

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

May 26, 2020

Those present at 6:15 p.m.:

Presiding:	Mayor Jerry Clifton District 1, James Horning District 2, Sharon Hughes District 3, Jen Wallace District 4, Chris Hamilton (arrived at 6:20 p.m.) District 5, Jason Lawhorn Deputy Mayor Stu Markham, District 6
Staff Members:	City Manager Tom Coleman City Secretary Renee Bensley City Solicitor Paul Bilodeau Assistant to the Manager Jeff Martindale Chief Communications Officer Jayme Gravell Planning and Development Director Mary Ellen Gray Parking Manager Marvin Howard Parking Supervisor Courtney Mulvanity Planner II Mike Fortner Public Works and Water Resources Director Tim Filasky Public Works and Water Resources Deputy Director Ethan Robinson

1. Mr. Clifton called the meeting to order at 6:15 p.m.

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 Del. C. §10004 (b) (2) for the purposes of preliminary discussions on leases of real property.

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (2) FOR THE PURPOSES OF PRELIMINARY DISCUSSIONS ON LEASES OF REAL PROPERTY.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Hamilton.

3. **RETURN TO PUBLIC SESSION**

Council exited Executive Session at 7:00 p.m.

Mr. Clifton reported there was no action to be taken from Executive Session.

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

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

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL REMOVE ITEM 6A RECOMMENDATION TO AWARD RFP NO. 20-01 – MUNICIPAL PLANNING SERVICES FOR THE CITY OF NEWARK FROM THE AGENDA.

MOTION PASSED. VOTE 7 TO 0.

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

Nay – 0.

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.

4. 1. ITEMS NOT ON PUBLISHED AGENDA

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

5. 1-B. UNIVERSITY

(1) Administration (5 minutes per speaker) (10 minutes):

5:03

Caitlin Olsen, UD Administration, updated that UD was planning for a fall opening. She explained the plan would entail the process on how to feed students, provide them with to-go meals, the number of seats provided in each classroom, and how to protect students and staff, and was targeted for a mid-July finalization. She continued that administration was pushing to open on the usual date of August 28th and she would share information as it became available. She stated that while the NCAA issued fall sports guidelines, UD had not, and she would share information as it was available so the City could prepare Police staffing. She shared that Handshake was UD's platform for student jobs that would allow people to post and search for positions and asked that Council promote it among constituents.

Mr. Horning was enthusiastic about collaborating with UD.

Mr. Hamilton asked if classes were officially over. Ms. Olsen confirmed and shared there were a few finals yet to be completed and noted that UD would have an online ceremony for graduates. He wanted UD staff to remind students that restrictions were still in place. Ms. Olsen said she would speak to Student Life and OCM.

Mr. Lawhorn wanted to clarify that administration was pushing for an August 28th opening and Ms. Olsen confirmed it was the president's goal, but said it was necessary to have testing and masks available. She noted that face-to-face instruction was best for students and repeated the decision would be made in mid-July. She continued that UD staff needed to provide alternate solutions for students and faculty with pre-existing conditions.

Mr. Markham asked if there was an indication of how the virus had affected students and faculty separately. Ms. Olsen replied that she would speak to Dr. Tim Dowling, UD's head of Student Health Services, and report back. Mr. Markham was concerned about students coming from hotspots and asked if UD was considering the State's quarantine rules. Ms. Olsen agreed and shared that UD was unsure how many students were planning on returning. UD understood the financial impact and that some parents were cautious about students leaving home but said the University planned to test and take temperatures. She stated that UD would be in step with AJ Schall from DEMA and the Governor's Office so there would not be a backslide to progress made. Mr. Markham asked if UD would perform antibody testing and Ms. Olsen replied that UD would work with the Governor to determine testing parameters and tracing. Mr. Markham pointed that the students were larger than any employee base in the State and Ms. Olsen confirmed.

Mr. Clifton thanked Ms. Olsen for the update.

