

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**February 1, 2021**

Those present at 7:00 p.m.:

Presiding: Mayor Jerry Clifton  
Deputy Mayor, James Horning, District 1  
District 2, Sharon Hughes  
District 3, Jay Bancroft  
District 4, Chris Hamilton  
District 6, Travis McDermott

Absent: District 5, Jason Lawhorn

Staff Members: City Manager Tom Coleman  
City Secretary Renee Bensley  
City Solicitor Paul Bilodeau  
Chief Purchasing & Personnel Officer Jeff Martindale  
Director of Electric Bhadresh Patel  
Finance Director David Del Grande

Chief Communications Officer Jayme Gravell  
Chief Human Resources Officer Devan Hardin  
Chief Purchasing & Personnel Officer Jeff Martindale  
Finance Director David Del Grande  
Planning and Development Director Mary Ellen Gray  
Public Works & Water Resources Director Bhadresh Patel

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1. Mr. Clifton called the meeting to order at 7:00 p.m.

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

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

Mr. Clifton informed that the Executive Session was removed from the agenda and publicly noticed so no motions were necessary.

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 November 30, 2020) (10 minutes)**

**2:32**

Mr. Del Grande presented the November financial report, which encompassed all but one month of last fiscal year. He reminded that the City experienced financial highs and lows throughout 2020 and while 2020 started out strong, by mid-March everything changed dramatically. With the April financial update, staff estimated that the City faced a gross revenue loss of \$14 million. Over the past several months, through measures taken by Council via the Rate Stabilization Adjustment (RSA) freeze, budgetary freezes by City directors, and the \$2.3 million CARES grant recently received from New Castle County, staff

was able to eliminate the deficit and reflect a projected positive balance of just over \$1.2 million. The figure included the expense to payout accrued time earned by Local 3919 members during the State of Emergency (SOE), and also considered the additional expense of the 27<sup>th</sup> payroll which was not initially incorporated in the 2020 Approved Operating Budget.

Staff anticipated the budget of \$94 million to be \$85.6 million, or \$8.4 million short once the fiscal year was completed. He noted that \$4.3 million of the loss stemmed from utilities, and the remaining shortfall of \$4.1 million was comprised of taxes and fees. When compared to October, the result was an overall annualized revenue improvement of \$200,000.

Mr. Del Grande revealed that the utility sales, (77% of the City's total revenue stream) were down \$292,000 compared to October. Electric, water and sewer utilities all suffered a declined performance due to warmer weather and low volumetric sales. Utility sales were expected to report an overall revenue shortfall of \$4.3 million, or more than 50% of the total revenue loss of \$8.4 million.

Mr. Del Grande continued that tax revenue projections increased \$264,000 when compared to October and explained that tax revenue was comprised of real estate transfer taxes (RTT), real estate taxes, lodging tax and the cable tv franchise tax. Tax revenue performance improved over the last month due to increased performance in RTT of \$195,000 over the last quarter of the year, and a revised estimate for lodging tax which reduced losses by \$55,000. Staff also increased the performance assumption for property taxes by \$35,000 due to an unexpected higher collection rate. Additionally, cable tv franchise tax activity was reduced by \$21,000 due to declining performance. Overall, all tax revenue sources were budgeted at \$10.4 million but were expected to drop to \$9.6 million by the end of 2020 for a \$751,000 annual shortfall.

Mr. Del Grande reported that other revenue sources were the most volatile throughout 2020. Staff improved other revenue losses by \$192,000 on the November report when compared to October which primarily consisted of the fines, permits, business licenses and parking fees. Fines, parks and recreation fees, and parking revenue accounted for a collective \$3.2 million loss for the City in 2020. Fine revenue was down 49%, park and recreation fees declined 63%, and parking revenue fell 61%. Staff did not anticipate a level of normalcy to return until July 2021. Until then, staff anticipated that fee-driven sources of revenue would continue below normal expectations and were accounted accordingly in the 2021 budget. He reminded that steady and reliable sources of revenue derived from fees for services were critical to maintain low tax rates within the City. Together, other revenue sources were budgeted to be \$10.8 million in 2020, but staff only expected the amount to be \$7.5 million, for a loss of \$3.3 million. He stated the City faced a collective loss of \$8.4 million.

Mr. Del Grande revealed that staff was able to close the revenue gap with expenditure savings and shared that overall, staff estimated to have a \$5.4 million surplus in the expenditure budget. The largest expenditure savings was due to the decreased need to purchase electric from DEMEC (\$4.1 million) and sewer services from New Castle County (\$834,000) which accounted for \$5 million of the \$5.4 million in expenditure savings. Other line items reflected savings even with the incorporation of COVID-related purchases that were not included in the annual budget. He continued that savings were projected in Materials and Supplies (\$236,000), Other expenses (\$241,000), Debt Service (\$75,000) and Net Capital Improvements (\$656,000). There were \$228,000 in COVID-related expenses incorporated into expenses through November, which would be offset by the CARES Act grant, but reduced the estimated end of December balance on the table highlighted in the memo.

