

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**May 4, 2020**

Those present at 7:00 p.m.:

Presiding: Mayor Jerry Clifton  
District 1, James Horning  
District 2, Sharon Hughes (arrived at 7:20 pm)  
District 4, Chris Hamilton (arrived at 7:45 pm)  
District 5, Jason Lawhorn  
Deputy Mayor Stu Markham, District 6

Absent: District 3, Jen Wallace

Staff Members: City Manager Tom Coleman  
City Secretary Renee Bensley  
City Solicitor Paul Bilodeau  
Chief Communications Officer Jayme Gravell  
Deputy Police Chief Mark Farrall  
Finance Director David Del Grande  
Planning and Development Director Mary Ellen Gray  
Code Enforcement Officer Tim Poole

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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.

3. 1. **FINANCIAL STATEMENT (Ending January 31, 2020) (10 minutes)**

**00:01**

Mr. Del Grande began his presentation by pointing that the January Monthly Financial Update did not include the estimated impact of coronavirus and the State of Emergency (SOE). He continued that at the start of 2020, the Finance Department added another page to the report to reflect all budget amendments approved by Council during the year to track budget changes and all of the budget amendments made through March 31<sup>st</sup> were included in the presentation.

Mr. Del Grande reported that estimated expenditures based on 31 days of activity did not show abnormalities and shared that if the year ended January 31, statements would have reflected a positive expenditure variance of \$469K, which included utility purchases. When comparing 2019 expenses to 2020 through January, there was an expenditure increase of \$2 million due primarily to having three pay periods in January of 2020, compared to two in 2019. Additional contributing factors were the increased pension and OPEB contributions, the omission of workers' compensation program in expenses of January 2019, and encumbering tree trimming expenses earlier than in the past.

Mr. Del Grande continued that the overall revenue reflected a \$133,000 positive variance when compared to budget. Real estate transfer taxes and lodging taxes were reported a month behind, so neither reflected revenue for January. Utility revenue for January was positive for the water, sewer and stormwater funds with electric sales 6.1% short of projections, which represented 2.2 million kWh. He explained that electric did not meet budget expectations because January was unseasonably warm and so customers used less heat. He also shared that UD sales were 2% below estimate, non-UD sales were 7.6% below expectations, and both rounded out to a total sales shortfall of 6.1%.

Mr. Del Grande explained that water and sewer sales were up for January, by 20.2% and 13.9% respectively, due partially to a large University account that had only received estimated billings for the last six months. With the estimated bills much lower than actual consumption, it added about \$80,000 of billings above the normal. In addition, there were accrual adjustments to some of the bill cycles, which resulted in a positive outcome for January. Staff did not expect the remainder of the year to be as strong as January.

Mr. Del Grande stated that the net current operating surplus (combination of revenue versus expense) began the year as positive and, if the City were to reach all its budget estimates for the remainder of the year, the amount of reserves required to balance the budget would be reduced \$601,000. The cash balance at the end of January was \$40 million, which included \$23.5 million in the City's long-term cash account and \$16.5 million in operating cash. The electric regulatory liability carried a credit balance of \$481,000 and would be managed through the 2021 rate stabilization adjustment (RSA).

The Mayor opened the floor to questions from Council.

Mr. Horning thanked Mr. Del Grande for the presentation and thought adding the budget amendments to the report was helpful. He asked if staff required any direction from Council and Mr. Del Grande replied that he and Mr. Coleman were examining a plan to determine expected revenue loss and expenditure changes. He noted it was difficult to determine the utility sales because monthly information was not available, and staff would have a better idea by the end of May. He continued that two ways to project revenue loss were to determine if sales were up or down and if customers were able to pay.

Mr. Horning noticed that business licenses and permits were down and asked if it was an anomaly and Mr. Del Grande replied that it was too early to tell with businesses and permits because the report was from January and staff applied the last three years as an assumption for 2020. Mr. Del Grande revealed that he spoke with the Planning Director and permit numbers only slightly declined and plan activities were performing well. He reported that staff billed business licenses on an annual basis and should be close month to month.

Mr. Lawhorn had no specific questions and acknowledged that staff was in data-collection mode and needed time to determine how the City was impacted. He cautioned that action should be taken soon for the longer term.

