Markham revealed that Representatives Baumbach and Kowalko had tried many times but suggested including representatives that do not represent the City. Mr. Lawhorn wanted to determine how to secure a long-term plan on leveraging more representatives to the City's side.

Mr. DeChene asked if Council wanted the lobbyists to address any other issues and Mr. Clifton suggested reassessment. He noted that most people who lived in single-family homes would not be affected but the shift would impact homes converted to student rentals and thought if properties were going to use property transfers as the benchmark in litmus tests than those properties would start to bear a larger burden of the tax base that were businesses in the community. Mr. Armitage revealed there was no political will to reassess properties nor had there been in his thirty years in Dover but thought the suit brought against the State by the ACLU could be a catalyst. Mr. Armitage said they had approached Senator McDowell about trying to create a similar fund to the Revolving Water Fund and the current senate bill in his possession contained language addressing the idea but was not what Council expressly wanted. Mr. Markham offered to draft a bill for the lobbyists to build on.

Mr. Hamilton thanked the lobbyists for passing the hotel tax and asked if there was movement on the Airbnb issue and Mr. DeChene replied he did not expect any. Mr. DeChene explained they were trying to leverage the Airbnb rental issue as a way to offset how to fund the water infrastructure bill but there was enough money allocated from DEFAC to cover the cost. He stated the possibility of raising a tax in an election year did not bode well for the legislation and thought it was dead for the year. Mr. DeChene stated HB 273 had a provision for the State to provide municipalities with information related to the lodging tax. He revealed the new finance software would allow State staff to collect the lodging tax on behalf of the City and transfer the money. Mr. Hamilton asked if it was meant for hotels and Mr. DeChene confirmed and explained that if there ever was a short-term rental, fees would be collected by the State and kicked out to the municipalities. He clarified that it currently only dealt with hotel fees because short-term rentals were not yet on the books and not subject to the accommodations tax.

There was no public comment.

17. 5-D. PROPOSED REVISIONS TO THE ETHICS BOARD FOR SUBMISSION TO THE PUBLIC INTEGRITY COMMISSION – CITY SECRETARY (15 MINUTES)

1:27:37

Mr. Clifton said that he would prefer that every board and commission be simplified with one representative appointed by each Councilmember with the approval of Council and one at-large for the Mayor's position. He revealed the Board of Ethics was not examined by Council after its Boards and Commission Review and he believed the Board needed to be broader based with six members appointed by each Councilmember and one from the Mayor with a four-member quorum requirement.

Ms. Bensley explained the format was different from a normal ordinance change because the City was an approved Code of Ethics through the State Public Integrity Commission (SPIC), and any changes

made needed to be approved by the SPIC. In order to avoid back and forth, she wanted to make sure Council viewed and edited the draft prior to submission. She indicated that the draft had amendments to two sections and the creation of the Board of Ethics would change from five to seven members, six of whom would be nominated from Council and a Mayoral at-large position. All nominees would need to be appointed by Council once nominated by the individual Councilmember and would serve in staggered terms. After the staggering was established, the terms would be five years and the same provisions would be there for vacancies in case anyone resigned or was unable to complete their term. The second section being amended was changing the quorum numbers from three to four as the member number went from five to seven.

Mr. Lawhorn agreed with Mr. Clifton and asked how frequently the board met over a ten-year period and Mr. Clifton thought the board met in 1998 over a citizen complaint and there had not been a need since. He wanted to change the setup of the board because he saw the potential for abuse when the recommendations for five people came from one person. Ms. Bensley stated that the board met three times over the last ten years:

- 2012 – responded to a citizen complaint with the Planning Commission
- 2015 – the then-Mayor requested an advisory opinion
- 2017 – met and reviewed the Boards and Commission Review Committee recommendations

Ms. Bensley hoped the reorganization was the first step in a larger ethics code change and explained staff wanted get different opinions on the larger changes to the ethics code to bring it up to the minimum standards of the Delaware Ethics Code and to consider how the City would like to exceed the criteria. She revealed that the board members of the 2017 meeting liked the idea of a seven-member board and offered to resign en masse to allow Council the opportunity to appoint new members.

