

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**April 27, 2020**

Those present at 7:00 p.m.:

Presiding: Mayor Jerry Clifton  
District 1, James Horning  
District 3, Jen Wallace  
District 4, Chris Hamilton  
District 5, Jason Lawhorn  
Deputy Mayor Stu Markham, District 6

Absent: District 2, Sharon Hughes

Staff Members: City Manager Tom Coleman  
City Secretary Renee Bensley  
City Solicitor Paul Bilodeau  
Chief Communications Officer Jayme Gravell  
Finance Director David Del Grande  
Parks and Recreation Director Joe Spadafino  
Planning and Development Director Mary Ellen Gray  
Code Enforcement Officer Tim Poole  
Planner II Michael Fortner  
Public Works and Water Resources Director Tim Filasky  
Public Works and Water Resources Deputy Director Ethan Robinson

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

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

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

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

3. 1. **ITEMS NOT ON PUBLISHED AGENDA**

A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

4. 1-B. **UNIVERSITY**

(1) Administration (5 minutes per speaker) (3 minutes):

**3:32**

Caitlin Olsen, UD Administration, stated that UD was working on different move-out scenarios based on the Governor's emergency orders and would coordinate with Newark PD when appropriate. She continued that campus events were canceled in June and July. She explained that construction would continue but any new projects would be reevaluated and reported there would be no in-person commencement and staff had not decided upon an alternative. She revealed that alumni weekend was also canceled for the year and explained that she was working on an email with the Division of Student

Life that had comprehensive services including the Crisis Fund and counseling information. She would forward it to Council as a tool for questions from the community. She noted that UD had not decided on the fall semester, but several options were being discussed because it was too early to decide and would consider the Governor's emergency ordinances. She informed Council she would update them weekly.

Mr. Horning appreciated Ms. Olsen's updates and hoped for normal UD operations in the fall.

Mr. Hamilton asked when UD would decide whether to host students in the fall. Ms. Olsen replied that Dr. Assanis would update in early June but warned the update may not include an answer. She noted that UD was concerned with the 14-day decline and wanted to ensure that the University took precautions given the number of out-of-state students. She did not anticipate updates for the next two weeks.

Mr. Lawhorn appreciated that UD would share information as soon as possible for the good of the community.

Mr. Markham appreciated the information regarding UD's finances and hoped UD would provide partnership and support to the City as it went to the State and worked with legislators to try to recover. He noted that UD and the City relied on one another and hoped UD strongly supported the City with the State and Federal governments. Ms. Olsen agreed and made sure the president and the administration understood the City would lose revenue from utilities due to the University shutting down. She wanted to cooperate in working with the State and Federal government and acknowledged UD needed the City in order to function. Mr. Markham appreciated Ms. Olsen in her role and thanked her for her efforts.

Mr. Clifton thanked Ms. Olsen for the update.

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

**6. 1-C. CITY MANAGER (2 minutes):**

**12:19**

Mr. Coleman informed Council that staff spent a lot of time over last month coordinating operations and responding to the outbreak. He revealed that most of the changes made were covered in the recent Newark Post article and the letter mailed to residents earlier in the month. He explained that staff was considering a plan to bring back some version of bulk collection for refuse at the request of residents. He continued that crews installed new lighting on Woodlawn Avenue as an effort to improve pedestrian and bike safety between Library Avenue and Poplar Avenue.

Mr. Coleman explained that staff received around \$170,000 through the Community Development Block Grant Program from the Federal government through New Castle County to help address the impact of COVID-19. He explained there were three categories of funding: provide temporary housing, prevent homelessness, and provide services that addressed the physical needs of residents. Staff anticipated most of the funds would be used to prevent homelessness and was still waiting on guidance from the County on how to apply it.

Mr. Coleman stated that staff had not been taking payments at the window in person since the shut-down and was promoting payments through the web or the drop box in the foyer at City Hall.

Mr. Clifton appreciated the efforts to stave homelessness and noted that one public commenter worked diligently to get the word out regarding the Empowerment Center Event at the Newark Methodist Church and wanted to thank volunteers, including Marihelen Barrett, for their efforts. He wanted to let the public know that he and Mr. Coleman had been discussing the homeless situation and that Councilmembers had received correspondence on the issue.

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

**15:36**

**Mr. Horning:**

- Thanked staff and residents of the City for working together.
- Acknowledged the impact the pandemic has had on the community.

**Ms. Wallace:**

- Echoed Mr. Horning's comments.
- Believed the City was represented well by leadership and appreciated the City Manager and staff for their present work and future efforts.

- Wanted to be informed of the City’s response on protests of the Governor’s orders as she was concerned about public safety issues. Mr. Coleman interjected that he would speak to Chief Tiernan and relay the information to Council.

**Mr. Hamilton:**

- Hoped everyone was healthy.
- Was impressed with the City’s response and thanked staff for their work.

**Mr. Lawhorn:**

- Echoed previous statements made by Council.
- Noted the virus spike numbers downstate but commended the community for its actions.
- Recommended daily walks and noted a resident who installed artistic quotes throughout Fairfield and found it to be extremely uplifting. He was actively looking for the person responsible to thank them.
- Suggested paying attention to the mental health of frontline workers and wanted to make sure people checked in on vulnerable populations.

**Mr. Markham:**

- Found Mr. Coleman’s reports on the Governor’s calls to be extremely thorough.
- Hoped the situation would be used to create a playbook for staff and Council for future situations.
- Wondered if the emergency ordinances should be collected and kept on hand as a reference.

Mr. Coleman interjected that Ms. Bensley was extremely helpful in taking notes and they created combined memos after the calls with the Governor. He announced that staff was keeping track of the changes and responses and would prepare a pandemic response plan.

