CITY OF NEWARK
DELAWARE
CITY COUNCIL ORGANIZATIONAL MINUTES

April 19, 2018

Those present at 6:00 pm:

Presiding:	Deputy Mayor A. Stuart Markham, District 6 District 1, Mark Morehead District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn (After swearing-in)
Absent:	Mayor Polly Sierer District 2, Jerry Clifton
Staff Members:	City Secretary Renee Bensley City Solicitor Paul Bilodeau Acting City Manager Tom Coleman

1. Mr. Markham called the meeting to order at 6:00 p.m.

2. <u>RECEIPT OF CERTIFICATION BY ELECTION BOARD OF COUNCIL MEMBERS</u>

The following letter, dated April 12, 2018, was submitted by the Election Board:

"Honorable Mayor and Members of City Council:

We, the Election Board of the City of Newark, hereby certify that on April 10, 2018, the following was elected Council Member in Election District Three and Election District Five for a two-year term. There being only one candidate for Council Member in Election District Six, we declare the following candidate elected for two-year terms; said candidate is entitled to assume office without formal election pursuant to Section 10-19 of the Code of the City of Newark and 15 Del. C. Section 7555(j):

Jennifer Wallace	Council Member, District Three
Jason Lawhorn	Council Member, District Five
A. Stuart Markham, Jr.	Council Member, District Six

Respectfully submitted,
Newark Election Board"

MOTION BY MS. WALLACE, SECONDED BY MR. HAMILTON: TO ACCEPT THE ELECTION RESULTS AS CERTIFIED BY THE ELECTION BOARD OF THE CITY OF NEWARK.

MOTION PASSED UNANIMOUSLY. VOTE: 4 to 0.

Aye –Hamilton, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer

2. <u>OATH OF OFFICE GIVEN TO COUNCIL MEMBERS</u>
(Charter – Section 1102)
City Secretary Renee Bensley administered the Oath of Office to Council Members Lawhorn, Wallace and Markham.

3. <u>ELECTION OF DEPUTY MAYOR</u>

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO APPOINT COUNCILMAN STU MARKHAM AS DEPUTY MAYOR FOR COUNCIL YEAR APRIL 19, 2018 TO 2019.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.

Absent – Clifton, Sierer.

4. ELECTION OF OFFICERS – CITY TREASURER

MOTION BY MS. WALLACE, SECONDED BY MR. MOREHEAD: TO ELECT RENEE BENSLEY AS CITY TREASURER FOR A ONE YEAR TERM.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

5. RULES OF PROCEDURE

Mr. Markham noted that the memo sent to Council from Ms. Bensley had ideas for changes to the Rules of Procedure that had been submitted by Council members or staff.

Mr. Morehead shared he had asked to have the paragraph describing what items not finished at a previous meeting could or could not be removed. This would mean that Item 5 would just be items not finished at a previous meeting and would include everything that had not been finished. He felt that anything left undone deserved to be brought forward. He also thought that when Council tabled an item, it always had a date. He felt that things not finished on a certain agenda deserved to be finished next. Mr. Morehead had also suggested that items not finished at a previous meeting deserved to have public comment.

Ms. Wallace had also requested that this item be changed. She recalled there had been a few instances this year with items not being finished at meetings. She felt it was a burden to those who had waited until the end of the meeting, especially those items requested by Council members. She felt that before Council moved on to any more business, they should address those items not finished.

Mr. Lawhorn asked whether there was priority in how items were laid out on the agenda and whether those priorities changed as the meeting progressed. Mr. Lawhorn wondered whether putting old business at the top of the agenda just pushed out items earlier on that were more critical. Over time, he thought it might snowball. Mr. Lawhorn also felt that Council members should speak at the end of the meeting. He thought this would make it more likely that items of City business would be reached.

Ms. Bensley stated that regarding items not finished at a previous meeting and eliminating the paragraph in the Rules of Procedure, it was her interpretation that would only be things that were not finished due to time or that were postponed by Council at the meeting. It would not include things that were removed at the beginning of the agenda for whatever reason. Those items would go back to the category that they belonged in at a future meeting. She asked whether Council agreed with that interpretation. Mr. Markham agreed. Mr. Morehead said he may have misspoken about removing the paragraph. That was not his intent. He suggested correcting the first sentence. Ms. Bensley said she could do that.