Mr. Horning noted the change gave up control from the office of the Mayor but also enhanced public trust and created additional checks and balances. He thanked the legislative staff for the revisions and the Mayor for driving the change.

Mr. Markham thought staggering in the members made perfect sense and wanted to know how Council would make requests and what defined complete minutes. He understood that his questions would be addressed later.

Mr. Hamilton thanked the Mayor for bringing the issue forward.

Ms. Hughes asked how long the current members had been in place and Ms. Bensley answered that one was relatively new but everyone else was pre-2013. Ms. Hughes asked how regularly it met and Ms. Bensley clarified that it only met at the call of Council or if there was a reason to meet, such as a complaint. Ms. Hughes asked if Ms. Bensley saw the larger board playing a bigger role in how things were processed through Council and Ms. Bensley answered that there had been discussion about the Board of Ethics instituting a yearly meeting where the members would undergo training or ethics code review. She explained if Council voted to reconstitute the board, it would move forward with some of the recommendations. Ms. Hughes was shocked at the lack of momentum with the board meetings. Ms. Bensley described the board as reactive because it met when necessary and explained that New Castle County's Board of Ethics also offered advisory opinions that were utilized more often in that jurisdiction compared to one time it was exercised by the former City Mayor. Ms. Bensley reflected on various possible ways to make the board more active and Ms. Hughes thought that utilizing the board could only be an advantage to the City.

Mr. Clifton agreed and thought it was important for boards to meet at least once a year to understand its charges. He recalled Mary Ellen Greene was appointed to the board in 1998 or 1999 and reported she had done a wonderful job.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL MOVE THE PROPOSED REVISIONS TO THE ETHICS BOARD FOR SUBMISSION TO THE PUBLIC INTEGRITY COMMISSION.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Horning, Hamilton, Hughes, Lawhorn, Markham.

Nay – 0.
Absent – Wallace.

18. 6. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:** None

19. 7. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

A. **Bill 20-04** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Allowing Sidewalk Cafes, Patios, Decks, Balconies and Parklets in the Downtown District (45 minutes)

1:43:24

Ms. Bensley read Bill 20-04 into the record by title.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: FOR SECOND READING AND PUBLIC HEARING ON BILL 20-04.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Horning, Hamilton, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

Ms. Gray reviewed the history of the ordinance since its introduction in 2019 when it failed. She explained the Planning Commission made revisions and voted 5 to 1 for the recommended changes. She then indicated the Planning Commission met with Mr. Bilodeau to make clarifying language changes that did not change the intent of the ordinance.

Joe Charma, Chair of the Newark Design Committee, illustrated the five reasons the Design Committee felt the ordinance would benefit the City:

- Removes patio consideration from the alcohol control section of the municipal code in addition to addressing businesses desiring to add a patio not serving alcohol.
- Provides code requirements and design guidance for new or existing patio expansion greater than 1,000 square feet. Patios larger than 1,000 square feet will be required to dedicate space for recreation, public art, or landscaping which will help to beautify the downtown area or add a public gathering space for a purpose other than patron service/dining areas.
- Provides additional code requirement and enforcement flexibility to modify pedestrian clearance requirements and other conditions in areas of high pedestrian activity.
- Provides specific federal ADA references addressing handicap accessibility. Increases the current required clear path width from five feet to six feet, in addition to the ability for department directors to require more stringent accessibility requirements, if necessary.
- Provides uniform design guidance for common patio elements to promote aesthetic design, encourages additional recreation opportunities or display of art, and promote public gathering and relaxation space.

Mr. Charma explained the ordinance began when Grain sought to enlarge their patio and needed a special use permit and the Design Committee noted the need to address standards and review codes. He explained the committee reviewed the codes of cities across the nation with a lot of public activity. He stated the changes would fall in line with the future of Main Street.

