

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

June 29, 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 Assistant to the Manager Jeff Martindale Chief Communications Officer Jayme Gravell Finance Director David Del Grande Planning and Development Director Mary Ellen Gray

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: (Ending April 30, 2020) (45 minutes)**

2:27

Mr. Del Grande began that the 2020 financial impact of the State of Emergency (SOE), declared on March 12th, was difficult to project. He pointed that unknown factors were the lack of a clear ending date, the full impact of UD on City utilities, and the impact on the local business community. He noted that although many businesses were beginning to reopen, most were operating at reduced levels of service and that while the City considered the ebb and flow of the student population in projections, staff relied on businesses remaining consistent over the year. He pointed that faltering businesses directly impacted the City's annual revenue expectations.

Mr. Del Grande noted that April's report included a column titled "COVID-19 Expenses" to represent direct expenses incurred by the City. He reported that through May, the amount totaled just over \$96,000 was eligible for full reimbursement via the CARES Act and April reported \$71,859 in direct COVID-19 expenses. He shared that COVID-19 expenses were included within the "2020 YTD Actual" column and would grow as the year progressed.

Mr. Del Grande continued that the City faced a potential annual revenue loss of nearly \$14 million, with \$9.1 million coming directly from utility sales, through April. He acknowledged the City experienced

the lowest amount of electric purchases from DEMEC in years and that both water and sewer sales were down over 40% for the month, which represented the first full month of consumption data while under the SOE. He stated the City lost over \$2.3 million in utility sales from electric, water and sewer utilities between mid-March and April. The losses were primarily due to closed businesses and the student population moving out earlier than expected.

Mr. Del Grande reported that May's water and sewer sales were 19% and 22% under budget, compared to 41% and 42% as initially expected in the April estimate, but electric sales fell 22% below budget, which was worse than the 15% loss staff anticipated. Preliminary June water sales showed some continued promise, and while they fell 9% under budget for the month, the loss was not the estimated 20% staff anticipated for April. He assured Council that staff would continue to monitor utility sales as the data became available.

Mr. Del Grande revealed another concern to utilities was the City's inability to collect on overdue accounts. Per the Governor's declaration, no utilities were permitted to charge interest, fees or penalties on residential accounts for the duration of the SOE. Due to the limitations of the City's billing system, staff froze all penalties for all utility accounts. He also stated that utilities were not permitted to disrupt service, which meant that the City was providing free utility services to some customers with no ability to collect payment until the SOE lifted. While the City was open to working with customers, it needed to have the ability to collect on past-due accounts before the amounts grew too far out of control. He shared that the Governor's office was working with all utilities in the State on a uniform policy to collect past-due balances once the SOE ended. He reported that through last Friday, the City had foregone nearly \$64,000 in interest fees for delinquent accounts.

Mr. Del Grande continued that the City also experienced a direct impact of non-utility sources of revenue. He noted:

- **Real Estate Transfer Tax** - Both activity and the number of transactions were down compared to 2019. Through May of 2019, there were 195 transactions compared to 141 in 2020, or a reduction of 27%. Most importantly, there were only two properties that sold for a million dollars or more through that day. Staff reported an increased amount of exempt transactions processed in 2020 versus what previous years and anticipated losing as much as \$570,000 for RTT in 2020 or a 35% reduction from budget projections.
- **Property Taxes** – Staff anticipated an increase in uncollected tax accounts and explained that while staff could impose liens on property taxes, any significant increase in tax delinquencies could create a cash-flow issue for the City. Staff estimate a 10% delinquency rate (\$748,000) and would not have concrete reporting until the last quarter of 2020. He revealed that 61% of parcels did not have tax bills sent to a mortgage company and represented 65%, or \$4.5 million, of the annual tax bill.
- **Lodging Tax** – Mr. Del Grande reported that the hotel industry was struggling and revealed that most stays were prohibited during earlier phases of the SOE. Additionally, some hotels elected to delay payment to the City for financial reasons. Due to the mandatory shutdown combined with the anticipated slowdown of visitors returning to hotel stays, staff did not expect a windfall of lodging taxes due to the City. Currently, staff anticipated a loss of \$540,000 or 72% by year's end.
- **Fines** – Parking and moving violations were down 50-55% for the year through May. Returned to normal patrol as of June 15th, and the Alderman Court would reopen this week. Staff anticipated a reduction of \$738,000 for the year due, which reflected a 35% reduction from the budget.
- **Parks and Recreation Fees** – Numerous programs were cancelled; summer camps were significantly altered due to the restrictions put in place from the SOE. Staff projected a revenue loss of 50% or \$336,000 due to canceled programs and participation reductions.
- **Parking** – Mr. Del Grande reported that parking was impacted dramatically as it had already lost about \$700,00K through June 15 and could lose another \$700,000 for the second half of the year. He noted that the busiest time of the year for parking had gone by and there was not enough time to make up the loss for the year. Staff projected that parking losses could double to \$1.4 million by the end of the year if parking activity did not return to normal.

Mr. Del Grande continued that directors reviewed budgets over the past three months to determine areas to cut to help the City offset revenue losses. The savings, coupled with reductions in the need for electric and sewer utility purchases, totaled just over \$5.2 million. Mr. Coleman and Mr. Del Grande were still reviewing saving opportunities for the remainder of 2020 and 2021.

Mr. Del Grande reported that the net current operating deficit, a combination of revenue and expenses, was negative \$5.1 million. Staff estimated the gross loss to be just over \$8.7 million but was partially offset by the \$2.5 million from the RSA adjustment, and the \$1.15 million grant from the CARES Act, if all City expenses and Corona-related time were considered valid expenses. The revenue assumptions did not initially include the \$400,000 PILOT grant recently approved by the State legislature and Mr. Del Grande said that the funds would reduce the loss on receipt and would be included in future projections. He continued that the end of April cash balance was \$37.2 million, which included \$24 million in the City's long-term cash account and \$13.2 million in operating cash. The electric regulatory liability carried a credit balance of \$193,000 from over-collection. The regulatory liability, which, by design and pursuant to code, would be managed through the 2021 rate stabilization adjustment (RSA).

