

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**May 18, 2020**

Those present at 7:00 p.m.:

Presiding: Mayor Jerry Clifton  
District 1, James Horning  
District 2, Sharon Hughes  
District 3, Jen Wallace  
District 4, Chris Hamilton  
District 5, Jason Lawhorn  
Deputy Mayor Stu Markham, District 6

Staff Members: City Manager Tom Coleman  
City Secretary Renee Bensley  
City Solicitor Paul Bilodeau  
Chief Communications Officer Jayme Gravell  
Finance Director David Del Grande  
Planning and Development Director Mary Ellen Gray  
Code Enforcement Manager Stephanie Petersen  
Code Enforcement Officer Tim Poole  
Planner II Michael Fortner

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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. **FINANCIAL STATEMENT:** None

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

A. Rental Housing Work Group Follow Up Recommendations – Planning and Development (90 minutes)

**2:29**

Ms. Gray presented the final recommendations of the Rental Housing Work Group Committee. She thanked the members of the group for their dedication and recognized Marguerite Ashley, the Mayor's Representative and Work Group Chair, for exceeding in her role. Ms. Gray also recognized the three work group chairs: Adam Fahringer, Property Maintenance Inspector who served as Rental Permits Chair, Michelle Kane, Director of UD Residence Life and Housing who served the UD Student Growth Chair, and Dr. Freeman Williams, President of Newark NAACP who served as the Chair of the Non-Student Rental Affordable Housing as well as Tim Poole, Kevin Mayhew, Jeff Dixon, and Matt Dutt who were present for the meeting. She also acknowledged the efforts of the JMT Consulting team: Alisha Lorber and Elizabeth McCollum, and staff.

Ms. Gray stated the recommendations were revised based on the discussion at the February 3, 2020 Council meeting and follow-up discussion with the Rental Housing Work Group. She indicated there was a stigma about affordable housing and the volunteer Work Group decided to educate the public. She noted that there were no recommendations for senior housing or government housing solutions that the City could control, and it was recommended that an executive summary should be prepared for new Council members.

Ms. Gray shared that the group discussed:

- Improving the rental inspection program;
- Reassessing the student home classification ordinance to consider revisions and updates;
- Consider reducing rental permit late fees from 25% to 5%;
- Amending the zoning code to include an inclusionary zoning ordinance requiring new housing developments to include affordable housing measures;
- Accessible Dwelling Units (ADU) and duplexes;
- Improving safety and increasing neighborhood appeal for non-student renters; and
- Increasing development density downtown to allow more mixed-use commercial and housing.

Ms. Gray explained that ADUs were to be owner occupied and part of the property. She showed various examples including an over-garage apartment, a cottage, a converted room and addition. She indicated the ADUs should be incorporated visually and functionally into the single-family home.

Ms. Gray noted the extensive discussion over the Student Home Classification Ordinance and explained that when the initial ordinance was passed, staff received a directory from UD of student addresses, but Federal privacy laws now prohibited sharing the information which made identifying students difficult. The group added the language to the draft report to reflect the law change. Ms. Gray explained that the group viewed ordinances from a legal perspective to see how they could be improved or made more effective within current legal parameters. The group suggested clarifying the definition of related and unrelated persons in City Code. She noted the group wanted to remove the recommendation language about amending late fees for rental permits because Council voted to keep them as they were. She also pointed that there was a desire to work with or create civic associations to improve safety and increase neighborhood appeal for non-student renters. The group decided to prioritize the recommendations for efficiency's sake and to submit to Council. After Council's decision, the group then created a work plan using the prioritization schedule. The group considered the recommendation type, the entity leading the effort, public survey results, the level of difficulty, and the magnitude of the impact.

Mr. Clifton thanked the group for their work and opened the floor to questions from Council.

Mr. Horning thanked Ms. Gray for the presentation and acknowledged the members' impressive attention to detail. Mr. Horning stated that the presentation was for the initial approval of recommendations to set a strategic course for rental housing. He asked Ms. Gray if ordinance changes would return to Council for adoption as prepared. Ms. Gray confirmed and reiterated previous comments on how a work plan would be created from the prioritization schedule. She said any zoning ordinance would require public meetings and public vetting before it came to Council. Mr. Horning supported further discussing the recommendations and understood Mr. Bilodeau would legally analyze implementation.

