

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

July 6, 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 City Manager Jeff Martindale
Chief Communications Officer Jayme Gravell
Finance Director David Del Grande
Parks and Recreation Director Joe Spadafino
Planning and Development Director Mary Ellen Gray
Parking Manger Marvin Howard
Planner II Tom Fruehstorfer
Public Works and Water Resources Director Tim Filasky

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 May 31, 2020) (45 minutes)**

2:20

Mr. Del Grande presented the May Financial Report and noted that since last week's meeting, there were announcements that would help the City control some of its revenue loss through the end of the year if everything continued according to plan. He explained that on July 1, Governor Carney lifted the mandatory requirement that all utilities in the State could not charge interest penalties or interrupt accounts for non-payment during the State of Emergency (SOE). In addition to the City's ability to charge penalties on unpaid utility balances, the Governor mandated that all utilities also offer a four-month payment plan to help customers get back on track. Staff felt that interrupting electric and water service without providing enough notice was unfair to our customers, so staff would use July to encourage anyone needing payment arrangement to contact the office immediately for assistance. He noted that staff would add interest penalties on bills beginning August 1st. He noted that all pertinent information was posted on the City website and shared on social media.

Mr. Del Grande reminded the City provided an annual grant to Catholic Charities to help customers experiencing financial difficulties. Through June 30, 70 residential utility customers received financial assistance from Catholic Charities as a result of COVID. He explained that Catholic Charities had funds reserved specifically for assisting residents directly impacted by COVID and was separate from the City's annual funding. He implored residents needing financial assistance to contact the Payment and Utility Billing division where a customer service representative would provide more information.

Mr. Del Grande explained that UD rolled out its reopening plan and staff estimated the University would return to normal utility usage levels once classes resumed on September 1st and expected students to steadily reoccupy the City's rentals units over the next 60 days. He noted staff incorporated the students' return into the utility forecast and anticipated some improvement in the penalties and fees revenue line soon. He continued that through May, staff projected a potential annual revenue loss of \$13.7 million, with \$9.1 million from utility sales. Electric sales were 21% under budget, while water and sewer sales were 19% and 22% under budget, respectively. Through the months of March through May, the City lost \$3.7 million in utility sales from electric, water and sewer utilities. Through July 6th, the City had foregone just under \$68,300 in interest fees not charged to currently delinquent accounts.

Mr. Del Grande noted that preliminary June numbers indicated water sales could fall 10% under budget, which was half of 20% decline anticipated in the May report. As for electric, overall electric load fell 4% under June 2019, which translated into a 6% loss in June 2020 when compared to the budget. Staff forecasted a 10% electric loss in June and assumed that performance was better than expected when considering raw data. He indicated utility sales could also look different because residential, commercial and industrial classes all paid different rates.

Mr. Del Grande highlighted non-utility sources of revenue:

- **Real Estate Transfer Tax** - both activity and number of transactions were down compared to 2019. The May report estimated that the RTT could be down as much as \$570,000 in 2020 or a 35% reduction from the budget. As of that morning, staff reported \$134,000 for the month, which included a \$1.8 million sale for 401 Bellevue Road to help with June activity. If real estate transactions remained consistent, it was possible that the estimated shortfall of \$570,000 could improve by year-end.
- **Property Taxes** – Staff was currently working on staging the 2020/2021 tax bills. The process began last week, with the intent to have tax bills out by the end of next week. For 2020, staff assumed an increase in uncollected tax accounts. While taxes were lienable, any significant increase in tax delinquencies could create a cash-flow issue for the City. As mentioned before, staff estimated a 10% delinquency rate, which was equivalent to \$748,000, but would not know for certain until the last quarter of 2020. He noted that 61% of City parcels did not have tax bills sent to a mortgage company, which represented \$4.5 million of the total annual tax bill.
- **Fines** – The number of Parking and moving violations issued were down 50-55% for the year through May. Police returned to normal patrols as of June 15th, and the Alderman Court opened last week. Staff anticipated a reduction of about \$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 from the SOE. As a result, staff projected a revenue loss of 50% or \$336,000 due to canceled programs and participation reductions and were still processing refunds for participants who elected to pull their children from summer camps.
- **Parking** was dramatically impacted and had already lost about \$700,000 through June 15 and could lose another \$700,000 for the second half of the year. The busiest time of the year for Parking had passed and there would not be enough time to make up the loss. Staff projected that parking losses could double to \$1.4 million by the end of the year if parking did not resume to normal activity. It was uncertain how UD students would impact with the modified fall schedules and it was possible that with Saturday classes and a potential increase in commuter students, there could be an uptick in parking revenue beginning in September.