The Mayor opened the discussion to the table.

Mr. Horning was eager to learn about Federal aid from the lobbyists. He asked Mr. Del Grande what class of property was included in the refuse fees. Mr. Del Grande replied the fees were the bulk fees staff charged for individual pick-ups and cart collections. Mr. Horning asked if the increase in exempt transactions in the RTT was from UD or other properties. Mr. Del Grande replied the majority were family to family transfers and non-profit transfers and did not recall any from UD. He continued that normally, 1/3 of the real estate transfers were tax-exempt, but numbers indicated that the number was over 40% for 2020. Mr. Horning credited Mr. Del Grande with proactive thinking on the RSA adjustment and asked how comfortable staff was with covering some loss with the cash reserves. Mr. Del Grande instructed Mr. Horning to review page four, Available Funds, and explained there was a line for Rate Stabilization Reserve with \$5.3 million in the account. He stated the \$5.1 million shortfall could be absorbed by the Rate Stabilization Reserve and would not impact the City's bond rating. Mr. Del Grande said the second step would be to consider the Future Project Capital Reserves of \$2 million set aside for the substation which could be impacted if staff had to pull more funds. He revealed that there was enough to get through 2020 but the issue was going into 2021 and beyond without Federal or additional State assistance. He stated that unless there was a lucky uptick in the economy in the next 30 days, there would be issues going into the 2021 budget for revenue purposes. Mr. Horning asked if the RSA had a cap stated in Code or if it could be used at Council's discretion. Mr. Del Grande educated that it was a discretionary account and could be used with Council's approval through a budget amendment. Mr. Horning hoped New Castle County would work with the City regarding the CARES Act as the City had proven itself conservative with legitimate charges. He noted the cuts in consulting fees and contractual services and asked if any projects were on hold. Mr. Del Grande replied that some Public Works projects could be impacted, such as the Streets Program, and informed that he was working with Mr. Coleman and Mr. Filasky on the exact expected ramifications. He shared that staff was optimistic for aid and was going through the 2021 budget process while simultaneously addressing needs issues. He revealed that staff would make cuts to out years in order to assist with the revenue loss. Mr. Horning asked about the reduction in UD credit card fees in parking and Mr. Del Grande replied that the reduction was due to lack of sales in parking.

Ms. Hughes asked how long it took to save \$5 million in the discretionary account and Mr. Del Grande estimated it took six years with the last few years being more aggressive in savings. He explained the Rate Stabilization Reserve lived solely on electric sales and, if costs were kept low, the sales helped build reserves. He shared that some of the funds were used to help with capital projects on the electric side and admitted it could take a few years to build up another \$5 million. Ms. Hughes asked if the City had received Federal funds for COVID. Mr. Del Grande confirmed and stated the County approved \$1.15 million for the City but the money was still with the County who was waiting on City staff to submit applications for reimbursement. He informed that staff was working with the City Solicitor in the application process. Ms. Hughes stated that staff was not permitted to shut off electric service or collect on delinquent accounts and Mr. Del Grande confirmed that staff was working with the State and utility companies state-wide in conjunction with the Governor's office to create uniform language for all utilities to follow. He reported the Governor's office had not yet responded on an implementation date or when the SOE would be lifted so staff could begin working with customers on arranging payments and interrupting service as a last resort. Ms. Hughes asked if the overdue accounts had a large impact on finances. Mr. Del Grande expected to see a significant increase in the number of past-due accounts and noted only a slight increase but explained that the City only charged on consumption and did not have fixed-costs built into the rates. He continued that because there were no fixed costs built into the rates, bills did not go out with regular balances that went unpaid and explained that the City was not selling electricity because the businesses were closed. He admitted the residential group was only down a couple

of percentage points, so most of the decrease was due to UD and the business sector. He stressed that the lack of consumption had lowered bills dramatically so delinquent accounts were not as high as they would have been if fixed costs were included.

Ms. Wallace asked how the \$14 million could grow if the City had to enforce quarantine again and if UD could not reopen. Mr. Del Grande replied that it was difficult to answer because staff assumed a 10% drop in electric sales for June through December with the assumption that UD and some businesses would be open at a modified level. Staff assumed that water and sewer accounts would have a 20% drop June through August and 15% drop September through December. He explained that staff had already built losses into the \$14 million amount and admitted it was assumed that there would be a level of normalcy into the fall and not a complete shutdown. He hoped that residents continued to follow the Governor's orders on masks and social distancing so that the economic situation maintained current levels and staff did not have to consider more dramatic changes. Ms. Wallace was also hopeful but asked that staff create a Plan B to determine worst-case outcomes and noted the bulk of the budget was personnel. She thought it would be unwise to wait to have difficult conversations. She pointed to the last recession where cities came to agreements with unions to cut hours versus cutting personnel and noted that the current crisis would have an end, so she supported an alternative solution. She wanted staff to determine a plan for the future Council to sign-off. She thought late fees needed a solution across the country and it could be argued as a COVID-related response because municipalities were ordered to not charge late fees and penalties. She reiterated the need for a worst-case scenario plan.

Mr. Hamilton referred to the comments that UD had not issued an official reopening plan and noted that the City had been receiving information that University intended to reopen as much as possible. He wanted to work with UD to help facilitate plans and Mr. Del Grande interrupted that he received a plan after he wrote the memo and shared that UD was straight with the City. Mr. Hamilton asked if the Governor's order on past due utility collections was for private residences and Mr. Del Grande confirmed. Mr. Hamilton then referred to the lodging tax in the memorandum and said he was concerned about the hotels that elected to delay payment to the City. He continued that the money was not on the hotel but was a pass-through tax and Mr. Del Grande agreed. Mr. Hamilton understood that businesses were struggling but the funds were supposed to go directly to the City and hotels were opting to keep it instead. He was cognizant of unemployed residents and agreed with the Governor's orders for individual accounts and recommended that staff and Council discuss late fees and penalties for withholding the lodging tax. He reiterated it was a passthrough line item that hotels elected to keep and asked Mr. Del Grande for staff's plan on how to handle the situation. Mr. Del Grande stated that staff was in contact with the hotels and noted they were fully aware of their delinquencies. He shared a past scenario where a hotel did not pay so staff responded by estimating the lodging tax for 100% occupancy, added an interest penalty, and sent a bill which prompted payment within 24 hours. He informed that staff was keeping a list during the SOE and would have more serious conversations with hotels once the SOE lifted. He shared that staff also had discussions with the Delaware Division of Revenue (DOR) and noted that hotels had to submit payment to the City and the DOR. He said that staff wanted to be consistent with the State and admitted the City had the right to conduct a review and would do so as a last resort. Mr. Hamilton knew everyone was strained and he wanted the hotels to compensate the City for any extra work or overtime through fees. He credited staff for putting the City in a financial position to absorb short term losses.

