

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

April 26, 2021

Those present at 6:15 p.m.:

Presiding: Mayor Jerry Clifton
Deputy Mayor, James Horning, District 1
District 2, Sharon Hughes
District 3, Jay Bancroft
District 4, Dwendolyn Creecy
District 5, Jason Lawhorn
District 6, Travis McDermott

Staff Members: City Manager Tom Coleman
City Secretary Renee Bensley
City Solicitor Paul Bilodeau
Chief Communications Officer Jayme Gravell
Chief Human Resources Officer Devan Hardin
Chief Purchasing and Personnel Officer Jeff Martindale
Purchasing Assistant Trykowski
Electric Director Bhadresh Patel
Finance Director David Del Grande
Planning and Development Director Mary Ellen Gray
Parking Manager Marvin Howard
Parking Supervisor Courtney Mulvanity
Property Maintenance Inspector Ryan Straub
Public Works and Water Resources Director Tim Filasky
Public Works and Water Resources Deputy Director Ethan Robinson
Bailiff Tim Bennett
Bailiff Paige Seppanen

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

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 Del. C. §10004 (b) (4) for the purpose of strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (B) (4) FOR THE PURPOSE OF STRATEGY SESSIONS, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY.

MOTION PASSED. VOTE: 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.

Nay – 0.

3. **RETURN TO PUBLIC SESSION**

A. Potential vote regarding retention of special counsel

1:18

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

MOTION BY MS. HUGHES, SECONDED BY DR. BANCROFT: THAT COUNCIL APPOINT CONNOLLY GALLAGHER; TYBOUT, REDFEARN AND PELL; AND YOUNG CONAWAY STARGATT AND TAYLOR AS SPECIAL COUNSEL TO THE CITY OF NEWARK AS OUTLINED IN THE EXECUTIVE SESSION.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Creecy.

4. 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.

5. PRESENTATION OF 2020 EMPLOYEE OF THE YEAR AND MAYOR’S EMPLOYEE RECOGNITION AWARDS (10 minutes)

5:18

Mr. Clifton reminded that the City had nearly 250 employees and recognized five people on behalf of Mayor and Council. He found that each individual was a tremendous employee and had done an exemplary job for the City through unprecedented times.

Mr. Clifton presented the third-place award to Cathy Trykowski, Purchasing Administrator, who was recognized for her enthusiasm and positivity by remaining receptive to significant process changes to allow the invoice processing system to migrate from manual to electronic processes to facilitate the transition to remote work. Ms. Trykowski consistently exhibited a positive attitude in conjunction with her ability to perform quickly and efficiently. She seamlessly overhauled the Purchasing Department’s invoice processing system twice, which included the smooth transition of in-office processing using coded paper receipts and invoices to fully digital invoice approval and processing. She was able to process all of the steps of the purchasing procedure without service interruption while working remotely. Despite the existing challenges during the transition to the new invoice workflow through MUNIS, she supported the Purchasing Department with the finite details of enforcing purchasing policies and assisting vendors to switch from printed documents and checks to ensure the seamless transition to EFT payments and virtual paperwork which further detailed her initiative, problem solving skills and dedication to the City. On behalf of the City, Mr. Clifton recognized Ms. Trykowski’s importance and value and appreciated her for exceeding efforts during the City’s time of need. Ms. Trykowski thanked the Mayor.

Mr. Clifton then recognized Tyler DeBruin, Recreation Supervisor in the Parks and Recreation Department, with the second-place award for Employee of the Year. Mr. Clifton revealed that Mr. DeBruin contacted the Office of Child Care Licensing on his own accord to request that the George Wilson Center be considered as an Emergency Childcare Center, during a most challenging time, while remaining flexible and steadfast during the everchanging rules and regulations of life throughout the COVID-19 pandemic. In addition to creating and submitting a COVID plan to the local school district for before and after care programs and indoor sports programs, Mr. DeBruin created an outdoor sports league plan for the Division of Public Health and his clever “lottery system” for the Before and After Care Program enabled parents and caregivers to avoid person-to-person contact. Mr. DeBruin worked tirelessly to provide contingency plans for emergency childcare in September to coincide with the implementation of virtual learning so that full-time daycare participants could receive assistance with virtual education. Mr. DeBruin also recognized the importance of the health and safety of over 60 children at Rittenhouse Camp by ensuring the camp met COVID guidelines for cleaning, temperature checks and reporting, and received numerous compliments from parents. On behalf of the City, Mr. Clifton recognized Mr. DeBruin’s importance and value and appreciated him for his outstanding commitment and dedication to the City and its residents.

Mr. Clifton announced that Ryan Straub, Property Maintenance Supervisor, Code Enforcement Division, was awarded Employee of the Year. Mr. Clifton explained that Mr. Straub worked tirelessly to obtain a website for Code Enforcement where customers could pay for code violations online because he

recognized early in the COVID-19 pandemic that customers would be unable to pay in person and, although the website process was difficult, his persistence saw the project through to fruition. In his role of Property Maintenance Supervisor, Mr. Straub frequently conferred with the Alderman's Court regarding violations where he consistently made himself accessible to discuss fees and payments and was available for hearings regarding disputed violations and any customer concerns. Mr. Straub's positive and professional attitude and his willingness to tackle difficult tasks was reflected in his work as Chair of the Safety Committee, where he guided the group towards engaging in constructive action to help provide a safer environment for City employees through a collaborative relationship between the Committee and management. Through his role on the Safety Committee, he excelled in keeping safety matters at the forefront of Safety Committee discussions, including as they pertained to the pandemic. He regularly coordinated with DeLea Founders Insurance Trust (DFIT) on numerous issues and presented on the topic of opioids in the workplace during a recent meeting. He recognized the importance of networking and collaboration and returned from a larger DFIT group to provide his City peers with best practices while understanding that people could have problems or concerns which rendered them frustrated and impatient with processes. Regardless, he was committed to being helpful, reliable and humble. On behalf the City and its residents, Mr. Clifton recognized Mr. Straub's efforts with the Employee of the Year award and expressed his deep appreciation. Mr. Straub thanked Mr. Clifton and explained that he was pleased to work with Mr. Clifton and Council, fellow City employees, and the Police Department. He had nothing but positive experiences and looked forward to providing many more years of excellent service.