Mr. Del Grande explained that through May, the City expended just over \$96,000 in reimbursable COVID-19 expenses and were listed on a separate column in the report. COVID expenses were also

included within the “2020 YTD Actual” column and would continue to grow through the remainder of the year. When comparing May 2020 spending to May 2019, 2020 expenses were \$100,000 more though all departments were well within their 2020 budgets, as identified cost reductions within each department coupled with reductions in the need for electric and sewer utility purchases totaled just over \$5.1 million. Mr. Coleman and Mr. Del Grande were still reviewing saving opportunities for the year and 2021 and were progressing into the 2021 budget season with internal budget hearings beginning on Wednesday.

In total, the net current operating deficit, a combination of revenue and expenses, was negative \$4.6 million. The gross loss was estimated to be just over \$8.6 million, but it was partially offset by \$2.5 million from the RSA adjustment, and the \$1.15 million grant from the CARES Act, if all the COVID-related expenses and time were considered valid expenses. He noted that the revenue assumption did include the \$400,000 PILOT grant recently approved by the Legislature.

Mr. Del Grande informed that the end of May cash balance was \$36 million, which included \$24 million in the long-term cash account and \$12 million in operating cash. The electric regulatory liability carried a debit balance of \$865,000 because of under collection but pointed that under collection could balance out depending on events within the next few months. He noted that the regulatory liability, by design and pursuant to code, would be managed through the 2021 rate stabilization adjustment (RSA).

The Mayor opened the table to comments from Council.

Mr. Horning thanked Mr. Del Grande and Mr. Coleman for working to reduce costs and understood some were intern positions and summer camp staff. He asked staff required any direction from Council and Mr. Del Grande replied that no discussions were necessary that evening but he would return in the last quarter to discuss changing customer charges in water and sewer.

Ms. Hughes believed both Mr. Coleman and Mr. Del Grande were resourceful in mitigating the revenue loss and said the results sounded more positive than last week.

Ms. Wallace thanked Mr. Del Grande for the presentation and asked if he had latitude when setting up customer payment plans to clear late penalties and interest if customers followed through. Mr. Del Grande confirmed and stated that he had already begun to waive penalties and fees as appropriate. He noted the Governor’s office required that staff provide a four-month payment arrangement across the board as a State standard. He pointed that State code allowed for extending electric payment arrangements to six months and stressed staff would work with customers making sincere efforts to make payments. Ms. Wallace asked that staff be considerate because many residents were laid off and she did not want them to be penalized for circumstances out of their control. She wondered if reductions should be made in the Parking Department to reduce losses. She asked if the Parks and Recs programs were budget neutral and Mr. Del Grande replied that after-school programs and some camps had a 10% mark-up on fees to help pay expenses such as the software installation for camp registrations. Ms. Wallace repeated her question and Mr. Coleman confirmed that they were mostly revenue neutral and that any profit was a small margin. Ms. Wallace believed if there was a reduction in revenue then there should be a corresponding reduction in expenses. She thanked Mr. Del Grande for the changes made to the reports over his career with the City. Mr. Del Grande thanked Ms. Wallace and credited her input as a catalyst for changes in the reports.

Mr. Hamilton asked if staff contacted hotels that week and Mr. Del Grande replied that he had not. Mr. Hamilton asked if there would be follow up for the lodging tax and Mr. Del Grande confirmed. Mr. Hamilton claimed to be an optimist and was pleased to have gotten \$400,000. He thought the City was lucky to weather the storm and hoped that the worst was over.

Mr. Lawhorn thanked Mr. Coleman and Mr. Del Grande for their work in ensuring the City was in good financial standing. He reiterated his desire to evaluate free parking during events on Main Street to weigh the value in potential revenue versus attracting visitors.