**Mr. Clifton:**

- Commended staff for not missing a beat on critical functions such as police functions, trash pickup and noted that Green Wednesdays had been reintroduced.
- Credited Mr. Coleman and Ms. Bensley for the call recaps.
- Believed that the Emergency Operations Plan needed to be updated after the pandemic as a collaborative effort from the various stakeholders in the City.
- Shared that there was no decision on when District elections would take place for Council but noted they would not take place until the City could reopen.
- Wanted to go on record for supporting a complete mail-in election and acknowledged there were hurdles involved.
- Referred to Mr. Lawhorn’s comments about mental health and shared that there was an increase in drug overdoses, both illicit and prescribed. Asked that those suffering reach out for help.
- Worked with the Newark Landlords Association to determine how move-in and move-out would work to keep everyone safe and separated.

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

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

- A. Approval of Council Meeting Minutes – March 16, 2020
- B. Approval of Council Meeting Minutes – March 23, 2020
- C. Receipt of Alderman’s Report – April 14, 2020
- D. Receipt of Green Building Code Work Group Minutes – February 25, 2020
- E. Receipt of Planning Commission Minutes – March 3, 2020

**29:04**

Ms. Bensley read the consent agenda into the record.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Hughes.

10. 3. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:** None

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

12. 5. **SPECIAL DEPARTMENT REPORTS:**

A. General Assembly Update and Associated Requests for Council Direction – Lobbyist (30 Minutes)

**30:46**

James DeChene, Armitage DeChene & Associates, reported that the Legislature was not expected to return until mid to late June and were waiting for the May Delaware Economic and Financial Advisory Council (DEFAC) numbers to come out before reconvening. He explained they were determining how to convene the Joint Finance Committee in a room to iron out this year's budget and stated that upon returning, they would not be working on bills outside the scope of budget, bond, and grant-in-aid. He noted that HB175 and other bills for regulatory reauthorization for programs needed to be approved before the end of the year and it was yet unclear how they would get into the pipeline.

Mr. DeChene informed that DEFAC met and noted the significant reductions in predicted revenue for the current and next fiscal year, which totaled nearly \$750,000,000. He reminded that forecasting was extremely difficult given the pandemic and reported that corporate and personal income tax filing dates were pushed back to July 15. He noted that the State unemployment numbers would be available a few weeks after the Federal government received its report. He also noted the estimated tax filings were due in the third quarter. He continued that all the components were combined to give an unclear picture as to the impact of the pandemic on Delaware revenues and that the General Assembly would have to pass a budget without key information. He stated that DEFAC was typically conservative in forecasting and explained that the State's fiscal situation would depend on how the \$1.2 billion allocation was spent and whether aid bills by Congress provided local governments relief. He noted the budget was due on June 30 but anticipated revisions and would share information as acquired.

Mr. DeChene reported that the Transportation Trust Fund was not suffering as much as the Operating Budget but cautioned there could be a downturn with a reduction in gas consumption which was directly related to the gas tax but expected in 2021 as the economy revitalized. He stated the Governor's recommended budget for Municipal Street Aid was around \$10 million and Mr. DeChene believed it would decrease to \$5 or \$6 million and was waiting to hear if a federal infrastructure bill was introduced. He explained that DelDOT was expecting proposed projects to continue and was utilizing low traffic to complete projects ahead of schedule. He stated that Senator McDowell introduced the Renewable Portfolio Standard legislation which increased the RPS numbers through 2040 and created a community solar infrastructure. Mr. DeChene did not think the bill would pass in the current environment.

Mr. DeChene explained there were a series of virtual town halls taking place throughout the State to address reopening concerns and the Small Business Recovery Town Hall for Newark would take place on April 30 at 6 pm. He suggested reaching out to Representatives Baumbach or Osienski or Senators Sokola or Townsend for more information. Mr. DeChene did not anticipate any movement on HB175 and stated that he and Mr. Armitage spoke with the Commissioner of Elections who was unable to give further guidance on how Newark could hold an election without physical polling places. He stated they were looking to issue best practices for social distancing and providing PPE as necessary. He revealed that discussions with the Governor's office indicated the presidential primary would be moved to later in the summer and there was also a possibility that the Federal government would move to voting by mail which could change how municipalities were able to conduct local elections.

Regarding Federal Delegation outreach to lower the threshold of the size of municipalities eligible for direct federal aid, Mr. DeChene and Mr. Armitage reached out to Representative Blunt Rochester, Senator Carper, and Senator Coons to urge amendments to the legislation to lower the threshold, should there be another aid package geared toward municipal relief. He informed Council that the State did not agree with the approach and wanted to see the State and/or New Castle County be responsible for providing aid because if funds were misappropriated, the State would be responsible for providing the money back to the federal government with an interest penalty. He informed that \$1.25 billion for relief was coming to the State with \$300 million going to New Castle County, where towns were advised to apply to the County for relief related to COVID-19, while Kent and Sussex would apply directly to the State.

Mr. DeChene reported that the Redding Consortium had a meeting on May 7, via Zoom, but the conversations on redistricting were on hold until 2021 due to incomplete revenue forecasts. He noted that the Educator and Education Equity Workgroup was still working with renewed focus on curriculum for online learning and to bridge the gap for students without access to computers or internet.

The Mayor opened the discussion to questions from Council.

Mr. Horning thanked Mr. DeChene for the updates and asked if guidance was needed from the Mayor or Council that evening. Mr. DeChene replied that unless there were changes from previous

meetings, it was unnecessary. Mr. Horning was pleased that the Governor was receiving economic recovery input from the business community and wanted political policies in place to foster recovery as best as possible to the extent of a local legislative stimulus. Mr. DeChene informed that the Governor allocated industry-specific staff members to focus on short- and long-term recovery. He was advised that any kind of State-based relief from local or municipal taxes or anything that cost the State money was off the table and would fall to the Federal government to provide future stimulus for the municipalities or the business communities. He continued that the State was not in a financial position to take on additional expenditures related to COVID-19.

Ms. Wallace thanked Mr. DeChene for the update.

Mr. Hamilton was disappointed in the lack of a plan.