Ms. Bensley had concerns with allowing public comment as a blanket item for items not finished at a previous meeting. She felt that for an item going from one agenda to another that would previously be open, setting a standard that there would be a public hearing was good. Her concern was for items that carried over from meeting to meeting that had specific public hearing advertising guidelines. She noted that certain topics such as ordinances or land development projects needed an advertising window if there was to be a second public hearing. She did not think she had seen that if public comment was requested, it had not been opened. Ms. Bensley was concerned with requiring advertising for a second public hearing for all items if they carried over from meeting to meeting because that may delay being able to get an item on the next agenda if it had more than a 14-day requirement for advertising that she could not make in a two-week timespan. Mr. Markham suggested that the item could inherit what it had previously. If it was started and did not have public comment, it could have public comment. If Council had already been through public comment, it would only have one public comment session. Ms. Bensley added that did not take away Council's discretion to open a topic to public comment. It would also not trigger the advertising requirements for a second public hearing.

Mr. Morehead noted that sometimes an item was sent back for more information. He felt that the public deserved an opportunity to comment specifically on that information as well. Ms. Bensley suggested it be stated that it was at Council's discretion to open items to public comment if they had not

previously been started. That could be done by a motion of Council and a majority vote. Mr. Markham did not think that such a request was usually refused.

Mr. Morehead wished to respond to Mr. Lawhorn's concern about the first suggested change. Mr. Morehead said there had been many long meetings and there had not been a situation in his time where the snowball effect had carried more than one meeting. He understood it was a possibility but noted it had not happened. Mr. Markham agreed that he could not think of a time that had happened.

There was consensus from Council to make the suggested changes to the "Items Not Finished at a Previous Meeting" agenda item. Ms. Bensley pointed out these changes would take effect for the May 14, 2018 meeting.

Mr. Morehead moved on to the third suggested change. Mr. Morehead suggested changing public comment time on public presentations to 3 minutes from 1 minute. He felt this was an issue of good democracy and welcoming, transparent governance. Ms. Wallace agreed with this change. She felt that since this item had been opened to public comment, there had not been abuse of it. Mr. Hamilton agreed that he welcomed public comment.

Mr. Morehead advised the fourth suggested change was to standardize the starting times for the public sessions of evening meetings to 7:00 p.m. He had noticed that both Council members and members of the public had trouble arriving on time to earlier meetings. Mr. Morehead noted he would not make this an absolute rule but just state that Council would prefer to start meetings at 7:00 p.m. Mr. Markham pointed out that most of the early start times were executive sessions. Mr. Markham asked if Mr. Morehead was suggesting starting executive sessions at 7:00 p.m. as well. Mr. Morehead said he was not. He felt that Council needed to maintain flexibility while setting the expectation. Mr. Markham knew the current Rules of Procedures stated that Council would start at 7:00 p.m. He asked if Mr. Morehead was looking to make that more solid. Mr. Morehead advised the Rules of Procedure say that Council meetings will start at 7:00 p.m. Mr. Morehead was referring to special meetings here.

Ms. Bensley clarified that Mr. Morehead was concerned about the language around additional meetings or workshops. The Rules of Procedure currently stated that these meetings should be held on alternate Mondays if possible with start and end times to be set at the discretion of the Mayor. She believed that Mr. Morehead would prefer to see a standardized public session start time of 7:00 p.m. across the board for all meetings since that was the standard that had been set for Council meetings. Ms. Bensley noted that in the last year with all the extra meetings, the start times had fluctuated. That was not to say that an executive session could not start earlier. Mr. Markham asked what the procedure would be if a meeting had to be earlier. He asked whether this was at the Mayor's discretion. Ms. Bensley thought that typically special meetings were discussed with Council in advance. She felt that an appropriate amendment would be to say that additional meetings or workshops should be held on alternate Mondays if possible with a preferred start time of 7:00 p.m. If the time needed to be changed, that was a procedure that Council could set.