Mr. Horning received feedback from District 1 residents on proceeding during COVID-19 but he viewed the situation as an outlier and understood that students would eventually return. He pointed to the survey that suggested hesitancy on increasing density downtown and appreciated the ADU illustrations in the presentation. He explained that District 1 residents were concerned that residents purchased into a neighborhood with single-family homes and the ADUs could change the character, but he was willing to discuss further given the restrictions suggested by staff. He believed ADUs would become necessary for extended family care. He supported removing the recommendation of reducing the rental permit late fee and asked for clarification on why the reduction was recommended. Ms. Gray believed it was not in line with other permit late fees and Mr. Horning supported the higher percentage if it had a punitive effect. He asked if the Work Group was comfortable removing the recommendation and Ms. Gray confirmed. Ms. Bensley interjected and said she had two messages from the GoToMeeting Chat function from Work Group members Alisha Lorber, who said the Work Group agreed, and Kevin Mayhew who said he did not personally agree.

Mr. Horning liked the neighborhood watch group idea and suggested using social media as a tool. He found the prioritization matrix helpful and was glad to see UD was taking lead responsibility for student growth and noted UD's willingness to partner with the City. He shared that residents were concerned

about financials and hesitant about using City funds on some of the initiatives and he wanted staff to remain mindful. He referred to Recommendation 2.3, Rental Permits, and thought that property owners should be notified for all violations.

Mr. Horning continued with Recommendation 3.1, Limited Availability of Affordable Housing, and asked the City Solicitor to review the language to amend the zoning code requiring new developments to include a percentage of affordable housing or a fee in-lieu. He shared that some residents believed it could interfere with free market, but also believed it had value. Mr. Horning asked if the requirements had any adverse effects on property values in the area. Ms. Gray pulled information from State College, Pennsylvania that indicated all the housing built since implementing a similar rule had provided a fee in-lieu that was then used for low-income housing through non-profit partnerships. She said she would investigate other examples across the country and shared that staff limited its overlook to student housing but noted other inclusionary ordinances throughout the country that required a set-aside in all residential developments. Mr. Horning asked if the set-aside was for affordable housing and Ms. Gray confirmed. Mr. Horning asked if there were adverse impacts to property values and Ms. Gray replied that she would investigate but believed it benefitted the developers to offer the affordable housing option.

Mr. Horning noted additional parking would not be required for ADUs under Recommendation 3.2(a), Affordable and Non-Rental Housing. He understood there was an ordinance where some neighborhoods did not have on-street parking and suggested the ordinance would have to be revisited to accommodate cars for ADUs. He admitted he was unsure of the accuracy. Ms. Gray stated the Code required off-street parking to accompany the housing unit.

Mr. Horning referred to Recommendation 3.3 and the reinstatement and rebranding of the POOH program. He indicated concerns over funding and hinted at the possibility of Federal funding or using the fee in-lieu payments. He suggested partnering with the Newark Police Athletic League for Recommendation 3.5 for Affordable and Non-Rental Housing to increase the sense of community.

Ms. Hughes asked if landlords would have to yield to inspections of rental units in order to get new permits. Ms. Gray said the recommendations were like the Student Home Ordinance Recommendation and would strengthen the current rental inspection program and Ms. Hughes supported working with landlords to protect students from unsafe housing. Ms. Hughes asked if the City Solicitor would need to review the recommendations and Ms. Gray confirmed. Ms. Hughes was not convinced the 10% inclusionary piece was a good path to take though she did want to see positive changes for inspection.

Ms. Wallace noted that final details would be up for future Council to determine and was comfortable moving forward with all the recommendations. She thanked all parties involved in the report and considered it a success.

Mr. Hamilton appreciated the makeup of the Work Group because residents of the area were involved and made the decisions. He commented that the Work Group was an example of successful government with input from the community. He appreciated reaching out to other cities to determine best practices. He wanted to make sure future Councils made the recommendations a priority. He appreciated Mr. Horning's comments on ADUs but was concerned with enforcing whether a home was owner-occupied. He cautioned that it would be easy for landlords to abuse the ordinance and wanted staff to be prepared to enforce the rules. He also asked what would happen with the extra space when a house was sold. Mr. Hamilton found the presentation to be valuable and pointed out that he was not concerned about fines and suggested raising other fines.