Mr. Markham asked Mr. Del Grande if the report reflected actions on Main Street. Mr. Del Grande replied that parking was the only significant impact. Mr. Markham asked if staff was working on plan to pool money to cover revenue and fallback positions and Mr. Del Grande confirmed. Mr. Markham asked if the Smart Meter data could be incorporated earlier. Mr. Del Grande stated it was possible but noted the underlying data would have to be scrubbed and staff preferred to perform the action once to avoid repetitive efforts. Mr. Markham noted that February and March were not worth much and asked if the reports were built on previous months or if it was possible to skip to April. Mr. Del Grande answered that the first quarter of every fiscal year did not usually have useful information. Mr. Markham asked Ms. Bensley if there was a requirement for a monthly report or Council had to waive it because he felt that Mr. Del Grande's efforts should be applied elsewhere. Mr. Del Grande interjected that staff were required complete the reports but would not devote as much effort to the analyzing the individual months and he wanted to examine April closely. Mr. Markham wanted staff to devote minimal time to February and March to get a closer handle going forward and deferred to the Mayor.

Mr. Clifton understood Mr. Del Grande's point that the building blocks from February and March needed to be added for an accurate picture and admitted he was uncertain about what Mr. Markham had asked. Mr. Markham added that he suggested staff do the bare minimum necessary for February and March to move the numbers forward and not compile reports and graphs for a presentation to Council. Mr. Clifton explained that staff had to meet legal requirements and be lawful under GASB Requirements and Mr. Del Grande confirmed that he had to report monthly to comply with the bond agencies and offered to provide a less-detailed version. Mr. Clifton understood Mr. Markham's point that the numbers were quickly made irrelevant.

Mr. Clifton shared that staff had the first of many conference calls with the County Executive to discuss the distribution of \$1.25 billion CARES Act funds and commented that many Mayors and City Managers joined to discuss the legality of the funds with the County, State Treasurer's Office and Budgeting Office. Mr. Clifton noted that the usefulness of the funds depended on what passed legal muster and agreed with Mr. Markham that the reporting was a futile exercise.

Ms. Hughes asked how the CARES Act funds would be distributed and Mr. Clifton explained the State got \$1.25 billion while the County would receive \$323 million. He explained the City would have to apply directly to the County to receive the funds but noted many parameters were still in question.

Mr. Del Grande interjected that Council could direct staff to immediately suspend the RSA through March 14, 2021 and continued that by removing the credit, the City would receive \$285,000 a month to help offset revenue loss. Mr. Clifton believed it was astute to advertise to residents in full transparency if it was decided to suspend the return. He acknowledged that while it was only a few dollars per bill, it

could be a very important amount to residents in the current circumstances. Mr. Coleman added that the RSA worked to guarantee the City a set amount of revenue so if the City underperformed in 2020, the RSA would increase in 2021. He explained that if staff suspended the RSA now, it could be that next year's RSA would be neutral but if it was not suspended, the City would go further into the red and then the RSA would need to overcorrect. He indicated it would be twice as bad next year if staff did not act now.

Mr. Horning acknowledged residents were hurting and shared that he was furloughed. He pointed that there was no direction regarding aid from the Federal government for lost revenue and he did not support suspending the RSA but said that he was open to discussion.

Ms. Hughes supported Mr. Coleman's suggestion and admitted the current climate made for difficult predictions.

Mr. Lawhorn thought it prudent to suspend the RSA as soon as possible and asked Mr. Del Grande to repeat the number saved each month and Mr. Del Grande responded it was tied to electric utility sales but averaged \$285,000 per month. Mr. Lawhorn believed it was necessary given the substantial savings to the City and the amount it saved residents next year. He admitted he was not optimistic that the Federal government would allow the CARES grant to be used for lost revenue. He agreed with Mr. Clifton that the move should be transparent and advertised clearly to residents and be addressed on a future agenda.

Mr. Markham did not like the idea of changing the rates but admitted the it was necessary. He asked that it be brought forward for discussion and had doubts that the Federal government would act although he noticed signs that some parts of Congress were willing to act. He suggested bringing it forward in June to allow more time for things to settle.

