

**CITY OF NEWARK  
DELAWARE**

**COUNCIL MEETING MINUTES**

**May 13, 2019**

Those present at 6:30 p.m.:

Presiding: Mayor Jerry Clifton  
District 1, James Horning  
District 2, Sharon Hughes  
District 3, Jen Wallace  
District 4, Chris Hamilton  
District 5, Jason Lawhorn  
District 6, Stu Markham

Staff Members: City Manager Tom Coleman  
Acting City Secretary Tara Schiano  
City Solicitor Paul Bilodeau  
HR and Labor Relations Manager Mark Farrall  
Finance Director David Del Grande  
Public Works and Water Resources Director Tim Filasky  
Planning and Development Director Mary Ellen Gray  
Parking Manager Marvin Howard  
Parking Superintendent Courtney Mulvanity

---

*(Secretary's note: Councilwoman Wallace arrived into the Executive Session at 6:35 p.m.)*

1. Mr. Clifton called the meeting to order at 6:30 p.m.
2. **EXECUTIVE SESSION**
  - A. Executive Session pursuant to 29 Del. C. §10004 (b) (4) and (6) for the purpose of a strategy session with respect to collective bargaining when an open meeting would have an adverse effect on the bargaining position of the public body and discussion of the content of documents excluded from the definition of public record in §10002 of this title where such discussion may disclose the contents of such documents

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. §10004 (b) (4) AND (6) FOR THE PURPOSE OF A STRATEGY SESSION WITH RESPECT TO COLLECTIVE BARGAINING WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE BARGAINING POSITION OF THE PUBLIC BODY AND DISCUSSION OF THE CONTENT OF DOCUMENTS EXCLUDED FROM THE DEFINITION OF PUBLIC RECORD IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS.

MOTION PASSED. VOTE: 6 to 0.

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

Absent – Wallace.

Nay – 0.

3. **RETURN TO PUBLIC SESSION**

**1:56**

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

Mr. Clifton announced no action was required from Executive Session.

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

Mr. Markham asked to make a minor amendment strictly to the title of agenda Item 7-A. He announced the language currently said, "East Main Street," and needed to say, "East Delaware Avenue".

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: TO MAKE A MINOR AMENDMENT TO THE TITLE OF AGENDA ITEM 7-A TO CHANGING IT FROM EAST MAIN STREET TO EAST DELAWARE AVENUE.

MOTION PASSED: 7: 0.

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

Absent – 0.

Nay – 0.

5. 1. **PUBLIC PRESENTATIONS:** None

6. 2. **ITEMS NOT ON PUBLISHED AGENDA**

A. Elected Officials who represent City of Newark residents or utility customers

None.

7. 2-B. **UNIVERSITY**  
(1) Administration

**3:22**

Caitlin Olsen, University of Delaware Administration, said UD hosted The Big Event on May 4, 2019. The Big Event consisted of over 200 students who volunteered to complete community service work within Newark's neighborhoods. Ms. Olsen said Jamie Redmon from Texas A&M started the event and the program spread across the country. She was excited to see The Big Event grow and said the students had a great opportunity to work with the City's Parks and Recreation staff and the Newark Senior Center.

Ms. Olsen said commencement was scheduled for June 1, 2019. She announced the University would utilize a ticketing system for graduation seats and stated tickets were available at the University's ticket office. She said there was a commencement website with additional information.

UDon't Need It was scheduled for May 23, 2019 – May 26, 2019. Ms. Olsen said the UDon't Need It team sent out posters to advertise the event and an article was published in UDaily. She encouraged people to visit the City's website for UDon't Need It information and asked Council members to share this information in their constituent newsletters.

May 20, 2019 is the last day of classes. Exams start on May 22, 2019 and end on May 30, 2019. Ms. Olsen said smaller commencement and hooding ceremonies would take place on May 31, 2019.

Ms. Olsen thanked Ethan Robinson, Public Works and Water Resources, for his communication with the University and working with them on issues related to Main Street. She said the University recently hosted several Decision Days. Ms. Olsen said Mr. Robinson provided the University with information about where to guide students and what Main Street would like during those weekends.