Mr. Lawhorn felt that if the Recommendations Ranked Regarding Impact were so low priority that they would not be addressed for five to ten years, then they should be omitted. He noted that section 1.2 was ranked with no level of difficulty because it was owned by UD to collect data on student housing but believed it should be listed high impact/high priority. He pointed out that UD viewed housing data to determine how many students wanted to live on campus while the City considered the need for housing in the community. He thought having a link on the City's website for prospective students or families would be a valuable resource and agreed with its ranking in 1.3.

Mr. Lawhorn understood the difficulty addressing rental inspections and thought the consensus between the City, Landlord Association, and residents was to promote landlords who allowed the inspections to take place. By publishing the information on rental inspections, the landlords who complied with inspections would be given the competitive advantage and the tenants in the unsafe locations would feel comfortable coming to the City to address issues.

Mr. Lawhorn felt that sectioning one group in the City and raising fines for that group was unfair. He agreed it was not a large amount of money but thought it should be across the board. He asked if consolidating bills and inspections for owners of more than one rental property created a money-saving efficiency for the City and Ms. Gray said it was more for customer service.

Mr. Lawhorn referred to the payment in-lieu of for increased density and felt that it granted developers in college towns the opportunity for more density because non-student residents did not want to reside with students. Mr. Lawhorn reiterated the developers in Penn State paid the money in-lieu of to get the density bonus and Ms. Gray confirmed. Mr. Lawhorn wanted have code reflect true intentions for density so residents could participate, and the requirements would be clear for developers. He agreed that it made sense to match the aesthetics of affordable housing to a single-family home development so that it could blend as a neighborhood.

Mr. Lawhorn thought the POOH Program had great prospects but felt it did not work because of the high demand of students. He noted that the incentive of the program did not outweigh the value of owning a rental property and Ms. Gray confirmed and said recouping the cost was an issue. Mr. Lawhorn thought understanding the demand was key to making the POOH Program work and cautioned staff on spending effort on a program that had no chance for success. He wanted to have a realistic vision on how it would work. He asked why 3.4 was classified as high difficulty and Ms. Gray said funding was an issue.

Mr. Lawhorn stated he did research on ADUs and agreed with Council in that it was a reasonable idea but noted it had the ability to go awry. He was open to discussion but wanted to be cautious about decisions. He reiterated that it was important to address the issue of density and how to solve the problem. He did not think the City could wait until the Comprehensive Development Plan was revised and believed it should be addressed as a higher priority.

Mr. Markham commented that there were different opinions on the exempt streets in 2.2 that hedged on where the streets were located and suggested the Work Group separate the sections. He did not think the POOH Program mentioned in 3.3 would apply to all areas and did not expect Cleveland Avenue to return to owner-occupied. He suggested targeting neighborhoods with partial owner-occupancy. He believed that 1.1 should be ranked at a higher priority because once neighbors knew one another, the atmosphere improved. He noted that full-time residents needed to reintroduce themselves every four years to a new group of neighbors. Mr. Markham asked if Council and staff had been discussing rentals houses for five years and Ms. Gray estimated longer than five years. Mr. Markham asked Ms. Gray if she had questions regarding his comments and she did not.

Mr. Clifton pointed the discussion on student rentals began in 1998 and stated the core value was to protect full-time residential neighborhoods. He did not think that developing apartments closer to campus was successful in getting students out of existing neighborhoods, so the future of the neighborhoods was in question. He pointed to Benny Street and the surrounding area development that was replacing old housing stock as an example. He was concerned about ADUs because the intent was different than the execution and would be counter intuitive in making single-family homes with rental permits more valuable. He cautioned Council and staff going forward.

Mr. Clifton suggested rating rentals with gold standard rentals as those that were regularly inspected by the City and deemed to be safe. He admitted the City Solicitor would have to approve the language. Mr. Clifton wanted a publicly accessible database so residents could research if properties had rental permits and were inspected by Code Enforcement. He also pointed that renters needed to be educated about their rights and suggested that staff forward letters to rental properties detailing code allowances and explaining that landlords were forbidden from taking retaliatory measures. He referred to a personal interaction he had with a renter who claimed that the landlord threatened eviction for speaking to the City but admitted the situation reflected a minority of landlords and most were compliant.