6. 1-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes) (2 minutes): None

7. 1-C. CITY MANAGER (10 minutes):

16:27

Mr. Coleman informed Council that the Governor started relaxing restrictions and the current allowable outdoor gathering size was now 250 people but could be exceeded with a permit from the State. Staff would investigate how it affected the City ordinance. Mr. Coleman remarked that the application for

expanded outdoor restaurant seating was introduced on Friday and was effective as of June 1st. He stated the City had received its first application and said they would be considered through the Building Permit process to formalize and streamline the turnaround. He shared that the County contracted with Biobot to sample wastewater for virus particles to estimate the number of cases in the sewer shed. He continued that he had the initial results and Biobot predicted the caseload to be larger than the number of confirmed cases, between 30,000 and 78,000 cases in the sewer shed. He pointed that it was a difference of 6% and 16% of the population and was dramatically higher than the case count numbers reported by the government. He said that staff would continue to take the matter seriously with PPE and restrictions and was working on trying to restore walk-in service at City Hall in accordance with the relaxation of the Governor's recommendation.

8. 1-D. COUNCIL MEMBERS (5 minutes):

19:03

Mr. Clifton:

- Understood that the Memorial Day Remembrances were canceled and acknowledged the sacrifices of the fallen soldiers.
- Noted the number of requests from residents to help City restaurants by closing one lane of Main Street to allow restaurants outside seating. Mr. Clifton and Mr. Coleman were concerned about safety and traffic flow. He noted that Main Street was a DeIDOT street and the City would have to get permission from DeIDOT to proceed with any events that included closing the street. Mr. Clifton spoke to Secretary Cohen who told him the issue was larger than just Newark. He told her that he also spoke to Mayors Purzycki and Branner who also wanted to explore road closures in business districts. Secretary Cohen informed Mr. Clifton that she would publish a directive memo to municipalities. Mr. Clifton felt the event would bring back a sense of community and help the restaurants and suggested the best times would be Friday and Saturday nights. He wanted staff to discuss what the event could be and revealed that he and Mr. Coleman discussed relaxing the rules on outdoor music.

Mr. Horning:

- Appreciated the event suggested and supported moving forward.
- Reported the Christina School District Referendum affidavit absentee ballots were due the next day (www.christinak12.org).
- Informed there would be a town hall meeting on May 28th at 6:30 pm and the audio would be available on the site.

Ms. Hughes:

- Was concerned about the logistics of cutting down to one lane of traffic on Main Street for an event. Mr. Clifton agreed there was a safety issue which was why he wanted Council to discuss.

Ms. Wallace:

- Was open to discussing the event and was concerned about safety and equitability issues.
- Wanted all City restaurants to be involved, not just Main Street.

Mr. Lawhorn:

- Agreed with previous comments and thought all businesses should be involved.
- Was hopeful to give staff direction to return with a proposal for the event.
- Was open to enacting an emergency ordinance for the event to happen.
- Wanted to be safe for residents and staff.
- Believed the economic downturn would grossly affect small businesses and wanted to provide a chance for success.
- Supported outdoor seating to comply with health concerns.
- Saw the event as a chance to unveil the finalized construction on Main Street.
- Agreed the Christina School District Referendum was important for the City.

Mr. Markham:

- Asked if the suggestion was to close one or two lanes. Mr. Clifton said it was decided that one lane was not viable and if the decision was made to proceed, both lanes would close.
- Suggested waiting until 6 pm so rush hour passed.
- Supported the event idea.
- Asked Mr. Coleman if the ten-person limit applied to private indoor gatherings and Mr. Coleman believed 250 applied to outdoor and ten would hold for indoor. He reminded there was a separate City code provision that capped attendance at 150 and required a permit for more. Mr. Bilodeau replied that the ordinance had a sunset provision tied to the Governor's orders and said he had directed a pastor to follow the Governor's restrictions for church services. He believed the City's ordinance created more

confusion than necessary and suggested repealing the ordinance to rely on the Governor's orders. Mr. Markham agreed, and Mr. Bilodeau recommended an ordinance to repeal the emergency provision. Mr. Markham asked if first and second readings were necessary, and Mr. Bilodeau confirmed. Ms. Bensley confirmed and said scheduling depended on Council's willingness to work around time limits. She suggested first reading could be June 8th and second on June 22nd. She noted the June 22nd agenda was closed and unless Council wanted to amend the time limits, the next available agenda date was July 13th.