Mr. Lawhorn wanted to understand what a recovery plan looked like, noted the State wanted to follow the CDC's recommendation of a phased approach, and asked Mr. DeChene if there was an indication as to which data would be used. Mr. DeChene understood that the Governor indicated there should be fourteen days of declining infection rate with the hospitalization and death rate being separate. He stated if there were fewer cases over a number of days, the next threshold of a phased opening would trigger. He noted the current hotspot was Sussex County and the CDC was set to perform tests and would concentrate on the minority population which focused on residential construction, commercial construction, and the chicken plants. He expected a significant spike of confirmed cases in Sussex County because of the renewed focus on testing and acknowledged the significant thresholds to overcome before restrictions could relax. Mr. DeChene said there were business groups gathering to offer guidance on what steps businesses could take as a general proposition to help with the reopening process. He noted the groups led by the State Chamber of Commerce submitted the recommendations to the Governor's office and shared them broadly with the community. He hoped that businesses would take preparations upon themselves for what could be done to hasten the reopening once given the all-clear.

Mr. Lawson was concerned that testing would drastically increase the infection rate and did not think it was the most accurate way to understand the impact. He hoped that the money going to the County would funnel its way to the City and believed that Newark was concerned with lost revenue versus expenses for COVID-19-related specifics. As the bill was written, he did not believe the City could be funded for lost revenue and saw it as a political hot button. He noted that Newark was a fiscally responsible municipality that relied on utility revenue linked to a student population. He believed the lost revenue was legitimate under the bill and wondered how to lobby at the Federal level. Mr. DeChene agreed and revealed that he and Mr. Armitage had both argued the point to the Federal Delegation as well as the State. He noted the State was in a similar predicament as it was unable to spend the funds as desired.

Mr. Markham noted there were many ideas regarding elections but no clarity. He asked if moving the Presidential primary to later in the summer was definite and Mr. DeChene replied that it seemed to be an option that was being taken seriously and would depend on the case numbers. He noted that there was a 28-day cycle to get to a full reopening which had not begun, and the presidential primary was currently scheduled for June 2.

Mr. Markham wanted to qualify for the funds to help the revenue as it was necessary because the City had required services and would need to perform drastic cuts or replace revenue. He did not care who controlled the funds and saw qualification as key. He did not think the Federal talk regarding infrastructure would help the City in terms of its revenue. Mr. DeChene agreed and suggested that the argument could be made for employing construction workers helped default on housing and property tax payments but acknowledged it was a stretch. Mr. Markham agreed that the direct relationship to the City was not present in the argument and believed the lobbyists would have a difficult time on the front line convincing the State that the City had large portions of missing revenue.

Mr. Markham asked if anyone was able to speak to the Senator about the solar resource fund instead of increasing renewable energy. Mr. Armitage responded that he and Mr. DeChene spoke to the Senator's staff, but Mr. Armitage was unsure if the Senator would work the bill because of the virus. He revealed the Senator felt it was his legacy and although it was introduced, he did not think it had traction. Mr. Markham thought the solar resource funds were more likely to come through but understood it was for another time.

Mr. Markham stated that Council still needed the Legislature to establish emergency meeting rules versus executive order, and the State should codify the guidelines at the State level. Mr. DeChene agreed.

Mr. Horning asked the lobbyists if they could provide an overview of whether the Legislature could access reserve funds to lessen the economic downturn. Mr. DeChene replied that there were many components to the answer and explained that numbers from DEFAC expected the crisis to represent 5% of the National GDP whereas the Great Recession represented only 2.5%. He noted the General Assembly did not use the rainy-day fund in 2008 and 2009 and established a Budget Smoothing Reserve Fund of roughly \$120-140 million. He expected that money to be spent and explained that money taken from a rainy-day fund was required to be replaced in the same fiscal year. He conservatively estimated the reserve fund to be utilized for the crisis and did not expect the rainy-day fund to be used unless the crisis lasted significantly longer. Mr. Horning asked for the total amount of the rainy-day fund and Mr. DeChene estimated it to be \$250 million or 2% of the budget. Mr. Armitage interjected that the only item that could help balance the budget was that unexpended funds which stemmed from the shutdown during the current fiscal year could be used to backfill revenue shortfalls.

Mr. Clifton asked if there was any indication on how the funds would be divided and Mr. DeChene replied that he had spoken to the lobbyist representing New Castle County the previous week. Mr. DeChene stated that at the time, there was considerable question as to how much the County would receive and noted there was a push by the State to hold some funds for the State coffers but that he and Mr. Armitage were in constant contact with the County lobbyists to discuss the next steps. He informed Council that he would share deadlines for applications as he learned of them.

Mr. Clifton stated that the benchmarks set forth in Senator McDowell's bill were ones that the City already adopted and he did not view them as obstacles. He shared that he was concerned with the rumors that the bill could be pushed as part of the larger budget bill in June. He was also concerned with the language around community solar and having full rights and authority over the power purchases and distribution as a DEMEC community. Mr. Clifton asked if a neighborhood could choose to build a solar park and have the option under State law to opt out of the City's energy program. Mr. DeChene explained the broader concern about the bill was that there was currently a lawsuit between DNREC and the Public Service Commission over the PSC freezing the rates for renewables. He explained that when the RPF bill was signed in 2010, the Legislation stated that if the cost of compliance with the percentage of renewables required exceeded 3%, the program rates would be frozen until they could be controlled. He reported the numbers hit 9% in 2012 and 19% cumulative as of 2020 and noted the issue surrounding the cost of compliance with RPS. He believed the 19% would be a significant talking point against the passage of the RPS bill as included into the budget. With regards to community solar, Mr. DeChene said he would have to review the legislation in more detail to be able to answer. Mr. Clifton wondered whether the language of "small components" meant developmental areas or municipalities in fully constituted government.