Mr. Clifton revealed that he had two additional proclamations to present for special Mayoral Recognition. The Mayor recognized Tim Bennett and Paige Seppanen, Bailiffs, who managed the COVID-19 pandemic and its new challenges, with enthusiasm and positivity by remaining receptive to numerous extra duties and fielding many inquiries from visitors and residents alike. The duties of City bailiffs, although varied and expansive, had not included assisting and protecting a court system during a pandemic and Mr. Bennett and Mr. Seppanen rose to the occasion to ensure the safety of visitors and staff alike, while efficiently juggling the numerous people visiting City Hall for court. Mr. Clifton acknowledged that during a pandemic, there were additional challenges faced not only by City staff, but also with vendors and delivery services visiting the building. Mr. Bennett and Mr. Seppanen accepted the extra duties of receiving and processing numerous packages on a daily basis, delivered them to the Parks Department area for dispersion, and assisted delivery drivers when needed. Despite the fact the City offers its employees sick and vacation time, Mr. Bennett and Mr. Seppanen faithfully execute their duties while rarely taking time off. Mr. Clifton congratulated them on behalf of the City and its residents. Mr. Bennett and Mr. Seppanen thanked the Mayor for the recognition.

Mr. Clifton reiterated his gratitude to all of the employees who rose to the occasion, particularly the five who were honored that evening.

- 6. 1. **ITEMS NOT ON PUBLISHED AGENDA**
 - A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

- 7. 1-B. **UNIVERSITY**
 - (1) Administration (5 minutes per speaker) (10 minutes):

21:02

Caitlin Olsen, UD Administration, explained that UDon't Need It was started 15 years ago by sustainability minded individuals who wanted to make sure that students' unwanted furniture and home goods did not go to waste at the end of the school year. Prior to the pandemic, UD collected the goods and held a resale day so other community members could reuse them. She announced that UD would not host the event again this year for safety's sake but hoped to resume next year and shared that dumpsters would be on STAR Campus beginning in mid-May. She appreciated the efforts of City staff who worked the event to ensure that unwanted furniture did not end up on City sidewalks. She continued that UD planned to break down commencement so instead of one large ceremony, there would be four smaller ceremonies for the Class of 2021. On Friday, May 28th, and Saturday, May 29th, UD would hold ceremonies at 9:00 a.m. and 7:00 p.m. each day in smaller, separate groups so the colleges and families could celebrate. She informed the ceremonies would be at the stadium and cautioned there would be high traffic in the area on those days. On Sunday, May 30th at 10:30 a.m., UD planned to hold a celebration for the graduating class of 2020 because there was no commencement celebration last year. She asked for the City to be forgiving through the process and said that UD wanted to ensure that local businesses and restaurants would be full but safe during commencement weekend.

Ms. Olsen announced that the Women's Field Hockey Team were CAA champions and the football team was set to play in Alabama next.

The Mayor opened the table to questions from Council.

Dr. Bancroft asked if Agricultural Day was cancelled and Ms. Olsen replied that Ag Day would be mostly online programming for this year and UD staff wanted to return to an in-person event in 2022.

Mr. Clifton shared that he received a call from a parent who was thrilled that UD separated the ceremonies so the Class of 2021 could receive appropriate recognition.

8. 1-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes): None

9. 1-C. CITY MANAGER (10 minutes):

27:50

Mr. Coleman asked if Council wanted staff to bring forward an update to the City's social gathering guidelines to address the fact the State abandoned the previous school reopening guidelines, which the City had used to form its own procedures, in light of evolving science around COVID transmissibility. He spoke with the Department of Public Health (DPH) for feedback and was awaiting a meeting date. He announced that the City's COVID numbers had decreased to the October amount, but were still elevated from the summer numbers. If the City's threshold were set appropriately, staff would not need to make future revisions and the restrictions would go into and out of effect as science dictated as appropriate. With the summer approaching, Mr. Coleman felt the time to revisit the discussion was at hand.

Mr. Clifton agreed there was an appropriate process to follow.

10. 1-D. COUNCIL MEMBERS (5 minutes):

29:38

Mr. McDermott:

- Thought it was appropriate that after students left, permanent residents should be subjected to the same rules as the rest of the State and reminded the original ordinance was to address large gatherings held by students. He did not see a need to continue after students left and thought they could reevaluate after students returned in the fall.

Mr. Lawhorn:

- Agreed with Mr. McDermott's points.
- Congratulated returning and new Council, but noted that he was embarrassed that the last black Councilmember held office from 1958-1962. He acknowledged that Ms. Creecy was the first black woman to serve on City Council. Ms. Creecy thanked Mr. Lawhorn and looked forward to the challenge of bettering the City. She promised to serve to the best of her ability and to do the best for her constituents.

Dr. Bancroft:

- Welcomed Ms. Creecy.
- Agreed with Mr. Coleman's suggestion to match the State's guidelines.
- Believed the City had done well with environmental leadership recently.
- Used India as a COVID-19 cautionary measure to increase vaccinations and switch out the variants.
- Congratulated and thanked Ryan Straub, Tyler DeBruin, Cathy Trykowski, Tim Bennett and Paige Seppanen.

Ms. Creecy:

- Agreed with following State recommendations to keep cases low.
- Agreed with Dr. Bancroft's caution regarding India's positive cases.
- Thanked the Mayor, Council, and the City for welcoming her to Council and vowed to always work for the people.
- Wanted to initiate a motion at the May 3rd meeting to fix the utility area behind Madison Drive because the poor road condition flattened tires and was a danger to motorists and bicyclists.
- Thanked Mr. DeBruin for continuing the legacy of George Wilson and noted her appreciation of Mr. DeBruin's efforts on behalf of the children and citizens during COVID.

Mr. Clifton informed that the access roads behind the houses on Madison Drive were used by the City's refuse vehicles and agreed with Ms. Creecy on their poor condition. He did not believe the roads were damaged by residential drivers and thought a case could be clearly made that heavy trucks were the contributors. Mr. Coleman acknowledged there was history with the City paving the area and explained that a similar project was completed in 2013 where the City split repair costs with residents. The fee was included in the tax bill and spread over five years. He continued that the issue with College Park was the lack of an active maintenance corporation and explained that the alley way was within an easement that

crossed all of the parcels in College Park so there was no way for the neighborhood to pave the access road on its own. He believed it was appropriate for the City to investigate. Mr. Clifton thanked Mr. Coleman for examining the situation and for Ms. Creecy bringing the issue to attention.

Ms. Hughes:

- Asked for clarification on the social gathering comments. Mr. Coleman explained that the City could enact what it felt was an appropriate level, but the key was setting a threshold to determine at what point the City would return or if an effective date for June 1st was appropriate. He preferred to have a threshold so that if there was a spike, the ordinance would be automatically reinstated, but he thought that Council preferred to sunset the ordinance until August for review. She reminded that there was contention on agreeing how many people would be permitted indoors and outdoors and understood that the ordinance was for everyone, not just students. Mr. Coleman confirmed. She supported easing restrictions based on data but wanted to be cautious about directing the ordinance towards students.