Mr. Markham was pleased to see improvement and thought July would be a better month for utilities between the heat and lack of rain. He thought it would be challenging to forecast when students would come back because they would be enrolled in different formats with the session ending on November 20th. He thanked Mr. Del Grande for simplifying the financial reports and hoped that future Council would consider the budget and replenish the rainy-day fund for the next crisis. Mr. Del Grande thanked Mr. Markham for his time and effort in crafting the financial reports.

Mr. Clifton agreed that the financial reports had markedly improved since the 1990s and credited Mr. Coleman and Mr. Del Grande with making huge strides to improve Council and City practices. He

continued that if certain changes had not been implemented, then the budget shortfalls would have been catastrophic.

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

4. 2. SPECIAL DEPARTMENTAL REPORTS:

- A.** Discussion and Direction to Staff Regarding Revisions to the Landscaping and Tree Ordinance – Parks and Recreation Director (60 minutes)

27:24

Mr. Spadafino presented the history of the Tree Ordinance and explained that Council proposed revision of Chapter 32, Article XXV at the October 22, 2018 Council meeting. Council directed staff to form a committee to review the ordinance, general provisions, definitions and tree mapping requirements, and to concentrate on tree preservation and limits on removing trees from development sites. He continued that the existing Article XXV did not address situations where it was impossible for the entirety of valued trees to be replaced and planted within a development site nor did it address forested area mitigation or conservation.

Mr. Spadafino said the Committee considered established practices for valued tree removal, preservation and mitigation in New Castle County and other communities. They also examined tree preservation in a forested area, the environmental impact of tree removal and reforestation, the definition of a valued tree in the ordinance. The Committee then compiled the recommended changes to the ordinance for Council to review.

Mr. Spadafino highlighted the main tenets which included mapping all non-invasive landmark trees (diameter breast height (DBH) of 24" or greater) and explained that mitigation for a landmark tree would be greater than a value tree (DBH of 18" or greater). The Committee added On-Site Mitigation Requirements and Off-Site Mitigation Requirements which included the addition of a cash-in-lieu for tree replacement or off-site tree replacement or a combination as determined by the Parks and Recreation Director. The cash-in-lieu was set at a minimum of \$500 per tree owed or as determined by the Director, and would be based on the average cost to the City for tree purchase, installation, and maintenance for a two-year period, and would be deposited in a Tree Preservation, Replacement and Management account. He continued that collected fees would be used in tree planting, reforestation, maintenance of mitigation trees and initiatives, monitoring programs, and conservation and preservation purposes. He noted that General Provisions for Forested Area Preservation defined how forested area preservation was required to limit the removal of forested areas and stated that unless specified, 50% or greater of a forested acreage on site would be preserved and up to an additional 25% of the overall forested acreage on site could be considered for removal pending submittal of a conservation initiative by the developer. He stressed that the application approval was at the discretion of the Director.

Mr. Horning was pleased with the work by the Conservation Advisory Commission (CAC) and Planning Commission in collaboration with the Committee assigned to consider the ordinance. He asked Mr. Spadafino if he wanted general feedback on the ordinance to amend and present to Council later and Mr. Spadafino confirmed and explained he was providing the CAC and Planning Commission the chance to comment. He would combine the suggestions with Council's directions and submit them to the Landscaping and Tree Ordinance Committee for review and edit and would then return to Council once the changes were made. Mr. Horning supported writing good law that captured intent and was presented clearly to the public. He agreed with Commissioner Stozek regarding the addition of a third category with DBH of 12-18" range and believed the tree could still be significant. He asked if mitigation was maximized on-site and with the secondary actions as off-site or cash-in-lieu and Mr. Spadafino confirmed. Mr. Horning noted that open space requirements were often criticized because it was easier to pay cash-in-lieu, but the ordinance enforced keeping the trees on-site. He believed the ordinance was important to residents and referred to comments from constituents that acknowledged mitigation was unavoidable at times but wanted to preserve landmark and value trees as much as possible. He recalled the City Solicitor suggested adding a clearer definition for forest. Mr. Spadafino confirmed the update was in the definition area of the code and said that a forest would be an area covered by a canopy of trees covering a land area of 0.25 acres or 10,890 square feet or greater and forests did not include trees planted or grown for commercial purposes and did not include canopy cover over existing or historical home, sites, gardens, and lawns. He said he would speak to Ms. Bensley to see if it needed to be included in the ordinance or the definition area. Mr. Horning noted the \$500 fee was not per tree removed but was a replacement fee per tree. Mr. Spadafino confirmed it was per tree owed. He explained that a value tree replacement in a non-forested area would equal six trees or 50 large shrubs and, if the developer was unable to fit them on site, the tree would cost \$3,000 whereas a landmark tree with DBH 30" equaled 15 trees owed or \$7,500. In a forested area, an 18" value tree would cost \$4,500 and a landmark tree would cost \$10,000. Mr. Horning asked if the value of harvesting trees correlated with the discussion from the Planning