Mr. Clifton was split on the issue of the late fee for permits because there was no evidence the permits were paid faster. He agreed that plans prioritized for five to ten years in the future could be forgotten. He believed if the City adopted inclusionary zoning, the outcome would be the same as State College because there was value in paying the extra funds and making everything market-rate. He noted that the burden then fell to local government but believed a solution could be to change zoning codes to make fee in-lieu an unprofitable option. He believed Wilmington's Public Nuisance Property Program could be crafted to Newark's needs and thanked the group for the process and dedication.

The Mayor opened the floor to public comment.

Ms. Bensley read a comment from Marene Jordan, Executive Director of the Newark Housing Authority, into the record:

“As a member of the Non-Student/Affordable Rental Housing Subcommittee, the Newark Housing Authority (NHA) is providing this public comment to be read into the record at the May 18<sup>th</sup>, 2020 meeting for the Mayor and Council’s consideration:

**Encourage Affordable Housing for New Construction within the City Limits of Newark**

Offer a pilot program that offers financial incentives that are regulatory if developers become a Section 8 Landlord (e.g. waive rental permit fees, reduce fees associated with planning and development and prioritize approval timeframe of approve etc.)

- Designate a percentage of new units built as affordable housing, or
- Pay a fee in-lieu of, or
- List property and lease to a Section 8 participant.

**Use of funds paid into the housing fund kitty – Payment of fee in-lieu of**

1. Use the kitty to help house families who fall below the 30% AMI
2. Consider City own Voucher program”

Ms. Bensley then read a comment submitted by Glenn Schmalhofer, District 2:

“I attended most of the Rental Housing Work Group meetings as a member of the public, and I feel That the manner in which those meetings were structured was fatally flawed.

First of all, the three Landlords who were included in the Work Group were or have been developers and each owns a number of rental units within the City of Newark. At last check, the vast number of Landlords in the City of Newark own a rental house or possibly two. However, these 'smaller' Landlords were NOT represented during these meetings. Another fatal flaw is that the Work Group Chair openly admitted That she had no issue with discriminating against tenants who also happened to be students! The Planning Director refused to answer questions regarding any type of factual data that might have been used to Substantiate her claims of the need for UNWARRANTED SEARCHES/INSPECTIONS of the residences of tenants who occupy rental houses. On February 3, 2020, Mayor Clifton stated his support for these UNCONSTITUTIONAL searches which are in contravention to the Fourth Amendment.

Secondly, in my opinion, stakeholders who were more or less insignificant to the proceedings at hand were present. Representatives from the State of Delaware offices of the Attorney General [Landlord/Tenant Code] and, likely, more importantly, Division of Human Relations [Fair Housing] should have been included in the meetings. A constitutional attorney and/or a qualified Delaware Landlord/Tenant lawyer, at some point, would have been a definite plus to assure compliance with the law as well as the U.S. Constitution.

The anachronistic 'Student Home Ordinance' which seems to be a hybrid of the 1935 Nazi Germany Nuremberg laws and the United States pre-civil rights movement Jim Crow laws must be abolished due to its Obvious egregiousness. The City of Newark keeps a list of streets which indicates where prospective Tenants may or may not live!

All rental houses which can safely house [per building code] FOUR (4) unrelated occupants should Be permitted within the City of Newark.

Due to the ongoing COVID-19 pandemic, the city's push for higher density population areas by way Of UN agenda 2020/2021 and UN agenda 2030 SHOULD BE PUT ON HOLD.

The City of Newark Rental Permit Program should be abolished as well. At the very least, occupants of rental properties who refuse an interior inspection of their home and/or access to the curtilage, no Charge should be levied for an inspection. During the Rental Permit Class Action lawsuit against The City of Newark several years ago, Judge Leo Strine indicated that a fee could only be charged for services rendered by the city. Hence, ZERO service should elicit a ZERO fee. Normally, charging Money for a service not rendered would be considered theft.

These unnecessary, warrantless 'inspections' by the city should also be banned for another reason. They are sometimes used as a 'fear and intimidation' tactic and are an abridgment to free speech. That is, Landlords are afraid to speak when a retaliatory action by the city may result in the loss of a Rental permit: and, thus, the landlord's ability to rent his/her house. Also, a citizen's right to property is abridged when their right is turned into a privilege, and then a fee is charged for the city to gain Revenue!