Mr. Del Grande continued that two expenditure types displayed deficit spending. Contractual Services showed an estimated negative balance of \$380,000 at the end of the year, due solely to reimbursable electric work performed by the Electric Department. He noted the work was 100% reimbursable through service contracts and explained there was an offsetting line of revenue for the expense. Most of the electric spending stemmed from the Elkton Road project (\$863,000 through 11/30). Additionally, Personnel Services reflected a \$374,000 projected shortfall for December 31<sup>st</sup>. He reminded that the figures included a projected budget shortfall to cover the 27<sup>th</sup> payroll and to account for the projected payout of accrued leave for the aforementioned Local 3919 employees due to the SOE which offset the \$850,000 personnel services surplus created from the City's hiring freeze.

In total, the gross current operating loss, a combination of the revenue shortfall of \$8.4 million offset by the expense savings of \$5.4 million, was just under \$3 million. By re-adding the CARES Act grant of \$2.3 million with the funds retained from Electric's Rate Stabilization Adjustment (RSA) of \$2.5 million, the gross loss resulted in a gross surplus of \$1.8 million. The positive balance was a result of activity that occurred after the approval of the 2020 budget and, when staff factored in the reserves initially utilized to balance the 2020 Approved Budget, the net surplus dropped down to \$1.2 million. As a result, the City

was in much better financial shape overall from April estimates. The cash balance at the end of November was \$41.3 million, which included \$24.1 million in the City's long-term cash account and \$17.2 million in operating cash, an increase of \$269,000 from October. Despite decreased electric sales in 2020, the electric regulatory liability carried a credit balance, or an over-collection of \$700,000. The regulatory liability, which, by design and pursuant to code, would be managed through the 2021 RSA. Staff would discuss the 2021 RSA with Council during the March 8<sup>th</sup> meeting.

The Mayor opened the table to questions from Council.

Mr. Horning wanted to avoid a large property tax increase by using other sources of revenue and welcomed suggestions. He asked if the fines on page 2 included the Alderman's Court and Mr. Del Grande confirmed. Mr. Horning noted the amount was short by \$1 million and asked if the shortage was because court was closed. Mr. Del Grande confirmed part was due to the closure and another portion was because police issued fewer tickets. He reminded that police had been on COVID shifts earlier in the year so there was a dramatic drop in tickets and Mr. Horning agreed it was better to have a healthy police force.

Mr. Horning referred to the Rite Aid RTT and asked if the location was in the Park & Shop. Mr. Del Grande revealed the last quarter of RTT was the best fourth quarter the City experienced in the last four or five years. He pointed that the market was turning around and properties were appreciating at higher values. He noted the sale of the CVS also helped the last quarter RTT results and reminded that staff initially believed the RTT would be down \$600,000 but ended up down by \$300,000 for a result of \$1.3 million versus \$1.6 million. Ms. Bensley interjected that the RTT was for the New London Road location and not Park & Shop. Mr. Horning asked what drove the Cable TV Franchise Tax. Mr. Del Grande replied that when customers purchased fewer subscriptions, such as pay-per-view, then the City's share of the revenue decreased. He also noted that Verizon and Comcast also had increased bad debt and the City shared a portion of the temporary loss.

Mr. Horning asked for clarification on sediment, stormwater management inspections, and water tapping fees. Mr. Del Grande replied the actions took place at the beginning of development or during construction where the City would supply unmetered water at a specific, contractual price. Mr. Horning asked if Mr. Del Grande was explaining water tapping and he confirmed. Mr. Horning asked for clarification on sediment inspections. Mr. Del Grande replied they were part of the stormwater inspections in the initial development phase and were fees similar to an impact fee. Mr. Horning noted a decrease in unutilized Asset Seizure Funds in the Miscellaneous Grants and Donations line and asked if it was a use it or lose it situation. Mr. Del Grande clarified that the Police Asset Seizure Fund was collected over years. Staff initially intended to use \$250,000 to aid in the gun range construction but since the project was delayed, the funds reverted to the Asset Seizure Fund, so the report reflected the funds as unutilized. He added there was a similar deduction on the Capital Budget because staff intended to use City funds for the shooting range project to offset the \$250,000 in grant funds.

Mr. Horning asked for clarification on Contractual Services for Vehicle Maintenance and Mr. Del Grande replied that the amount was a combination of the aging fleet and unanticipated expenses with the newer fleet. He shared that some of the police fleet incurred hours (not mileage) and were running 3 to 5 times more than a normal resident would have on their personal automobile. He pointed that the longer usages led to issues that would not typically happen to a three-year old vehicle. He added that some refuse trucks had unanticipated costly repairs. Mr. Horning thanked Mr. Del Grande for the responses and presentation.