- Reminded that the Planning Area 7 meeting was on May 28th at 6 pm.
- Wanted staff to consider widening the sidewalks in the BB zone downtown.
- Wanted Council to consider letting staff attend certain meeting virtually for flexibility.
- Reminded Parks on Draft was scheduled for July and asked when staff would decide if it would be canceled.

Mr. Coleman said he had not considered Parks on Draft because the 250-person limit was introduced that day and believed that it could go on if the State approved a remote event. He said he would speak to the Governor's office for clarification but did not see any other obstacles.

Mr. Clifton asked if Council supported having first reading for repealing the emergency ordinance on June 8th with the second reading on June 22nd. Ms. Hughes, Ms. Wallace, Mr. Hamilton, Mr. Lawson and Mr. Markham agreed. Mr. Horning had connectivity issues. Mr. Clifton asked Mr. Bilodeau if it was possible to get around holding a first and second reading and Mr. Bilodeau said there was not. He suggested it was possible to do a moratorium to not enforce the resolution and noted it was not an emergency to repeal an emergency ordinance. Mr. Horning rejoined the meeting and agreed with the suggested schedule, as did Mr. Clifton.

Mr. Lawhorn asked if Council needed to give direction to staff to hold the event. Mr. Clifton noted the events were held under the direction of the City Manager through Parks and Recreation and asked Mr. Bilodeau his opinion. Mr. Bilodeau agreed the event should take place with the usual organization and stated the City should work with the Governor's staff to comply with requirements. There was no public comment and the Mayor returned the discussion to the table.

9. 1-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):** None

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

- A. Approval of Council Meeting Minutes – May 4, 2020
- B. Approval of Council Meeting Minutes – May 11, 2020
- C. Receipt of Alderman's Report – May 11, 2020
- D. ***First Reading – Bill 20-16*** – An Ordinance Amending Chapter 13, Finance, Revenue and Taxation, Code of the City of Newark, Delaware, By Deleting Tax Exemptions for Undeveloped Annexed Properties and Properties in the Business and Industrial Districts – ***Second Reading – June 8, 2020***
- E. ***First Reading – Bill 20-17*** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Reinstating Parking Fees in City Owned and Operated Parking Lots and Clarifying the Grace Period for On-Street Parking Meters – ***Second Reading – June 8, 2020***
- F. ***First Reading – Bill 20-18*** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from RS (One-family Detached Residential) to RM (Multi-family Dwellings – Garden Apartments) 0.56 Acres Located at 19 Amstel Avenue – ***Second Reading – June 22, 2020***
- G. ***First Reading – Bill 20-19*** – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, By Adding a Fraternity and Sorority Classification as a New Special Use Permit in the RM and RA Zoning Categories – ***Second Reading – June 22, 2020***

45:22

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

Absent – 0.

11. 3. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:**

- A. Reappointment of Sheila Smith to the District 4 Position on the Conservation Advisory Commission for a Three-Year Term to Expire March 15, 2023 (5 minutes)

47:33

Mr. Hamilton asked that Council reappoint Sheila Smith to the Conservation Advisory Commission. He acknowledged the group's efforts towards making Newark a cleaner City. He pointed that Ms. Smith was not in attendance during the virtual meeting because times were unprecedented.

Mr. Horning agreed with Mr. Hamilton and noted Ms. Smith's obvious passion for conservation. Ms. Hughes, Ms. Wallace, Mr. Lawhorn, and Mr. Markham thanked Ms. Smith for her volunteer service. Mr. Clifton noted that Ms. Smith had done a remarkable job and was pleased that she was willing to serve.

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

MOTION BY MR. HAMILTON, SECONDED BY MR. HORNING: TO APPROVE SHEILA SMITH FOR REAPPOINTMENT TO THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2023.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

Absent – 0.