Mr. Bilodeau interjected and reminded that Council eased the restrictions last summer and revisited in August. He informed that staff had monitored other universities and saw that cases spiked when students returned so the City put more restrictions in place. He explained that the City's emergency ordinance powers allowed for Council to enact rigid ordinances if there was another case spike. Mr. Coleman added that the most recent data in cases per 100,000 for Newark was 116.8 but had been as high as 750 earlier in the winter. He explained there were two criteria: cases per 100,000 and percentage of positive test results. He informed the percentage of positive tests was currently 0 and the threshold was <1% for Green Zone, 1%-8% for Yellow Zone, and > 8% for Red Zone. He explained the biggest issue was that cases per 100,000 had Level 1 set at fewer than 5 cases, Level 2 was 5 to 100, Level 3 was 100 cases or greater. He noted that the City had never reached the green level and the lowest number was 28.7 on August 23, 2020. He did not think the high threshold was justifiable given the prevalence of vaccines and the scientific data. Ms. Hughes asked Mr. Coleman to repeat the lowest and highest case rates and Mr. Coleman admitted he had not calculated past August 23rd but revealed the week of August 23rd to 29th was the last week of summer prior to the return of students when there were 28.7 cases per 100,000 and a 1.8% positivity rate compared to the most recent data of 116.8 cases per 100,000 and a 0% test positivity rate. He repeated that the current criteria of fewer than 5 cases per 100,000 was Green (no restrictions), 5-100 cases per 100,000 was Yellow, and more than 100 cases was Red. Ms. Hughes asked for the City's current level and Mr. Coleman replied that the City was in the Red Zone based on the original levels but explained the thresholds were the originals used by the State for school reopening. The State realized the standards were unattainable and then changed to more flexible standard.

Mr. Horning:

- Agreed with prior comments on social gatherings and wanted to ensure that the City was using the most current science and data. He wanted to use the least restrictive means possible to get to a safe environment and supported revisiting the discussion.
- Welcomed Ms. Hughes back and welcomed Ms. Creecy.
- Thanked Mr. Lawhorn for his comments and understood that Mr. Lawhorn reached out to constituents in the past. He credited the School Hill community (previously New London Road) for their traditions and acknowledged that the community had been racially oppressed. He was part of Home Town Newark, a Facebook group that taught him about Newark's communities and noted he had watched an interview of Mr. Wilson in the early 1960s where he explained to black workers from Detroit, who were sent to the Chrysler Plant during the Bobcat Union Strike, that they had to avoid certain establishments. Mr. Wilson used the term "invisible people". Mr. Horning emphasized that Ms. Creecy was not invisible, and Council was looking forward to her actions.

Mr. Clifton:

- Informed that John Brook was the Government Affairs contact for UD prior to Rick Armitage and Caitlin Olsen. Mr. Brook retired in 1998 and passed away two weeks ago. He had worked with Mr. Brook during Mr. Clifton's first year on Council and credited him with being a tremendous person and Newarker. He noted that Mr. Brook would be missed.
- Informed that the agenda was posted for the next meeting where Council would discuss the American Recovery Funds. He stated the City had to make decisions on the allocation of \$17 million.
- Welcomed back Ms. Hughes and Mr. Horning and congratulated Mr. Horning for his election to Deputy Mayor. He also noted he was honored to get to know Ms. Creecy.
- Met with Dr. Freeman Williams of the NAACP, other Newark residents, and Parks Director Joe Spadafino and admitted the City had not done a great job in addressing the history of the George Wilson Center or Councilman Wilson's legacy. He thanked Mr. Coleman and Director Spadafino for starting the initiative to address Mr. Wilson's history on the exterior and interior of the building. He also reminded that Lauren Wilson, ABC6, was Mr. Wilson's granddaughter.

- Agreed with Mr. Coleman’s request and spoke with three student groups over the last month. He shared that the student groups wanted to know how the fall semester would look and thought it was possible for the fall semester to be more normal than the current semester. He encouraged students to follow protocols and promoted vaccinations.
- Acknowledged that Mr. Coleman had a matrix to use should case numbers increase and hoped for an increase in vaccinations.

11. 1-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):** None

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

- A. Approval of Council Meeting Minutes – March 15, 2021
- B. Approval of Council Meeting Minutes – March 22, 2021
- C. Receipt of Alderman’s Report – April 9, 2021
- D. Receipt of Planning Commission Minutes – February 2, 2021
- E. Receipt of Planning Commission Minutes – March 2, 2021
- F. Recommendation on a Change Order for Contract No. 20-09 – Sanitary Sewer Repair and Rehabilitation

56:11

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 7 to 0.

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

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

- A. Appointment of Jean Hedrich to the Vacant At-Large Position on the Conservation Advisory Commission for a Term to Expire March 15, 2024 (5 minutes)

57:30

Mr. Clifton nominated Jean Hedrich to the Mayoral Appointment for the Conservation Advisory Commission (CAC). He emphasized Ms. Hedrich’s extensive qualifications and passion for her work.

The Mayor opened the table to Council comments.

Mr. Horning thanked Ms. Hedrich for her willingness to serve. He was impressed with her background and looked forward to her interaction with the Commission.

Ms. Hughes appreciated Ms. Hedrich’s willingness to volunteer her time on behalf of the City and residents. She reiterated Ms. Hedrich’s qualifications and was enthusiastic for the City to benefit from her wisdom and knowledge.

Dr. Bancroft thanked Ms. Hedrich for her willingness to serve and was pleased to know that she had experience with penguin rehabilitation.

Ms. Creecy thanked Ms. Hedrich for her efforts and informed that her own son was a young environmentalist. She wished Ms. Hedrich the best of luck and looked forward to meeting her.

Mr. Lawhorn thanked Ms. Hedrich for volunteering and informed that the CAC put forth recommendations that were frequently approved by Council.

Mr. McDermott thanked Ms. Hedrich for her work in the public-school system.

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

Mr. Clifton thanked Ms. Hedrich and noted that the CAC had brought forth many initiatives to Council. He looked forward to her participation.

MOTION BY DR. BANCROFT, SECONDED BY MR. HORNING: TO APPOINT JEAN HEDRICH TO THE AT-LARGE POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A TERM TO EXPIRE MARCH 15, 2024.

MOTION PASSED. VOTE: 7 to 0.

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

Mr. Clifton congratulated Ms. Hedrich and looked forward to her service and admired her persistence. Ms. Hedrich thanked Council for the appointment.

14. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None

15. 5. SPECIAL DEPARTMENT REPORTS:

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

1:03:13

Rick Armitage, Armitage DeChene & Associates, congratulated re-elected Council members and welcomed Ms. Creecy. He sent Council an updated table of the bills and issues that the lobbyists were monitoring. He reported that HB121, which replaced HB36, passed and allowed a bicycle approaching an intersection, with no cross traffic, to treat the intersection as a yield. He explained that the same situation could happen at a red light because bicycles were not heavy enough to trip the light cycle so cyclists could proceed through an intersection on red as long as it was safe. HB200, The Clean Water Act, passed the House and moved to the Senate. SB15, the minimum wage bill, moved from Committee to the House Ready List. SB39, which altered rules and flexibility for probation before judgement was signed by the Governor, the Solicitor and Court #40 staff had all been notified of the changes. SB94 created rules for public bodies to meet after the State of Emergency (SOE) ended. He informed that Newark was working in league with sponsors to draft a bill to be more workable for all of the affected jurisdictions.