Commission meeting on June 2nd and if it added enough deterrence. Mr. Spadafino noted landowners owned the trees and stressed that although staff was doing as much as possible to preserve, harvesting and mulching were options. Mr. Spadafino explained that trees were usually removed to install infrastructure and developers did not usually remove trees unnecessarily because mitigation was expensive. Mr. Horning asked if staff considered an inflation indicator for the \$500 fee. Mr. Spadafino agreed and explained the \$500 was a minimum fee and admitted that the City did not have the manpower to plant 100 trees so the job would be contracted out and it was necessary to be attentive with costs.

Ms. Hughes asked if there was a standard type of tree for replacement planting and Mr. Spadafino explained it depended on location, but staff encouraged a minimum of 70% native species. Ms. Hughes commented that some native species could be troublesome as they aged, and Mr. Spadafino agreed. He continued that staff was not currently recommending planting ash trees, because they were under attack from the Emerald Ash Borer, or oaks because they were susceptible to bacterial leaf scorch. He admitted that developers were educated and did not submit plans with invasive species and staff considered the proper placement for species. Ms. Hughes did not think placement was a concern in the past as many older neighborhoods had to remove larger trees that grew under power lines or along sidewalks and Mr. Spadafino confirmed.

Ms. Wallace thanked Mr. Spadafino and expressed her appreciation of his efforts during her time on Council. She saw the ordinance as a great example of the City's commitment to collaborative input and wanted it to be used as a model for future legislation. She echoed many of Mr. Horning's comments and wanted Council to either recommend native-only plants or increase the minimum percentage. She commented that non-native, non-invasive species could be classified as invasive in the future and thought that it was an oversight to not include invasive species in the valuation of trees because she believed they added to stormwater control. She requested that the Committee consider adding value to invasive species when creating replacement costs. She wanted to add City Council approval with the recommendations made by the Parks Director, particularly with payments in-lieu or off-site mitigation. She agreed with the inflation increase suggestion and recalled a Planning Commissioner once recommended reviewing the fee every five years and she was open to increasing it to two or three years in conjunction with the consumer price index (CPI). She asked if it was possible to include advisement from the Public Works and Water Resources Department regarding the forest and approval of the off-site mitigation sections. She thought that it was necessary to define forest and wanted the City Solicitor to examine the language. She asked if there was protection so that trees were not slowly cut down over the years in an approved development. Mr. Spadafino replied there was a two-year warranty program for the value of every tree, labor, and maintenance, and admitted after the warranty, the City would not reinspect the trees unless there was an issue. He noted the City had no control over owners replanting or removing trees. Ms. Wallace understood and explained her concern was around properties that had a forested section and asked what controls the City had to ensure they remained. Mr. Spadafino said he could speak with the City Solicitor to craft language to indicate forested areas would remain in perpetuity. Ms. Wallace wanted to go further than a subdivision agreement and wanted a covenant added to the deed to retain forested tracts.