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

13. 5. **SPECIAL DEPARTMENT REPORTS:**

- A. Discussion and Related Votes on Rescheduling the 2020 City Council Election – City Secretary (60 minutes)
1. Approving Date for Rescheduled 2020 City Council Election as July 28, 2020

53:25

Ms. Bensley reminded Council they were given the memo regarding the rescheduling of 2020 City Council Election and explained the election was originally slated for April 14th but, on March 24th, the Governor canceled all municipal elections through May 15th. She waited to reschedule so the City would not be asked to cancel for a second time. On May 7th, the Governor released his 15th modification of the State of Emergency which provided guidelines for rescheduling a municipal election. The modification indicated it was up to the municipality's charter, code, and discretion when to reschedule the election. She noted that any rescheduled election had to implement social distancing requirements, enforce mask requirements, and enforce the crowd limits of ten-persons at a time per polling place. The Governor encouraged absentee ballot applications to be mailed to all voters to reduce the physical polling places on election day and to consider extending voting hours to reduce crowd size at polling places.

Ms. Bensley explained that the City was unable to conduct an entire election as vote by mail because the Governor's orders did not waive the State law or City charter provisions which required the use of voting machines. She noted that HB175 was not a true vote by mail bill that removed requirements for polling places but instead allowed voters to apply for a ballot by mail without having an absentee excuse. She continued that even if HB175 passed and municipalities were added, the City would still be required to have polling places.

Ms. Bensley stated that the same order that provided guidance for municipalities also moved the Presidential Primary and the School Board Elections for a second time, July 7th and July 21st, and so the voting machines would not be made available to the City. Staff requested availability of the machines for July 14, July 28 and August 4 and surveyed Election Board members for availability. She said that of the three dates, the State could only commit to providing voting machines on July 28th which was also the only day that all seven Election Board members were available. She continued that City code allowed for any eligible voter registered within 24 days prior to an election, excluding weekends and holidays, was eligible to vote in Council elections so the voter registration deadline would be Monday, July 6th, for the July 28th election. She shared that she received the updated voter registration lists from the Department of Elections and reported there were 77 new voters in District 3 and 32 new voters in District 5 since February 25 who would be included in any additional notifications. She said she would request the final list after July 6th and include newly registered voters.

14. 5-A-2. APPROVING POLLING PLACES FOR RESCHEDULED 2020 CITY COUNCIL ELECTION

57:52

Ms. Bensley examined the State of Emergency to determine whether the City should reduce the number of polling places. Staff believed it was best to keep two polling places instead of consolidating to one because of the expected low in-person turnout due to absentee ballots. She believed polling places could be staffed with fewer workers to process more voters under the ten-person gathering limit. Staff also felt that two locations would ensure there would be lower crowd sizes versus consolidating. She noted that extending polling location open times were not helpful for the City because polling places were already open for thirteen hours while other municipalities were only open for six. She revealed that the City's poll workers ended up working for fifteen hours on election day.

Ms. Bensley explained that the usual polling place for District 3 was Aetna Hose, Hook, & Ladder Station 7 on Thorn Lane, and First Presbyterian Church Memorial Hall for District 5. She said that First Presbyterian was happy to host District 5 voters, but District 3 presented a challenge because of the exposure of first responders to potential contamination from voters and vice versa. The Christina School District offered to host District 3 polling at West Park Place Elementary School and, because the school was located within District 3, there was no need for a waiver of the polling place location code provision.

Ms. Bensley said that Election Board members spoke to the poll workers to determine availability and willingness. She admitted some were hesitant but there were enough workers to staff the polling places with normal eligibility to process the anticipated reduced number of voters. She stated that the City would provide face masks, face shields, gloves, hand sanitizer, access to facilities for handwashing, alcohol pads to sanitize the machines, and issue individual pens to voters. Staff would continue to search additional safety options as the election approached and revealed that IIMC, the professional organization for municipal clerks, recently started a group for City and County election professionals to address best practices for executing elections. She explained that while the current plan was to proceed as normal with the eligible poll workers, staff reserved the option to return to Council closer to the election should the situation change, and workers became unavailable.