Mr. Horning asked how much the RSA amounted to for each user and agreed to discuss it on a further agenda. Mr. Del Grande answered that based on a 1,000 kWh/month, it was roughly a credit of \$12. Mr. Horning asked the average kilowatts used and Mr. Del Grande replied 750.

Mr. Clifton asked Ms. Bensley when the topic could be addressed on an agenda and Ms. Bensley replied that Council could do an addendum after the meeting that evening and post it for May 11 or discuss it on May 18 or May 26. Mr. Clifton thought the 18<sup>th</sup> was enough because the agenda was already posted for May 11 and Council agreed to discuss the topic for further action on the May 18<sup>th</sup> Council meeting.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: TO APPROVE THE FINANCE REPORT AS PRESENTED FOR JANUARY.

MOTION PASSED. VOTE: 5 to 0.

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

Nay – 0.

Absent – Hamilton, Wallace.

Mr. Markham asked if Mr. Del Grande needed Council direction on the Finance Report and Mr. Clifton said it was a discretionary issue.

**4. 2. SPECIAL DEPARTMENTAL REPORTS:**

- A.** Green Building Code Work Group Recommendations – Planning and Development (60 minutes)

**27:04**

Ms. Gray explained the presentation would discuss the proposed changes and ascertain Council input to the proposed Energy and Resource Conservation-based amendments to the 2018 International Energy Conservation Code (Green Building Code). She stated that the she would begin the presentation and follow-up would be provided by the Will Hurd, Chair of the Green Building Code Work Group. She stated that Green Building Work Group Members Tim Poole and Reid Rowlands were also attending.

Ms. Gray explained the Planning Commission heard the amendments to the 2018 International Energy Conservation Code and made a recommendation to Council at their April 7, 2020 hearing because it was tabled by Council for the March 16 agenda due to COVID-19. She continued that the Planning Commission began review of the rating system used to evaluate the energy conservation and efficiency standards (LEED) applied to development of all major subdivisions in the City in 2018, which were based

on the 2012 International Energy Conservation Code. Ms. Gray continued to describe the creation of a work group to review the City's LEED standards and stated the group met thirteen times since 2018 and held a public workshop on February 6, 2020. She informed Council that the Green Building Code Work Group Chair, Will Hurd, and Planning and Code Enforcement staff prepared a draft ordinance for the proposed amendments to the 2018 International Energy Conservation Code which was unanimously approved by the Planning Commission on April 7, 2020.

Mr. Hurd explained that the Planning Commission recognized the LEED-like credits were overtaken by the current energy code and the Planning Commission was awarding points for current energy code compliance and not for additional effort on behalf of the builders. He continued that the proposed code amendments required performance beyond the minimum standards, demonstrated that the City was committed to increasing energy conservation, and brought the City into compliance with the State mandate that all new residential construction be net zero energy capable by 2026 and all new commercial by 2031.

Mr. Hurd listed the members of the Work Group:

- Jeremy Firestone – former Planning Commissioner and Member of the Newark Community Sustainability Plan Steering Committee
- Willard F. Hurd – AIF chair and Planning Commissioner
- Rob Jadick – Bancroft Construction
- George Irvine – Conservation Advisory Commission chair
- Stacy M. McNatt – PE, Planning Commissioner
- Tim Poole – Code Enforcement
- Ben Prettyman – Developer and Design Review Committee member
- Reid Rowlands – Sustainable Products supplier, Design Review Committee member

Mr. Hurd explained the work group held regular public meetings and a public workshop where anyone who submitted a major subdivision plan over the last three years and general contracting firms were invited. The work group considered all the comments and compiled the amendments which were required to be enforceable, clearly written, impose affordable incremental costs, and encourage an integrated design approach. The focus of the revisions was to reduce energy use, encourage insulation and renewable energy, reduce the use of water and other natural resources, reduce construction waste, and improve indoor environmental quality. The group considered to which projects the revised code should apply because the current code only applied to commercial projects over 25,000 square feet and major residential subdivisions of five or more units. The group also wanted to ensure that applicants addressed all three main categories in the design.