Mr. Markham asked when UDon't Need It would be open to the public to find remaining items. Ms. Olsen said May 31, 2019 from 10:00 a.m. to 6:00 p.m. was a sale day and all items would be \$10. A second sale was scheduled for June 6, 2019 from 10:00 a.m. to 6:00 p.m. She encouraged people to arrive early because items typically sold out quickly. Ms. Olsen announced Habitat for Humanity would pick up remaining items at the end of the event.

Mr. Clifton was pleased that community members attended The Big Event. He heard positive responses about the event and hoped it would continue.

8. 2-B-2. **STUDENT BODY REPRESENTATIVE:**

**8:04**

Meghan Mullennix, Government Relations Senator for Student Government, announced she would remain in her position through next year (2020). Ms. Mullennix heard concerns about parking from numerous students who lived on Haines Street, North Chapel Street and Center Street. Students thought the City's solutions to address the Main Street parking issue were unfair. Moreover, Ms. Mullennix said students thought solutions for parking on those streets should be temporary; specifically, as it related to removing residential parking outside houses and setting up metered parking. She acknowledged residents on Haines Street, North Chapel Street and Haines Street had the ability to park in driveways; however, she believed there were compromises that could be made. Ms. Mullennix thought it might be beneficial not to ticket students on those streets.

Ms. Mullennix thought the approval of the Lang Hotel project would double the parking problem between October 2019 and April 2020. She believed many students thought it was unfair to remove parking in their [student] communities. Ms. Mullennix said she would have more specific comments about this issue when it became an ordinance.

**9. 2-C. CITY MANAGER:**

**9:53**

Mr. Coleman worked with Ms. Olsen and University representatives to request Patty Cannon from the State of Delaware's Opportunity Zone Program to come to Council at a regular or special meeting. He said Ms. Cannon would provide an overview of Opportunity Zones; specifically, what they are, how they work and what they could mean for Newark. Mr. Coleman asked whether Council would be willing to have Ms. Cannon present at a meeting and asked for guidance as it pertained to scheduling.

There was discussion at the table and Council expressed interest in having Ms. Cannon present at a future meeting. Mr. Clifton questioned whether it made sense to schedule Connie Holland, Director of the Office of State Planning Coordination, for the special meeting with Ms. Cannon. There was discussion at the table and staff announced they would investigate having Ms. Cannon and Holland attend the special meeting. Council's consensus was to schedule the special meeting as a workshop.

Mr. Clifton recently spoke to Ms. Holland at a Delaware League of Local Government (DLLG) meeting. He stated there were many issues presented at the March 25, 2019 Council meeting regarding Main Street and the Lang Hotel's approval (i.e. size of the hotel). Mr. Clifton said Ms. Holland was willing to speak to Council and provide guidance regarding these issues. Mary Ellen Gray, Director of Planning and Development, spoke with Ms. Holland about Comprehensive Planning and said she would come to Council to discuss Comprehensive Planning as it pertained to Main Street. There was additional discussion at the table regarding scheduling a special meeting for this matter; specifically, on June 3, 2019 or June 17, 2019. Mr. Coleman said he would check with Ms. Cannon to see whether she was available with a preference for June 17, 2019 and would work to schedule the meeting.

Mr. Coleman announced he worked with the staff to setup space in Lot #3 for Newark's downtown businesses to provide potential valet parking service during Main Street construction.

Mr. Coleman referenced a recent sexual assault that occurred on May 4, 2019. The incident involved a subject who impersonated a ride-share driver. Mr. Coleman commended the Newark Police Department (NPD) for their fine policing associated with that incident that led the subject's arrest the next day.

**10. 2-D. COUNCIL MEMBERS:**

**17:14**

**Mr. Lawhorn:**

- Reminded people that the school board election was May 14, 2019. He encouraged people to research and get out to vote.