Mr. Lawhorn asked if the City had to apply for reimbursement through the CARES Act funds of \$1.15 million and Mr. Del Grande confirmed. Mr. Lawhorn asked how the amount was determined and Mr. Del Grande replied the County calculated the number based on the population of the municipality so the \$1.15 million was part of \$5 million that the County set aside, from \$322 million, to allocate to the municipalities. He shared that Wilmington would receive just over \$2 million and Middletown around \$700,000. Mr. Lawhorn asked for what the majority of the County's fund were earmarked and recalled that staff originally estimated \$15 million for reimbursements. Mr. Del Grande replied the County established a plan and he did not believe the \$322 million was fully allocated. He understood that the County Council only approved the administration to spend up to \$80 million and did not think the County Council had a plan for the total amount. Mr. Lawhorn wanted the lobbyists and State Representatives to push for the City to get the revenue value because the funds were not falling into the hands to help citizens and he wanted the representatives to argue that the next CARES Act be updated so municipalities could use funds for revenue. He believed that university towns throughout the country were in the same predicament as Newark.

Mr. Lawhorn asked if the June water report was 9% below when staff projected 20% and Mr. Del Grande confirmed and stressed it was a good sign. Mr. Lawhorn asked if electric was projected to be down 15% and was down 22% and Mr. Del Grande confirmed the stats were for May and the June numbers were not available. Mr. Lawhorn noted that the report was written without a plan from UD and asked if the results would be more positive if the students stayed and Mr. Del Grande replied that staff was

conservative with the \$14 million projections. He and Mr. Coleman felt that if UD proceeded with a normal academic year, the electric and utility usage could resemble last year's results. He noted that staggered classes could mean that buildings would be open longer and shared that move-in had 80 more units than move-out which meant there was more activity in apartments that had been vacant in previous months. He also noted that businesses reported more student activity downtown than during the summer. Mr. Lawhorn referred to the lack of social distancing in Dewey Beach and noted the event on Thursday in Newark was a positive occasion attended by residents wearing masks and following social distancing. He supported holding future events but wanted to follow the same protocols. He admitted that college students would be less likely to follow guidelines and wanted to uphold safety measures so there would not be another lockdown.

Mr. Lawhorn wanted to consider ways to generate revenue and noted the decline in parking. He thought that hosting more events would help local merchants and admitted hearing that some businesses were going under. He supported having more events without the City providing free parking. He agreed with Ms. Wallace's point about contingency planning and wanted staff to have talks with the unions sooner rather than later. He noted that although the RSA could cover the deficit, the situation could worsen and there would no longer be a rainy-day fund. He referred to the discussions about customer fees and asked if there was a benefit if Council could implement fees and reevaluate the impact after the electric rate study was completed. Mr. Del Grande confirmed it would help for water and sewer funds. He stated that residents paid 23 cents for sewer and 60 cents for water customer charges. He explained that if consumption lowered, customers only paid \$1.00 for customer charges but the City still incurred costs to provide water to customers as needed. He thought staff could recommend a revenue neutral customer charge to provide more revenue certainty for the 2021 Budget and would align the City with the nation's best practices in water and sewer. He shared that the electric customer charge was on hold to determine the new normal after the SOE and informed that staff had met with UD per the ESA agreement before changing rates. He suggested that the easiest in-house solution was to add water and sewer charges and stated that stormwater was a fixed rate and should be accurate if staff was able to collect what was billed. Mr. Lawhorn supported the discussion and pointed that customer charges could help pay for infrastructure if apartments were vacant. He continued with the importance of having discussions to determine cuts and ways to raise revenue.

Mr. Clifton understood that students would be leaving campus at Thanksgiving break and Mr. Del Grande confirmed. Mr. Clifton believed that December would be bleak for revenue and the business community and could not presume what electric sales could bring if UD held night and weekend classes. He referred to Mr. Hamilton's comments of the lodging tax and likened the scenario to the City selling electric through DEMEC purchases. The charge was a passthrough because DEMEC provided the product as was the lodging tax on hotels. He did not know that the City needed to be tolerant towards the hotels for withholding taxpayer money to offset their own losses and did not suspect an ethical case could be made supporting the action.

Mr. Markham referred to the years-long discussion on the City's utility dependency and stressed that the current situation finally answered the what-if speculations. He asked Mr. Del Grande if the RSA could only be used for electric since it came from electric and Mr. Del Grande confirmed that it did come from electric, but staff could use the RSA at Council's discretion. Mr. Markham agreed with Mr. Clifton on the November 20th exit date for the students and recalled that the customer fees implemented that year only covered the generation of the bill. Mr. Del Grande replied the water and sewer customer charges only covered the increased cost of the State Revolving Loan Debt Service and would increase as the projects completed next year. Mr. Markham suggested a balance of increased customer fees and suspected the rates and usage could be lowered if there were also standard rates. Mr. Del Grande confirmed. Mr. Markham asked if using less electric affected the wholesale rate and Mr. Del Grande replied that the City was locked into a rate DEMEC set in December and shared that DEMEC would not change the rate this year but it could be possible that rates would increase next year. Mr. Markham indicated it was a good time to consider fixed customers fees versus charge for usage. Mr. Markham wondered if hotels were paying the State and not the City's lodging tax and said it was equivalent to not paying a payroll tax. He was positive that the City's reserves allowed for more flexibility than the last recession and recalled that the employees and unions understood the City's position and did not have unreasonable requests. He noted that during the last financial crisis, the previous City Manager requested that each department cut 10% and Mr. Markham encouraged staff to plan for the worst because he had not heard of any recent development with Federal funding. He suspected 2021 would be challenging for Council and staff and hoped the State would give the cities more flexibility. He believed that the budget structure, reserves, and RSA fund proved that Council and staff acted with best practices.