The Mayor opened the floor to questions from Council.

Mr. Hamilton recalled when the ordinance failed due to ADA issues and noted the existing businesses that desired patios put in parking waivers based on size and volume of tables. He asked where the new patio customers would park and if the businesses were expected to pay additional parking waivers. He also wanted to know if there was a business who wanted a patio over 1,000 square feet and Ms. Gray responded that Deer Park inquired about a patio slightly over 1,000 square feet. Mr. Hamilton noted the ordinance would favor some businesses over others and wanted to make sure that the sidewalks would be user-friendly given long lines of patrons. He did not feel that the Federal guideline of five to seven feet was sufficient for families and disabled people. Mr. Charma informed there were provisions in the code to disallow overflow into sidewalks and the business needed to provide security personnel to maintain a clear path. He corrected that the minimum ADA requirement was three feet, the City code requirement was five feet, and the Committee was requesting six feet. He noted the code revision provided for discretion by the Public Works and Water Resources Director and Planning and

Development Director to ask for wider widths in areas with pedestrian activity and decline requests for patios due to lack of space. Mr. Charma explained that patrons chose to sit outside during nicer weather instead of inside so the volume of customers would not double. He stated that businesses were expected to provide enough parking for their customers and explained the purpose of the ordinance was to create uniform design standards. He reminded that each of the projects was required to be presented to staff for review. Mr. Charma presented Council with a depiction of a large patio with various activities for patrons to illustrate the benefits of adding public art to locations.

Ms. Hughes had difficulty envisioning the patios and thought it would change the landscape of the City and left no room for pedestrian traffic. She was also concerned with patrons spreading out and did not think it would be possible to walk down Main Street. She thought the sound systems would add unnecessary noise. Mr. Charma explained the patio areas were enclosed by a perimeter fence or other boundaries so patrons would not be spilling out into the sidewalk. He informed Ms. Hughes that public sound is prohibited by Code. He revealed that not every business would open a patio if the ordinance was adopted and explained that patios did not have to be built on sidewalks. He reiterated the guidelines would govern the conditions. Ms. Hughes asked how many patios and Mr. Charma estimated it was business driven and he did not anticipate a cascade of patios. He stated the ordinance did not encourage patios but was intended to set design standards so the City could avoid situations of narrow pathways, poor landscaping, and inappropriate building materials. Ms. Gray interjected that current City Code allowed for patios and sidewalk cafes to serve alcohol and the ordinance was for patios that did not serve alcohol. Mr. Charma announced the ordinance was more restrictive than the current code because there were no guidelines presently.

Mr. Lawhorn asked if the patios currently on Main Street, Stone Balloon Wine House, MOD Pizza, Kate's, Grain, and Deer Park, were in line with the ordinance. Mr. Charma replied they were and explained that Grain had a fire pit feature as well. Mr. Lawhorn noted the patios were highly desired and enjoyed by patrons and remarked they were beneficial. He acknowledged that San Antonio was a much larger city but explained the beauty of its riverwalk and the outdoor atmosphere created by the space. He referred to the concerns of long lines and to the points system that could be used to revoke special use permits for continued nuisances. He did not see an issue with parking and thought it could be addressed if it occurred. He noted Main Street already had patios and asked if the difference with the proposed ordinance was that applicants would have to seek special use permits and the ordinance created code to control how to streamline the process. Ms. Gray answered that if the project met code, it would not require a special use permit. She clarified the current patio provision only allowed for restaurants that served alcohol so the ordinance would allow for patios at facilities that do not serve alcohol as well as provide additional design guidelines.