I pray that City Council shall abandon any further such incursions against the once free people of Newark, Delaware and quickly allow this city to return to one that is truly 'Committed to Service Excellence'. Respectfully Submitted."

Ms. Bensley indicated Kevin Mayhew requested to speak through the chat function:

Mr. Mayhew reiterated the length of the discussions and noted that he had been involved for five years. He was hopeful that some of the items would be presented to Council as an ordinance and wanted Item 2.2 to be marked to high priority. He pointed that the City had an ordinance that was unenforceable, and some landlords purposely took advantage while those who followed the rules were at a disadvantage. He did not believe Item 2.5 should be dropped and agreed with Mr. Lawhorn that it was not fair to charge one group a higher late fee than others. He shared that he had not gotten two annual billings for rental permits and was then charged a late fee that staff refused to waive. He agreed with comments made by Mayor Clifton and Councilman Lawhorn regarding inspections and wanted to follow through with suggestions made by the City.

Mr. Clifton stated that there was a gentleman who used to attend Council meetings regularly and once complimented Council on how well the City ran. Mr. Clifton had the opportunity to speak to the man after the meeting who then rolled up his sleeve and showed Mr. Clifton the tattooed numbers on his arm. He then looked to at Mr. Clifton and said, "I know what bad government looks like." The gentleman had been in a concentration camp.

Mr. Clifton stated that, unlike others online that evening, he had personally toured Dachau and said that it was still possible to smell the stench of burned skin in 1972. He revealed that visitors could see the marks in the walls of the false showers. Mr. Clifton said that to make any comparison to Newark's policies and the atrocities of the Nazi regime was absolutely reprehensible and clearly represented a chasm in understanding the Nazi administration and what a representative government should be.

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

Mr. Hamilton encouraged staff to visit rental properties, especially those that staff knew were not quality. He noted that when renters reported issues, the houses were sometimes condemned, and the renters were left without housing alternatives. Mr. Hamilton suggested that the low-income funds could be used to assist the renters left without homes due to violations.

Ms. Hughes felt strongly that Recommendation 1.1 was necessary as it noted students living off-campus could disobey rules. She also thanked the Work Group.

Mr. Lawhorn followed up that Recommendation 2.2 was rated as medium and agreed that it was appropriate to allow different numbers of tenants in certain homes in certain areas and wanted staff to proceed logically. He also agreed with Mr. Hamilton's point that students should have alternatives if rental homes are condemned and wanted UD to be the back-up plan and to factor the possibility into the dorm calculations.

Mr. Horning asked if an amendment was necessary to reinstate Recommendation 2.5, Permit Late Fees. Mr. Clifton asked Mr. Bilodeau if a base motion was needed before proceeding with Mr. Horning's amendment. Mr. Bilodeau confirmed that a motion was necessary before an amendment.

**MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN THAT: COUNCIL APPROVE THE RENTAL HOUSING WORK GROUP RECOMMENDATIONS AS DESCRIBED IN THE NEWARK RENTAL HOUSING WORK GROUP DRAFT REPORT DATED MAY 2020 AND THE PRIORITIZATION MATRIX DATED MAY 8, 2020 AND UPON ADOPTION STAFF FINALIZE SAID REPORT AND MATRIX.**

**MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: TO AMEND THE MOTION ON THE TABLE THAT THE INITIAL RECOMMENDATION 2.5 FROM THE RENTAL HOUSING WORK GROUP TO CONSIDER REDUCING RENTAL PERMIT LATE FEES FROM 25% TO AROUND 5% SIMILAR TO OTHER**

PERMIT LATE FEES AS ADDED TO THE DRAFT REPORT OF THE WORK GROUP AND THE MOTION ON THE TABLE.

AMENDMENT MOTION PASSED. VOTE: 5 to 2.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: TO AMEND PRIORITY ON RECOMMENDATION 1.1 FROM N/A TO MEDIUM.

AMENDMENT MOTION PASSED. VOTE: 7 to 0.

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

MOTION BY MR. LAWHORN, SECONDED BY MR. HORNING: TO AMEND THE SUGGESTED PRIORITY RANKING OF 1.2 FROM N/A TO HIGH.