Mr. Horning interjected his agreement with the lodging tax and asked if the New Castle allocation of the CARES Act funds was based upon Newark's population with or without student residents. Mr. Del

Grande replied the allocation included student residents and shared that the County used a consistent number for other Federal grant funding and staff was satisfied. Mr. Horning recalled discussions on trash fees and pointed that annexed residents were willing to pay trash fees.

Mr. Markham asked if the CARES Act was only for expenses the City incurred and not for revenue or budgets. Mr. Del Grande confirmed.

Ms. Hughes asked if New Castle County was still in the process of applying funds to the different municipalities and Mr. Del Grande replied that three weeks ago, the New Castle County Council approved the allocations to all the municipalities for the amounts specified by the County administration. He stated staff needed to complete forms to request reimbursement for what was directly expended due to COVID. He admitted it was debatable whether the City could be reimbursed for staffs' time spent on Corona-related expenses which detracted from time on other projects. Ms. Hughes asked what would happen to unallocated funds and if the City qualified for lost revenue reimbursement for utility sales. Mr. Del Grande replied that the current CARES Act did not permit municipalities to use the funds for revenue replacement and noted another potential CARES Act could allow it because municipalities were vocal that issues were with revenue loss, not expenses. He shared that any unused CARES Act funds were required to return to the U.S. Treasury. He explained the State requested the County to return a portion of the funds to help reimburse the State for incurred costs, like the Unemployment Insurance Fund which was still recovering from the recession a decade ago. The State wanted the funds to replenish the Unemployment Compensation Fund, otherwise, employers would pay an increased Unemployment Insurance in the future and would be another tax increase for businesses.

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

4. 2. SPECIAL DEPARTMENTAL REPORTS:

A. General Assembly Update and Associated Requests for Council Direction – Lobbyist (20 minutes)

1:13:25

James DeChene shared that the House met that day and passed the Grant-in-Aid Bill and the Bond Bill and reminded that the House also passed the Budget Bill. He noted the money would include:

- \$400,000 in lieu of PILOT
- A portion of \$6 million in Municipal Street Aid
- CTF increased to \$300,000 per legislator
- \$143,000 in UniCity funds
- A portion of \$251,000 in mobile data terminals for Police vehicles

Mr. DeChene continued that the Grant-in-Aid Funds included a formula-driven fund to State aid to local law enforcement and indicated that the Aetna Fire Company would receive over \$89,000 and the Newark Senior Center would receive over \$426,000. He informed that Senator Harris McDowell would retire at the end of the session and Representative Quinn Johnson would retire after twelve years. Mr. DeChene pointed that both the Joint Finance Committee co-chairs and the House and Senate Energy Committee chairs would be new. He informed that the House would meet at 11:45 p.m. the next day and gavel out at midnight, and gavel back in for a special session and then recess until the call of the chair. He noted the Senate would meet at 10:30 p.m. to do the same. The lobbyists spoke to the ACLU and shared that the property reassessment briefings were postponed until the fall as a result of the Chancery Court decision requiring both the plaintiffs and the defendants to submit plans for property reassessment. He indicated the Redding Consortium would meet in early August and he would share findings with Council.

Mr. DeChene was not aware that there would be any significant changes to the CARES Act to allow for the funds to be used to replace lost revenue as a result of the pandemic. He noted that while the House and Senate Democrats were pressuring for action to fund a new round of relief, there was Republican reticence and the lobbyists did not anticipate any action until mid-July at the earliest. He noted that Congress would recess for July 4th for two weeks and would recess again on August 6th for August recess and return in September to address budgetary items. He reiterated that he did not expect quick action and would update when he returned to Council on July 13th.

Mr. Horning asked if the Redding Consortium could provide input on the Christina School District's decision to put discussions on hold for School Resource Officer funding and whether it was a sound decision to not have Resource Officers in schools.

Ms. Hughes, Ms. Wallace, Mr. Hamilton had no questions.

Mr. Lawhorn was eager to see how the Redding Consortium progressed and reiterated his concern with the amount of CARES Act funds granted versus what would be utilized to help citizens. Mr. DeChene informed there was narrative on the background of how the State was awarded the \$1.25 billion and explained it was an effort undertaken by a number of the smaller populated states to attempt to have enough money to address the issues without ceding all of the funds to more populated states. He suspected that smaller states expected a greater impact to the healthcare communities and pointed that the estimated impacts were much higher than the revised number. He agreed that there was argument for the allocated money to be used for other revenue-related structural needs. Mr. Lawhorn noted that politicians argued against using the funds for poorly managed States and stressed that Newark was not poorly managed but had suffered impacts due to the pandemic because the University closed early.

Mr. Markham was pleased to learn of the \$400,000 and cautioned the lobbyists to consider the funds next year with the change in the chairs. He asked where the Solar RPS stood and Mr. DeChene replied there was an informal session last Saturday and then the official Senate and Energy Committee hearing was canceled. He did not expect the bill to be brought for consideration before the end of the session. Mr. Markham stated there was a virtual meeting law that Legislature put in place to continue some aspects of the Governor's executive order and asked if Council could continue with virtual meetings. Mr. DeChene said that the lobbyists worked with Ms. Bensley to determine how the bill could be applied but if Council needed modifications, they would return to the Governor. Mr. Markham asked who best understood the bill and Ms. Bensley said that Council and staff needed to address keeping meetings partly virtual after the SOE lifted. She explained the City had the capacity to go completely virtual or completely in person but did not currently have a hybrid capacity because there was not a way to include virtual participants at a live meeting without getting feedback. She recalled the last version of the bill stated hybrid meetings were only for advisory committees which excluded Council but included any bodies that made recommendations to them.