Ms. Hughes thanked Mr. Del Grande for the presentation and believed it was a difficult task during the pandemic. Mr. Del Grande credited staff for their teamwork.

Dr. Bancroft thanked Mr. Del Grande for the clear report and agreed it reflected well on his attention to detail. Dr. Bancroft pointed that the Tesla Model Y was being used by the New York City Police and reports suggested the vehicles incurred low maintenance costs and were a sound option. He hoped the City would continue to consider electric vehicles if the numbers made sense. He added that the Delaware State auditor calculated \$43 million in tax revenue if marijuana was legalized and wanted the issue to be considered given the 65% public approval rate. Mr. Del Grande revealed staff was beginning work on an equipment replacement plan and reminded staff was investigating leasing options for the rest of the fleet, not just larger equipment. He reiterated that newer vehicles could save the City maintenance expenses and yield higher returns when the vehicles were sold. He pointed that staff was open to discussions on the marijuana tax.

Mr. Hamilton asked if the City could make its own marijuana tax. Mr. Del Grande explained it would be similar to the lodging tax process and the City would need to return to the State to be granted

authority. Mr. Bilodeau confirmed the City would need to go through the State. Mr. Hamilton credited staff for the report and asked if there was one more month of reporting for 2020. Mr. Del Grande confirmed and explained that he would present the final December report in mid- to end of March. Mr. Hamilton asked if there were any surprises and Mr. Del Grande replied that most assumptions in the November report were based on what he saw in December. He revealed he did not yet have the final December utility numbers and did not anticipate a great change from what was presented. Mr. Hamilton asked what staff did with funds from unanticipated large RTTs. Mr. Del Grande stated after the sale of two large apartment complexes, staff made sure to cover the City in the budget and then used the excess proceeds for equipment purchases in the following year that would have been covered by cash reserves. He confirmed that staff returned to Council with a plan during a good RTT year. Mr. Hamilton asked if the FinTech building would be taxable. Mr. Del Grande would investigate and return with an answer but believed that if a percentage of the building were for private use, that percentage would be taxable. He noted that 30% of the STAR Tower was taxable. Mr. Hamilton was pleased with the growth because it helped the City.

Mr. McDermott thanked Mr. Del Grande for the thorough report and asked if police vehicle maintenance was a large cost. Mr. Del Grande said he would define the expense as unexpected instead of large. Mr. Del Grande explained that one Tahoe caught fire in the engine bank and cost \$11,000 damage and the City had to pay a portion of the \$2,500 deductible. He added that a few police vehicles had air conditioning and electrical issues but, in some years, the vehicles ran smoothly with no issues and others did not. He pointed that large expenses stemmed from repairs for equipment such as refuse and dump trucks and, because the maintenance budget was \$120,000, larger, unanticipated repairs drained the fund. He stated that staff was working with Public Works to determine a more concrete plan because the City historically paid for vehicles with cash and did not adhere to a regular replacement schedule. He continued that if the City purchased six refuse trucks at once, the cost was \$1.2 million upfront, but a five-year lease cut the expense down to 1/6 per year. Mr. McDermott referred to a report from the Police Department that indicated individually assigned vehicles for Police would cost more upfront but provided long-term cost savings. Mr. Del Grande confirmed the police compiled a report and submitted it to Mr. Del Grande, Mr. Coleman and Chief Tiernan just before the shutdown and was set aside as a result. He agreed with Mr. McDermott that the upfront cost and space in the parking lot were issues, but he would review the report.

Mr. Clifton asked if the City was still on track for the leases of the Nissan electric cars. Mr. Del Grande noted the City was set to purchase three but were in a holding pattern because of availability. Mr. Martindale confirmed and revealed that the Sourcewell Contract was moving from the 2020 to the 2021 vehicle. He added staff still had to install the electric vehicle charging stations at City Hall and in Lot 1 which was scheduled for the spring. Once the charging stations were completed, staff could move forward with the purchases. Mr. Clifton asked that Dr. Bancroft forward him the information on the Tesla Y. He understood that electric vehicles were not initially embraced by Police Departments because running the necessary additional equipment would wear on the batteries. He noted that some manufacturers had a three-month lead on accident repairs and hoped Tesla took proper supply chain precautions.