Ms. Bensley reported that prior to the cancellation of the last election, staff mailed nearly 6,000 absentee affidavits to all registered voters in Districts 3 and 5. Out of the mailing, 819 were completed and returned, 384 were returned as undeliverable, and over 4,780 did not respond. Once the election was rescheduled, voters who returned affidavits would receive absentee ballot packets. Staff's recommendation was to send affidavits to voters who did not return them and to newly registered voters. She admitted there was a cost but thought it was reasonable to assume that voters did not return affidavits when the election was canceled in April and could have been discarded. She pointed that District 3 voters would be sent a mailing to notify them of the change in polling place and thought the mailing could serve as dual purpose to provide the memo of the change and the absentee affidavit. She estimated an additional 900 pieces of mail to send to both districts to complete the full absentee affidavit mailing again. Voters who already returned an absentee ballot affidavit or whose mail was returned as undeliverable would not receive the second mailing.

Ms. Bensley indicated that a typical Council District Election had 15 to 30 absentee ballots. Staff would recommend that Election Board take advantage of the provision in State Code that allowed for absentee ballot preparation prior to the election. She explained that the workers could open the ballots but not count them because opening the ballots were the most time-consuming portion. She continued that the Election Board would hold a public meeting where candidates could have challengers participate in order to contest voters determined ineligible under the provision in State law. She explained that staff would do the prep work with the Election Board the day prior to the election in order to allow absentee judges to count ballots faster on election night and expedite the unofficial results. She explained the meeting and the absentee judges meeting would be advertised in accordance with all FOIA protocols and candidates would be notified to allow challengers to participate. She said that staff would discuss mechanics with the Election Board in early June.

15. 5-A-3. CANCELLING THE JULY 20, JULY 27 AND AUGUST 3 CITY COUNCIL MEETINGS

1:07:25

Ms. Bensley explained that with the election scheduled on July 28th, the Election Board would certify the election results on July 30th, and the organizational meeting for new Councilmembers to be sworn in would be on August 6th, seven days after the election certification as provided by Charter and State law. Staff recommended that Council cancel the regularly scheduled meetings for July 20, 27, and August 3 to mirror the three meetings typically canceled around City elections. The July 20th cancellation would allow Legislative Department staff to work on election preparations, the July 27th cancellation would allow Council Chambers to be used by the board to begin processing absentee ballots with appropriate social distancing, and the August 3rd cancellation would ensure new Council would be sworn in prior to any

additional meetings taking place. She stated that all departments were aware of the potential cancellation dates and were scheduling accordingly. She reiterated the three potential motions before Council were rescheduling the election, the approval of the polling places, and the meeting cancellations.

Mr. Clifton thanked Ms. Bensley for the presentation and admitted he had been part of military planning sessions with less detail and commended her for the work done.

The Mayor explained that questions or comments could be made on any one of the three proposals, 5-A-1, 5-A-2, and 5-A-3, and stated that each proposal required a separate vote.

Mr. Horning asked Ms. Bensley if there were public comments for the item and she replied no. He noted the lack of public comment reflected positively on the amount of detail and effort incorporated in the planning. He saw Ms. Bensley's efforts as a tribute to Memorial Day and an honor to those who died to protect freedoms and the right to vote.

Ms. Hughes thanked Ms. Bensley for the presentation.

Ms. Wallace thanked Ms. Bensley for the thorough presentation and for considering all the moving pieces. She thought it was important to have continuity of government and legitimacy in elections while keeping residents safe. She agreed with the suggesting polling place for District 3 and agreed with remailing the affidavits to ensure full participation. She shared that she would be willing to serve longer if the election were to be postpone or canceled because of a spike in positive COVID-19 cases.