Mr. Armitage continued that the General Assembly returned the prior week after a two-week break for Easter, would work again the current week, and then adjourn on Thursday. He reported the General Assembly would begin bond bill hearings the following two weeks and revealed that the House could return to the building on Thursday but only members and their staff would be permitted to enter; the public would not be admitted. He informed that the Senate could return after the Bond Committee break on Tuesday, May 11th. He noted the DEFAC was scheduled to meet again on May 17th to provide the most current revenue estimates for JFC and bill drafts would begin during the last week of May and last into the second week of June. The follow-up DEFAC meeting was scheduled for June 18th.

Mr. Armitage shared the Solicitor’s suggestion that Council should consider supporting HB113 and said it was still in Committee. The bill would allow landlords to request an emergency hearing to allow them to break leases with problem tenants and Mr. Armitage asked for Council’s direction. He continued that another bill was introduced late last week as a result of the Law Enforcement Task Force and affected body cameras. The bill would require nearly every Police agency in the State to equip officers with body cameras and archive associated video for at least 90 days unless a court indicated otherwise.

Mr. Clifton informed that Ms. Bensley had been working with the Legislation for public meetings, was respected in State, and had a vast amount of knowledge regarding the situation. Ms. Bensley explained that sponsoring Senators were scheduling a meeting related to the legislation in order to solicit additional input and she had volunteered to be part of the group based on the Mayor’s recommendation. She indicated that the group intended to investigate the notice requirements that were outlined in the legislation because the current practice was that if there was an SOE and Council was only meeting virtually, the language in the legislation removed the requirement to post agendas in buildings. She pointed that municipalities had no other requirements for posting other than in a building, so she wanted clarification. She reminded that City staff also posted to the City’s website but said that it was not a State requirement to do so. The group would also investigate hybrid meetings post-SOE so the public could attend either in-person or virtually. She explained that hybrid meetings were currently required in the legislation as an accommodation for appointed bodies but were not required as an accommodation for elected officials. Ms. Bensley and her colleagues from other municipalities wanted reasoning behind the decision because both elected officials and appointed officials were using the same facilities for their meetings so if there was a requirement or an exemption for undue burden for one, then it should be across the board as opposed to having different standards. She continued that she requested further clarification on under what conditions were members of a board or Council were allowed to attend virtually and whether the accommodation was strictly for disabilities or if anyone could attend as long as there was an anchor location with attendants.

The Mayor opened the table to discussion from Council.

Mr. Lawhorn and Ms. Creecy had no questions.

Dr. Bancroft wanted to avoid involving the City in landlord disputes and thought there should be procedures in place, so landlords did not abuse the process and frivolously terminate leases. He felt that Ms. Bensley points were valid, and her proposals were sensible.

Ms. Hughes asked for clarification on the discussion about yielding and red lights and Mr. Armitage repeated the description of HB121. He explained that the bill would eliminate the sunset provision and revealed that the rule had been in place for two years and State Police performed crash studies which indicated a nearly a 20% reduction in accidents as a direct result of the legislation. He explained the legislation would not sunset and would continue.

Mr. Horning agreed that Council should discuss and/or support HB113 because previous discussions regarding nuisance properties argued that landlords were limited on how they could address nuisance properties occupied by tenants. He asked Mr. Armitage for his opinion on SB15 and whether forwarding the City's fiscal impact to the House would be helpful. Mr. Armitage did not think it was necessary and explained when staff evaluated the impact over five years with the gradual increases, it was determined there would be no significant problem for the City. Staff would be able to adjust the fees associated with summer camps to compensate for lifeguards and camp counselors. Mr. Coleman conferred with Mr. Armitage and continued that the legislation would only effect seasonal employees. He reiterated that the impact would be minimal, and the positions were mostly in fee-supported roles. Mr. Horning appreciated the comments and said that the debate triggered thoughts about the impact on restaurants. He appreciated staff's background work and Director Del Grande's efforts. Mr. Horning understood that President Biden's Infrastructure and Jobs Plan could possibly infuse millions of dollars into Newark. He thought it could be possible for Council to influence where and how the funding was available and how the funding could be used to boost the City going forward. He credited the Finance staff for safely navigating the City through COVID and the economic lag. He thought it would be possible to situate the City in a competitive position for job growth and long-term economic stability. He thanked Mr. Armitage for the updates.

Mr. Armitage revealed the two large items for the Bond Committee to consider over the coming weeks were the referendums that passed in the school districts Statewide. He estimated \$1 billion worth of construction was passed by referendum and reminded that the State had a matching requirement. He added that the Bond Committee would also consider the need for new courthouse space, particularly in Sussex County, and even though there was some surplus funding in the revenue estimates thus far, whether or not the American Rescue Plan Act (ARPA) would be able to serve as a supplement was still under investigation at the State level. He understood that Mr. Coleman and Mr. Del Grande were considering how best to use the \$17 million granted to Newark as a result of the bill.

Mr. McDermott agreed with Mr. Horning regarding the landlord bill and thought it could assist City landlords experiencing difficulty with tenant-occupied nuisance properties. He did not want to lose sight of the funding for the body cameras and recalled that the State was promoting the initiative and had reserved funding. He reminded that Council discussed which ways the City could gain access to the funding to support its own existing body worn camera program and asked for an update. Mr. Armitage replied there was no update yet but shared that the Chiefs Council was supposed to coordinate with Homeland Security to propose a plan for how to spend the reserved funds. He recalled that the Governor set \$3 million aside to support the purchase and Newark's portion would be used to support the recurring cost. He anticipated that storage would be an issue for every agency. Mr. McDermott confirmed and wanted to make sure there was a plan moving forward.

Ms. Hughes asked for an update on the nuisance property ordinance. Mr. Armitage replied that the State legislation was different and repeated the summary of the bill. Ms. Hughes asked if the bill was progressing and Mr. Armitage repeated that the Solicitor suggested that the lobbyists seek Council direction.

Mr. Clifton shared the same concerns on the bills as various Councilmembers and confirmed that he would support the legislation for landlords. He acknowledged that the Newark Landlords Association constantly discussed the inability to effectively remove a tenant who was destroying property and creating other disturbances. He understood the need for the bill and confirmed it was a problem for landlords. He supported measures to aid the landlord community in moving forward with evictions before properties were destroyed or neighbors were inconvenienced.