Mr. Clifton noted that electric purchases were up, but the revenue was down, and Mr. Del Grande corrected that the purchases were down for an expenditure savings of \$4.1 million. Mr. Clifton referred to page three and noted the purchases were down. Mr. Del Grande explained that savings were not considered an overspend so there was a \$4.9 million expenditure savings between electric and sewer purchases. Mr. Clifton asked how the franchise fees were calculated and Mr. Del Grande shared that staff received quarterly reports based on activity from Comcast and Verizon and received a percentage from any new subscriptions, pay-per-view, or uncollected debt. Mr. Del Grande revealed that Verizon was experiencing a decline in revenue and Mr. Del Grande did not anticipate any improvement from the last quarter. Mr. Clifton understood that franchise revenues were up because people were home using services but pointed that unpaid debt was also up. Mr. Del Grande confirmed and said that some residents were cutting expenses and using basic cable which also impacted revenue.

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

- 4. 2. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:**
  - A. Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for Material for the College Square and Fintech Projects (10 minutes)

**38:00**

Mr. Patel recommended to waive the bid requirements for material for the College Square and Fintech Projects.

The Mayor opened the table to questions from Council.

Mr. Hamilton had no questions but informed Mr. Patel that the streetlight on Apple Road at the Grantham intersection was flashing every four seconds. Mr. Patel would investigate.

Mr. McDermott and Dr. Bancroft had no questions.

Ms. Hughes asked for the timeline for the transformers, switches, and switch bases for the service at College Square Shopping Center. Mr. Patel replied that staff needed the material by June to coordinate with the project manager's timeline. Ms. Hughes asked how many would be installed and Mr. Patel said that the College Square Shopping Center would have four transformers and two switches and noted the transformers had a long lead time. Ms. Hughes asked if staff already had the transformers. Mr. Patel said no and explained that once Council approved the process, he would place the order.

Mr. Horning understood the vendors were chosen for reliability and staff wanted to match up the Federal Pacific switches; he asked if the bids received were considered competitive pricing. Mr. Patel confirmed and revealed that staff standardized the brand for switches bases on a suggestion from the previous Director that Federal Pacific switches were more durable. If there was any issue within the City, staff only needed to keep one type of switch in stock. Mr. Horning asked if the pricing was competitive and Mr. Patel confirmed. Mr. Horning appreciated that the funding would be reimbursed by the project construction firm which meant it was not a taxpayer concern, he would follow up with Mr. Del Grande about the tax and utility revenue from the STAR Campus to prove that the City would benefit. He also believed the installation of ILC's headquarters in 2022 was further good news and wanted to explain the benefits to the public for the sake of transparency.

Mr. Clifton understood that the City collected property taxes from Chrysler but did not supply the plant with electric because the City could not sustain the load. Mr. Patel confirmed Chrysler had its own substation.

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

MOTION BY MR. HORNING, SECONDED BY MR. HAMILTON: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF FIVE (5) 750 KVA AND ONE (1) 1000 KVA TRANSFORMERS FROM ERMCO, INC. FOR THE TOTAL COST OF \$82,779.00. IN ADDITION, I MOVE THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF TWO (2) FEDERAL PACIFIC 3 PHASE PSE9 SWITCHES, TWO (2) FEDERAL PACIFIC 3 PHASE PSE10 SWITCHES AND FOUR (4) PADMOUNT SWITCH BASES FROM ANIXTER, INC., FOR THE TOTAL AMOUNT OF \$94,590.30.

MOTION PASSED. VOTE 6 TO 0.

Aye – Horning, Hughes, Bancroft, Hamilton, McDermott, Clifton.  
Nay – 0.  
Absent – Lawhorn.

**5. 3. SPECIAL DEPARTMENTAL REPORTS:**

- A.** General Assembly Update and Associated Requests for Council Direction – Lobbyist (30 minutes)

**49:11**

Rick Armitage, Armitage DeChene & Associates, shared that Dover adjourned for the next six weeks and announced that the General Assembly passed a bill to change the State's Constitution - HB75 on Absentee Voting. He noted that the bill would eventually help the City in absentee voting, but he expected the Governor would issue an emergency ordinance to restore the ability for municipalities to allow absentee voting because of COVID-19 concerns. He explained HB11, the New Castle County Local Service Function Task Force Bill, passed both the House and the Senate, and the Renewable Portfolio Standards (RPS) bill also passed.

James DeChene explained SB33 passed the Senate and the House prior to the break. He continued that the bill directed Delmarva Power to purchase at least 40% of its energy from renewable sources by 2035 and the next phase would begin in 2026. He thanked Mr. Coleman and Mr. Del Grande for working through the process with the lobbyists and DEMEC to make sure that DEMEC municipalities would be treated fairly. He added that the bill would now go to the Governor for signature. He revealed there would be seminar on Friday to discuss community solar and reminded Council that the community solar bill was part of the broader RPS bill created by Senator Harris, retired, and would allow subdivisions (HOA,