**Ms. Wallace:**

- Questioned whether the Downtown Newark Partnership (DNP) Design meeting's location was able to be changed. Ms. Schiano confirmed this was the case.
- Stated Council had a discussion last year about City meetings that were held offsite. She said the consensus from Council was that they did not think it was a good idea to hold City meetings offsite. Ms. Wallace said Mr. Bilodeau also agreed it was not a good idea to hold City meetings offsite as it pertained to FOIA. Therefore, all meetings of City committees needed to occur at City Hall unless an alternate location was approved by Council. Ms. Wallace announced she would bring forth an ordinance about this issue after Mr. Bilodeau had a chance to review it.
- Wished all mothers, grandmothers and those who acted as mothers a Happy Mother's Day.

**Ms. Hughes:**

- Attended a grand opening for Eco Plastic Products of Delaware, a facility in Wilmington that recycled plastic bags to make items like park benches. She announced Eco Plastic Products of Delaware was located close to the Faithful Friends animal shelter. Ms. Hughes encouraged people that were interested in adopting a cat or dog to visit Faithful Friends and said it was a non-profit organization.

**Mr. Hamilton:**

- Congratulated Mr. Clifton on his mayoral appointment. He thanked Mr. Clifton for reaching out Council and involving them in the decision making process.

**Mr. Markham:**

- Reminded all of the Memorial Day parade on Sunday, May 19, 2019. The ceremony on the University Green was scheduled for 1:00 p.m.
- Reported the expansion on the Millcroft Memory Care Unit was no longer moving forward. He thought nearby residents were concerned about the property because it had been bulldozed. Mr. Coleman announced staff found out late last week that the project was halted, and they did not have an indication at this point that it would move forward. He stated the site was cleared and many trees were removed. Mr. Coleman said staff would work with the developer to fix the site and address outstanding items. Mr. Coleman believed the City had a relatively large letter of credit from the developer that could be used if they defaulted on their obligations. He did not think the developer would default on any obligations at this time.

**Mr. Clifton:**

- Attended the Bike to School Day event at Downes Elementary School on May 8, 2019. He noted Friday, May 17, 2019 was Bike to Work Day and would take place at 7:30 a.m. at the Old Hullihen loop.
- Reiterated school board elections would take place tomorrow, May 14, 2019 and encouraged all to participate.
- Echoed Ms. Hughes's comments on Eco Plastic Products of Delaware and thought it was interesting that items could be made from recycled plastics. He announced there were many Newark residents who were involved in recycling efforts with Eco Plastic Products of Delaware and said it was a 501(c)3 organization. He commended the organization's work and encouraged people to visit their website (<https://www.ecoplasticproducts.com/>).
- Attended the Old Newark Civic Association (ONCA) meeting last week (week of May 6, 2019) and said Vince Jones from the University's Office of Student Conduct was a featured speaker. Mr. Clifton commended Mr. Jones for meeting with the public and answering questions.
- Spoke with Mr. Coleman about Styrofoam recycling and said it would soon become available close to the City. The State of Delaware was scheduled to open a recycling facility on Route 40 where Styrofoam and all recyclables were permitted.
- Reiterated the City's Memorial Day Parade was scheduled for May 19, 2019. He believed it was the second oldest Memorial Day Parade in the State. He announced the event honored people who gave the ultimate sacrifice in the service of this country.

**11. 2-E. PUBLIC COMMENT:**

**28:10**

John Morgan, District 1, announced he would speak for longer than three minutes as Anita Rush ceded him three minutes of her time. Dr. Morgan said the University Trustees' Semi-Annual meeting was scheduled for 3:00 p.m. on May 14, 2019 at the STAR Campus Tower. He encouraged people to attend the meeting if they had time to see how different it was from Newark's City Council meetings. Dr. Morgan announced people were required to sign up for public comment for the University Trustees meetings at least 72 hours in advance.

Dr. Morgan believed the Main Street parking issue was important. He restated a recent sexual assault occurred approximately 10 days ago in Newark (May 4, 2019). Dr. Morgan announced a dishonest individual pretended to be a ride-share driver and picked up and assaulted a young undergraduate female. He did not believe this was an isolated incident. Dr. Morgan thought there reports earlier this year (2019) of young ladies who were approached on the street late at night and were asked if they needed a ride. He thought this highlighted the fact that Newark had significant ongoing safety problems that were close to campus and occurred late at night. Dr. Morgan believed the safety concerns were especially significant for young women and thought it had been a problem for decades.