Mr. Markham stated the Legislature was restrictive in letting Council enacting different ways of generating revenue and he asked the lobbyists if the Legislature was more receptive to different ideas. Mr. DeChene replied that throughout the pandemic and in discussions with the administration about revenue issues, the State was focused on making sure the it was solvent and maintained its bond rating. He thought there was always an opportunity for revenue measures that did not take from existing State revenue measures, like the lodging tax. He suggested staff consider ideas that did not impact what the State was collecting and noted that getting into PILOT was difficult, so the City opted to go in-lieu-of PILOT. Mr. Markham was not interested in raising revenue streams but rather diversification. He believed that the CARES Act was passed quickly but with assumptions of what a typical City was. He pointed that many cities did not deal with hospitals which nullified the pandemic response portion, and many had volunteer fire departments that were not part of a city budget. He thought Congress would have a wake-up call when cities were forced into lay-offs to balance the budgets.

Mr. Clifton clarified that the present CARES Act was based on states where hospitals, schools, and prisons were operated by the county in most states, so the model was created in anticipation of the states and counties getting the revenue. He noted that New Castle could apply for the CARES Act individually to come out State funding and he believed most of the money would not be spent because the money the County was holding was greater than its budget. He mentioned that the State handled unemployment and viewed it as the biggest gap. He believed the Act proved to be a functional issue for the State and New Castle County. He shared that he spoke to a Senator who probed for the City's position on Senator McDowell's RPS bill. He told the Senator all the dynamics of the untaxed properties, the transfer from utilities, and how individual development solar farms could kill the City's revenue and create a huge budget gap. The Senator was under the impression that the City was on board with the bill. Mr. Clifton explained the City was on board with most of the bill but without the ability to exempt DEMEC communities, there would be budget hardships in the local communities and municipalities. Mr. DeChene believed the bill's sponsor misunderstood and assumed that Newark had a change of heart. He and Mr. Armitage clarified the City's position with the Senator and DEMEC. Mr. Clifton appreciated the effort.

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

5. 2-B. PENSION AND OPEB REPORT FOR Q1 2020 – FINANCE DIRECTOR/DTI INVESTMENT PARTNERS (20 MINUTES)

1:37:10

Mr. Del Grande introduced Andrew Zimmerman, Chief Investment Strategist with DT Investment Partners, and explained that Mr. Zimmerman was the financial consultant who reviewed and monitored the City's pension and OPEB accounts and worked in tandem with the City and Vanguard.

Mr. Zimmerman illustrated the major stock and bond end of fees as of May 31st and noted that they were slightly higher in June, which was an overall positive month for stocks. He stated that the US Large Cap stocks, as represented by the Absentee 500 Index, were the least negative through May 31st at down 4.98%. He explained that on February 19th, the Absentee 500 hit an all-time high at 3,386 but hit a bear market weeks later and bottomed at 34% on March 23rd with a 20% rebound into a bull market by April 8th. He shared that it had mostly been climbing since and the YTD through the day's close was down 5.5% and the NASDAQ was positive on the year up 10%. Mr. Zimmerman explained that stock prices were determined by the Federal Reserve and the actions around stimulus with monetary policy. He pointed that the Federal Reserve provided trillions of dollars of support and liquidity to the financial markets. Additionally, there was \$2.7 trillion in fiscal stimulus and he shared that Treasury Secretary Mnuchin would meet with Congress in July to discuss a fiscal stimulus package of at least \$1.5 trillion. Mr. Zimmerman stressed that the monetary policy was unprecedented and explained that stocks forecasted six to nine months out. He estimated there would be two or three negative quarters of growth and rebound during the first quarter of next year but admitted it was a fluid situation.

Mr. Zimmerman explained the performance of the pension in the OPEB accounts net of fees (under the management of Vanguard) were strong in April and May and rebounded up 11.8% and 11.9%. The YTD losses to 5.25% and 4.43% were outperforming the benchmark. He noted that the accounts were outperforming the benchmarks on a one-year, two-year, three-year and inception basis. He reported that Vanguard was doing a great job in navigating the bull and bear markets and reiterated both pension accounts were up 0.5% in June MTD.

Mr. Zimmerman referred to the Portfolio Asset Allocations versus Guidelines and stated that both accounts were managed in the same fashion and noted some rebalancing timing differences that were mostly identically allocated. He reported 71% allocated to stocks and 29% went to bonds and the accounts were overweight in Large Cap which was a better place to be for risk allocation. He also noted the accounts were overweight in international developed stocks and US Government bonds which was part of the top 20 asset class on a YTD basis due to its safe gaining status and flight to quality with the global pandemic.

Mr. Zimmerman reiterated the portfolio allocations and stated that both complied with the Asset Allocation Guidelines in the Investment Policy Statement as of May 31st and historically outperformed the benchmark on the measured timeframes YTD. Vanguard rebalanced both portfolios back to target allocations on March 19th and took advantage of the sale in stocks to rebalance to target objectives. He pointed that performance contributors YTD included the underweight allocation to US Mid and Small Cap stocks as well as Emerging Market stocks and the overweight allocation to US government bonds, stock security selection in the Vanguard international growth and Vanguard Total Bond Market Index funds. He continued that the detractors on the YTD basis through May 31st were the overweight allocations to International Developed Market stocks and Real Estate.

Mr. Zimmerman shared month-old comments from Vanguard's Portfolio Manager. Vanguard was looking for the US to lift the shelter in place measurements by June 30th and Mr. Zimmerman noted that most states had lifted the restrictions much earlier which attributed to the uptick in virus cases. He noted that Vanguard was looking for a U-shaped recovery as opposed to a V-shaped snapback and hoped to see improvement at the end of the year or early next year. He admitted it could be a few years before the economy returned to pre-March numbers. Vanguard was confident that the best strategy was a 70/30 balance and he noted that Vanguard typically rebalanced with a 5% swing in either direction to certain asset classes. He explained that over the next ten years, Vanguard saw international stocks generating 8% to 11% while U.S. stocks would only generate 4.7% to 7.8% returns.