apartment complexes, neighbors without HOAs) to create a community solar platform. The community solar would use a middleperson to install solar for the community's use and any excess would be purchased by the regulated utilities. He admitted the City was hesitant because the bill set up a direct competition between citizens and the City. He explained the current iteration drew out DEMEC municipalities and the Delaware Electric Co-op from participating if desired. He added there was a drafted bill to increase SB33's threshold of 40% by 2035 to 50% by 2035 but it was unclear how the bill would impact the passage of other legislation. He assured Council the issue would be monitored. He updated that at the end of 2020, the full Redding Consortium submitted a letter to the Governor to request \$15 million worth of programmatic spending related to education and programs directed towards Wilmington. He reported that the Governor chose not to include the funds in his recommended budget and the Consortium members would hold a press conference on Friday to urge the General Assembly members on Joint Finance Committee (JFC) to include the funding in budget markup. He noted that New Castle County entered into a memorandum of understanding to settle the education funding lawsuit. He warned that a reassessment would hit tax bills in 2023 but there was no publicly released information on how the process would start. New Castle County staff estimated a \$10 million investment was required to perform the reassessment process and he added that New Castle was the first County in Delaware to reach settlement.

The Mayor opened the table to Council comments.

Mr. Armitage asked to add details on the Operations Budget and the Capital Budget before Council comments. He shared that the Governor introduced the budgets for the Legislature to begin the budget process. The bond bill included:

- Recommendation for \$6 million for municipal street aid
- \$50 million for HB200 Clean Water Bill
- Funds for police laptops in cars
- \$3.6 million for police body cameras

Mr. Armitage explained the intent was to have a plan presented to the Controller General's Office and the State Budget Office by 2025 on how the funds would be spent for staffing, equipment necessary to provide body cameras for police throughout the state, and data storage. He pointed that the NPD had already installed body cameras and, pending Council direction, the lobbyists would work with the Chief and Mr. Del Grande to request coverage for continuing costs. He pointed that operating cost for storage was an issue for every Police Department and added that the Operations Budget had appropriated funding for Unicity. He shared that the Delaware Economic and Financial Advisory Council's (DEFAC) numbers remained positive and the group would next meet on March 15.

Dr. Bancroft was pleased with the environmental work done at the state level and recommended coordination on the body cameras. He thought the Clean Water Bill was a significant step to ensure clean water for the future and was pleased the Unicity would continue to serve residents.

Mr. Hamilton thanked Mr. DeChene for the education updates and wanted to do anything possible to help Newark schools because it made the City an attractive place to live.

Mr. McDermott believed Newark should apply for reimbursement for body cameras because he did not think the City should be penalized for being proactive and implementing them before the majority of State agencies. He especially thought it was important to apply if some of the funds could be allocated for personnel to manage the system and cover on-going cost for storage.

Mr. Horning agreed with Mr. McDermott and wanted to pursue the body camera funding. He added that the Delaware League of Local Governments had a call with Senator Coons and asked the Senator to follow-up on CARES Act funding and how surplus could be used for Personal Protective Equipment (PPE). He believed private utility companies had an advantage because they had access to funding that public utilities did not. He believed Representative Kowalko would introduce an income tax change to target the \$125,000 single-income earner category and asked if the lobbyists were following the bill. Mr. DeChene confirmed. Mr. Horning acknowledged Council tended not to get involved in minimum wage and taxing discussions and was curious to know if the Chamber of Commerce had any comments. Mr. DeChene shared that the State Chamber of Commerce was his client and explained that from a general policy perspective, the Chambers across the State all had fairly grave concerns about the potential increase of personal income taxes (PIT) and minimum wage increases, especially combined with tipped wage proposed legislation. He continued that there was a feeling that restaurants would be hit hard during a time of attempted recovery. The PIT discussion argued that Delaware would not be as competitive as surrounding States, especially in Pennsylvania, where there was a trade-off an increase in

property tax versus an increase in income tax for Delaware. He added that property tax reassessment was unknown and the impact to the revenue streams during tele-work was also unknown because employees who normally worked in Delaware were staying home and would not claim Delaware as an income tax location for the 2020 returns. It was uncertain how the taxes would impact the State's coffers, but the assumed effect was negative. Mr. Horning asked if there were any discussions about a small City tax on the Newark's lone marijuana dispensary. Mr. DeChene agreed it was an interesting point but understood the dispensary was a medical facility and he was unsure of any limitations on placing a tax on a medical facility. He noted Auditor McGinnis's assessment and believed the money to the state would be a combination of taxes paid on legalization and funds from the operational taxes of more point of sales locations. He did believe a charter change for one location within the City would be economical or significant but noted that multiple sales points or retail shops around the state would generate state and local taxes.

Ms. Hughes agreed with Mr. McDermott's point of fund reallocation and thanked the lobbyists for the update.