Dr. Morgan referred to his comments at the Special Council meeting on April 29, 2019 regarding Main Street parking. He thought safety issues would be raised for young female students if the City forced them to park their cars at some distance from their normal place of residence. Dr. Morgan referred to Ms. Mullennix's comments earlier tonight about student parking. If the City were to eliminate all downtown parking requirements, Dr. Morgan thought that much of the land – which was now occupied by parking lots – would have more intensive structures. If this was the case, Dr. Morgan thought there would be a push to extend parking into other areas that currently did not have parking meters. Dr. Morgan believed this would adversely affect people who lived on Haines Street, Center Street and others. He urged Council to consider this and thought many of the Parking Subcommittee's recommendations made sense; however, he thought eliminating parking requirements did not make sense.

Dr. Morgan thought it would have been better to have a meeting on the upcoming construction several months earlier before the Lang Hotel project was given its parking waivers by the Planning Commission. He distributed a multi-page printout at the dais and said the first page stated what was supposed to happen for any business that was granted a parking waiver. Dr. Morgan said the printout included minutes from Planning Commission meetings where parking waivers were considered for the restaurants at 90 East Main Street. The first waiver was considered in 1986 for Bread and Company and again in 2007 for Caffè Gelato. Dr. Morgan thought applicants were required to demonstrate that the proposed use was not highway oriented in character or significantly dependent on automobile or truck traffic as a primary means of conducting business. He thought this should be interpreted that either a business provided adequate parking on its own property for its employees and customers or it was given a parking waiver. If the parking waiver was granted, Dr. Morgan thought the business should not be dependent on automobile traffic as a primary means of conducting business.

Dr. Morgan thought it did not make sense for any business owner that received a parking waiver to come to Council and claim they would go out of business if certain actions were not taken. He hoped Council would keep this in mind if any business owners showed up in the future with a similar request.

Jean White, District 1, questioned what would happen to the land underneath the Christiana Towers after they were demolished. She asked whether the University considered repurposing part of the Marriot Courtyard. Mr. Clifton spoke with Bill Sullivan from Marriot who announced the lease was in effect until 2024. Mr. Clifton said Council did not have information regarding what would happen with the land underneath the Christiana Towers after they were demolished.

Ed Klima, Aetna Hook Hose and Ladder, announced the organization's president, Dan Seador attended the meeting. Mr. Klima said Aetna intended to attend at least one Council meeting per month to improve communication between the City and Aetna. He announced there was a significant fire today (May 13, 2019) in the Woodmere neighborhood. Mr. Klima said Aetna responded to 829 EMS calls this last month and responded to 247 fire calls. He said Aetna was scheduled to host a Fire-Ops 101 on June 5, 2019. Members of Council and other community leaders would be invited to attend the event. Mr. Klima said Fire-Ops 101 provides an overview of the fire service as well as what firefighters face on a daily basis. He stated attendees would have the opportunity to put fire gear on, pull hose lines perform and other duties. Mr. Klima said Council would receive an electronic invitation to the event and would provide a more detailed report next month.

- 12. 3. APPROVAL OF CONSENT AGENDA:**
- A.** Approval of Council Meeting Minutes – April 22, 2019
  - B.** Approval of Special Council Meeting Minutes – April 29, 2019
  - C.** Resignation of Gordon Hendry from the District 6 Election Board

**38:37**

Ms. Schiano read the consent agenda into the record.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

- 13. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None**
- 14. 5. APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS: None**
- 15. 6. SPECIAL DEPARTMENT REPORTS:**
- A.** 1<sup>ST</sup> Quarter Pension/OPEB Report –DT Investment Partners

**39:06**

*(The presentation for this agenda item is attached to this document and referred to as Exhibit 6-A)*

Mr. Del Grande welcomed Andy Zimmerman to the dais and said he was the City's advisor for pension and OPEB funds. He said OPEB stood for, "Other Post-Employment Benefits. Mr. Del Grande stated Mr. Zimmerman helped City staff and Council draft the City's policy for the pension fund. Mr. Del Grande said Mr. Zimmerman assisted the City to ensure Vanguard followed all the City's financial policies and properly managed the pension and OPEB funds.