Mr. Horning thanked the Committee for their work and agreed with Messrs. Hamilton and Lawhorn in terms of the current process and accounting for parking waivers. He thought that Council was hesitant in relinquishing control over future development and assumed there was a special use permit application. Ms. Gray reiterated that applicants would submit a plan and if it met code, it would be a part of the approval process rather than requiring a special use permit and noted areas over 1,000 square feet would require a variance. He asked if it was possible to adopt the guidelines and still have Council grant special use permits. Ms. Gray indicated it would be a substantial change to the ordinance and explained the current process has been an in-house administrative process and had been in use for quite some time. Mr. Charma clarified that the attempt was to streamline the process to provide department heads with the proper ordinances to determine technical design decisions but allow applicants to approach Council with exceptions. He explained that currently, there was nothing in the code that addressed opening a patio for an ice cream parlor because patios were addressed in the alcohol section of the code. Mr. Clifton understood that variances would be addressed by the Board of Adjustment but if the Planning Department declined the plans, they would be brought to Council. Ms. Gray explained that if an administrative application got denied, the process went to the Board of Building, Fire, Property Maintenance and Sidewalk Appeals.

Mr. Horning noted the language called for ADA standards at the time of construction. He asked if it was standard or at the time of the proposal and Mr. Charma answered at the time of construction was implied as the time of the application to prevent amendments to the City Code and any code the City had at the time was the code enforced. Mr. Horning asked Mr. Bilodeau if the language was clear enough that time of construction was time of permitting or if the City required additional language. Mr. Bilodeau thought time of permitting was sufficient as long as it was the law when permission was granted and as long as it was constructed in a reasonable amount of time. Mr. Horning wondered if the language should be clarified because it was mentioned a few times and Mr. Bilodeau did not feel that it was a substantial change. Ms. Bensley asked Mr. Horning to clarify what section he was referring to repeat his amendment. He answered page 3, amendment 4, section 1a3 and suggested adding "permitting" after "construction".

He noted the changes were also required on page 5, 7b1, and page 5, number 6, page 6, d1. He remarked that it was difficult to maneuver on the sidewalks in Wilmington at times with sandwich boards on the sidewalk and Mr. Charma stated the City ordinance did not allow sandwich boards. Mr. Horning wondered if it was necessary to address potential tripping hazards in terms of the barriers and referred to page 4, section e, that defined a minimum of two feet in height with an exception of barriers that are greater than three feet in width shall be a minimum of six inches in height. He thought there was discussion on the topic at the Planning Commission meeting but did not know the outcome. Mr. Charma pointed out that he had provided Council with examples of the barriers in their packets and indicated they were already in place in the City.

Mr. Markham repeated that the ordinance was more restrictive than the current code and Mr. Charma confirmed. Mr. Markham wanted to encourage wider public paths and asked Mr. Charma about the language regarding constructed signs and how sandwich boards were handled. Mr. Charma referred to page 6, subparagraph 8 and said that no signs were allowed by City code. Mr. Poole interjected that a clear path of travel was required to any nearest obstruction and included the portable signs and required six feet of clearance between the patio and the sign. Mr. Markham suggested that signs could be attached to the patios instead of being placed in the walkway. Mr. Markham referred to a photograph that included a telephone pole cutting off the access way and Mr. Poole stated it was pre-existing and was permitted as such, and the patio was required to be clear of all obstructions by six feet. Mr. Markham asked if that meant a six-foot arc around the telephone pole and Mr. Poole confirmed. Mr. Markham asked if the bump outs were considered as sidewalk and Mr. Charma confirmed and described the limit of a parklet as the curb. Mr. Markham asked if the curb counted and Mr. Charma said no. Mr. Markham asked where hostess stands were addressed, and Mr. Charma suggested adding language where itemizations were listed. Mr. Poole suggested hostess stands would not be permitted to be outside the required enclosure. Mr. Markham explained he was asking because business owners tended to get creative. Mr. Horning indicated page six, paragraph 9, answered Mr. Markham's concerns where all furnishings owned by the property owner or business shall be located within the required enclosure. Mr. Markham wanted the public sidewalks to be maintained as such and Mr. Charma explained the Committee tried to maintain a clear path by requesting an increase of five to six feet.