Mr. Clifton referred to Mr. Markham's comments on unemployment and revealed he had received daily calls from residents asking about enhanced unemployment but could not answer those questions. He understood the funding was available for more homeless vouchers, but DHSS was overwhelmed, and he assumed the Division of Unemployment was as well. Mr. Clifton wanted to address and acknowledge that it was imperative for residents that those offices caught up to demand. He appreciated the updates from the lobbyists.

There were no public comments.

Mr. Armitage stated that his conversations with the Secretary indicated more than 62,000 unemployment filings which were more than the last two years total. Mr. Armitage explained that the Unemployment Office staff was working seven days a week to address the backlog and were doing as much as possible to work quickly. He agreed that it was an overwhelming, unanticipated number of filings. Mr. Clifton was happy to learn that Mr. Armitage spoke to the Secretary and hoped to have an after-action review that considered cross-leveling employees to create effective solutions during crises. Mr. Armitage believed another problem was that the systems were not upgraded due to funding issues and LOTUS coders were brought in because the systems were so outdated. He believed system upgrades should be reviewed in after-action discussions

The Mayor thanked Mr. Armitage and returned the discussion to the table.

**13. 5-B. REQUEST TO SCHEDULE ADDITIONAL COUNCIL MEETINGS ON MAY 26, JUNE 29, AUGUST 31 AND SEPTEMBER 8 – CITY MANAGER/CITY SECRETARY (10 MINUTES)**

**1:07:42**

Ms. Bensley stated that with the cancelation of the election and disruption from the virus, she and Mr. Coleman reviewed the calendar and requested that Council schedule additional meetings on May 26, June 29, August 31, and September 8. She explained that under the current rules of procedure, there were no Council meetings on the weeks of City holidays nor were there Council meetings on fifth

Mondays. She continued that with the recent cancelations with the delays of items due to COVID-19, the extra time needed for the yearly budget and rescheduling the election, Ms. Bensley and Mr. Coleman proposed Council schedule meetings for the dates mentioned. She continued that since two of the proposed dates were on Memorial and Labor Day holiday weeks, it was necessary to gauge if a quorum would be available. She explained that when it was possible to reschedule the election, a request for a motion for cancelation would be introduced for the appropriate adjacent Council meetings.

Mr. Horning trusted Ms. Bensley's judgement and supported the recommendation with the understanding issues would be addressed as the situation progressed.

Ms. Wallace, Mr. Hamilton, Mr. Lawhorn, and Mr. Markham agreed with Mr. Horning's comments. Mr. Markham asked if it was possible to use part of the CARES Act to offset the meeting costs because they were not budgeted. Mr. Coleman expected staff time and direct cost expenses to be eligible.

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

MOTION BY MS. WALLACE, SECONDED BY MR. HORNING: THAT COUNCIL SCHEDULE ADDITIONAL MEETINGS FOR MAY 26, JUNE 29, AUGUST 31, AND SEPTEMBER 8 WITH THE MAY 26 MEETING FOLLOWING THE AGENDA FORMAT FOR THE SECOND AND FOURTH MONDAYS AND THE JUNE 29, AUGUST 31, AND SEPTEMBER 8 MEETINGS FOLLOWING THE AGENDA FORMAT FOR THE FIRST AND THIRD MONDAYS.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Hughes.

**14. 5-C. UPDATE TO COUNCIL REGARDING THE FISCAL IMPACT OF THE COVID-19 STATE OF EMERGENCY FOR FY2020 – CITY MANAGER/FINANCE DIRECTOR (45 MINUTES)**

**1:15:10**

Mr. Del Grande presented a PowerPoint of the projected revenue loss due to COVID-19 and explained the City faced an unprecedented economic downturn with no sector left unscathed despite its diversified sources of revenue. He reported the current State of Emergency (SOE) was slated to sunset on May 15 and Governor Carney indicated he would likely extend the SOE but would also lift some current restrictions. He noted that easing restrictions would improve the City's financial position but explained the lag-time between lifting restrictions and when the City would see revenue normalcy. He continued that utility usage would return once restaurants could operate business as usual, but it could take another two months before commercial activity turned into revenue for the City. He added that even with lifting all restrictions, revenue would not return to the City immediately and would take time to return levels prior to March 15.

Mr. Del Grande stated it was difficult to estimate the losses because the end of the State of Emergency was in question and the restrictions would be slowly lifted. He pointed that the closing of schools for the remainder of the year made it clear that the SOE would be extended. He also pointed that behaviors changed over the last six weeks and it was difficult for staff to determine how the changes translated into the utilities and services the City provided and offered.

Mr. Del Grande explained the 2020 Approved Revenue Budget passed by Council was \$96.7 million with 75% funds coming directly from utilities: electric, water, sewer, and storm water. Staff created three possible scenarios to establish a range for the City's potential loss of revenue with the SOE ending on one day and life resuming as normal the next with the potential scenario dates of May 15, June 15, and December 31. He reported that projections called for a loss of between \$5.2 and \$15.4 million which represented 5.3% to almost 16% of the budgeted revenue. He compared UD's loss of \$65 million or 4.4% of their budget where City staff projected a 5.3% loss as a low estimate for the municipality.

Mr. Del Grande stated staff anticipated a loss of between \$2.2 and \$7.6 million in utility revenue. He continued that as UD adopted remote learning and some businesses closed, staff anticipated a 10% loss in electric sales each month the SOE was in effect. Additionally, staff estimated a 20% loss in sales each month in water and sewer utilities. He stated that storm water fees were fixed but staff anticipated a 5-10% loss in cash as utility customers faced financial challenges. He stated that no service disconnections would be performed while under SOE and customers would continue to receive both electric and water service and explained that in doing so, the City would end up with a higher amount of uncollected utility bills which would result in the City absorbing a large portion of the expenses in the

future that needed to be recovered. The estimated utility losses would be between 3.1% and 10.5% of the budgeted revenue.