Mr. Hurd continued that the group chose to incorporate stretch codes to provide a beyond-code option to achieve greater levels of energy efficiency. He explained that a stretch code required performance of 10% to 20% better than code and were adopted by municipalities to support the push to net-zero energy buildings. He pointed that an advantage to a stretch code was that as the base code improved, the required performance did as well. The work group developed credits using 20% beyond code minimums as a goal and included model stretch code provisions from the New Buildings Institute, the International Green Construction Code, LEED v4, ASHRAE 189.1, ASHRAE 700, and concepts from Passive House. The group lowered the thresholds for commercial projects from 25,000 square feet for commercial to 5,000 square feet and from 5 units to 3 units for residential subdivisions.

Mr. Hurd shared that the group doubled the required points from 25 to 50 over three categories and expanded the available points from 44 to 156 for commercial and 43 to 168 for residential. The group decided to award more points for items that were difficult or expensive to provide. They also rewarded integrated design and third-party rating systems by providing an opt-out pass and included site-related credits that could be evaluated by the Code Enforcement team.

Mr. Clifton thanked the Director Gray and Commissioner Hurd for the presentation and opened the table to comments from Council.

Mr. Horning thanked the group for their work and shared that residents were concerned with costs associated with green code standards. Mr. Hurd explained that the group was conscious of increasing costs for developers but was unable to find effective data on cost of implementation but estimated the increase to be \$1,000-\$2,000 per project. He remarked that most of the development projects were done by people who would not occupy the buildings and noted there was not much

incentive for such builders to do so efficiently so the group decided to push for desired benefits for the occupants of the building.

Mr. Horning reached out to David Stevenson, Director of the Caesar Rodney Institute Energy and Environment Center, who believed the residential requirements could be met by adding 1% to 2% to the construction cost, around \$3,000-\$6,000 per home, and suggested increasing the credit points for installing photovoltaic panels. Mr. Horning asked if the amendments would apply to the UD and Ms. Gray confirmed it would apply to all buildings built in the City. Mr. Horning asked again if it would apply to UD buildings and Ms. Gray confirmed.

Mr. Horning asked for an overview of the opt-out mechanism. Mr. Hurd explained developers could opt out by using an established building rating system that met the intent of the group's code, specifically LEED Gold or higher, Passive House Certified, International Green Building Code Complaint, or zero-energy. Mr. Hurd continued that it was possible to opt out of the energy conservation code only by doing certified performance at 20% better than code or 40% with design documentation produced by the design engineers using an established modeling system that demonstrated the design of the building was 20% better than the code baseline. He noted the developer still had to earn points in other categories.

Mr. Horning asked if green building codes made affordable housing cost prohibitive. Mr. Hurd agreed there was always a challenge because of cost limitations but he noted that the homes would be much cheaper to operate with lower fixed monthly costs. Mr. Horning asked Mr. Hurd to define FSC-certified wood and Mr. Hurd explained FSC stood for Forest Stewardship Council and meant the wood was harvesting in a sustainable fashion. Mr. Horning referred to RC-21 and asked why a shower room would be needed. Mr. Hurd explained that the shower room was a space for bike commuters to clean prior to work. Mr. Horning ask if RC-1 referred to reusing or recycling construction waste and Mr. Hurd confirmed.

Ms. Hughes asked if the group established a point system and raised the bar to encourage developers to exceed the point system and Mr. Hurd confirmed. Ms. Hughes asked how the push to exceed standards would be received by developers and Mr. Hurd explained that the City already had a point system in place that required above code performance and noted that the market was appealing to developers. Ms. Hughes asked if the point system indicated project approval and Mr. Hurd confirmed it was part of the building permit application process. Ms. Hughes thought it could be difficult for developers to attain the proper points and asked if they were provided guidance and Mr. Hurd explained that the points were set up so Code Enforcement was able to evaluate the project plans or the building prior to occupancy. Ms. Hughes asked if the 20% was in practice and Mr. Hurd replied that it had to be approved by Council first.

Mr. Hamilton asked if the amendments were targeted towards new development and Mr. Hurd confirmed they were for new construction only. Mr. Hamilton asked if additions and significant remodels would be subjected at some point and Mr. Hurd did not think it would apply because development tended towards commercial and multi-unit residential.

Mr. Lawhorn thanked the team for the presentation and work.