Ms. Bensley interjected when comparing the 2018 City Council election turnout between District 3 and 5 and the number of returned absentee ballot affidavits thus far, District 3 had an over 80% return rate and District 5 had a 90% return rate over expected numbers. Ms. Bensley stressed that the polling places would have much lower traffic than previous years. Ms. Wallace was enthusiastic that more people would vote via absentee than by visiting polls and thought the turnout would be greater than usual. Ms. Bensley noted that a second push of the absentee mailing could result in reaching 100% of the typical votes in an election year. She anticipated that it could lead to low turnouts for voting machines and would only require a ballot drop-off prior to polls closing.

Mr. Clifton appreciated Ms. Wallace's and Mr. Markham's willingness to continue their service to ensure a quorum.

Mr. Hamilton was pleased the election would proceed and that constituents were so supported.

Mr. Lawhorn agreed with the recommendations and thanked Ms. Bensley and staff for being thorough.

Mr. Markham believed the plan to be thorough and thanked Ms. Bensley for the presentation.

Ms. Bensley provided the breakdown per district as 400 returned affidavits for District 3 and 419 from District 5 so far.

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

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: THAT COUNCIL SET THE DATE FOR THE RESCHEDULED 2020 CITY COUNCIL ELECTIONS AS TUESDAY, JULY 28, 2020.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

Absent – 0.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: THAT COUNCIL SET POLLING PLACES FOR THE RESCHEDULED 2020 CITY COUNCIL ELECTIONS AS WEST PARK PLACE ELEMENTARY SCHOOL FOR DISTRICT 3 AND FIRST PRESBYTERIAN CHURCH MEMORIAL HALL FOR DISTRICT 5.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.
Absent – 0.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: THAT COUNCIL CANCEL THE REGULARLY SCHEDULED COUNCIL MEETINGS ON JULY 20, JULY 27, AND AUGUST 3, 2020.

MOTION PASSED. VOTE: 7 to 0.

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

16. 5-B. RESOLUTION NO. 20-__ : A RESOLUTION PLACING A MORATORIUM ON APPLICATIONS FOR TAX EXEMPTIONS AS OUTLINED IN SECTIONS 13-11 THROUGH 13-15 PENDING THE OUTCOME OF THE COUNCIL HEARING ON BILL 20-16 (15 MINUTES)

1:19:06

Ms. Bensley read the resolution into the record.

Mr. Coleman explained the temporary resolution would be in effect until the next meeting when the second reading was up for the ordinance which would suspend the tax exemptions outlined in the subject sections. If the ordinance failed, the resolution would be moot. He explained the resolution would keep staff from receiving a rush of applications until the ordinance could be heard.

The Mayor opened the table to discussion.

Council had no questions thanked Mr. Coleman for bringing the resolution forward.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE A RESOLUTION PLACING A MORATORIUM ON APPLICATIONS FOR TAX EXEMPTIONS AS OUTLINED IN SECTIONS 13-11 THROUGH 13-15 PENDING THE OUTCOME OF THE COUNCIL HEARING ON BILL 20-16.

MOTION PASSED. VOTE: 7 to 0.

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

(RESOLUTION NO. 20-D)

17. 6. RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:

- B.** Recommendation to Dispose of Surplus Equipment in Excess of \$10,000 – Water Division of PWWR (15 minutes)

1:22:40

Mr. Filasky explained the recommendation was to get rid of surplus equipment. He continued that the equipment did not perform as expected and was purchased in 2011 with the intent to clean out and exercise water valves. He said it did not meet expectations and staff had attempted to repurpose the equipment and sell it. He revealed that Eagle Power had done research on the piece and was interested. The City ordered a backhoe from Eagle Power in March and staff added the equipment to the purchase order to save \$18,000 on the purchase of the backhoe. He stated that staff had received offers from \$5,000 to \$14,000 but felt that the offer from Eagle Power would be the best. He continued that in a perfect world, he would have pitched the trade for a mini excavator for the stormwater utility, but it was not thought to be financially prudent by staff.

The Mayor opened the table to discussion.

Mr. Horning appreciated the history and supported the trade.