Andy Zimmerman announced he was one of the owners of DT Investment Partners. He said the firm was hired by the City in the spring of 2016 to help create an investment policy statement for the management of pension and OPEB assets. Additionally, Mr. Zimmerman said the firm was hired to craft an RFP for the City and conduct a search and Vanguard was chosen to manage both funds. Mr. Zimmerman announced the RFP and search were conducted at a significant fee reduction to the City. He said there was one investment policy statement that governs the management of the pension and OPEB accounts. Mr. Zimmerman said both accounts were managed identically. Furthermore, both accounts had identical asset allocation, the same securities and the same weightings.

Mr. Zimmerman referred to the OPEB and pension performance detailed in Exhibit 6-A. He described the fourth quarter of 2018 as rocky. Mr. Zimmerman announced the accounts had a nice comeback in the first quarter which ended on March 21, 2019. For the first quarter, the pension's rate of return was 9.62% and the OPEB's rate of return was 9.66%. He referenced the underlying mutual funds that Vanguard selected in comparison to benchmark indices for each of the asset classes (see Exhibit 6-A).

Mr. Zimmerman discussed the portfolio asset allocations versus the City's guidelines (see Exhibit 6-A). Both portfolios followed the Asset Allocation Guidelines and outperformed the strategic target allocation benchmark for the first quarter of 2019. Mr. Zimmerman said U.S. Large Cap Stocks and Real Estate was the best performing asset class for the quarter. He said U.S. economic growth had been positive and was not too strong as to create inflation or risk recession. Mr. Zimmerman said China experienced economic growth and hoped the U.S. trade dispute would yield a positive resolution.

Mr. Clifton opened discussion to the table.

Mr. Markham questioned whether the portfolios were overexposed to tariffs. Mr. Zimmerman believed a nice feature about an asset allocation portfolio was their exposure to 10 broad asset classes. He stated roughly 40% of the portfolio was in bonds. Mr. Zimmerman said bonds typically did well when stocks struggled. He hoped an agreement would be reached between the leaders of the U.S. and China at the G20 summit in Japan on June 28, 2019. Mr. Markham questioned whether International classes would be balanced. He asked whether International Developed was cheaper in the U.S. and Mr. Zimmerman said Vanguard confirmed this was the case and predicted the U.S. dollar would weaken in the second half of this year.

Mr. Markham asked for clarification regarding why the City appeared not to have Investment Grade Bonds. Mr. Zimmerman said the City had Investment Grade Bonds; specifically, Treasuries, Investment-Grade Corporates and Agency Mortgage Backed Securities.

Mr. Hamilton thought the Federal Reserve announced they would not lower interest rates a few weeks ago and thought this affected the market. Mr. Zimmerman said the Federal Reserve declared interest rates were on hold and would not raise them or cut them. He believed the Federal Reserve would cut rates if need be.

Ms. Hughes was interested to learn more about this process. She questioned how Mr. Zimmerman was able to be certain the numbers and calculations were in the right realm because of what the market was doing. Ms. Hughes believed the market's volatility impacted Newark's OPEB and Pension funds. Mr. Zimmerman confirmed the market's volatility had an impact on Newark's OPEN and Pension funds. He said the S&P was up 17% YTD prior to the last week and a half; however, the S&P was still up 12% YTD. Ms. Hughes asked whether Mr. Hughes was confident in these calculations and he confirmed this was the case.

There was no public comment.

Mr. Clifton brought discussion back to the table.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: TO ACCEPT THE 1<sup>ST</sup> QUARTER PENSION/OPEB REPORT.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – .

Nay – 0.

16. 6-B. **RESOLUTION NO. 19-N: A RESOLUTION AUTHORIZING THE CITY OF NEWARK TO OPT INTO THE STATE OF DELAWARE'S WORKERS COMPENSATION SYSTEM AND AUTHORIZING THE CITY OF NEWARK TO ACCEPT THE PROPOSAL OF THE DeLEA FOUNDERS INSURANCE TRUST ("DFIT") WORKERS COMPENSATION GROUP SELF-INSURED MUNICIPAL FUND**

54:31

(The presentation for this agenda item is attached to this document and referred to as Exhibit 6-B)

Ms. Schiano read item 6-B and 9-A (Bill 19-11) into the record. She announced items 6-B and 9-A would be discussed simultaneously.