Mr. Clifton asked Mr. Bilodeau for his response to Ms. Wallace's points. Mr. Bilodeau suggested language to indicate that if developers wanted to remove more than 50%, they were required to submit a conservation initiative but if they were removing up to 50%, then the City could put a covenant in the deed indicating if more was removed, they would be replaced. Mr. Spadafino added that the CAC approved the 70% recommended native standard but pointed that there were acceptable non-native trees for ornamental and landscaping settings. He educated that some native trees had not evolved enough to fight recently imported diseases and pests such as the emerald ash borer, bacterial leaf scorch, Asian Longhorn Beetles, and Spotted Lantern Fly, and explained non-native, non-invasive trees were more resilient. He continued that non-native, non-invasive trees also offered plant diversity and shared that staff aimed to plant 10% - 12% of any one species and, in a native reforestation initiative or plantings that bordered forested areas, the plants would be 100% native. He maintained that a 70/30 or 75/25 ratio for ornamental plantings helped with diversity and favored native plant species. He informed Ms. Wallace that the Parks and Recreation Department worked with the Public Works and Water Resources Department when reviewing plans and would continue to do so.

Mr. Hamilton echoed the previous statements and commended the plan as an example of excellence. He pointed to the local experts and noted the questions posed in the Planning Commission report. He appreciated Mr. Spadafino's comments on native plants because native plants were under attack and asked to find native substitutes for lily turf and periwinkle. He referred to comments made by Mr. Wampler who suggested staff protect 18" trees and Mr. Hamilton asked if there would be protection for DBH 12" - 18". Mr. Spadafino shared that staff looked into other communities that designated 16" - 24" as value trees but he had not seen data designating 12" as value. He would investigate the sizes and return to the Committee to determine if it would be a 1:1 basis rate for that size because the mitigation rates

could be extremely high in a forested area and staff wanted to consider all concerns. Mr. Hamilton wanted Newark to be a leader in tree conservation and noted that 12" trees still had value.

Mr. Lawhorn asked if the ordinance only impacted development plans that came before the City or if there were measures to prohibit landowners from harvesting trees on existing forested properties. Mr. Spadafino asked if Mr. Lawhorn was referring to a developer purchasing a property and harvesting two years prior to submitting a plan to the City and Mr. Lawhorn confirmed. Mr. Spadafino said staff considered a lookback period but admitted it was hard to define a process and determine when trees were removed. Mr. Spadafino was hopeful that the situation would not occur but said staff would reconsider measures. Mr. Coleman interjected that new sediment and stormwater regulations had a lookback to the 2007 land surface/landcover survey in the GIS database so the lookback would be captured from a stormwater perspective but admitted that it would be difficult to determine what size trees made up the forest. Mr. Lawhorn thought it should be considered and asked if a lapsed approved project would have immunity from the ordinance. Mr. Spadafino explained that a plan submitted prior to the ordinance passing would be subjected to the existing ordinance but then would be subjected to the new ordinance once it passed as it would be the ordinance of record. Mr. Lawhorn clarified that even if a project was approved and had not progressed and Mr. Spadafino interjected that the new ordinance would be the governing ordinance from the time of submittal. Mr. Spadafino corrected that the existing ordinance would be the governing ordinance, not the proposed ordinance presented to Council that evening. Mr. Lawhorn stated it would be the ordinance in place at the time of the approval of the project and Mr. Spadafino confirmed. Mr. Bilodeau confirmed the correction. Mr. Lawhorn supported the best expertise for DBH 12" – 18" and protecting 24" trees. He asked if the 70/30 native planting practice was documented policy and Mr. Spadafino confirmed it was an internal guideline and added that the CAC supported the 70/30 ratio. Mr. Lawhorn did not think it needed to be included in the ordinance and suggested language to indicate it was an internal decision, so it held long-term. Mr. Lawhorn recalled discussions between Mr. Spadafino and Ms. McNatt on whether to enact the 100% native plantings on City land or developer land and noted Mr. Spadafino wanted the City to have more control where Ms. McNatt wanted to expand. Mr. Lawhorn thought her point was logical and agreed with Mr. Spadafino's concern about controlling plantings on City land for long-term stability. Mr. Spadafino confirmed it would provide stability and give residents a chance to walk the woodlands on City property versus encroaching on private property. Mr. Lawhorn supported Mr. Spadafino's intent and agreed that residents should be able to enjoy City-controlled parkland. Mr. Lawhorn noted the lack of escalator for the \$500 fee and asked if it was at Parks and Recreation's discretion. Mr. Spadafino repeated it was a minimum cost based on staff's research with local landscapers to determine the price of planting 1" and 2" caliper trees with a two-year warranty and maintenance. He reiterated that staff could adjust the fee as necessary. Mr. Lawhorn appreciated staff's discretion but wondered if there was value in an automatic escalator tied to a metric to increase fees. Mr. Spadafino explained that staff could calculate the fees each year and add the recommended values into the subdivision agreement. Mr. Lawhorn wanted to consider efficiency of Council and staff time and reiterated his support for an automatic escalator tied to inflation. He did not understand removing a high value tree to be replaced with shrubs but then read the minutes and understood the need for balance and control. He asked if Parks and Recreation had the final approval on the plan and balance and Mr. Spadafino confirmed.