Mr. Clifton asked if the sidewalk right of way was six feet and Mr. Charma confirmed the clear path was six feet. Mr. Clifton asked if anything that infringed on the six feet was not permissible and Mr. Charma confirmed. Mr. Clifton understood that existing structures were allowed but remarked that the sidewalk minimum for downtown was three feet per the ADA, but City code defined the minimum for neighborhoods was four feet. He understood the issue with lines and security only happened a few times a year but were definite problems. He noted the ordinance required security if the line extended to the sidewalk and asked if the rule applied to existing patios and Ms. Gray explained that portion of the code would not apply to existing patios and indicated there were other ordinances that gave the City the ability to regulate queueing on the sidewalk. Mr. Clifton asked how the queueing would be enforced and what was considered security. Ms. Gray answered that the ordinance stated security personnel or other supervision shall be provided and interpreted it as a responsible person to maintain order on the sidewalk. She explained existing patios would be enforced by Fire Marshals and/or Police and the new patios were regulated by Property Maintenance. Mr. Clifton remarked that Property Maintenance did not work on Friday and Saturday nights and Ms. Gray informed him that Property Maintenance worked on weekends where staff anticipated activity such as St. Patrick's Day and Cinco de Mayo. Mr. Charma reiterated the code addressed nuisance issues. Mr. Clifton understood the lack of manpower but was hesitant to pass another ordinance that would not be enforced. Mr. Charma referred to a former code enforcement officer who would physically remove sandwich boards as they were not permitted by code and Mr. Clifton reiterated the need for such action again.

Mr. Bilodeau clarified that Mr. Charma's example of the ice cream shop would qualify with gains for over 1,000 square feet but the Deer Park would be required to seek a variance to go larger because it was under a different code. Ms. Gray explained Section 32-56.4 referred to the proposed amended section and shall not exceed the interior floor space of the associated business. Mr. Bilodeau noted it was confusing because the code gave different limitations and Ms. Gray confirmed and explained that the proposed amendment proposed that it be expanded to not exceed the interior floor space of the associated business and complied with the rest of the design guidelines articulated in the proposed amendment. Mr. Bilodeau noted the chapter was 32 and was not convinced that a variance would be through the Sidewalk Appeals and thought it would be under the Board of Adjustment. Ms. Gray confirmed and explained she was referring to an administrative decision where an appeal would go to the Board of Sidewalk Appeals. Ms. Bensley explained that the Board of Building, Fire, Property, Maintenance & Sidewalk Appeals only governed topics in Chapters 7, 14, 17, and a portion of 26 related to sidewalks and indicated that anything appealed in Chapter 32 would go to the Board of Adjustment.

The Mayor opened the floor to public comment.

John Morgan, District 1, believed six feet was adequate room for pedestrians walking in both directions but felt the City was spotty on enforcing bicycles on sidewalks. He asked if the ordinance was proposing serving alcohol on the temporary patios and Mr. Charma responded only if they were associated with the businesses but would not be permitted in parklets in the public right of way.

Jean White, District 1, wanted to have larger sidewalks and often found it difficult to walk with people on the north side of Main Street. She asked to have a list of properties covered under the existing ordinance requiring five feet so she could see if they were the locations where she had problems with pedestrian traffic. She noted there were new businesses and commented that the buildings could not be pushed back. She was concerned that restaurant owners could not interpret the code properly and wanted the language to be more clear concerning speakers. She referred to page three that addressed the patio size exemption and wanted examples of recreational purposes that she considered appropriate.