Ms. Wallace liked this suggestion. She shared that residents often asked her when meetings start and that standardizing the time would be a benefit to the City's residents. She shared it would also be a benefit to her personally. Ms. Wallace liked the idea of stating the preferred start time was 7:00 p.m. She did not want to create a burdensome process for having a special meeting and she felt this would get the purpose across. Mr. Lawhorn agreed that setting the expectation of a 7:00 p.m. meeting was good. Mr. Lawhorn was also concerned about the procedure for a meeting that was not 7:00 p.m. He wondered if it needed to go to a vote. Mr. Markham thought that using the word "preferred" solved that problem. It allowed for exceptions if needed. Mr. Hamilton was fine with 7:00 p.m. as the standard start time.

Ms. Bensley stated the suggestions she had were ideas that she and the Acting City Manager had discussed and wanted to bring to Council's attention. In looking at Council's meetings, she was finding that there was a lot of business in front of Council and that Council was not always getting through it in a timely fashion. In an effort to adhere to Council's wishes that there be no meetings ending later than 11:00 p.m., these were some ideas they had come up with for potential streamlining of the agenda. She noted that none of these items would change the information that Council received. She was not suggesting changing any thresholds at which Council approved things or changing what they received. It was simply suggesting moving some items that tended to be lower question generating to the consent agenda instead of doing formal presentations.

The first suggestion was to place the monthly financial statement on the consent agenda and instead do a quarterly presentation to Council. Council would still get the financial statements they saw now, they would just be on the consent agenda for receipt. Ms. Bensley recognized that it was important

to keep both Council and the public updated on the fiscal health of the City and that would be done during a quarterly report. Mr. Markham noted that a Council member could request that an item from the consent agenda be pulled for discussion. This was important if the Council member saw something that drew their attention that warranted more discussion. Ms. Bensley agreed. She felt that instead of making the default a formal presentation and taking up Council's time during the meeting, it was better to make the default that if there were questions, it could be pulled from the consent agenda to be discussed. Ms. Bensley shared that Mr. Coleman had assured there would still be staff on-hand to answer questions for particular items. Ms. Bensley added that those staff would be able to leave after the passing of the consent agenda if they had nothing else on the agenda. That would signify an overtime savings as well.

Mr. Morehead pointed out that this would take the financial statement out of the public comment opportunity. He thought the issue with the financial statement was that Council members who normally asked questions would be forced to limit that. Ms. Wallace had not considered that point but noted that the consent agenda came after public comment which would give members of the public an opportunity to comment on the financial statement. Otherwise, she was fine with putting the financial statement on the consent agenda. Mr. Morehead pointed out that in the discussion of the financial statement, sometimes Council learned things because of people asking questions. He thought the follow up questions were good and could help to fix systems. If the questions were not triggered, Mr. Morehead felt they were losing something. He felt this represented a reasonably short period of time for additional work and potential difficulty that was worthwhile. Mr. Morehead gave an example that Mr. Del Grande and his predecessor always emphasized that the City's finances were dependent on the weather. Mr. Morehead thought they had the opportunity to fix that by changing the rate structures from solely volume based to other units. He thought they needed to do that work to isolate that variability in the finances. He did not feel that would have come up if Council had not been discussing this.

Mr. Coleman asked if Council had seen the updated financial report that Mr. Del Grande had prepared for the Monday, April 23rd Council meeting. Mr. Del Grande had added new charts that Mr. Coleman thought would help make things clearer and reduce questions. Mr. Coleman offered that commentary may already be reduced by the new report structure. Ms. Wallace saw value in Mr. Morehead's comments. She felt that the financial report was greatly improved partly because of Council's discussions and feedback given to Mr. Del Grande. Ms. Wallace was torn on this.

Mr. Hamilton felt that one of Council's most important responsibilities was to deal with City's finances. Mr. Hamilton stated he would have questions every month and would pull the item. He felt they needed to keep improving the way the City budgeted and their transparency. Mr. Hamilton would like to leave the item as a regular agenda item. Mr. Markham stated he was not hearing enough consensus from Council to move forward on this suggestion.