Mr. Markham saw efficient homes as more attractive to buyers and renters. He asked if geothermal was included and Mr. Hurd confirmed. Mr. Markham asked that zoning HVAC and ultraviolet air quality systems be encouraged. Mr. Markham asked if shade trees were included and Mr. Hurd recalled commercial buildings were encouraged to have overhangs but could not recall a requirement for residential. Mr. Markham asked if decking materials were covered and Mr. Hurd replied they were not. Mr. Markham asked Mr. Del Grande if there were any concerns with changes impacting the revenue and he had no concerns.

Mr. Clifton asked that Mr. Coleman give direction to Council for the proposed amendments.

Mr. Coleman informed Council that staff was looking for feedback and general direction as to whether staff should proceed with creating a bill to return for a public hearing and potential adoption.

Mr. Clifton admired the LEED Certification process and efforts to direct the City in a positive direction. He asked if flat type apartments with four units was considered four units and Ms. Gray confirmed it was and would be required to comply. Mr. Clifton referred to the cover letter from February and asked for clarification on item 7C because he interpreted it was up to Council's discretion. Mr. Hurd confirmed and explained that Code Enforcement was also provided discretion to discern what was an acceptable solution for a credit. Mr. Hurd indicated the group phrased the amendments to be a broader

set of standards. Mr. Clifton agreed there should be flexibility but pointed that there could also be room for too much interpretation. He asked how staff could confirm the material was properly certified and Mr. Poole replied that developers were required to submit a report detailing how all requirements were met, including receipts, origin documentation, and manufacturer's reports. Mr. Poole continued that at the beginning of the process, designers were required to submit a narrative illustrating the how they intended to comply, and then, at the end, were required to prove compliance.

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

Mr. Clifton asked Council if there was direction to staff to craft the amendments into an ordinance. Council was unanimous in support that staff should move forward with placing the Green Building Code Work Group recommendations as outlined in the April 29 memo from staff into a bill to be considered by Council for a public hearing and potential adoption at a future meeting. Mr. Markham added that he wanted to see the group return with adjustments to questions posed that evening but saw no reason to wait to move forward with the proposed amendments.

**5. 2-B. FY2020 WATER AND SEWER RATE DISCUSSION – CITY MANAGER/FINANCE DIRECTOR (45 MINUTES)**

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**1:27:05**

Mr. Coleman explained that staff was faced with a large revenue shortfall during the 2020 Budget process. The shortfall was due to the City's move from self-insurance for workers compensation, increased pension costs, and increased healthcare costs. He continued that with water and sewer increases and a property tax increase, Council chose to postpone a decision on a portion of the recommended water and sewer rate increases until mid-year when more information was available. Considering the COVID-19 situation and the postponement of the election until summer, staff felt it was now appropriate to have the discussion to avoid conflict with the likely suspension of meetings around the rescheduled election. He pointed that having the discussion also allowed staff to hold first and second readings completed prior to the election if Council chose that direction.

Mr. Coleman continued that the City entered the year with \$433,000 budget shortfall, of which \$375,000 was from the postponed water and sewer rate increases, assuming staff did not increase the rates during 2020, and if the rates went into effect after six months, the figure would reduce to \$187,500. As addressed in the revenue impact memo discussed on the April 27 Council meeting, COVID-19 and the associated shutdowns had a large negative impact on the anticipated revenues across the board. Staff did not have a full picture of water and sewer revenue situation and did not yet know how many residents were potentially defaulting on utility bills. Using the information available, staff anticipated a 20% loss to water and sewer revenue during every month of the shutdown. Staff was not recommending an increase in water and sewer rates in the current situation and asked Council to consider waiting longer until staff could get more information on the revenue forecast and potential Federal funding that could be used to cover the revenue shortfall. He pointed that the request was different from what staff recommended for the RSA and noted the conversation would be difficult without discussion as to why potentially suspending the RSA was different than water and sewer rate increase.

Mr. Coleman noted the water and sewer rate increases would be a direct change to the base rates while the RSA return was a postponement. He explained it was possible that the City could receive funding from the Federal government that could be used to replace lost revenue but would not be available immediately. He pointed that the CARES Act was signed into law on March 27 and the City was still several weeks away from accessing the money. He continued that having the cash from the RSA account available greatly reduced the chance that the City would have a cash flow issue if there was a high default rate on utility bills in the short term. He stated that each month the RSA remained in effect, the cash cushion eroded by \$285,000 whereas raising water and sewer rates would only generate \$31,000 per month.