AMENDMENT MOTION PASSED. VOTE: 7 to 0.

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

AMENDED MOTION PASSED. VOTE: 7 to 0.

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

**5. 2-B. DISCUSSION AND DIRECTION TO STAFF REGARDING THE SUSPENSION OF THE 2020 REVENUE STABILIZATION ADJUSTMENT – CITY MANAGER/FINANCE DIRECTOR (30 MINUTES)**

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**1:45:21**

Mr. Del Grande stated that during the review of the January Financial Report, Council discussed the need to revisit the RSA due to the impact of the COVID-19 State of Emergency (SOE). He explained staff annually reviewed the RSA rate in accordance with the policy adopted by Council in 2011 and revised in 2015. Tariff provision stated that the RSA may be adjusted to reflected changes in the cost of wholesale electricity purchases and to ensure the recovery of the budget operating margin. He continued that the current RSA credit was affirmed at the March 9, 2020 Council meeting. He stated that the current RSA credit of 1.206 cents per kilowatt hour was set to continue through March 2021 and was estimated to return \$3.4 million to the City’s electric customers over a twelve-month period.

Mr. Del Grande noted the impact of COVID-19 began only days after Council approved the current rate adjustment and since then, the City experienced a severe reduction in utility sales which required staff to review the RSA credit. With data slowly reflecting the impact of utilities, Mr. Del Grande explained why the RSA rate needed to be adjusted. He pointed that April 2020 purchases from DEMEC were 18% below budgeted expectations and were the lowest on record since 2004. Staff initially estimated a 10% reduction in electric sales during each month of the SOE, but preliminary information suggested that the lack of electric sales would be larger than initially anticipated, largely driven by a reduction in electric sales to the University. UD’s April 2020 electric purchases were 27% below April 2019 purchases. He also shared that compared to April 2019, the April 2020 electric load was down 19% overall with residential accounts staying level, industrial accounts down 6% and commercial accounts down 25%. He revealed that the delinquent accounts were beginning to grow, and that utility billing made an additional 200 phone calls that month, for a total of 900, to delinquent customers. He stated that the City would work with any customer who needed a payment arrangement. Mr. Del Grande pointed that the extra 200 calls made by staff was a 29% increase over the number of calls normally made at this time of year. Per the SOE, the City was not allowed to disrupt electric service to residential customers, and he admitted the request for payments were slow. He stated that of the 24 inquiries staff received for payment plans, only nine arrangements were made.

Mr. Del Grande shared that the total number of customers using the automatic bill pay system increased week over week with over 2,376 now electing to have payments directly debited from their prospective financial institutions. He said that the 2020 utility estimates were not promising and noted that even as the restrictions slowly lifted, it would be some time for the City to see dramatic financial changes. He continued that staff recommended adjusting the current the RSA rate from  $-\$0.01206$  to  $\$0.000$  for all electric purchased by customers beginning June 1, 2020, in order to preserve a portion of the  $\$3.4$  million currently in place to be refunded via the RSA credit. Between March 15 and June 15, 2020, staff estimated the City would return approximately  $\$928,800$  to electric customers, which left a balance of roughly  $\$2.5$  million. Removing the RSA credit through March 14, 2021 would minimize the City's potential cashflow problem, resulting from diminished utility sales and an anticipated increase in delinquent accounts. For each month the current RSA remained in effect, the cash cushion eroded by approximately  $\$294,000$ .

Mr. Del Grande continued that the revenue stabilization process required the City to adjust the RSA rate to meet budgetary requirements. He explained that if the rate was not adjusted, the RSA in March 2021 would include the recovery of  $\$2.5$  million in addition to funds required to cover the City's budgetary expenses. The decision would result in the need to recover an additional  $\$2.5$  million through electric rates in the subsequent RSA period, significantly increasing the resultant electric rates from today.

The Mayor opened the table to discussion from Council.

Mr. Horning thanked Mr. Del Grande for the proactive assessment of the City's finances to minimize the impact of the coronavirus and supported the suggestion.

Ms. Hughes, Ms. Wallace, and Mr. Hamilton agreed with Mr. Horning.