Marc Ashby, co-owner of the Deer Park Tavern, explained he had not submitted plans and had no specific ideas but had a vision of what he saw as an enhancement to the City on the Deer Park patio. He wanted to beautify the patio exterior and noted the area of the pavers to the sidewalk was approximately 1,400 square feet and not permitted under code to become seating. He wanted to install wrought iron fencing and provide seating and tables for patio service for additional outdoor dining. He acknowledged the decline in sales due to the construction on Main Street and the heavy competition between eateries in the City. He noted the only increase in sales had been through delivery services. He reiterated he wanted to improve the ambiance and historical beauty of the building to entice visitors to the City.

The Mayor brought the discussion back to the table.

Mr. Clifton asked how the addition of tables impacted the approved use of the establishment and the parking component. Ms. Gray answered the current patios already served alcohol and the City did not require additional parking as a result of the additional seating. She viewed the additional patio seating as an option for patrons as opposed to an addition of patrons and said that Code did not feel more parking was necessary. Mr. Clifton referred to a Mexican restaurant where the applicants were held to a number of seats based on the available number of parking spots in order to be code compliant. He asked Mr. Bilodeau if the additional patio seating would go against the intended letter of the law and asked if it was a fair analogy for existing places and Mr. Bilodeau agreed. Ms. Gray explained the example used by Mr. Clifton was approved under shopping center standards and would not necessarily apply. She also pointed out that, as with the existing ordinance, patio seating was not contemplated to be a special use permit and would not come before Council. She acknowledged Mr. Clifton's concern over parking and parking waivers and explained it was part of the approval process. Mr. Clifton saw both sides and appreciated what the patios could bring to the City but wanted staff to consider the bigger picture with regards to legality. He was hesitant to increase the workload on staff and Council but thought the process could be improved. Mr. Clifton asked how the ordinance would interact with buildings on the National Register of Historic Places and Ms. Gray answered every other ordinance would need to be obeyed including the historic preservation ordinance, and the application would be subjected to the same rigorous review as practice. She further explained that the code and parking waivers was intended for permanent indoor seating and the patios would be seasonal. Mr. Clifton agreed it was appealing for various events and Ms. Gray indicated that the current patios were not set up for service because of the season.

Mr. Horning referred to Ms. Hughes' comments on the fire pits and asked if they were intended to be seasonal or all-weather. Ms. Gray answered they were intended to be seasonal. Mr. Horning assumed the six to seven feet was to accommodate the ADA standards and asked if the seven feet would be restrictive. Mr. Poole commented that Newark was an old city with narrow areas and thought the extra clear path would render patios useless. He noted the provision in the ordinance gave the department directors the flexibility to consider each scenario and decide accordingly. Mr. Horning referred to page 3, section a, and thought it was necessary to add clarifying language to define recreational purposes. Mr. Clifton was hesitant to over define the code and Mr. Lawhorn thought the language should be generic. Mr. Poole suggested adding language to indicate what department would determine the appropriateness. Ms. Gray thought the discussion was redundant because the applications were required to be examined by Planning and Development. Mr. Horning wanted to add "that does not endanger public health" after "recreational purposes". Ms. Bensley asked Mr. Horning to identify the section that needed amending and he replied page 3, section a, amendment 4, 1A – 2A. Ms. Bensley stated he wanted to add "that will not jeopardize health, safety, or welfare of surrounding individuals" after "recreational purposes" and Mr. Horning confirmed.

Mr. Hamilton repeated his concerns about enforcement and did not want applicants to be able to use the seasonal seating on a permanent basis.

Mr. Lawhorn asked why it would be wrong for the patios to be used year-round and Mr. Hamilton hypothesized how it was possible to get around the code by claiming a patio to be seasonal, not pay the parking waiver, and use the patio permanently. Mr. Lawhorn asked if the ordinance was for the downtown district and explained he had not yet been part of the approval process for Main Street restaurants but thought that the parking issue would be addressed with the parking plan over the next three years. He noted there was no place on Main Street, including Deer Park and Grain, with adequate parking, so customers parked in municipal lots and he was less concerned with the issue. Mr. Clifton revealed that when Deer Park was approved, Council knew the parking garage would be constructed across the street.