The Mayor opened the table to discussion from Council.

Mr. Horning thanked Mr. Zimmerman for the presentation and hoped that the stimulus would help the country rebound faster.

Ms. Hughes and Ms. Wallace thanked Mr. Zimmerman for the presentation.

Mr. Hamilton asked how Vanguard intended to handle inflation and Mr. Zimmerman replied that Vanguard's belief was deflation was a bigger risk than inflation and continued that the US was overly indebted prior to the pandemic but the eventual return of demand could give rise to inflationary pressures. He explained that the current struggle of an abundance of supply and lack of demand dated to the late 1980s. He thought the Federal Reserve would be slow to tighten the rates to make sure there would not be a false start in growth but explained that with a 13% unemployment rate and with the chance the number could climb, there were more deflationary pressures at work in the system. He estimated inflation would be a concern in 18 to 24 months.

Mr. Lawhorn thanked Mr. Zimmerman for the presentation.

Mr. Markham asked if Council last discussed the portfolio in January and Mr. Del Grande recalled Vanguard presenting the year end results in January or February. Mr. Markham asked how tariffs were affecting the market and Mr. Zimmerman admitted the tariffs introduced in the current administration were not favorable. He believed both parties engaged in tariffs to make sure the US got a fair shape in trade with China and Europe but he did not anticipate anything drastic with the election and reminded Phase 1 of the trade deal was still in place where China committed to buy a few hundred billion dollars' worth of agricultural products from Europe in the next two to three years. He did not think tariffs would be the biggest concern in an election year and expected the market would turn to the likely winner and their tax plan. He explained the uptick in virus cases was because some places did not close, others opened too soon, and many people were not wearing masks or abiding by social distancing principles. He stressed that masks and social distancing worked absent a vaccine and hoped people would start to have greater respect for them. He believed the election was more of an issue than tariffs. Mr. Markham asked if those points entered decision-making for the portfolio and Mr. Zimmerman replied that Vanguard considered quantitative and qualitative factors. Mr. Markham asked if there was no cash set aside and Mr. Zimmerman explained that the portfolio was set up to invest dividends, so some funds paid monthly or quarterly dividends but were reinvested in shares instead of a money market sweep fund or cash. Mr. Markham heard talk of a lot cash in savings or on the side of the market and asked if Mr. Zimmerman anticipated it would move into the market. Mr. Zimmerman thought it was foolish for stocks when a bond yielded [distortion] 0.62% or 62 basis points and a dividend yielded 2.2% or 2.3% on the S&P500. He pointed that the dividend component of stocks yielded more than bonds and the pension's discount rate was 6% but there were several public funds over 8% so institutional investors needed to earn more than what bonds were paying. He believed a sizeable portion of the cash on the sidelines would go into stocks and push the markets higher.

Mr. Clifton noted the Emerging Markets were down 16% and thought it should have been a foregone conclusion when the pandemic hit. He asked why the funds were not transferred into a stable bond at the start. Mr. Zimmerman explained that the chart Mr. Clifton was reading was Index Returns and not Actual Returns generated by Vanguard funds and was only meant to provide a frame of reference. He educated that the target for Emerging Market stocks was 5% and Vanguard was underweighted at 4.3%. He stressed that Vanguard believed in long-term trends and made less tactical trading decisions which was why International Developed stocks were overweight for two and a half years. He thought that International Emerging stocks would perform better in the U.S. as the global economy recovered. He reiterated that Vanguard took a longer-term strategic view than a short-term tactical view and noted that a tactical manager would have gotten out of emerging markets in March or April.

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

Mr. Clifton noted it was 9:00 p.m. and requested a motion to continue the meeting.

MOTION BY MR. HORNING, SECONDED BY MR. MARKHAM: TO CONTINUE THE MEETING PAST 9:00 P.M. TO HEAR AGENDA ITEM 2C.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Hamilton.

6. 2-C. BOARDS AND COMMISSIONS DIVERSITY INITIATIVE – CITY SECRETARY (35 MINUTES)

2:01:26

Ms. Bensley explained that in March 2017, the City's Boards and Commissions Review Committee considered its observations from the two previous years. Throughout its review of all committees, the group noticed little diversity in gender, age, socio-economic status, or race, and while members of the various groups were recognized to be hard working volunteers, the Committee recommended that Council consider diversity when making recommendations for vacancies so that the City's boards and commissions would better reflect the various types of residents. Council discussed the recommendation at the June 24, 2017 meeting but no plan was enacted which created a further decline in the diversity of the City's boards and commissions. Staff wanted to create a plan to target diversity in the City's boards and commissions so that at all voices in the Newark community would be represented.

Ms. Bensley stressed the need to establish a baseline for the current makeup of the boards and commissions and noted that the current members were generally white, older men and staff needed more

specific data to determine accuracy. She stated it would not be proper for staff to assume the race, age, sexual orientation, or ethnic identity of every volunteer. Once the recommendation was approved by Council, the City Secretary's office would send a survey to each member of the City's active boards and commissions and would then compile a report for Council upon receipt to provide an accurate view of the current makeup. Staff also recommend that the current boards and commissions applications be amended to select demographic information from future applicants to be used to update Council on the progress made. She pointed that Council may wish to consider making the demographic information for individual applicants a 'for office use only' section on the application to allay privacy concerns and then choose to have the information made public when combined with the information for the board membership as a whole. A member of the public also suggested that staff compile a report of the applicant pool for Council, but Ms. Bensley thought a floor should be set for the size of the applicant pool before releasing the information.

Ms. Bensley continued that the next step was to determine how to reach the diversity goals and stressed that it was arrogant for Council and staff to assume the potential challenges and barriers faced by various groups that made up the community and that all were aware of the available opportunities to participate and how to join. She stressed it was important to reach out to groups to determine the barriers and to supply information on how to become part of the appointed leadership groups of the City. She shared that she had been reaching out to various community stakeholders to start conversations and to begin to collect information for the report for Council and the City Manager. She hoped to have the report ready for Council by September 30th and that it would be on an agenda by October 31st for Council discussion. The report would detail any barriers that were described and recommendations to address them. She indicated the recommendation that evening was a first step in an ongoing conversation and process.