Mr. Del Grande explained that the tax revenue was anticipated to have a loss of between \$1 million and \$2.4 million and taxes were comprised of real estate, real estate transfer (RTT), lodging, and utility franchising. Property taxes would result in a 5-10% loss extending into the next year as some property owners would prioritize which bills to pay. The RTT, estimated to bring in \$1.6 million annually, would stagnate as the real estate market slowed to a complete stop. Staff did not anticipate any large transactions and believed the losses could range from \$400,000 to \$960,000 or 25% to 60% of what was budgeted for the year.

Staff projected lodging tax to be virtually non-existent as long as the SOE was in effect and assumed it would take time for the numbers to normalize to 2019 levels. Staff expected property tax delinquency rates to increase as owners defaulted on mortgages or failed to make timely tax payments. Mr. Del Grande indicated one insulating factor was that property assessments were based on 1983 values so the City's tax base would not be reduced as a result of the anticipated decline in property values.

Mr. Del Grande reported that staff expected to lose between \$1.8 and \$5.1 million or a 17% to 50% loss of budget revenue in fees for service and explained fees for service was comprised of permits, licenses, parking fees, and Parks and Recreation programs. He pointed that parking in the City was currently free during the SOE, the Alderman's Court was closed, all Parks and Recreation programs were canceled, and permit activity slowed but was slowly increasing. He explained that revenue for fees for service would be minimal during the duration of the SOE.

Mr. Del Grande anticipated other revenue to have a loss between \$137,000 and \$196,000 and consisted of interest income on the City's cash account and small, miscellaneous sources of revenue. Due to staff's anticipation of using more cash from reserves to cover revenue losses, combined with the Federal Reserve lowering the fed rate, interest income was expected to decline.

Mr. Del Grande informed that at the Federal level, local impact of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was largely unknown but noted that New Castle County was awarded \$322.8 million of the State's \$1.25 billion from the Federal Government and could only be used for reimbursement of COVID-19 related expenses channeled through the County and not the State. He revealed that Governors across the country were pushing for flexibility on how to use the CARES Act fund but were unsuccessful. He noted that any funding from the CARES Act that could be used to supplant lost revenue would help the City tremendously.

Mr. Del Grande continued that the City would receive two grant awards. The County revealed the City would be granted \$168,781.68 in Community Development Block Grant Funds through the CARES Act with the intent that the funds were used to provide immediate assistance in COVID-19 response to low- and moderate-income residents. The City asked the County permission to use some of the funds to aid residents having difficulty paying utility bills and were still awaiting a reply. He indicated the Police Department was in the final approval process for a \$56,000 grant from the Bureau of Justice Assistance (BJA) to cover some of the costs incurred by the City to prepare for and respond to the coronavirus. He expected the City would start drawing on the funds within the next 60 days.

Mr. Del Grande summarized that there was a likelihood that restrictions contained in the SOE would extend beyond May 15 and Governor Carney indicated he wanted to reopen the State on a rolling basis. Mr. Del Grande explained that revenue forecasting would become more accurate as staff obtained more data and definitive timelines. He noted that even if UD students returned in late summer, it was likely that the numbers would still be impacted as the fall semester was still in question. He continued that there was a high probability that the City would experience a revenue loss equal to 15.9% of the approved budget or \$15.4 million. The shortfall would force the City to consider dramatic changes in operation and providing services. He noted that non-essential programs were evaluated on a case-by-case basis to determine if they were critical to needs of the City and staff were examining Capital Expenditures to identify projects that could be reasonably delayed. He stated that the City's future budgets would include dramatic reductions in services and would jeopardize public safety, electric grid, water supply, and sewer service and explained that the actions would negate positive strides the City made in solidifying financial reserves. Rating agencies considered the financial reserves and were one of the reasons the City was able to maintain AA+ and AA2 bond ratings. He did not think many other governments were in the position to weather the financial impact without assistance from the Federal government. Without financial aid that could be used to supplement lost revenue, the City would face a severe financial crisis.

Mr. Clifton announced that the City canceled the Memorial Day Parade.

Mr. Coleman explained that staff implemented various cost saving efforts including a hiring freeze in place since mid-March which resulted in three and a half vacant positions: Human Capital Manager in Human Resources, Sewer Equipment Operator, Electric Ground Hand, and a part-time Secretary in the City Secretary's office, all which would remain vacant in the foreseeable future. He continued that even if the City wanted to fill the positions, staff could not complete background checks because courts were closed, and any positions that opened under the SOE would remain vacant as a cost-saving measure. He continued that the freeze on non-essential expenditures did not include purchases pertaining to public safety, employee safety, utility operations, IT infrastructure maintenance, and refuse collection, although all purchases would be scrutinized. He revealed the City postponed capital spending where possible and shared that the State directed that the City could hold Municipal Street Aid funds for up to three years, so staff was considering postponing capital projects. He shared that staff negotiated the SOE premium pay with both AFSCME unions and explained that most Parks activities were canceled for the near future, but staff was still planning for camps in the event they could be held over the summer because the programs supported working families. Staff found that the fireworks for July 4<sup>th</sup> were not essential and wanted to recommend that Council cancel the fireworks and associated Liberty Day celebrations. In doing so, the City would save \$35,000 in direct costs and a considerable amount of overtime between Parks, Public Works, and Police staff. Mr. Coleman pointed that the celebration drew a crowd of 30,000 people which seemed irresponsible with social distancing guidelines.

Mr. Coleman stated that staff would normally recommend implementing rate increases to stave off losses but there were many unknowns from utility sales impact, UD's fall semester plans, whether the Federal government granted funding, and record unemployment. Staff wanted to take a wait-and-see approach for a few months until the City received more guidance from the Federal government and noted the City only had one month of trajectory in utility sales and wanted to see if the sales normalized as restrictions lifted before taking action.

The Mayor opened the floor to questions from Council.