Mr. Clifton recalled the conversation to which Mr. Horning referred regarding private utilities using the plan to preserve revenue while municipalities could not. He was concerned but was unsure what would happen. He shared that he and Mr. Coleman discussed community solar with the League of Cities and to most of the Legislators in the area and believed the City would be okay with opting out the DEMEC communities. He asked for clarification on the body cameras because he understood the funds were meant to purchase cameras and for storage. Mr. Armitage confirmed that the epilogue language surrounding the appropriation directed that a plan be developed so that staffing, the cost of body cameras, and storage would be addressed. He was unsure what staffing was required to bring the City up to speed on the body cameras or what the recurring costs would be for storage. He did not think the initial cost of the cameras could be addressed but hoped the State would want to share in the recurring costs for every jurisdiction with body cameras. He wanted to strategize and look for a shared cost but believed the discussion was for the Delaware Police Chiefs' Council to have. He hoped that a framework would emerge as Chief Tiernan and Mr. Del Grande further discussed the issue. Mr. Clifton agreed that the recurring costs should be addressed but emphasized that the City and other agencies were proactive, so the argument was a matter of equity. He supported discussions about recovering part of the initial costs and admitted some of the purchases were through grants, which the City could not recoup. Mr. Armitage assured that he and Mr. DeChene were not reserved in requesting funds and they would further discuss the costs with Chief Tiernan and Mr. Del Grande in order to have more talking points to address with the Chairs in the Joint Finance Committee. He added that there was ample time because the State saw the project as lasting for three or four years. He would update as the situation evolved.

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

**6. 3-B. RESOLUTION NO. 21-\_\_ : A RESOLUTION AUTHORIZING THE APPLICATION OF THE CITY OF NEWARK FOR THE MEMBERS OF FRATERNAL ORDER OF POLICE LODGE #4 TO PARTICIPATE IN THE DELAWARE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN (20 MINUTES)**

**1:13:40**

Ms. Hardin reminded that the FOP Lodge #4 collective bargaining agreement was ratified by Council in December 2020 (effective January 1, 2021) required the City and FOP to apply to the Delaware County and Municipal Police/Firefighters Pension Plan. The first step in the application process was a resolution from Mayor and Council which authorized the City to enter into the Delaware State Pension Plan and complete the remainder of the application. Once Council approved the resolution, staff could officially begin the application process with the Delaware State Pension Office, 11 *Del. C. Ch. 88*.

The Mayor opened the table to discussion from Council.

There were no questions from Council and the Mayor opened the floor to public comment.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. HAMILTON: THAT COUNCIL APPROVE THE ATTACHED RESOLUTION AUTHORIZING THE CITY TO ENTER INTO THE DELAWARE STATE PENSION PLAN.

MOTION PASSED. VOTE 6 TO 0.

Aye – McDermott, Hamilton, Bancroft, Hughes, Horning, Clifton.

Nay – 0.  
Absent – Lawhorn.

**(RESOLUTION NO. 21-A)**

**7. 3-C. FY2020 BUDGET AMENDMENT ALLOCATING CARES ACT FUNDS – FINANCE DIRECTOR (10 MINUTES)**

**1:17:44**

Mr. Del Grande explained that as part of the Coronavirus Relief Fund, the State received a grant of \$1.25 billion, of which, \$323 million was given to the County to manage, and the County, in turn, granted Newark \$2.3 million. Funds from the grant were being utilized across the State to support expenses incurred during the Coronavirus pandemic. Of the \$2.3 million received by the City, \$90,396 was for the reimbursement of supplies, contractual needs, equipment, and overtime expenses incurred through September 30, 2020. The second reimbursement of \$2,209,604 was related to a portion of personnel expenses incurred by the City's Police Department from April 10<sup>th</sup> through December 4<sup>th</sup>. Per acceptable uses of CARES Act funds, eligible expenditures included payroll expenses for public safety workers. All funds were received by January 22<sup>nd</sup> and staff wished to officially appropriate them into the 2020 Approved Operating Budget.

The Mayor opened the table to Council comments.

Mr. Hamilton and Mr. McDermott had no questions.

Mr. Horning noted that the City had just over \$4.6 million in CARES eligible reimbursable expenses and asked if staff anticipated the whole amount to be reimbursed. Mr. Del Grande explained the City was initially granted \$1.15 million and the County doubled the amount to \$2.3 million. He noted that the deadline to expend the funds was December 30, 2020 but had been extended to December 31, 2021. He was unsure if there would be more funding, but explained the City was frozen at \$2.3 million with the deadline. Mr. Horning assumed the extended timeline would allow for another reimbursement and Mr. Del Grande could not confirm. Mr. Horning asked if staff would continue to monitor the situation and Mr. Del Grande confirmed. Mr. Horning commended staff for the forethought in adding the accounting code to track COVID expenses at the start of the shutdown and for submitting the paperwork for reimbursement.