Mr. Markham saw the ordinance as addressing a concern discovered during a development project and pointed that Newark had been a Tree City for 18 years and had received an Old Growth Forest Award for Redd Park. He hoped staff could address the loophole of pre-cutting land and suggested not accepting proposals if land had been pre-cut. He asked Mr. Spadafino if the ordinance prioritized preserving the current trees and Mr. Spadafino confirmed and thought staff could incorporate Council's suggestions to make the ordinance more advantageous for the City. Mr. Markham described his personal experience where part of his lot was cleared for building and an old growth tree was preserved but ended up suffering irreparable root damage. He wanted to encourage efforts to save a damaged tree and to provide incentive to protect a tree before it was replaced. Mr. Spadafino informed Mr. Markham that the Tree Protection Zone exceeded the drip line, but the critical root zone was identified as the DBH multiplied by 1.5 feet and was included in the ordinance. Mr. Markham speculated that more trees were sensitive than others and wanted staff to consider educating developers on the various types of trees in the area and their responses to stimuli. He wanted developers to take precautions with trees but also wanted language included in the ordinance to detail the penalties for damaging a value or landmark tree. Mr. Spadafino concurred. Mr. Markham suggested a fine or penalizing to a degree of allowing less development and admitted it was possible that it could take years for a tree to die of root damage and Mr. Spadafino confirmed. Mr. Markham thanked Mr. Spadafino and asked if he had gotten enough feedback from all parties involved. Mr. Spadafino confirmed and acknowledged that the Committee was well-staffed with the State Botanist, an urban parks professor from UD, and a member of the CAC. He expected the document would be improved further when the Committee was able to meet again but acknowledged it would be difficult to accommodate every request.

Mr. Clifton appreciated Mr. Horning's comments on the cost escalator and asked Mr. Bilodeau if the City could build an escalator into the ordinance tied to the CPI and if Ms. Wallace's suggestion of changing the frequency in the ordinance was feasible. Mr. Bilodeau confirmed both were possible but believed the language starting at line 213 in the proposed ordinance included an escalator during the two year period: the cash in lieu of tree replacement shall be at a minimum of \$500 per tree owed or as directed by the parks and recreation director and is based on the average cost to the city for tree purchase, installation, and maintenance for a two-year period. Mr. Spadafino interjected that the Committee wanted to make sure off-site mitigation for developers was not cheaper than on-site planting. Mr. Clifton appreciated the Committee's language but was cautious of a developer returning to claim that Parks and Recreation's stance was arbitrary and capricious. He did not want to leave the door open and wanted a qualifiable mechanism to stay current. He wanted a CPI escalator included so Council would only be required to update the core amount fee every three to five years. He recalled an instance where a sycamore tree was slated to remain, but the roots were damaged, and the situation ended in litigation where the developer was fined \$1,500. He wanted the ordinance to have more substance to stress to developers that trees were preserved, even if it meant that the developer had to hire an arborist to confirm the root system. He agreed that establishing lookback procedures could be difficult and announced he overheard a proposed developer suggest harvesting all the trees before returning to Council. He used the example to stress the importance of a lookback and remarked that he was surprised developers had not already chosen to go that route, he considered it a critical element. He suggested looking further at the 12"-18" trees because of the time it took for a replacement tree to mature.