Mr. Horning thanked Mr. Del Grande for the presentation and the Unions for good-faith negotiations. He agreed it was not the time to implement increases because of unknown factors. He wanted to keep communication open and advised residents and business owners to contact creditors over the concern of foreclosures. He remarked that creditors, student loan companies and insurance companies expected the need for payment delays and residents should reach out immediately for assistance. He appreciated staff efforts in scrutinizing expenditures. He asked Mr. Coleman if other direction was needed from Council. Mr. Coleman replied that direction would be taken on whatever Council thought necessary and stated that staff was trying to maintain a full level of service. He pointed that the only real service reductions were the inability make payments in the office, every other week Green Wednesdays, and the elimination of bulk collection. He shared that it was staff's goal to maintain service and revealed there were no staffing interruptions due to the virus but admitted illness among staff would require short-term changes to operations. He reiterated Mr. Del Grande's point that the City had a decent amount of reserves but indicated that defaulted utility payments were a concern and believed most of the funds from CDBG would be used for utility bill assistance for residents.

Mr. Horning asked if the City was still in the process of an electric rate study and Mr. Coleman confirmed and shared that the results of the study were not for a rate increase. He explained the RSA was in place and \$3 million was being returned for a second year. He suggested Council could postpone the RSA giveback to lessen the impact in the subsequent year and believed it could save \$1.5 million on electric. Mr. Coleman explained holding the RSA would not increase rates, but staff might need to reevaluate assumptions if large users changed practices and used less electric. Mr. Horning asked if staff would have to reevaluate on the back end before making changes and Mr. Coleman confirmed that he did not want to finalize the rate study until staff had a better understanding of how the electric market fared. He explained the City's purchases from DEMEC protected from upward rate fluctuations.

Mr. Horning asked how long staff could hold off on canceling the fireworks and Mr. Spadafino replied that staff needed to coordinate with UD, Newark Police, and Aetna regarding logistics and needed at least thirty days. He shared that the down payment could be used for the next year's celebrations and would confirm with the fireworks company. Mr. Horning preferred holding off on the decision until the end of May when more data was available. Mr. Spadafino added that the City was UD's guest for the fireworks and the University canceled all on-campus event through July. He said that he would reach out to see if that included the City's celebration and noted the City would be required to follow UD's guidelines. Mr. Horning suggested that if UD was unable to host, staff attempt to find another venue to give residents the impression that the City was ready to reopen. Mr. Spadafino explained that UD was the sole location the City could hold the fireworks given parking parameters and traffic logistics. He continued that if the fireworks were held at a park, staff needed a safety diameter of 800 feet for the firework fallout

zone, which was a very large area. He revealed that during the event, the athletic complex, STAR Campus, and the Woods lot parking lots were full.

Ms. Wallace asked Mr. Spadafino if camps were revenue neutral and Mr. Spadafino confirmed. Ms. Wallace was hesitant to cancel camps at the last minute. She was in favor of canceling the fireworks for the fiscal savings and because she did not think it was responsible to hold a large event. Ms. Wallace referred to the hiring freeze and opened positions and asked if staff also froze salary increases and promotions. Mr. Coleman replied that no one had been promoted but explained contractually obligated salary increases would proceed. He corrected that there were three full-time and two part-time positions open. Ms. Wallace asked if staff could speak the unions regarding the contractually obligated increases once more information was available and Mr. Coleman confirmed. He shared that the changes made with the unions would save money, but the funds were not budgeted. He explained that the unions were realistic and understood the City's financial position and realized additional discussions could be required.

Ms. Wallace supported saving the bulk of the CDBG funds for utility relief and thought there were more opportunities to help the City's homeless, and shared she also supported freezing the RSA. She asked if the City was contracted with other consultants and Mr. Coleman replied that most consultant contracts were on a time and material basis so if the project was frozen, so were future expenses. He explained the City wrote a purchase order for the value of the contract and the consultants drew on it throughout the project. Ms. Wallace asked specifically about the parking study and Mr. Coleman answered the City could pause the contract but suggested moving forward on the TID study as it was a long duration effort. Ms. Wallace thanked staff for compiling the preliminary numbers and agreed that the City was in the early stages and should hold making final decisions except for the fireworks.

Mr. Hamilton asked Mr. Del Grande if the service charge on water was implemented and Mr. Del Grande replied that staff incorporated the water and sewer charge to only cover the cost of interest payments on debt services from the 2018 Referendum and was passed on December 9 by Council. Mr. Hamilton asked when it started to generate revenue and Mr. Del Grande replied January. Mr. Hamilton hoped that the City kept increasing the charge to balance the budget and asked where the issues of larger deposits on electric accounts stood. Mr. Del Grande answered that non-owner-occupied residences were now charged a \$300 deposit for electric and commercial customer practices remained the same. Mr. Hamilton hoped that more information for COVID-19 help would be available on the City's website to help residents avoid financial ruin. He admitted he enjoyed fireworks but doubted the City would be able to have them on UD's campus and supported canceling the event. Mr. Coleman said he would be happy to share any COVID-19 relief links on the website.

Mr. Lawhorn supported staff's measures to reduce costs and agreed there was not enough information to make solid decisions. He hoped the City would receive aid from the County and that the Federal government changed their policies on how money could be used to avoid postponing capital projects. He requested that staff and Council have a more in-depth conversation in a month and shared Mr. Horning's desire to hold the fireworks but did not believe it was possible. He wanted to have better data to address an RSA freeze and which capital projects to push.