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

Mr. Clifton thanked the lobbyists. Mr. Armitage thanked Mr. Clifton acknowledging Mr. Brook. Mr. Armitage worked for Mr. Brook for 25 years and described him as a wonderful mentor who provided incredible opportunities. In 1994, Mr. Brook promised that a UD representative would attend every Council meeting. As a result, Mr. Armitage served as UD's representative until his retirement in 2012 and attended over 400 Council meetings. He continued that Mr. Brook was always a work in progress and was a wonderful man. Mr. Clifton agreed and wished all of Council had had the opportunity to work with him.

16. 6. FINANCIAL STATEMENT: (Ending January 31, 2021) (30 minutes)

1:24:46

Mr. Del Grande presented the financial statement ending on January 31, 2021. He explained that estimated expenditures were based on 31 days of activity and were not unordinary. He noted that hypothetically, if the year ended January 31, the statements would reflect a positive expenditure variance of \$1.6 million, which would include utility purchases. When comparing the 2021 expenses to 2020 through January, there was an expenditure reduction of \$1.2 million, due primarily to the timing of expenses. He admitted that because it was early in the fiscal year, it was difficult to provide an expenditure trend for the next eleven months, as the majority of available funds were due primarily to vacant positions with the City, and contractual services not yet encumbered. He informed the balances would decline as the year continued. He reported that early deficits in Refuse, Facilities, and Parking were due to the encumbering of expenses in the beginning of the fiscal year, which made it appear that spending was outpacing budgetary authority but assured the deficits would decline as the year progressed.

Mr. Del Grande continued that overall, the revenue reflected a \$196,000 negative variance when compared to the budget. Real Estate Transfer Taxes (RTT) and Lodging Taxes were reported a month behind, so both reflected no revenue for January. He reminded that RTT had been strong since October 2020, and staff expected it to continue through 2021 due to the extremely active real estate market. He noted that the City had not had such a strong RTT quarter (January to March) in the last seven years.

Mr. Del Grande reported that utility revenue estimates took utility sales figures through March into the annual projections and utility revenue broke even for Water and Sewer, while Electric fell 0.1%, or \$74,000, short of expectation. He noted that overall utility activity was depressed due to COVID-19 restrictions, but the recent changes to the fixed charge component in water and sewer fees would enable staff to have more revenue certainty as the year progressed.

In total, the net current operating surplus (combination of revenue vs. expense) began the year in the positive. Mr. Del Grande explained that if the City were to reach all of its budget estimates for the remainder of the year, the result would be \$1.4 million positive at year-end, but staff expected the figure to change frequently as the year progressed. He reminded that City utilities, parking, fees and other revenue activity had rebounded slowly for the first half of the year and staff was hopeful that the trend would continue.

The cash balance at the end of January was \$49 million, as indicated on page 4, and included \$24.7 million in the City's long-term cash account, \$6.6 million in the ESCO account for ESCO projects, and \$17.7 million in operating cash. The electric regulatory liability carried a credit balance, an over-collection, of \$836,000. The regulatory liability, which, by design and pursuant to Code, would be managed through the 2022 Rate Stabilization Adjustment (RSA).

The Mayor opened the table to Council comment.

Dr. Bancroft had no questions.

Ms. Creecy asked why the electricity utility dropped. Mr. Del Grande replied that the drop was due to the impact of COVID from January 2020 compared to January 2021. He continued that at the beginning of 2021, staff estimated a decline in utility consumption from January through June and then anticipated an increase to some level of normalcy as in 2019 and prior.

Mr. Lawhorn, Mr. McDermott, Mr. Horning, and Ms. Hughes had no questions.

Mr. Clifton agreed with previous comments that the results were what staff and Council expected and he hoped for a spike in Lodging Tax and utility fees over the next month.

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

Mr. Clifton thanked Mr. Del Grande for the report and hoped that \$24 million could help the City increase its bond rating.

17. 7. **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 the Purchase of T2 Systems Multi-Space Parking Kiosks (15 minutes)

1:32:30

Mr. Mulvanity presented the recommendation to waive the bid process for T2 Systems for the purchase of multi-space parking kiosks as outlined in Capital Improvement Project (CIP) V2002. He noted that the action was the third and final phase proposed by staff to phase out the City's aging single-spaced parking meter infrastructure in favor of multi-spaced parking meters equipped with license plate recognition capabilities and mobile payment technologies. Staff recommended waiving the bid process for the project in favor of purchase of multi-space kiosks from T2 systems because the City's enforcement database, license plate recognition, permitting, and appeal systems were also with T2 Systems which allowed for a unified parking platform. He continued that the system was used by multiple departments simultaneously and in real time, including Alderman's Court, Police, and the Planning and Development Department, to accept payment for daily parking and to enforce parking regulations. He informed that T2 Systems had a strong industry reputation and customer service record and had successfully completed several projects for the City. He explained that the kiosks connected directly to on-foot parking ambassador hand-held enforcement devices and to the vehicle-mounted license plate recognition. With license plate recognition technologies, customers could pay for their parking and add time to their session without returning to their vehicles, thereby adding an additional payment option and convenience for visitors. He reminded that the CIP listed a cost of \$168,000 but the kiosks in Phase 2 covered more area than anticipated and incorporated some streets that were slated for Phase 3. As a result, the requested funds were reduced to \$87,200, a decrease of nearly half of the projected Phase 3 cost.

Mr. Mulvanity continued that subscription fees would be covered by the existing General Operating Budget and revealed that there would be an immediate cost savings of approximately \$500 per month in subscription costs upon removal of the single-space parking meters. He explained that because the previous two phases of the project were completed by T2 Systems and the City's license plate recognition capabilities depended on connections to the T2 database, staff felt it would be detrimental to change the current parking platform from a financial and customer service perspective. He reiterated that staff felt that T2 should be considered the sole source vendor for on-street and service lot parking hardware because of the City's parking network's substantial reliance on the platform and license plate recognition. Staff requested that Council waive the bid process for the purchase of multi-space parking kiosks from T2 Systems in the amount of \$87,200. Mr. Mulvanity thanked participating staff, Mayor and Council for their time and consideration on the project.

The Mayor opened the table to Council comment.

Mr. Horning had no questions and commended staff for their consideration to the budget. He felt staff's discipline set the municipality apart from what people considered government waste. He understood the need to sole source the project.

Ms. Hughes and Dr. Bancroft reiterated Mr. Horning's comments.

Ms. Creecy agreed with previous Council comments and asked if the kiosks would allow for payment at a meter as an alternative. Mr. Mulvanity confirmed that alternative payments could be taken at the kiosk from either credit cards or coinage. He added there was a mobile application where visitors could pay via credit card and also load funds onto the app.