Ms. Hughes, Dr. Bancroft, and Mr. Clifton had no questions.

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

MOTION BY MS. HUGHES, SECONDED BY MR. MCDERMOTT: THAT COUNCIL APPROVE THE APPROPRIATION OF \$2,300,000 IN CARES ACT FUNDS RECEIVED FROM NEW CASTLE COUNTY TO THE 2020 APPROVED OPERATING BUDGET TO OFFSET CORONAVIRUS-RELATED EXPENSES BORNE BY THE CITY IN 2020.

MOTION PASSED. VOTE 6 TO 0.

Aye – Hughes, Bancroft, Hamilton, McDermott, Horning, Clifton.

Nay – 0.

Absent – Lawhorn.

**8. 3-D. 2021 COUNCIL REAPPORTIONMENT UPDATE – CITY SECRETARY (30 MINUTES)**

**1:23:56**

Ms. Bensley explained that every ten years during Census, the City Charter required Council to redistrict the City amongst the six Council Districts. The criteria indicated that the Census population statistics should be used as a guide so every district was nearly equal in population, each district should be a contiguous territory and have as little change as practically possible to prior boundary lines, and each district should be created so as not to unduly favor any person or group of persons. She continued that Districts were required to have a population of +/- 5% of the average district size based on historical City Solicitor opinion from previous cycles. She emphasized that the district size was based on population within the census tracts, not the registered voting population, and explained the New Castle County Department of Elections had provided support in drafting maps in the past and confirmed they would do so again in 2021.

Ms. Bensley revealed that over the last three cycles, Council elected to appoint a Reapportionment Committee of seven members (one nominated from by each member of Council and

the Mayor) to review the draft map put forward by the Department of Elections and to prepare a recommended version for Council consideration and final approval. She reminded that the Boards and Commissions application process was put into place after the last election cycle and shared the suggested timeline for the process:

- February 22 – Council adopts the resolution forming the Reapportionment Committee.
- February 23-April 18 – Available positions posted and advertised for the Committee.
- April 30 – All nominees provided to the City Secretary from Council members to be scheduled for the May 10 Council meeting for appointment.

Ms. Bensley explained that after April 18<sup>th</sup>, staff would forward any applications to the appropriate Councilmembers for review. She stated the Committee historically met in the spring and early summer and Council approved the final maps in December. She explained the current committee timeline would be slightly later, but it was not expected to have an effect on the delivery of the final proposed redistricted map to Council and it was even less of an issue because staff anticipated receiving the Census results later. She shared that the Census Bureau had not yet delivered its results to the President and did not have a firm timeline for delivery but noted the New York Times anticipated the results would be provided in July. As a result, there would be a delay with the start of the committee's meetings. She pointed that in 2011, the committee was finished within two meetings over the course of six weeks, so she did not anticipate a July delivery date would prevent the Committee from crafting maps for Council consideration before the end of the year.

Ms. Bensley explained Council would need to adopt the new maps by December in order to provide enough time for redistricted voters to be notified of the changes prior to the April 22 election and, unless the Department of Election raised technical support issues, there should be no issues in meeting the deadline. Staff also intended to bring the Committee recommendations to Council prior to December in order to provide ample time to consider the effects of any changes Council might propose during the approval process to the maps. She explained that before staff introduced the final ordinance with the maps for adoption, there would likely be a discussion scheduled on an October or November Council agenda so the Committee's preliminary maps could be reviewed by Council. Staff would have time to return the maps to the Department of Elections for editing and return them to Council to ensure they complied with the +/- 5% population.

Ms. Bensley revealed that the Planning and Development Department historically provided staffing for the effort but due to the existing workload in Planning and Development and because the City Secretary had previous experience as staff for the New Castle County Redistricting Committee in 2011, it was recommended that the committee be provided staff support by the City Secretary's Office for 2021. She noted that part of the discussion during Council approval of the 2011 Council maps also considered whether a greater effort should be made in the future to distribute the student population more equitably amongst the six Council districts and staff requested direction on whether student distribution was a goal that current Council wanted the Reapportionment Committee to pursue.

The Mayor opened the table to discussion from Council.

Mr. Horning thanked Ms. Bensley for the presentation and appreciated her offer to unburden the Planning and Development Department by utilizing her previous experience. He was initially open to discussing the Reapportionment Committee's consideration of equitably distributing the student population among the districts and was interested to hear from Mr. Hamilton and Dr. Bancroft. He thought the issue was worth discussion and shared that he received some favorable feedback from District 1, but other feedback was more critical. He assumed the student voter population would be low because students were not typically as engaged as full-time residents. He asked how redistricting the student population would look in splitting up the districts for continuous boundary and wondered at the practicability given the current districts. He shared resident concerns that the Reapportionment Committee would be overwhelmed, and it would be a significant change to the current Council districts. He wanted to better understand the driving factor with the student population suggestion. He agreed that students were stakeholders, but businesses and other residents were also stakeholders and the voting block would be diminished by reapportioning the students.