Mr. Coleman recommended that staff further postpone the potential water and sewer rate increases for at least another month which would provide staff time to finetune the revenue forecast and determine what, if anything, came from the Federal government.

Mr. Horning appreciated the proactive approach by staff and their clear explanations and agreed with deferring the increases. He said that the City was not in danger of running out of cash with its reserves and Mr. Coleman confirmed but admitted it depended on how long the situation lasted.

Ms. Hughes supported the postponement of both the RSA returns and the increase in fees.

Mr. Hamilton pointed that the City had been smart with its finances and supported the suggestion.

Mr. Lawson admitted he struggled passing the budget but acknowledged the gravity of the situation. He supported postponement, agreed with the recommendations, and appreciated Mr. Coleman’s explanation on the comparison between the RSA versus fee increases.

Mr. Markham admitted he had little faith in the Federal government and believed that only new costs were covered which required careful cost accounting for reimbursement. He believed that it was possible that the situation could get worse and would require more action from the City to make up lost revenue. He pointed that the City would still have a transfer limit between the utility funds to the general fund to cover Police and other non-utility funds, but he agreed that postponement was the correct action.

Mr. Clifton cited the Finance Department’s extensive accolades and appreciated the team’s dedication to the City and residents. He believed that the department was fully capable in guiding the City’s finances. He supported postponing the RSA return.

There were no public comments and the Mayor returned the discussion to the table.

Mr. Horning agreed with staff’s recommendation that Council postpone a decision on adjustments to water and sewer rates until a more accurate forecast for revenue shortfalls and Federal funding support was available. He stated the City Manager and Finance Director should determine the timing of the forecast. Ms. Hughes, Mr. Hamilton, Mr. Lawhorn, Mr. Markham, and Mayor Clifton agreed with postponing.

**8. 3. ITEMS SUBMITTED FOR PUBLISHED AGENDA:**

**A. Council Members:**

**1. Potential Items for Future Meeting Discussion – Council Members (15 minutes)**

**1:41:19**

Ms. Hughes wanted Council to discuss the possibility of ending up with too many student-housing projects if the demand decreased and noted many projects would be difficult to turn into normal apartments when parking waivers and other benefits designed to encouraging students to rent were considered. She suggested that parking waivers should be a final option.

Ms. Hughes asked if the homeowners of the tree that fell on Kirkwood Highway would be charged for the removal. Mr. Coleman said the homeowners should not be charged for the removal costs. Ms. Hughes shared that she asked because if the couple was going to be charged, the neighborhood had already decided to band together to quietly pay the bill. Mr. Clifton said that the law stated that the owner of the property on which the tree fell was responsible for the cleanup.

Ms. Hughes wanted the City to consider that its actions with approving student housing projects were compatible with the City’s vision.

Mr. Hamilton referred to Ms. Hughes’ concerns about student housing and informed the newer projects could be easily remodeled.

Mr. Lawhorn pointed that developers were asked about strategies to adapt properties to changing markets.

Mr. Clifton appreciated Ms. Hughes’ thoughts on parking waivers and admitted he was taken back by the process. He understood that the parking waivers were granted by the Planning Commission and Ms. Gray confirmed. He was frustrated that Council was often presented with parking issues but had no authority because the decision was made by an advisory body. He found the process counter-intuitive and wanted to investigate transferring it to the purview of City Council.

Ms. Bensley made Council aware that while the purview for approving or disapproving the parking waiver was upon the Planning Commission, City Code had a provision that, within 45 days, allowed Council to review, modify, or deny the Planning Commission’s approval, disapproval, or approval with conditions upon the recommendation of a member of the Council, Planning Director, and/or City Manager. She further explained that if the Planning Commission approved a parking waiver and a member of Council objected, they had 45 days to direct Council to address the issue on an agenda for consideration. Mr. Clifton asked if would be addressed with the overall proposal or independently and Ms. Bensley replied that the Code did not enumerate that detail but indicated the appeal had to happen within 45 days so if the project was scheduled further than the 45 days, the parking waiver would have to be heard before that. Mr. Bilodeau agreed it would have to be independent. Mr. Clifton asked if the project would be

required to return to Planning and Mr. Bilodeau agreed it was a substantial change that may require returning to the Planning Commission. He said he would investigate and return to Council.