Mr. Lawhorn had no questions and credited staff for saving funds. He shared that he and most of the residents he spoke with loved the kiosks and mobile application but explained that a smaller group had some difficulty with technology. He reminded that the intent was to have Parking Ambassadors available to explain the technology and shared that he had heard of a few incidents where visitors had problems. He reiterated that assistance with the kiosks would be beneficial to visitors' City experience.

Mr. McDermott had no questions.

Mr. Clifton noted the same system was used by the University and added that other communities all used similar systems. He had received complaints from visitors but found the biggest issue was confusion on how to enter PC license plates. He asked if the kiosks would also take cash bills and Mr. Mulvanity replied that the kiosks did not take bills. He confirmed there was a model that accepted bills, but staff decided against the model because it was assumed that they would be targeted for theft. Mr. Clifton recalled that initial discussions covered varying the rates by time of day or seasonality and hoped that staff was still moving forward in the context. He suggested a different cost base for the summer or

evenings to assist restaurants emerging from COVID and a different matrix heading into the fall. Mr. Coleman interjected that he intended to introduce action during the next Council meeting for potential ARPA fund uses and confirmed that staff was still considering fee structures.

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

MOTION BY MR. LAWHORN, SECONDED BY MR. HORNING: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF THE MULTI-SPACE METERING EQUIPMENT AND SERVICES FROM T2 SYSTEMS IN THE AMOUNT OF \$87,200 AS OUTLINED IN CAPITAL IMPROVEMENT PROJECT 'V2002 – CAMPUS DISTRICT KIOSK INSTALLATION.

MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Horning, Hughes, Clifton.

Nay – 0.

18. 7-B. RECOMMENDATION TO AWARD CONTRACT NO. 21-04 – CURTIS LANE CULVERT REPLACEMENT (15 MINUTES)

1:45:56

Mr. Robinson welcomed Ms. Creecy to Council and congratulated Ms. Hughes and Mr. Horning for their reelections. He spoke on behalf of the Public Works and Water Resources (PWWR) and said that the Department looked forward to working with the Councilmembers to address constituent concerns and improve infrastructure. He explained the recommendation was for the Curtis Lane Emergency Culvert Replacement Project which had been on the PWWR radar for years. Crews had been on-site to temporarily repair the road section due to failing corrugated metal pipes beneath the roads several times throughout 2019 and 2020. Staff evaluated the culverts and quickly verified they were the main cause of failure in the cul-de-sac of Curtis Lane. Staff utilized its CCTV and Inspection Priority Ranking Program through JMT Consultants to evaluate the culverts and discovered significant signs of deterioration of the bottom of both barrels which caused subgrade soils to slough off and undermine the road. PWWR worked with JMT to investigate alternatives and create detailed construction plans to address and replace the failing pipes. He explained the alternatives included trenchless technologies and conventional dig and replace options. He revealed the trenchless technology consideration included cured-in-place pipelining (currently in practice throughout the City to address failing storm sewers), geopolymer lining, and slip lining. Staff chose the conventional method of excavation and replacement of the corrugated metal pipes and hoped to replace them with two 48-inch reinforced concrete pipes. Staff chose the concrete pipes because they increased the flow capacity of culverts by 8%, preserved a significant value tree in the immediate work area, minimized the impact to Curtis Lane residents, and kept the project under budget. Staff received seven bids from qualified contractors and the lowest qualifying bid was from Richard E. Pierson Construction Company, Inc., for \$185,940.50. He noted the same company was recently awarded the DelDOT/Newark contract for the White Clay Creek pedestrian bridge which was an active project located across Paper Mill Road from the Curtis Lane Culvert Replacement Project site. He revealed that the R.E. Pierson bid was roughly \$60,000 lower than the next qualifying bidder, so staff contacted the company and spoke to the estimators and the anticipated Project Manager to confirm unit pricing and that the bid was complete. He shared the main reasons for the low bid were due to the fact that the company was actively working in close proximity to the project site, the timing worked for the crew, and they were able to eliminate much of the mobilization cost associated with moving equipment to job site. Staff was confident that R.E. Pierson was capable of completing the work on schedule in accordance with the plans and specifications and recommended that Contract 21-04 be awarded to R.E. Pierson for \$185,940.50.

The Mayor opened the table to Council comments.

Mr. Horning assumed the project would be funded through the reserves and wanted staff to consider grants and Municipal Street Aid for funding. He appreciated saving the value tree and understood the project was what staff recommended. Mr. Robinson confirmed that the option gave staff the chance to improve flow capacity in the area as it conveyed waters from a tributary to White Clay Creek and informed that staff considered alternatives, including concrete box culverts and elliptical reinforced concrete pipes. He explained the issues with the alternatives were that they increased the footprint and did not allow for a small footprint for bypassing flows of the water body. He confirmed that staff's recommendation would reduce impact to the residents and overall work area while also serving as the least expensive option. Mr. Horning appreciated staff's efforts and the responsiveness of the City's crews.

Ms. Hughes had no questions.

Dr. Bancroft agreed that R.E. Pierson was the proper choice and noted the project was less expensive than the bicycle bridge. He thanked staff for their efforts.

Ms. Creecy thanked Mr. Robinson for her welcome. She asked for the difference between PVC and steel in both material and cost. Mr. Robinson replied that PVC would be a reasonable option for the area because the road did not take a significant amount of load but due to the depth of cover for the cul-de-sac, roughly 14 inches to the top of the pipe, PVC was unsuited for the type of loading which rendered high-density polyethylene or PVC piping incompatible for the project. He continued that steel was susceptible to corrosion, as was evident in the existing metal pipes, and was not ideal for the situation. He confirmed that the reinforced concrete pipe would address the loading concerns and hold up over time. He added that the price of PVC had skyrocketed in the current market and that staff would be shocked by the pricing PWWR received for other Capital Improvement Projects.

Mr. Lawhorn stated that all of his questions were addressed in the presentation and he publicly acknowledged that a constituent contacted him to rave about Mr. Robinson's responsiveness and how well the situation was handled. He thanked Mr. Robinson for his efforts.

Mr. McDermott was satisfied that staff had done its due diligence to address pricing concerns.

Mr. Clifton agreed with previous Council comments and noted that the highest bid was \$340,000. He appreciated the contractor's experience and the explanation in the presentation. He believed that staff considered all angles and appreciated the effort.

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

MOTION BY MR. LAWHORN, SECONDED BY MR. MCDERMOTT: THAT COUNCIL AWARD CONTRACT NO. 21-04 TO THE LOWEST RESPONSIBLE BIDDER, RICHARD E. PIERSON CONSTRUCTION CO., INC., IN THE AMOUNT OF \$185,940.50.

MOTION PASSED. VOTE: 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.

Nay – 0.