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: THAT THIS BE THE SECOND READING AND PUBLIC HEARING FOR BILL 19-11.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

Mr. Coleman said the resolution would opt the City into the State of Delaware's Workers Compensation insurance program. He stated the City currently was self-insured for Workers Compensation coverage. Over the recent months, it became clear to staff that they no longer wanted the City to be self-insured and they believed it was the appropriate time to move into the State's Workers Compensation program. Mr. Coleman said staff worked with the *DeLea Founders Insurance Trust* (DFIT) to put together a proposal for Council's consideration. He said DFIT is a municipally owned insurance trust that is organized through the Delaware League of Local Governments.

According to Mr. Coleman, one of the downsides of Newark being self-insured was that it was difficult to compile information to get a market quote on the market itself. As such, Mr. Coleman said the only option outside of DFIT would be through the State's assigned risk-pool. He described the State's assigned risk-pool one of the most expensive workers compensation options. Mr. Coleman announced DFIT played an active role in helping the City move forward with the Safety Committee. He stated staff met with DFIT to ensure they were comfortable with the proposed program.

Mr. Coleman welcomed Theresa DeSanto from Strategic Insurance Partners and Vince Capaldi from the Bay Oaks Group to the dais. He announced Ms. DeSanto would make a presentation to Council to provide information on DFIT as a group. Mr. Coleman said there were 26 municipal members of DFIT across the State including Kent County, their largest member. He spoke highly of DFIT's coverage and track record in the State.

Theresa DeSanto, Director at Strategic Insurance Partners, announced DFIT created a huge benefit for Delaware municipalities. She stated DFIT was created to provide an insurance alternative for workers compensation coverage in the State of Delaware for municipalities. Ms. DeSanto provided a history of DFIT's formation and growth as referenced in Exhibit 6-B. She highlighted DFIT received approval and certificates of authority issued by the Delaware Department of Labor (DOL) and Delaware Department of Insurance (DOI).

Ms. DeSanto announced DFIT accumulated approximately \$3 million in surplus funds; specifically, dollars that were not spent on claims. She attributed DFIT's success to their claims mitigation strategy and Safety Committee (see Exhibit 6-B). Ms. DeSanto said DFIT worked with the City for a few months to help them better mitigate their safety and risk management planning. She believed Newark would be a wonderful addition to DFIT's program. Ms. DeSanto said DFIT would be able to return premiums in future years under the current program.

Ms. DeSanto discussed DFIT's program highlights (see Exhibit 6-B). She emphasized DFIT was sponsored by the Delaware League of Local Governments and was the premier placement for municipal insurance in the State. Ms. DeSanto discussed DFIT's philosophy as it pertained to managing the cost of risk proactively by identifying cost drivers for each individual member. She said DFIT had a general safety program and individualized work with each member. Ms. DeSanto said DFIT adjusted plans throughout the year as necessary and provided updates to all members at Safety Committee meetings. She discussed DFIT's culture of safety awareness and best practices (see Exhibit 6-B).

Ms. DeSanto discussed DFIT's results that were achieved since the program's inception in 2008. She announced DFIT utilized numerous regulatory and program controls. She highlighted DFIT's award winning risk-control and safety programs that continued to mitigate claims and reduce costs throughout the year (see Exhibit 6-B). Ms. DeSanto said members' insurance premium dollars that were paid into the plan stayed with them; moreover, the money belonged to the respective members. There was approximately \$2.1 million in policy holder surplus, which accumulated since 2018. Ms. DeSanto announced future accumulating funds may be utilized in the future to stabilize rates, offset costs and return dividends to members. She stated DFIT recently formed a Financial Committee where they started to talk about investment of these monies.