Mr. Lawhorn asked if there was an estimated net revenue loss for the year and Mr. Del Grande replied that staff estimated the loss to be  $\$15$  million and electric was estimated to lose  $\$5.5$  million. Mr. Coleman interjected that the estimates assumed customers paid their bills and staff had a 13% delinquency rate. He revealed that applying the delinquency rate across all fields, the City faced losing an additional  $\$8$  million above the  $\$15$  million. Mr. Lawhorn noted the revenue loss was above  $\$2.5$  million and Mr. Del Grande confirmed and stated that if the situation fell out the way it was, staff would have to use the full balance of the RSA Reserve,  $\$5.3$  million, and dip into  $\$1.25$  million of the  $\$2$  million in the Regional Capital Reserve Projects, and the RSA freeze to be whole. He added that staff would also have to make cuts to the Operating Budget. The changes proposed would get the City through December if staff assumptions were accurate. He stated the City was relying on UD resuming normal operations but admitted that it was impossible to assume what the "new normal" would be and hinted that it was possible for changes to be made on how the City's utilities were used which could create future difficulties.

Mr. Lawhorn asked for the percentage of delinquent accounts. Mr. Del Grande replied that the accounts were blended between electric, water, sewer, and stormwater so it was possible for customers to have four accounts and made it difficult to calculate the percentage. He stated the March to April receivables were down 13% and did not include waiving  $\$42,000$  in late payment penalties for the last 30 days. Mr. Lawhorn wondered when it was appropriate to change behaviors during the reopening.

Mr. Markham noted water and sewer ran with land and the electric did not and Mr. Del Grande confirmed. Mr. Markham said water and sewer would be paid eventually and asked if stormwater was separate. Mr. Del Grande replied it also ran with the land. Mr. Markham stated the funds would be collected but without late fees because they were forgiven. Mr. Del Grande replied the situation assumed the properties did not go to a Sheriff's sale because the City did not always recover funds from a Sheriff's sale. Mr. Markham stated that a portion of electric went to the General Fund and asked the percentage and Mr. Del Grande replied 20%. Mr. Markham asked if staff included shortfalls in the retirement fund in the long-term revenue and Mr. Del Grande asked for clarification. Mr. Markham said that 20% went to the General Fund and the General Fund helped fund OPEB and other retirement funding and Mr. Del Grande confirmed. Mr. Markham asked if staff included the revenue requirements for retirement in calculating losses. Mr. Del Grande stated that the 2020 Budget was  $\$96.7$  million each on the expenditure and revenue sides. He admitted falling short on revenue would create issues funding at 100%. Mr. Markham rephrased his question and noted that a big hit in retirement was the stock market and asked if the City would need less revenue if the stock market recovered. Mr. Del Grande said no and explained that current pension and OPEB contributions were based on reports from 2018 for 2019 and the current pension and OPEB reports were based on 2019 and showed strong returns. Staff evaluations for 2021 were more positive for pension and OPEB contributions because the City had a strong year in 2019. Mr. Markham did not like holding onto the RSA but felt asking for more money next year would be hard for residents. He noted if the funds were unnecessary, Council can vote to release the RSA back to customers.

Mr. Clifton had no questions and supported the suggestion.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE CHANGE IN THE ELECTRIC REVENUE STABILIZATION RATE EFFECTIVE JUNE 1, 2020 FROM -\$0.01206 TO \$0.0000 AND USE THE REMAINING UNALLOCATED 2020 RSA BALANCE OF \$2,500,000 TO OFFSET LOST REVENUE IN 2020.

Mr. Clifton asked if part of the motion included moving \$3.07 million to the Electric Rate Stabilization Reserve. Mr. Markham said it was possible but did not see it in the recommendation memo. Ms. Bensley interjected that Mr. Clifton was referring to the original recommendation for the stabilization approval. Mr. Clifton retracted his statement.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

Absent – 0.

Mr. Clifton stated that Mr. Bilodeau wanted to address Council before adjourning.

Mr. Bilodeau said that the Governor's 17<sup>th</sup> Modified Order loosened restrictions on community pools and noted the City's ordinance restricting social gatherings to ten people. He said that the City's Ordinance 20-09 had a sunset provision that was tied to the Governor's orders so as the Governor loosened restrictions, the City's restrictions were loosened and the opening of pools did not conflict with the ordinance as long as it adhered to the Governor's Order.

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

**A.** Council Members: None

**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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