Mr. Horning asked Ms. Bensley if it was necessary to address each amendment or if it was possible to introduce the motion as amended. Ms. Bensley asked if it would be helpful to outline all the amendments proposed so Council could make a motion accordingly and Mr. Horning agreed.

Ms. Bensley stated:

- Page 3, Amendment 4, Section 32-56.8(1)(a)2a, to add, in the third line after “purposes”, “that will not jeopardize the health, safety, or welfare of the surrounding individuals”
- Page 3, to add the word “permitting” after “construction”
- Page 5, b1, to add the word “permitting” after “construction”
- Same Amendment in #6, to add the word “permitting” after “construction”
- Page 6, Item d1, to add the word “permitting” after “construction”

Ms. Bensley suggested the appropriate amendment would be to approve the amendments as outlined by the City Secretary.

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE AMENDMENTS FOR BILL 20-04 AS OUTLINED BY THE CITY SECRETARY.

MOTION PASSED. VOTE: 5 to 1.

Aye – Clifton, Horning, Hamilton, Lawhorn, Markham.
Nay – Hughes.
Absent – Wallace.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE BILL 20-04 AS AMENDED.

MOTION PASSED. VOTE: 5 to 1.

Aye – Clifton, Horning, Hamilton, Lawhorn, Markham.
Nay – Hughes.
Absent – Wallace.

(ORDINANCE NO. 20-02)

20. MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: THAT COUNCIL CONTINUE PAST ITS ENDTIME UNTIL 10:45.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Horning, Hamilton, Hughes, Lawhorn, Markham.
Nay – 0.
Absent – Wallace.

21. **8. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:**

- A. Request of Blake Armentano for a Special Use Permit for a Commercial Indoor Recreation Facility Known as Oh So Cycle Located at 165 South Main Street (15 minutes)

3:21:31

Ms. Bensley read the special permit request into the record.

Mr. Fruehstorfer stated the Planning and Development Department received a special use permit application for Oh So Cycle at 165 South Main Street. He explained the proposed business was a cycle spin studio with instructor-led exercise programs and the property was zoned BB, central business district, and required a special use permit for commercial indoor recreation facilities. Mr. Fruehstorfer stated Council may issue a special use permit provided the applicant demonstrated that the proposed use would not adversely affect the health or safety, be detrimental to the public welfare, or injurious to public property or improvements or be in conflict with the purposes of the Comprehensive Development Plan of the City. He explained the appropriate departments reviewed the plans and had no objections or special requirements because the proposed use did not conflict with the land use guidelines in Comprehensive Plan V because the proposed use was compatible with the zoning code special use permit criteria and because the relevant City departments had no objection to the proposal. The Planning Department recommended that Council approve the special use permit.

The Mayor opened the floor to questions or comments.

Mr. Markham asked if the location was the building that had issues with the certificate of occupancy for the apartments and staff confirmed. He asked if the issues were resolved and staff confirmed.

Mr. Lawhorn was pleased to see a new business that was not a restaurant.

The Mayor brought the discussion back to the table.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE SPECIAL USE PERMIT FOR A COMMERCIAL INDOOR RECREATION FACILITY FOR OH SO CYCLE AT 165 SOUTH MAIN STREET.

Mr. Markham voted in favor of the special use permit because it did not conflict with the land use guidelines in the Comprehensive Development Plan V, because the proposed use was compatible with the zoning code special use permit criteria, and because the relevant City departments had no objection to the proposal.

Councilmembers Hamilton, Hughes, Lawhorn and Horning and Mayor Clifton each stated that they were voting to approve the special use permit for the reasons stated by Mr. Markham.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Horning, Hamilton, Hughes, Lawhorn, Markham.

Nay – 0.

Absent – Wallace.

Mr. Clifton reminded there was no Council meeting scheduled for February 17, 2020.

22. Meeting adjourned at 10:28 p.m.

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

/ns