Mr. Horning repeated the concerns about non-native, non-invasive species and supported the CAC's position. He wanted the CAC to reconsider or offer additional feedback for 70/30 and asked Mr. Spadafino if it was possible. Mr. Spadafino confirmed and stressed that invasive species were aggressive, caused environmental harm, and outcompeted native trees and plants. Mr. Horning was pleased to learn that staff did not penalize for removing invasive species.

The Mayor opened the floor to public comment. He shared that one comment had been submitted and explained a portion of the comment was considered campaigning and was redacted.

Ms. Bensley read a comment from Brian Anderson, District 5, into the record.

"Dear Mayor Clifton and Council,

Congratulations to the Conservation Advisory Committee and Director Spadafino for the revisions to the Landscaping and Tree Ordinance. It is regrettable that this process began in 2018 because so much has been lost over these two years.

Given the City's fiscal exigency caused by COVID-19 and the impact of the newly passed State Legislation providing for Community Solar, the city fiscal situation is precarious. Why is there not a budget impact statement? It is shocking that preliminary cost estimates of the code revisions are not provided. The Council ought to have some estimates of the budgetary impact of the code revisions: Personnel; Supplies; Equipment; Outside Contractors.

I urge the council to approve the code revisions in full. Thank you for your consideration."

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

Mr. Clifton asked Mr. Coleman and Mr. Spadafino if enough information had been shared to move forward and Mr. Spadafino confirmed.

5. 3. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members:

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

1:30:54

Ms. Wallace:

- Reiterated her desire to create a Diversity, Inclusion, and Equity Committee (DIEC).
- Proposed the DIEC be a standing committee.
- Wanted the DIEC to review current policies, procedures, ordinances.
- Suggested DIEC members should be residents and members of organizations that address issues of diversion, inclusion, and equity.
- Suggested 7-10 members.
- Suggested the Administration Department be responsible for coordinating the Committee.

- Wanted the Committee to review staffing policies.
- Suggested the DIEC to have subcommittee to review policing.
- Explained that she was not criticizing the Police and cautioned against kneejerk reactions.
- Saw value in questioning processes and procedures to determine efficiency.
- Pointed to a unit in Eugene, Oregon, comprised of emergency personnel, EMTs, behaviorists, and social workers under the umbrella of the police department, who addressed social and mental health issues.
- Suggested some instances could be handled by mediation through ombudsmen instead of police.
- Described a personal experience with a schizophrenic resident where the officer was not as helpful as the resident needed.
- Wanted to review funding choices.
- Believed communities asked too much of officers.
- Wanted other Councilmembers to commit to discussion.

Mr. Clifton interjected that he had been moving forward with the Diversity Committee in January and had a list of potential committee members but was faced with COVID and did not want the initial meetings to be through Zoom or GoToMeeting. He explained Council already had established procedures and it was easier for the body to transition to virtual meeting formats. He supported Ms. Wallace's suggestion that the DIEC should be a standing committee and indicated Mr. Coleman wanted the DIEC to investigate ADA issues. He was pleased when the Police Department published its FAQs, including the 8 Can't Wait, as it had been established Newark policy for years. He suggested that a representative from the Police Department be a member of the DIEC for the sake of fairness and to provide insight into procedures. He shared that he and Chief Tiernan were invited to attend the next regularly scheduled meeting of NAACP local chapter and would address recent issues. He supported permanently constituting the DIEC and hoped that Ms. Wallace would continue her involvement in the community.

Ms. Wallace thanked Mr. Clifton and understood how COVID delayed the establishment of the Committee. She wanted to move forward with the preliminary set up and indicated many residents were now well-versed in virtual meetings. She wanted Council to begin discussions and credited Mr. Clifton for his initiative in creating the Committee. She looked forward to being involved with the future committee. Mr. Clifton asked Ms. Bensley when the Committee could be addressed on a regular agenda and Ms. Bensley replied the earliest window was August 24th due to the election. Mr. Clifton requested the discussion be put on the August 24th agenda. Ms. Bensley pointed that Ms. Wallace suggested the Administrative Department spearhead the efforts and explained they would be embroiled in the budget hearings during that time. She asked Mr. Coleman if it was possible to be prepared that soon. Mr. Clifton interjected that he and Mr. Coleman had numerous conversations regarding the Committee and expected the endgame of the first meeting to outline for the Committee's charge, individually or collectively, depending on the skillsets and the represented constituent base, and the effort to enact it on a further date. Mr. Coleman agreed Mr. Clifton's suggestion was reasonable for the timeframe. Mr. Clifton reiterated the desire to establish framework on the 24th to move forward for codification in the future and asked Ms. Wallace if agreed with the date and she confirmed.