Ms. Bensley also wanted to standardize the application process and shared that currently it was a Councilperson's discretion as to whether an open position would be publicly posted and noted that vacancies were posted on the City's website but there was not a concerted publicity effort to raise awareness of the vacancies. She believed that by leveraging existing resources and standardizing the application process, staff could amplify the potential opportunities for participation and encourage a wider pool of applicants.

Ms. Bensley highlighted the recommended process for recruiting members to the boards and commissions. She suggested to post all boards and commissions positions for a minimum of 45 days where expiring terms would be posted 75 days in advance of the expiration and vacancies would be posted for a minimum of 45 days or until position is filled. The positions would be posted on the City's website and the City newsletter to be included in utility bills, on the City social media accounts monthly, and through the notification system, additional opportunities for cross-posting volunteer opportunities would be researched and implemented if viable. She stated that Caitlin Olsen connected her with UD's Handshake Group who were willing to post the City's boards and commissions. She noted additional websites, such as Volunteer Delaware, that were viable possibilities and said staff would further research how to make the postings specifically target Newark residents. She continued that all applications submitted would be forwarded to the Mayor or appropriate Councilmember for review and Mayor and Council would commit to interviewing all qualified applicants before deciding. If the Mayor or Council elected to move forward with an applicant, they would submit the nominee to the City Secretary who would then schedule the nominee as soon as permitted by the agenda and availability of the nominee but no more than 60 days from the date of the receipt of the nomination. If Mayor or Council did not elect to move forward with an applicant, they would notify the City Secretary who would repost the position until filled.

Ms. Bensley reiterated that Council needed to give direction to complete the demographic survey of the existing membership of the City's active standing Council-appointed boards, committees, and commissions, to provide a report to Council regarding the results of stakeholder outreach barriers for participation and proposals to address said barriers by September 30th with a Council agenda discussion by October 31st, and standardization of the boards and commissions application process as outlined.

The Mayor opened the table to discussion from Council.

Mr. Horning appreciated Ms. Bensley's outreach and suggested the City Solicitor be involved with collecting the demographic data for individual applicants for office use only. He agreed with the concern that some of the information could make applicants uncomfortable or be a privacy concern. He referred to an email from Helga Huntley, District 1, and agreed with the points made in regards to whether the Mayor and Council would conduct interviews or just the nominating Councilmember, and if it was necessary to list qualification specifics as different boards and committees could require specific skillsets. He noted that some applicants may be concerned with privacy and not want applications posted publicly

but the applications would be included in Council packets and would be available to the public. He asked if staff would extend the practice to ad hoc committees. Ms. Bensley replied that her intent was for candidates to be interviewed for the nominating Councilmember, not Council as a whole, and noted it was Council's determination whether to extend it to ad hoc committees as those groups did not traditionally undergo the application process. She pointed to staff had been more successful in having more diverse ad hoc groups in recent years because terms were shorter commitments which created a larger willingness for community members to serve. She was open to the discussion of whether Council wanted to move ad hoc committees to the formal application process, but the original intent of the proposal was to address the larger issue of the standing boards and commissions. Mr. Horning appreciated the points and thought reappointments should be posted publicly and wanted other interested applicants to be considered. Ms. Bensley wanted to post all vacant and reappointment positions and was concerned with marking reappointments as such because it could depress the applicant pool. She noted that interested applicants could assume a reappointment was a foregone conclusion and not bother to apply. She wanted to post everything as an open position to see if it would generate interest. While she personally knew how dedicated the members were and she did not want them to feel unappreciated, if staff did not post positions to offer the opportunity for others to participate, then there would not be movement in diversity. Mr. Horning suggested the experience of the sitting member could be considered a bonus in the application.

Ms. Hughes asked if there were term limits on boards and committees and Ms. Bensley replied there were no term limits but noted terms ran from two to five years. Ms. Hughes asked who the longest running member of any board or commission was and Mr. Clifton thought a Planning Commissioner had 24 or 26 years. Ms. Bensley replied there was a bit of turnover in recent years in the Planning Commission, Election Board, and Board of Adjustment, but her intent was to address homogeneity in the City's leadership team. She explained that the current process limited Council's ability to promote vacancies and positions as a standard process for the community, so Councilmembers were forced to use their personal networks to fill District positions. Her goal was to provide Council a broader reach into the community to tap into talented residents who were not part of a promoted network. She recalled that census demographics determined the City was 78% white with 9% of both African American and Asian populations. She wanted to ensure that the community understood the available opportunities in the City and stressed that she did not want to suggest that every person of color had an obligation to serve on a board or commission rather, the City had an obligation to connect opportunities with interested residents. Ms. Hughes asked how applicants would be handled if a position was filled and Ms. Bensley clarified that she was speaking about posting positions when terms were expiring, and they were up for appointment and not having an automatic reappointment process. If someone was interested in continuing to serve in their position, they would be afforded the opportunity to reapply and could still be chosen based on the applicant pool and their personal experience. She wanted other residents to know when new terms were starting so they had the opportunity to apply if they were interested and qualified.

Ms. Wallace supported the proposal as outlined by Ms. Bensley and was pleased that Council was returning to the issue. She was cognizant of the report when she was making recommendations for appointments and saw value in standardizing practices. She often requested to post openings on the City's website to make sure the opening was communicated to a wider pool and thought it good practice to be consistent to all Councilmembers. She pointed that the appointment was up to Council as a body so if any Councilmember had concerns about qualifications, there was an opportunity to address them. She did not see a downside to changing the way the applications were processed and wanted to have as many applicants as possible. She added that there could be benefit in leveraging the City's communications staff to help Council advertise the openings in a quarterly or semi-annual press release and wanted to leverage The Newark Partnership to help publicize the openings, with particular focus on Newark non-profits and businesses who would be able to help the City communicate open opportunities. She believed Council wanted to see more participation from residents.