Mr. Clifton disclosed he was absent for the March 23<sup>rd</sup> meeting and referred to the land use issues, one that was approved and the tabled item of the Planning Department's Recommendation of Planning Area 7. He confessed that he was uncomfortable with the decision because the Planning Department's recommendations stood alone. He also pointed that the potential development of the area was discussed often in the press and believed the development of the area was irreversibly coupled with the proposal. He pointed that the 2016 Comp Land Use Plan provided guidance to landowners and developers and served as a statement of how the City intended to use public investment in land use controls and provided a history of the plan with its modifications. He referenced Chapter 11 and explained that annexation was the process in which the municipality expanded its corporate boundaries by incorporating unincorporated County land and the City only considered annexation at the request of the property owner. Mr. Clifton stated the project was part and parcel with the Planning Director's foresight to add a planning area. He noted that the process existed in City Code and should not be viewed any differently than any other land use request. He offered a motion to lift the item from the table to allow for public hearing and asked Mr. Bilodeau for further comments.

Mr. Bilodeau believed the reason the project was tabled was due to controversy and explained there were several meetings coming up that would have extensive public comment. He did not see why Planning Area 7 application should be treated differently than other land use matters. He believed it was unfair to table the matter indefinitely until the pandemic ended. Mr. Clifton noted that question of controversiality was subjective and Mr. Bilodeau agreed. Ms. Bensley interjected and asked if Mr. Clifton made a motion and Mr. Clifton replied that he planned on making a motion.

Mr. Horning supported moving forward and taking it off the table and was open to hearing the comments of other Councilmembers. He believed the initial concern was over the new meeting format and having proper input but now thought that Council was familiar in the process and looked forward to comments.

Ms. Hughes and Mr. Hamilton supported moving forward.

Mr. Lawhorn explained he was concerned about the topic being discussed on the first night of the virtual meeting format and believed there was legitimate reasoning behind postponement. He also made the statement that Council needed to be able to conduct City business as usual and noted that Council was more comfortable with the format. He supported moving forward.

Mr. Markham thought Council should speak to how they came to decisions and staff should not speak for them. He informed Council there was a Planning meeting on May 28<sup>th</sup> to discuss Planning Area A and would immediately be followed by the developer's presentation. He noted the item could be lifted from the table and believed there would be enough time between meetings to discuss new issues. He believed Council should have a larger conversation on the topic at a future Council meeting on interpreting the Comp Plan.

Mr. Clifton agreed with Mr. Markham and agreed that Council could discuss modifications of the Comp Land Use Plan but pointed to the possibility that Council could be meeting virtually for a while. He believed social distancing could last through the summer and could limit the opportunities for Council to meet in person. He instructed Council to vote their conscience and on behalf of constituents. He supported lifting the topic from the table to address on an agenda in June. Mr. Markham was concerned that his comment was misinterpreted and said it was more towards how much discussion different level of changes had. Mr. Lawhorn asked Mr. Markham if there was a public meeting scheduled at the end of May between the developer and the community and Mr. Markham noted the City Manager would need to finalize and explained the first half of the discussion would be about Planning Area A and then staff would leave and the conversation would then be about development. Mr. Lawhorn agreed it was wise to let the process between the developer and the public progress before being presented to Council.

Mr. Clifton asked if the March meeting was a discussion or a discussion and vote. Mr. Bilodeau replied discussion and vote. Ms. Bensley stated Bill 20-08 was tabled in March.

MOTION BY MR. CLIFTON, SECONDED BY MR. HORNING: TO LIFT BILL 20-08 FROM THE TABLE TO BE PLACED ON AN AGENDA IN JUNE WITH THE UNDERSTANDING IT COULD BE TABLED AGAIN IF THERE WERE SUBSTANTIVE CHANGES.

MOTION PASSED. VOTE: 5 to 1.

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

9. **3-B. OTHERS:** None

10. **Meeting adjourned at 9:13 p.m.**

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

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