Ms. Bensley stated the next item was to place the pension and OPEB report on the consent agenda for the same reasons. Mr. Markham asked whether there would still be a presentation yearly. Ms. Bensley said that right now it was quarterly but that could be adjusted per Council's discretion. Mr. Hamilton felt it was important to leave this item as it was. He understood there may not be many questions but he did not think it took too long to hear the presentation. Ms. Wallace felt if they were not going to place financial statements on the consent agenda, they should not place pension/OPEB on the consent agenda. She felt they went together. Ms. Bensley asked if there was interest in any items being moved to the consent agenda or if she should move on.

Mr. Markham asked if it was correct that the limit of what came to Council was $25,000. Ms. Bensley said that was correct. Mr. Markham noted that they also saw some contracts. Mr. Coleman said that if there was a contract with the net total being more than $25,000 that came before Council. Mr. Markham asked if anyone wished to discuss the possibility of contracts or sales of equipment being placed on the consent agenda. There was consensus to move forward.

Ms. Bensley stated the last item suggested was to move Council and City Manager comments to the end of the agenda. Currently, the items were taking between 30 and 75 minutes on each Council meeting. They were significantly delaying getting to business items on the agenda. The suggestion was to move both groups to the end but leave public comment where it was so that was early in the meeting. Ms. Wallace understood the frustration. She shared she was sometimes frustrated that these comments took up a good portion of the meeting before they got to the agenda. However, she would not be in favor of moving them to the end. Ms. Wallace recalled that in previous years, public comment had been moved to the end of the items not on the published agenda so that the public could comment on comments made by City Manager and Council. She felt that placing it at the end while public could still comment, it would place more burden on residents who could not stay until 11:00 p.m. Mr. Hamilton was fine the way the agenda was set.

Mr. Morehead had been willing to move this but given Ms. Wallace's comment, he agreed that she was correct. Mr. Morehead had forgotten that they had moved public comment until after the Council members and City Manager specifically so that the public could comment about things they had said. He thought it was up to Council to keep comments brief. Mr. Markham agreed that Ms. Wallace was correct.

Mr. Morehead shared that John Morgan had written to Council about having the public be able to comment specifically on the City lobbyist prior to Council giving direction to the lobbyist. Mr. Morehead felt that this made sense that 3C be open to public comment prior to Council giving direction. Ms. Bensley recommended that Council consider making the lobbyist's report a published agenda item under special department reports. That would be open to public comment and early in the meeting, as opposed to starting to open things to public comment that were not on the published agenda. Mr. Morehead felt that made perfect sense. Ms. Wallace was fine with that as well. There was consensus to move the lobbyist report to under special department reports.

Mr. Hamilton noted that UD got 5 minutes. He asked whether the student representative also got 5 minutes. Mr. Markham said they did. Mr. Hamilton said he had some residents that questioned that and thought it might send a message that UD's voices weighed more heavily than regular members of the public. Mr. Hamilton asked whether they had ever had a UD student representative speak for 5 minutes. Ms. Bensley stated that in the past, there was no limit on either category. When looking at a potential to save time, Ms. Bensley recalled that Ms. Wallace had proposed a 5-minute limit on both the administration and the student body representative. Ms. Bensley said it was unusual for the full 5 minutes to be taken by either group. It was also a reaction to several presentations being made by the UD administration that had taken longer and that were not separately published agenda items. It was thought that if there was going to be a longer presentation item, it should be separate from their administration comments. This made it easier for people to know that a larger presentation was coming so they could attend or watch. It also helped staff to better plan the meetings. Mr. Hamilton was torn on limiting UD to 3 minutes. He thought that they were a large part of this town. He was okay with them having 5 minutes. He shared he would actually like to hear more from them.