Ms. Hughes added that she wanted Council to address the homeless population and resources available for Police officers to address mental illness. She was concerned that the only option was to jail mentally ill residents which only exacerbated their situations. She expressed her desire to create more low-income housing in the City suitable for residents.

Mr. Clifton explained the Police were trained in de-escalation at the academies and underwent yearly retraining exercises. He continued that the Police also had 24-hour access to DHS and routinely worked with the Department to help the mentally ill gain access to necessary services. He stressed that Police did not jail the mentally ill as practice and believed Police to be more qualified to handle situations where physical injuries were a possibility.

Ms. Wallace believed that mental health professionals were better qualified to handle suicidal or violent episodes and admitted that Police presence was appropriate if the public was involved. She reiterated her support of having trained mental health specialists involved to deescalate situations and to help those in crises get the necessary services. She wanted to fix societal ills versus using the Police as a stopgap for non-dangerous situations.

Mr. Lawhorn agreed that the diversity committee was a great idea. He stated that he requested to have a discussion on the agenda to hear from the Police regarding the 8 Can't Wait policy and did not want to create the committee without Police input. He continued that he did not have police expertise as

a Councilperson and reiterated the need for Police participation. He repeated that he wanted to have the discussion with Police on an agenda before the Committee discussions took place.

Mr. Clifton repeated that he would not go forward with the Committee without Police representation and thought it was possible to have both discussions on the same agenda.

Ms. Hughes added that she thought the Police did an excellent job and stressed that an objective of the Committee was to help address the overload that Police encountered.

Mr. Horning reiterated his support for the Committee and shared that he was in the process of searching other demographics for the vacancies in his district. He explained his grandfather was a on a Citizens' Advisory Board for the Wilmington Police under Chief Guy Sapp and did not think the proposed committee needed to reengineer job duties.

Mr. Hamilton agreed with Mr. Clifton and hoped the have the conversation in a single meeting. He thanked Ms. Wallace for the suggestion and wanted to quickly proceed with the committee.

Ms. Bensley shared that Ms. Gray reminded her that the Rental Housing Workgroup's revised recommendations would come before Council at the next meeting and would include Affordable Housing Recommendations. She thought it would be a good starting point for the low-income housing discussion.

Ms. Wallace agreed it would be inappropriate to have the conversation without Police input and supported a combined, inclusive discussion.

Mr. Hamilton:

- Looked forward to the Rental Housing Committee discussion on the next agenda.
- Stressed that homeownership was the number one way to transfer wealth between generations.
- Admitted the City was challenged for low to moderate income housing and stressed that banks would not lend to developers for building smaller single-family homes.
- Indicated Council had zoning powers and could zone property for senior housing.
- Wanted to have a serious conversation with UD about parties and the spread of COVID from students to residents.

Mr. Clifton agreed and shared that Mr. Coleman would address the concern of COVID at the next meeting.

Mr. Markham:

- Requested future Council consider cost-saving measures when reviewing infrastructure for new developments to be included in Code.
- Wanted Council to develop a FAQ sheet to help staff with development and annexations.
 - Consider priorities with affordable housing and income.
 - Determine what developments were appropriate in specific locations while considering distance to bike trails, parks, stores, and restaurants.
- Suggested Council consider expanding the notification system with InformMe to allow residents to interact more easily with the City and its opportunities.

Mr. Clifton concurred and opened the table for Council to comment on Mr. Markham's suggestions. Mr. Horning appreciated Mr. Markham's direction and guidance.

The Mayor opened the floor to public comment. There were none and the Mayor returned the discussion to the table. Mr. Clifton reminded that the next Council meeting would be the last until the Organizational Meeting on August 6th to swear in Councilmembers and the next regular Council meeting would be the second Monday in August.

6. 3-B. **OTHERS:** None

7. **Meeting adjourned at 9:22 p.m.**

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

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