Ms. DeSanto listed the benefits of self-insuring as it pertained to DFIT for the City as follows (see Exhibit 6-B):

- No longer subject to the DCRB/DOI rates
- No longer subject to the claims' performance of all employees in Delaware and nationwide
- Significantly reduced insurance company overhead costs
- Profitability component

Ms. DeSanto announced DFIT was accountable to the DOL and the DOI on a quarterly basis with their financial reporting. She stated DFIT performed a year-end financial audit as if they were a municipality. Ms. DeSanto said DFIT posted a \$750,000 Self-Insurance Bond with the DOI. She announced Trinidad Navarro, Insurance Commission for the State of Delaware, was a strong supporter of DFIT. Ms. DeSanto discussed risk control and program protections (see Exhibit 6-B). She said DFIT had state-of-the-art claims administration through PMA Companies. Ms. DeSanto stated Ryan Sharp from PMA Companies was in the audience and would assist with questions.

Ms. DeSanto thought it was important to emphasize DFIT was organized as a trust. She announced DFIT had a Board of Trustees. Due to the City of Newark's size, Ms. DeSanto said they were automatically entitled to a seat on the board of trustees. She discussed the various committees and their roles regarding risk management (see Exhibit 6-B).

She discussed DFIT's organizational structure and outlined in Exhibit 6-B. She emphasized Strategic Investment Partners (SIP) functioned as the Insurance Plan Administrator and provided oversight of vendors. Ms. DeSanto described the process by which premium funds were allocated, with 30% fixed costs and 70% variable costs (see Exhibit 6-B).

Ms. DeSanto introduced Vince Capaldi, Bay Oaks Group, to discuss the excess coverage provided to DFIT's workers compensation program. Mr. Capaldi said PMA was DFIT's insurance broker and consultant. He listed PMA's Delaware clients:

- State of Delaware
- Wilmington University
- DART
- City of Wilmington
- Bayhealth Medical Center

Mr. Capaldi discussed the importance and reasoning behind segregated fund years for DFIT's program (see Exhibit 6-B).

Ms. DeSanto discussed the annual risk-mutual services and supports that would be available to the City of Newark through their premium (see Exhibit 6-B). She stated DFIT conducted an annual loss-trend analysis that was available to all members.

Ryan Sharp, PMA Companies, provided a brief overview of PMA's history. He discussed PMA's claims management strategy and process as it pertained to Newark (see Exhibit 6-B). Mr. Sharp said claims management was an important part of the workers compensation program. PMA's intent for claims management was to take great care of Newark's employees and utilized a holistic approach. Mr. Sharp believed PMA's holistic approach to claims management would drive down the City's workers compensation spending. He discussed PMA's detailed internet claim reporting services, claim number notifications, loss analysis reports and other services (see Exhibit 6-B). Mr. Sharp announced PMA had a full-service claims office in Wilmington, Delaware and said PMA's satisfaction rates and retention scores were outstanding.

Mr. Sharp stated the City of Newark would have three service teams and listed them as follows:

1. DFIT Program Administration (SIP);
2. Claims (PMA), &
3. Risk Control (PMA).

Ms. DeSanto said DFIT's partnership with PMA was very beneficial and observed amazing financial results. She described the provider network in the State of Delaware through PMA as robust and said there was practically no provider that was not on their list. Ms. Santo stated PMA negotiated their fee schedule with in-network providers and savings would pass on to DFIT's membership. She emphasized DFIT's program was run by the membership which consisted of elected officials and members of the program. Ms. DeSanto said Messrs. Clifton and Coleman had already attended several stewardship meetings.

Mr. Clifton opened discussion to the table.

Mr. Horning questioned how the legal defense fees were covered. Ms. DeSanto said legal defense was handled by PMA. She stated PMA had a legal panel and announced attorney John Klusman, Jr., Tybout, Redfern & Pell, was chosen for most work because of his expertise. Ms. DeSanto said Scott Wilcox, Whiteford, Taylor & Preston, LLP, was the attorney for DFIT. Mr. Horning questioned whether the City would pay out of pocket at any point for legal fees under the program. Ms. DeSanto announced legal fees were covered by the program; specifically, claims that went to the Industrial Accident Board (IAB) were covered by the program. Mr. Sharpe confirmed this was the case and stated legal fees with respect to workers compensation litigation were included in the claims costs and were factored into the rates.