19. 7-C. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PROCUREMENT OF ELECTRIC VEHICLES (15 MINUTES)

2:01:12

Mr. Martindale stated that staff was recommending the replacement of three City fleet vehicles with electric vehicles (EV). He continued that purchase was a win for all parties and said that the City was becoming the leader in municipal EV fleet use in the State. He informed that staff was able to significantly beat the State contract price for the purchase, further the City's sustainability efforts, and support a local vendor in Porter Nissan, which was unusual for vehicle purchases. He thanked the Conservation Advisory Commission (CAC) for their assistance throughout the process, specifically Andrew O'Donnell for playing a major role in getting EVs into the City's fleet well before his confirmation to the CAC.

The Mayor opened the table to Council comment.

Dr. Bancroft appreciated that the City was showing leadership in conservation and thanked Mr. Martindale for his efforts.

Ms. Hughes asked for clarification on the rebate and Mr. Martindale replied that one rebate was through DNREC for \$2,500 and another was a factory rebate for \$7,500 through Nissan and said that both rebates would go directly to Nissan Porter to reduce the City's out-of-pocket price. He reminded that the rebate amount was multiplied by three because the purchase was for three vehicles, but it had to take place by the end of April to secure the rebate amounts. Ms. Hughes advocated for EVs and was pleased that the City was ahead of the curve. Mr. Martindale informed that the only municipalities in the State with fleet EVs were Lewes and New Castle and only possessed two.

Mr. Horning asked if the EV maintenance was comparable to or better than gas-fueled vehicles. Mr. Martindale confirmed and informed that staff purchased the Leaf S Plus because it was the only model available via the State contract. He explained that staff purchased the long-range model and was confident the vehicles should be able to run long before they became problematic. He noted that Newark was only nine square miles so the model should cut down on charging time. He continued that staff had no issues regarding reliability and had demoed a Leaf in fall of 2019 to allow staff and mechanics the opportunity

to observe the vehicles. He added that the vehicles came with a factory warranty and Porter Nissan was in close proximity. Mr. Horning appreciated that staff purchased locally, that the deal was available through the State contract, and that Mr. Martindale made the effort to include a local dealer. He noticed the price was slightly over budget and asked if the EVs were more expensive. Mr. Martindale confirmed that he included Porter Nissan as a result of his discussions with Mr. Horning and noted that most of the CIP cost estimates were based on gas-powered models and hoped that EVs would soon be comparable. He reminded that staff also opted for the S Plus model which cost an extra amount per vehicle.

Mr. Del Grande interjected that the vehicles being replaced were 12 to 14 years old and only cost between \$11,000 and \$13,000 at the time of purchase in 2008-2009. He reminded that vehicle costs had risen substantially since the original purchase. Mr. Horning assumed there would be a savings for fuel given that the cars were electric. He asked if annual maintenance for EVs was comparable and Mr. Martindale replied the cost was comparable or less because there was no transmission associated with an EV and they had substantially fewer parts compared to a gas-powered vehicle. Mr. Horning asked if Porter would perform the warranty work locally and Mr. Martindale confirmed. Mr. Horning referred to the pricing sheet and noticed that the warranty was for 5 years/60,000 miles and assumed that the EVs would reach the year cutoff before the mileage. Mr. Martindale confirmed. Mr. Horning noted that the Hudson Motor Partnership indicated the Leaf would be assembled in Tennessee and asked if the Porter vehicles would follow suit. Mr. Martindale was unsure of the specific assembly point, but Mr. Del Grande confirmed the assembly point would be the same.

Ms. Creecy concurred with Mr. Horning's questions and asked where the charging station would be located and the associated cost. She was enthusiastic regarding the purchase. Mr. Martindale informed that three dual-port charging stations were scheduled for completion within the month: two stations would be located at City Hall so four EVs could charge at once and one dual-port station would be installed in Lot 1 behind the Galleria so two EVs could charge at once. He indicated there was a possibility to use ARPA funding to expand the charging station infrastructure and would likely be discussed at the next Council meeting. Mr. Patel added that more charging stations would be added to City Hall and Lot 1 as the City purchased more EVs.

Mr. Lawhorn and Mr. McDermott had no questions.

Mr. Clifton had no questions and was looking forward to the purchase. He noted that if electronics did not fail in the short term, then they were generally good for the long term and assumed that EVs were no different. He confirmed there were very few moving mechanical parts with EVs and private sector garages bemoaned that EV regular maintenance was tire rotation. He believed that EV long term maintenance costs would be significantly less than their fossil fuel counterparts.

The Mayor opened the floor to public comment.

Andrew O'Donnell, District 3, thanked staff and the CAC for their collaboration and enthusiasm in beginning the City's transition to EVs. He continued that the purchase would be appropriate for their assigned duties while reducing overall cost and the City's carbon footprint. He noted that while most of the original challenges of first generation EVs were resolved, the negative impressions were difficult to erase. He was confident that the City's first EVs would prove that the technology had matured and were capable of replacing every internal combustion engine in the future. He informed that EVs were in transitions across the Country and his personal 2018 Porter Nissan Leaf had performed flawlessly over three years, requiring only tire rotation and washer fluid refills. He was excited about future purchases.

Mr. Clifton noted that Mr. O'Donnell commuted to Aberdeen and asked how often he charged his EV. Mr. O'Donnell said he charged his car nightly as a habit but thought he could go two or three days.

Ms. Creecy asked if Mr. O'Donnell's electric bill increased due to the charging. Mr. O'Donnell estimated his bill had increased \$5 or \$10 per month.

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

MOTION BY MS. HUGHES, SECONDED BY MR. HORNING: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PROCUREMENT OF THREE NISSAN LEAF S PLUS MODELS FROM PORTER NISSAN AND INFINITI OF NEWARK, DELAWARE IN THE TOTAL AMOUNT OF \$89,130.

MOTION PASSED. VOTE: 7 to 0.

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

Mr. Clifton was pleased to be turning over a new Leaf.

20. 8. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

- A. Bill 21-10** – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, To Establish a Diversity and Inclusion Commission (15 minutes)

2:18:54

Ms. Bensley read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MR. HORNING: FOR SECOND READING AND PUBLIC HEARING.

Mr. Coleman noted the ordinance had been before Council earlier and explained the bill was to bring forth the final ordinance to establish the Diversity and Inclusion Commission.

The Mayor opened the table to Council comment.

Mr. McDermott thanked staff for the effort and looked forward to the Commission's establishment.

Mr. Lawhorn echoed Mr. McDermott's comments.

Ms. Creecy was honored to be a part of the ordinance.

Dr. Bancroft was pleased with the final product.

Ms. Hughes had no questions.