Mr. Hamilton thought the improvements were a no-brainer and said he had questioned the makeup of the subcommittees before and specifically requested having members who were most impacted participate on the committees, like the Rental Housing Study. He thought the recommendation was an excellent opportunity to broaden the City's horizons and to increase civic engagement. He noted that subcommittees were important and needed diversification and saw the opportunity as a chance to gain experience to transition to government. He supported the recommendation and suggested it be expanded to subcommittees as well.

Mr. Lawhorn supported having a metric to indicate how the City stood with diversification and was open to which ever option was legally supported and illustrated progress. He agreed that outreach and advertising were great ideas and confirmed that there needed to be more applicants in order to have the opportunity to increase diversity. He wanted the applications to be public so constituents would have

full transparency on their Councilperson's nominee and could provide feedback. He appreciated that the Councilmembers would have the opportunity to interview and suggested that Council could create a small interview committee to participate in the process.

Mr. Markham thanked Ms. Bensley for the presentation and asked her to repeat the demographic breakdown. She replied that 78% were white, 9% were African American and 9% were Asian. Mr. Markham admitted he was often challenged with finding willing volunteers and believed a key was to extensively advertise openings. He suggested that Council pursue a better electronic notification system so applicants could indicate their interests and be added to a pool for openings. He stressed the importance of evolving how the City collected residents' input and supported the recommendation and suggested expanding it to a notification system.

Ms. Wallace interjected that the ad hoc committees could prove harder to increase diversity because the ad hoc committees tended to revolve around job function and could be harder to standardize than the standing boards and committees.

Mr. Clifton noted that Council once rejected a commissioner and reminded they had the authority to do so when appropriate. He agreed that the applications should be made public believed personal contact information could be redacted but it was fair to list district and qualifications.

The Mayor opened the floor to public comment.

Ms. Bensley read a comment from Jim Jones, District 5.

"Council is considering a proposal aimed at increasing diversity on Newark's boards and commissions. I support that goal and, having gone through Council's appointment process three times, I would like to offer a few thoughts. The current process which allocates on appointment to the Mayor and one to each Councilmember means each elected official act as a "committee of one" to vet applications and make a recommendation. Thanks to changes made since the Review Committee's Overarching Recommendations Report, individual officials no longer bear the sole responsibility to publicize openings. But under the current system, neither the public nor other members of Council know who has applied or what criteria were used for making the selection. Councilmembers receive a name and a resume with the option to confirm or to deny without knowing what the alternative might be. The public has no other option than to watch that process unfold. My experience illustrates the effect of this system on the people who offer to volunteer. Over a year ago, I responded to a widely distributed request from District 5 Councilmember Jason Lawhorn for volunteers to serve on two newly created boards. He contacted me and discussed my interest and credentials. As a result, I offered to serve on the Transportation Improvement District Committee, submitted my application materials, and was confirmed by Council as my district's representative. If there were other applicants, I did not know about it, but I came away with the sense that my volunteerism was appreciated, and my credentials were at least adequate. I have also applied twice for an opening on the Planning Commission. In this case, the recommendation was up to Mayor Clifton. Last fall, the City Secretary let me know that my applicant was received but the Mayor did not contact me so I did not learn of my rejection until I saw the Council meeting agenda which announced the vote on Peter Drake's appointment. This spring, I learned of Mr. Drake's resignation from the June 8th Council agenda and submitted an application for the position a week later. To date, I have not heard from Mayor Clifton. I would not dispute that there may be other candidates that may be more qualified than I but, from my perspective, my application seems to have disappeared without a trace. That does not encourage me to volunteer again. To make the process more transparent and encouraging to volunteers, I suggest that Council broaden their participation in the vetting of candidates, if not by the whole Council than by a committee of Councilmembers who would receive all applications and offer input into the recommendation of a candidate. I also suggest that all applications, perhaps with contact information redacted, be included with the documents published for the meeting where the vote will occur. Seeing the examples of the kind of people who volunteer and not just the "winners" of an obscure process, may encourage more people and new people to volunteer as well. With respect and gratitude for your willingness to serve, James Jones, District 5."

Mr. Clifton then recognized Allison Stein. Allison Stein, District 1, supported increasing diversity among the volunteers who served on boards and committees and appreciated Ms. Bensley's efforts. She admitted she did not see value in the first step aside from validating the known lack of diversity unless the intention was to set a measurable goal. She thought steps two and three were brilliant but saw step one as a potential delay and a misuse of resources and efforts.

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

Ms. Bensley asked to respond to Ms. Stein and explained the intent of step was not to delay the other steps and would be worked on concurrently. She continued that the value in step one was the assumption that staff and Council could know what groups people represented by looking at the demographics. She explained the diversity initiative was not based solely on race especially considering the LGBTQ+ community was not always public with identification and her goal was to make sure staff and Council had the baseline data to know whether progress was made. She admitted she had not set a percentage goal but was a firm believer that unless one understood the starting point, it was difficult to determine where one was going. She reiterated she did not want to assume the composition of the boards and how members identified and saw value in asking residents for the information so the City could build on efforts for the future.

Mr. Clifton assumed that residents could maintain to not include the information.

Ms. Wallace added that application was a public document was public and stressed some portions could be redacted. She deferred to the City Solicitor but thought it necessary for gender and race in terms of bench marking and record-keeping but was not something the public needed to know about an individual applicant. She added that it was important to have a benchmark to gauge success and noted the information needed to be self-reported.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE IMPLEMENTATION OF THE THREE RECOMMENDED MEASURES AS A FIRST STEP IN THE CITY OF NEWARK BOARDS AND COMMISSIONS DIVERSITY INITIATIVE AS OUTLINED IN THE JUNE 22, 2020 MEMO FROM STAFF.

MOTION PASSED. VOTE 7 TO 0.

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

Nay – 0.

Absent – 0.

7. 3. **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**
 - A. Council Members: None
8. 3-B. **OTHERS:** None
9. **Meeting adjourned at 9:49 p.m.**

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

/ns