Mr. Markham said that for a long time, students did not come to Council meetings. That was concerning to him because they made up a large segment of the population. If they could not bring their concerns to Council, Council had no way to communicate with them. Mr. Markham wanted to encourage the student body legislators to come to Council and have a conversation. Mr. Morehead asked if it would make sense to increase the public comment time from 3 minutes to 5 minutes. Ms. Bensley said that historically, there had been 5 minutes for public comment but there was no public comment open on agenda items except for those that required a public hearing. Several years back, Council decided to open more agenda items to public comment at the time of the agenda item in order for people to be able to hear the presentation before making their commentary. As part of that, with the thought that much of the public comment would be on specific items instead of in general public comment, Council elected to decrease the general public comment from 5 minutes to 3 minutes.

Ms. Wallace was okay with 3 minutes. She thought most residents were able to get their point across in 3 minutes. When they could not, Council had the ability to request that their time be extended and the Mayor had often been gracious about letting people finish their thought. Ms. Wallace recalled that when it was 5 minutes, there were less people making public comment. She had seen more public engagement lately and there were problems completing meetings in a timely fashion. Ms. Wallace thought 3 minutes was generous. She pointed out that other municipalities did not provide as much opportunity for public comment. She thought Newark was doing well. Mr. Markham added that people also knew they could cede time if one person wanted to speak for longer.

Mr. Morehead thought that the fact that people had asked for more time and that Council members could ask for more time was a good thing. He profoundly disagreed with the concept that the public was extending Council meetings. He felt that Council did that to themselves, including Mr. Morehead.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO AMEND PAGE 2 OF THE RESOLUTION, NUMBER 5, THE THIRD LINE AT THE END OF THE FIRST SENTENCE TO INSERT "OR WERE NOT COMPLETED DUE TO THE ADJOURNMENT OF THE MEETING". THE NEW PARAGRAPH WOULD READ "ITEMS INCLUDED IN THIS SECTION MUST HAVE BEGUN DISCUSSION/DEBATE AT THE PREVIOUS MEETING AND HAD A MOTION TO POSTPONE TO A FUTURE MEETING MADE AND ACCEPTED IN ORDER TO BE CONSIDERED UNDER THIS SECTION OR WERE NOT COMPLETED DUE TO ADJOURNMENT OF THE MEETING." THE SECOND SENTENCE WOULD REMAIN IN PLACE.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

MOTION BY MS. WALLACE, SECONDED BY MR. MOREHEAD: TO AMEND THE SAME PARAGRAPH TO HAVE AN ADDITIONAL SENTENCE INSERTED AT THE END OF THE PARAGRAPH STATING, "IF AN ITEM HAS NOT HAD A PUBLIC HEARING AT A PREVIOUS MEETING, IT SHALL BE OPEN FOR PUBLIC COMMENT. IF AN ITEM HAS PREVIOUSLY BEEN OPENED FOR PUBLIC COMMENT, COUNCIL MAY OPEN PUBLIC COMMENT AT THEIR DISCRETION FOR THIS ITEM."

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO AMEND PAGE 1, NUMBER 2, PUBLIC PRESENTATIONS, STRIKE 1 MINUTE AND ADD 3 MINUTES.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

MOTION BY MS. WALLACE, SECONDED BY MR. HAMILTON: TO AMEND THE SECOND PARAGRAPH STARTING "NOW THEREFORE BE IT RESOLVED" IN THE SEVENTH LINE AFTER "THE DISCRETION OF THE MAYOR" INSERTING "WITH A PREFERENCE FOR A 7:00 P.M. START TIME".

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

MOTION BY MR. HAMILTON, SECONDED BY MS. WALLACE: TO STRIKE ITEM 3C UNDER ITEMS NOT ON A PUBLISHED AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

MOTION BY MR. HAMILTON, SECONDED BY MS. WALLACE: TO ADOPT THE AMENDED RULES OF PROCEDURES FOR 2018-2019 COUNCIL YEAR.

MOTION PASSED UNANIMOUSLY. VOTE: 5 to 0.

Aye – Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Clifton, Sierer.

8. Meeting adjourned at 6:59 P.M.

Renee Bensley
Director of Legislative Services
City Secretary

/sjc