Ms. Hughes was confused about purchasing the backhoe and how the equipment was applied to the sale for a savings of \$18,000. Mr. Filasky repeated his presentation of the trade-in.

Mr. Markham appreciated Mr. Filasky evaluating the equipment and using it towards the deal.

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

MOTION BY MR. HORNING, SECONDED BY MR. MARKHAM: THAT COUNCIL AUTHORIZE THE INCLUSION OF THE VEHICLE 223, A 2011 VERMEER VALVE EXERCISER VACUUM MACHINE AS DESCRIBED HEREIN FOR \$18,500 TRADE IN VALUE TOWARDS THE PREVIOUSLY APPROVED PURCHASE OF ONE BACKHOE FROM THE SOURCEWELL COMPETITIVELY BID CONTRACT NO. 032119-CNH FROM EAGLE POWER AND EQUIPMENT.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

Absent – 0.

18. 7. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None

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

A. Request of Monster Mode Athletics for a Special Use Permit for a Commercial Indoor Recreation Facility Located at 111 Sandy Drive (15 minutes)

1:30:31

Mr. Fortner introduced the special use permit for Monster Mode Athletics for a Special Use Permit for a Commercial Indoor Recreation Facility Located at 111 Sandy Drive. He said the property was zoned MI and the facility was approximated 9,500 square feet. He explained that the permit did not conflict with Zoning Code 32-78 because the use did not adversely affect the health and safety of those around the property, was not detrimental or injurious to public welfare, property, or improvements, and did not conflict with the purposes of the Comprehensive Development Plan.

Mr. Fortner continued that because the proposed use did not conflict with the land use guidelines and the Comprehensive Development Plan V, was compatible with the zoning code special use permit review criteria, and because the use provided additional recreational opportunities for the community, the Planning and Development Department suggested that Council approve the special use permit for a commercial indoor recreation facility located at 111 Sandy Drive with the departmental conditions.

Ed Sugalski, owner of Monster Mode Athletics, was happy to serve the community and help residents achieve better overall health. He looked forward to becoming more involved with the City and various schools.

The Mayor opened the table to discussion from Council.

Mr. Horning appreciated the Planning Department’s understanding of the business community and for making the zoning changes. He appreciated the investment of the business in the City.

Ms. Hughes appreciated the location of the facility and thought it had promise and potential.

Ms. Wallace and Mr. Hamilton echoed previous comments.

Mr. Lawson was happy to know the changes made by the City were affording small businesses the opportunity to better the community.

The Mayor opened the floor to public comment.

Bob Pessagno, 109 Sandy Drive, asked if the business was currently operating because he believed the business was open during the pandemic and not following guidelines. He noted that Mr. Sugalski said he closed the facility during the pandemic but continued to receive complaints that it was open.

Mr. Sugalski said he had not been back to the gym and the only individuals who entered were maintenance and cleaning crews and electricians. He repeated that no members were working out and assumed that the crews were permitted to maintain the building. He stated that the landlord also directed them to shut down for COVID-19. He explained that the crew was there to work in anticipation for the reopening on June 1st. He revealed he had nine children and would not jeopardize his finances by opening against orders.

The Mayor brought the discussion back to the table and instructed Council that the motion required individual votes.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT COUNCIL APPROVE THE SPECIAL USE PERMIT FOR A COMMERCIAL INDOOR RECREATION FACILITY LOCATED AT 111 SANDY DRIVE WITH THE DEPARTMENTAL CONDITIONS.

Mr. Horning approved the special use permit as it did not affect adversely the health or safety of persons residing or working within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware; was not detrimental to the public welfare or injurious to property or improvements within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware; and was not in conflict with the purposes of the Comprehensive Development Plan of the City.

Ms. Hughes, Ms. Wallace, Mr. Hamilton, Mr. Lawhorn, Mr. Markham, and Mr. Clifton approved the special use permit for the reasons indicated by Mr. Horning.

MOTION PASSED. VOTE: 7 to 0.

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

Nay – 0.

Absent – 0.

21. Meeting adjourned at 8:46 p.m.

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

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