Ms. Hughes thought the issue was extremely technical and was impressed with Ms. Bensley's experience. She was open to the discussion.

Dr. Bancroft had not received any feedback regarding the student population and trusted the technical experts. He did not think the issue was a gerrymandering concern.

Mr. Hamilton agreed there were challenges when half of the district population were students but did not think minimizing student participation would be well-received. He noted that the City had no say in how UD redistributed the student population and then listed the various student housing complexes shut down by UD. He thought the City's attempt to mitigate student concentrations could be upended by the University. His district had many dorms and he reminded that the goal was to get as many votes as possible. He shared that some students had served as Council and more students were running. He did not think redistribution would be successful because UD could build student housing whenever and wherever it chose. He thought there were issues of greater importance and looked forward to how the new districts were laid out but did not think there should be focused concentration on carving out the student population.

Mr. McDermott was concerned with optics and asked Ms. Bensley for recourse if Council did not approve the map. Ms. Bensley answered that she proposed the initial draft of Committee recommendations be presented to Council in October or November so Council could consider changes. Then, the Department of Elections would evaluate to ensure the City was in population compliance before the final maps were introduced as part of an ordinance to be adopted by Council in December. Mr. McDermott thought the effort was greater than the gain.

Mr. Clifton was initially undecided about the student issue but agreed with Mr. Hamilton that the situation was fluid for students and the City and would be difficult to maintain. He wondered if the City wanted to enter the minutia of considering development plans for student housing and voting numbers. He wanted to drop the issue and let the committee move forward with the maps and hoped first drafts would be available in October to allow Council time to review.

Ms. Bensley revealed there were no public comments and asked to respond to Council comments. She wanted to clarify the logic behind the student division from what was articulated ten years ago. She explained that because the Census numbers, including students, were considered but the registered voter numbers were not, the result was that the districts had grossly disproportionate distributions of registered voter populations. She used Districts 3 and 4 as examples where District 3 had nearly 4,000 registered voters but District 4 had under 2,000 registered voters. She believed the discussions in 2011 were not intended to gerrymander students to dilute their voting power and were more about trying to create more proportional registered voting districts instead of disenfranchising students. She noted the City had a big realignment of student population on its own in the last ten years, whether it was from UD projects or private development projects. She added that District 6 had One Easton, District 3 had The Retreat by Suburban Plaza, District 2 had denser student housing the in Haines Street/South Chapel area and she acknowledged that UD closed several areas. She noted that the Rodney and Dickinson Dorms were demolished and said that although students would return to District 1 to live in the new development project, their numbers would not be reflected in the Census count because the development was still under construction, as was the case with several other City development projects. She agreed with that the situation would never be perfect because of the City's constant evolution. She reiterated the comments were raised by the Council during the last process, so she wanted to make the current Council was aware.

Ms. Bensley noted a large part of the timing in returning the proposal to Council depended on when the Census was official and presented to the State. She reiterated the Census must first be delivered to the President and then the State would have the results. If the Census results were given to the President in July, then it would take some time for the results to get to Delaware and the City would have to work with the Department of Elections regarding availability because the Department helped the other County municipalities, not just Newark. She added that another issue for timing was the Committee's appointment but if Council could stick to the outline provided, the City would be in great shape. If there was a lag in getting the appointments in, there could be a potential lag in staff's ability to begin. She reminded Council to ask interested individuals to apply for the Committee.

Mr. Clifton admitted he was guilty in dragging his feet on appointments, but the Reapportionment Committee was too critical to ignore.

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

MOTION BY MR. HORNING, SECONDED BY MR. HAMILTON: THAT COUNCIL ACCEPT THE RECOMMENDATIONS REGARDING THE REAPPORTIONMENT COMMITTEE AS PRESENTED IN THE JANUARY 25, 2021 MEMO FROM STAFF. I FURTHER MOVE THAT COUNCIL REQUEST THE REAPPORTIONMENT COMMITTEE NOT CONSIDER MORE EQUITABLE DISTRIBUTION OF THE STUDENT POPULATION AMONG THE SIX COUNCIL DISTRICTS DURING THEIR DRAFTING OF NEW COUNCIL DISTRICT MAPS FOR 2021.

MOTION PASSED. VOTE 5 TO 1.

Aye – Horning, Hughes, Hamilton, McDermott, Clifton.

Nay – Bancroft.

Absent – Lawhorn.

9. 4. **ITEMS SUBMITTED FOR PUBLISHED AGENDA:**
  - A. Council Members: None
10. 4-B. **OTHERS:** None
11. **Meeting adjourned at 8:47 p.m.**

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

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