Mr. Markham did not have faith that the Federal government would come through for the City and asked for the City's total reserve amount. Mr. Del Grande estimated the City had \$11 million and Mr. Markham commented that it was not enough to get through the worst-case scenario. Mr. Del Grande indicated there were some opportunities to bridge the gap and noted electric reserves for the RSA and an additional \$2 million saved for the substation. Mr. Markham asked if they could only be used in the electric fund and Mr. Del Grande said staff had the ability to reallocate the money based on Council's direction. Mr. Markham reiterated that the City had \$11 million in reserves, \$2 million capital and \$2 million in the RSA and asked if the funds he mentioned, combined with savings, would be enough to get the City through the end of the year in a worst case situation and Mr. Del Grande confirmed but noted it would not be the same for 2021. Mr. Del Grande stated the City had \$5.3 million in rate stabilization reserves and \$2 million in future project capital reserve. Mr. Coleman added the RSA giveback and Mr. Del Grande confirmed and explained if staff froze the RSA on September 1, the City would have another \$1.8 million. Mr. Markham noted it all hinged on whether residents had the ability to pay and Mr. Del Grande agreed.

Mr. Markham wanted to set aside money for the City's homeless since the funds were available and remarked that helping residents pay bills also helped the City but was not sure how much it would help the revenue situation. He agreed that the camps were helpful in allowing parents to return to work and was a concern. He had mixed feelings with the fireworks because of the costs and noted it could be a morale booster even if the visitors were not allowed on UD property. Mr. Spadafino agreed it could boost morale, but the logistics would be difficult. Mr. Coleman added that staff's concern was if the City was holding the only fireworks show, it was possible the City could have more attendants than usual. Mr.

Markham assumed the City would have to do a referendum and could not borrow funds at a short-term rate and there was nothing in the CARES Act to allow it. Mr. Del Grande believed the City could cover its current debt obligations without a referendum but would have to check if there were more. Mr. Markham recalled a number was increased to \$1 million and Mr. Del Grande confirmed it was not a large amount.

Mr. Markham reluctantly suggested staff consider employee reduction if the City did not get relief and Mr. Coleman admitted personnel costs were secondary to utility purchases. Mr. Del Grande interjected that personnel costs accounted for \$35 million out of \$97 million. Mr. Markham did not want to wipe the reserves and wanted staff to consider borrowing. Mr. Coleman reported the municipal bond market rates were not as low as expected but was a consideration. He added that the City had existing borrowing authorization and there could be an opportunity cover some short-time operating costs and also acknowledged there was the option to hold a referendum to bring in extra money to cover operating expenses for a year or two until the situation improved. Mr. Markham was not sure the referendum would be well-received and wanted staff to list what items would be instituted and in what order.

Mr. Lawhorn wondered if it was possible to hold the fireworks from a barge on the reservoir and Mr. Coleman thought the space was large enough but was concerned about the spent casings and the water. Mr. Lawhorn agreed that it was a no-go if there was threat of water contamination.

Mr. Clifton was torn on camps because he understood Ms. Wallace's point that families had to plan for care, and he did not want to deprive residents of the safety net. He admitted he had a difficult time deciding on the appropriate timing. He asked Mr. Coleman if the anticipated \$7.6 million loss in utility revenue factored in the lowered purchases. Mr. Coleman confirmed that \$35 million of the \$50 million revenue went straight to DEMEC for wholesale power purchases and losing \$1 of electric revenue did not translate to a \$1 loss of revenue to the City but was 30 cents on the dollar. He continued that the loss for sewer was 45 cents on the dollar, but the water and storm water were 1:1 because there were no wholesale purchase costs for those utilities. Staff was assuming a \$15 million loss, but Mr. Coleman explained it was closer to \$10.5 million net loss.

Mr. Clifton stated that most of his questions had been asked by the other Council members though he commented that the fireworks could be a diversion for residents. He believed that social distancing would be required for longer than the previously assumed and pointed that Rehoboth canceled fireworks, the State Fair canceled concerts, Dover canceled fireworks, and various towns in Cecil County canceled festivities. He did not want to create a scenario where Newark was flooded with asymptomatic carriers to spread the virus to residents and first responders. He felt that if the City was asking the Federal government for revenue replacement, he felt staff should make prudent cuts where necessary to lessen the City's losses. He revealed the City had to cancel the fireworks due to rain before and did not think he could support holding the fireworks under current conditions.

Mr. Clifton asked if a roll call vote was necessary and Ms. Bensley answered yes and indicated there were no public comments submitted. Mr. Clifton explained that a yes vote was to support canceling the fireworks and no vote support either not canceling or to postpone a final decision. Ms. Bensley interjected that if the motion was to cancel the fireworks, then Mr. Clifton's directions were correct but if the motion was not to cancel or postpone, it would be the opposite and Mr. Clifton agreed that it was more clear to have a motion to cancel. Mr. Clifton asked the City Solicitor for his opinion and Mr. Bilodeau stated the motion should be positive and should be framed to cancel the fireworks.

The Mayor opened the floor to public comment. There were none and the discussion returned to the table.

MOTION BY MS. WALLACE, SECONDED BY MR. HORNING: THAT IN LIGHT OF THE CORONAVIRUS THAT COUNCIL MAKE THE PROACTIVE DECISION TO CANCEL THE FIREWORKS FOR THE SUMMER AND ASK THAT CITY STAFF BRAINSTORM POSSIBLE OTHER WAYS TO CREATE A CITY-WIDE BONDING EXERCISE TO CREATE BONDING AND COMMUNITY PURPOSE.

MOTION PASSED. VOTE: 5 to 1.

Aye – Clifton, Hamilton, Lawhorn, Markham, Wallace.

Nay – Horning.

Absent – Hughes.

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

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

- A. **Bill 20-11** – An Ordinance Amending Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware to Increase Land Use Application, Plan Review and Public Works and Water Resources Fees (30 minutes)

2:27:24

Ms. Bensley read the ordinance into the record.

MOTION BY MR. HAMILTON, SECONDED BY MS. WALLACE: FOR SECOND READING AND PUBLIC HEARING.