Mr. Horning shared complaints from District 1 that the Commission would target free speech. He thought it was important to note that the language in the ordinance indicated that the Commission was an advisory body which he interpreted as a point of communication for concerned residents. He confirmed there would be checks and balances and the City Solicitor would be involved as necessary. He supported the ordinance as written. He shared another complaint that non-City residents could be part of the Commission, but he supported including the language because Council still had the power to vote on the appointments. He recognized that it was possible that the City did not have all of the expertise that could be valuable to such an undertaking. He appreciated the concern regarding outside influence over local affairs but also appreciated that Newark was a well-functioning, non-partisan government. He thanked staff for their work.

Mr. Clifton informed that the Commission was dear to him and he hoped that Council would keep the minority communities in mind during the appointment process.

The Mayor opened the floor to public comment.

Opal Palmer, District 2, reviewed the Commission's information on the City's website and did not see a clear definition of diversity or inclusion and their related objectives. She asked if the diversity definition might include anything concerning ethnicity, skin tone, level of education, and language proficiency, and asked for the real parameters for defining diversity. She preferred a written definition in the tabulated information that she read. She also inquired about the quantitative proof that was presented to provide an understanding of diversity versus homogeneity to determine if diversity would bring the City closer to its listed objectives. She asked if the Commission would be open to and include public discussion because otherwise would be proof of exclusion. She was concerned if there was a preselected qualification for who Council would like to see on the Commission because it would definitely exclude those people who would present an alternate view in the discussions. She assumed by the Commission description that Council had determined who should be part of the Commission and she felt there was a pathway for punishment for dissenters. She thought the Commission should consist of members who could give health to the discussion and reiterated that she felt that dissenting opinions would be punished, and she was unsure how open or inclusive Council intended to be towards its goals. She reiterated that she assumed that Council had preselected what the Commission's goals to the public would be and therefore, the Commission was unnecessary because its accomplishments were preordained.

Mr. Clifton thanked Ms. Palmer for her questions and replied that diversity meant diversity and he did not believe that it required an in-depth definition. He continued that diversity in and amongst itself implied anyone and everybody. He confirmed that the Commission would be open to the public, as was practice with all of the City's boards and commissions, and refuted that any member of Council had preselected any Commission appointments. He explained the City had a public application process through the City Secretary's office that was enacted a year ago. The open seats would be duly advertised, and all applications would be considered by Councilmembers for applicants that represented the various communities within the City.

Mr. McDermott asked Ms. Palmer why she assumed dissenting opinions would be punished. She replied that what she read suggested that if someone dissented, they would be reported and dealt with. Mr. Clifton did not think that Ms. Palmer's understanding was correct, and Mr. McDermott concurred with Mr. Clifton.

Dr. Bancroft added that the application process included guardrails that may not be directly listed in the ordinance which gave guidance on the process. He agreed that definitions could be clearer, but he emphasized that the effort was in good faith and could be refined moving forward. He suggested further discussions on diversity would help put people's minds at ease.

Ms. Creecy thanked Ms. Palmer for her opinions and explained that from her experience on Council, she was quite sure that there would be some resolve and inclusiveness. She emphasized that Council was transparent and did not want to exclude anyone.

Mr. Lawhorn recalled that during the initial debates, Council had many discussions determining where it was thought that the City lacked diversity, including the management staff and Police staff. He emphasized that the discussions were to identify opportunities for improvement and that when an organization lacked diversity, it was difficult to identify solutions because of a lack of diversity. He shared that he had several constituents that expressed interest and denied that there were preselected individuals. He emphasized that Council's intent was to create a Commission that could discuss opportunities for improvement, not only for areas that had already been identified but also for others that Council was unaware. He reiterated that preselection was not a problem.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL ADOPT BILL 21-10, AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, TO ESTABLISH A DIVERSITY AND INCLUSION COMMISSION.

MOTION PASSED. VOTE: 7 to 0.

Aye – Horning, Hughes, Bancroft, Creecy, Lawhorn, McDermott, Clifton.

Nay – 0.

(ORDINANCE NO. 21-12)

21. 8-B. BILL 21-11 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, TO CHANGE THE REQUIRED NEWSPAPER NOTICE FOR PLANNING COMMISSION AGENDAS FROM 15 DAYS TO 10 DAYS (15 MINUTES)

2:34:16

Ms. Bensley reminded Council and meeting participants to mute themselves when they were not speaking because there was an excessive amount of feedback.

Ms. Bensley read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY MR. HORNING: FOR SECOND READING AND PUBLIC HEARING.

Ms. Gray welcomed Ms. Creecy and congratulated Ms. Hughes and Mr. Horning for their reelections. She explained that the bill proposed to amend Chapter 2, Section 2-84(a), to change the Planning Commission (Commission) agenda notification from 15 to 10 days. She informed that the current Code provision required a 15-day notification of the Planning Commission meeting agenda in a newspaper of general circulation within the City. Due to publication schedules, the Planning and Development Department (Department) was required to generate the next month's agenda and submit the agenda to the newspaper at least 19 days prior to the following month's meeting. She explained that the long lead

time limited the necessary flexibility for agenda revisions and added that due to the timing of advertising schedule for the legal ads, the Department was limited to using only the News Journal for advertisement. She continued that the change would create parity with the land use notices that were distributed with the Council agenda in the newspaper advertisement and direct mail notices, would allow more lead time for the Commission agenda revisions, and allowed the legal ads for the Commission agendas to be published in the Newark Post which had a wider circulation and was less expensive than the News Journal. The Department suggested the Commission recommend approval of the proposed amendment and, at the March 2, 2021, the Commission unanimously approved the recommendation that Council should approve the proposed amendment change notification from 15 to 10 days. Additionally, the Commission also included the discussion to consider advertising in both the Newark Post and News Journal. She informed that cost cutting was an objective and the Department had no issue advertising in both publications but noted that doing so would double the advertising costs.

The Mayor opened the table to Council comments.

Mr. Horning did not want to choose between media but credited the Newark Post for its coverage of the City and supported keeping costs down on behalf of residents.

Ms. Hughes had no questions.

Dr. Bancroft supported streamlining processes and saving money.

Ms. Creecy and Mr. Lawhorn had no questions.

Mr. McDermott initially questioned the legality of changing the reporting date but noted his concerns were address during original discussions. He supported the ordinance as long as the move was legal.

Mr. Clifton had no questions.

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

MOTION BY MR. MCDERMOTT, SECONDED BY MR. LAWHORN: THAT COUNCIL ADOPT BILL 21-11, AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, TO CHANGE THE REQUIRED NEWSPAPER NOTICE FOR PLANNING COMMISSION AGENDAS FROM 15 DAYS TO 10 DAYS.

MOTION PASSED. VOTE: 7 to 0.

Aye – McDermott, Lawhorn, Creecy, Bancroft, Hughes, Horning, Clifton.

Nay – 0.

(ORDINANCE NO. 21-13)

22. 9. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT: None

23. Meeting adjourned at 9:40 p.m.

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

/ns