Ms. Gray explained the proposed ordinance was for proposed changes to land use application, plan review, public works, and water resources fees found in Chapters 27 and 32. The chapters included a schedule of fees and had sections that included a provision that the fees were to be reviewed every two years and revealed they were last revised by Council on February 13, 2017 via Ordinance 17-05. She referred to budget discussions where Council directed staff to review fees based on a rationale that reflected increased costs. Staff proposed the increased fees be based on the consumer price index (CPI) and the employment cost index (ECI) and according the Bureau of Labor Statistics, the overall inflation rate from January 2016 to January 2020 was 9% (CPI) and the rate from 2016 to 2019 was 10.1% (EPI). Staff rounded to 10% to account for increased labor costs and the fees in the proposed ordinance reflected the 10% increase. Ms. Gray continued that the Planning and Development Department staff suggested approval of the amendment as did the Planning Commission on the March 3, 2020 meeting with a 7-0 vote.

Mr. Horning thanked Ms. Gray for her presentation and the Planning Commission for its efforts and wanted to clarify that the increase in fees were also reflective of the efforts required of City resources. Ms. Gray explained the 2016 increase was based on an analysis of the average time spent by staff and a matrix was created for future calculations. She continued that there were fees that did not cover all costs of a review and only offset the expense.

Ms. Wallace had no questions and supported the increases.

Mr. Hamilton was pleased the fees would be reviewed in a consistent manner and recalled they were set by using County fees as benchmarks, he asked how the fees compared to the County's. Ms. Gray replied that staff did not consider County fees in this round and used only the CPI and EPI to increase. Mr. Hamilton hoped that future analysis included comparisons to the County schedule to align the fees.

Mr. Coleman explained that when the analysis was done in 2016, staff did so without using the County as a comparison in order to calculate how much it cost City staff to perform the services. He explained that City and County processes were different and face values were not necessarily related and reported the City's fees were lower than New Castle County but higher than Kent County. During staff's initial budget preparations in the fall, funds were included to have a consultant perform a full review because staff was unable to dedicate time, but the review was not a wholesale look at industry standards for review and processing fees. He added that staff still needed to address impact fees for connecting to utilities and indicated the next review of fees would be comprehensive.

Mr. Lawhorn supported the bill and believed the rate study should be on a schedule to ensure the fees were correct and have an automatic inflation increase every year. He believed the County had a poor reputation and should be viewed as the City's competition in some regards. He believed it made sense to benchmark off the County so that the City's fees were competitive but was still less expensive to encourage developers. He wanted staff to consider the costs of development projects for individuals and small businesses and shared the details of a resident who spent \$100,000 to get his project to Council. He acknowledged the fees were a way to get funds from large developers but wanted to illustrate that not everyone interested in developing their properties were major companies.

Mr. Markham thanked Ms. Gray for the presentation.

Ms. Bensley stated there were no public comments submitted and the Mayor opened the floor to public comment. There were no public comments and the Mayor returned the discussion to the table.

Mr. Clifton supported the motion and thought it was beneficial to revisit and evaluate fees on a regular basis.

MOTION BY MR. LAWHORN, SECONDED BY MS. WALLACE: TO ADOPT BILL 20-11 AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

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

**(ORDINANCE NO. 20-08)**

17. 7-B. **BILL 20-14 – AN ORDINANCE AMENDING CHAPTER 7, BUILDING; CHAPTER 21, PEDDLERS, VENDORS AND SOLICITORS; AND CHAPTER 23, PARADES AND PUBLIC ASSEMBLIES; CODE OF THE CITY OF NEWARK, DELAWARE, BY EXTENDING THE PROVISIONS OF EMERGENCY ORDINANCE NO. 20-01 (20 MINUTES)**

**2:45:31**

Ms. Bensley read the ordinance into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: FOR SECOND READING AND PUBLIC HEARING.

Mr. Horning thanked staff for bringing the issue forward and had no questions.

Ms. Wallace and Mr. Hamilton had no questions.

Mr. Markham asked how long the extension lasted and how it would be end. He wondered if the items could go into new section of code that dealt with emergency ordinances that could be modified or activated and asked the City Solicitor for his opinion. Mr. Bilodeau explained the provision would end with the SOE was lifted by the Governor so it would be in effect until then or until amended by Council. He continued that Council could choose to enact another emergency ordinance to keep restrictions in place. Mr. Markham rephrased that unless there was an action to strike out of date code, it would remain on the books. Mr. Bilodeau stated that the ordinance would sunset and admitted it would technically be on the books but would not have an effect once the SOE was lifted. He said that Council could pass another ordinance to remove it from code. Mr. Markham asked the City Secretary if there was a preference to remain, be removed, or if a set of emergency ordinances could be created and brought forward to state change. Ms. Bensley pointed that the ordinance was structured so the provisions sunset as the associated provisions of the SOE were rolled back and explained the entire SOE did not have to be lifted, just the portions that paralleled the associated sections. Regarding cleaning up the code, Ms. Bensley believed it could be addressed in the after-action plan to either preserve items for future Council as a record or bring forward an ordinance to remove the sections as obsolete. Mr. Markham asked Ms. Bensley and Mr. Bilodeau for their preferences and Ms. Bensley interjected that the State Document Retention Guidelines mandated the ordinances be retained as permanent records and could be referenced in the future as needed.

Mr. Clifton had no questions or comments and asked Ms. Bensley if public comments had been submitted for the item. There were no public comments and the Mayor returned the discussion to the table.

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: TO ADOPT BILL 20-14 AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

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

**(ORDINANCE NO. 20-09)**

18. 7-C. **BILL 20-15 – AN ORDINANCE AMENDING CHAPTER 20, MOTOR VEHICLES, BY EXTENDING THE PROVISIONS OF EMERGENCY ORDINANCE NO. 20-02 (10 MINUTES)**

**2:53:19**

Ms. Bensley read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MR. HORNING: FOR SECOND READING AND PUBLIC HEARING.

There were no questions from Council and no public comments.

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: TO ADOPT BILL 20-15 AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Hughes.

**(ORDINANCE NO. 20-10)**

19. 8. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:** None
20. **Meeting adjourned at 9:57 p.m.**

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

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