Mr. Lawhorn was happy to see that safety training was integrated into the program and acknowledged Mr. Coleman's efforts to improve Newark's safety culture. He thought this matter was important and appreciated the use of metrics to support the program. Mr. Lawhorn believed the program would create a better work environment and would be financially beneficial to the City and its taxpayers.

Mr. Markham thought the DFIT program seemed to fit into the City's plan. He asked for clarification regarding how arbitration was handled. Ms. DeSanto said DFIT handled arbitration. Mr. Markham questioned whether arbitration took place before entering into the court system. Mr. Sharp said the arbitration system in the State of Delaware was handled through the Industrial Accident Board (IAB). Mr. Sharp clarified claims that came up for arbitration were handled through the IAB and DFIT would be responsible for handling that claim, including arbitration directed through that system.

Mr. Markham questioned where DFIT's meetings were located. Ms. DeSanto said the DFIT quarterly stewardship meetings were held at the Kent County Administrative Complex on Bay Road in Dover. She announced the next stewardship meeting was scheduled for June 5, 2019 and welcomed Council and staff to attend. Ms. DeSanto stated Safety Committee meetings were held nine times per year at the Kent County Emergency Response Building. The final Safety Committee meeting was scheduled for May 21, 2019.

Mr. Clifton said the Kent County Emergency Response Building was located by the old Blue Hen Mall, just north of Dover Air Force Base.

Ms. Hughes asked for clarification regarding the safety review process; specifically, what steps were taken before bringing a new member into the program. Ms. DeSanto said every new applicant had to go through a process with DFIT's Board of Trustees. She stated there were written policy and underwriting requirements. When the City of Newark applied to the program, Ms. DeSanto said they went through an actuarial review. Ms. DeSanto announced DFIT staff held a physical meeting with City staff and walked through the Newark's current safety plans. She said applicants were required to go through a risk assessment that showed their current status. This helped DFIT understand how to best work with new members that came into the program. Ms. DeSanto announced the Board of Trustees voted unanimously to accept Newark's application into the program.

Mr. Clifton opened discussion to the public.

John Morgan, District 1, said he attended Council meetings for the past five years. He noticed there had been a large amount of Executive Sessions that were held to discuss the purpose of discussion related to a workers' compensation claim. Dr. Morgan questioned the average cost to the City for a workers' compensation claim. He also wondered what the estimated savings would be for the City by

going with DFIT as opposed to what it did in previous years. Mr. Coleman said the City's current method for handling workers compensation insurance was fairly unique as it was run through employees' regular health insurance. He announced this made it difficult for the City to track the actual cost of the program. Additionally, Mr. Coleman said the current method for workers compensation insurance resulted in no direct financial savings; specifically, because health insurance premiums are based on a 10-year look-back. Each year that Newark moved through the program, Mr. Coleman believed workers compensation claims would fall off the back end of that lookback. While DFIT would be more expensive initially, the cost would initially decrease and would be close to comparable to the current costs.

Dr. Morgan questioned whether it was possible to estimate how much extra the City would pay in the next year or two. Mr. Coleman referenced staff's recommendation dated May 6, 2019 and said the 2019 estimated budget total budget impact was \$537,605. The estimated 12-month premium impact was \$847,513.

Mr. Clifton brought discussion back to the dais for further deliberation from Council.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT THE CITY ADOPT THE PROPOSED RESOLUTION WAIVING THE BID PROCESS AND ENTERING DFIT AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

**(Resolution No. 19-N)**

**17. 9. ORDINANCES FOR SECOND READING & PUBLIC HEARING:**

- A.** Bill 19-11 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, Regarding the Provision of Worker's Compensation Insurance for All City Full Time Employees and Specified City Part Time Employees

**1:41:16**

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, REGARDING THE PROVISION OF WORKERS COMPENSATION INSURANCE FOR ALL CITY FULL TIME EMPLOYEES AND SPECIFIED CITY PART TIME EMPLOYEES.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

**(Ordinance No. 19-15)**

**18. 6-C. RESOLUTION NO. 19-O: A RESOLUTION AUTHORIZING A CHARTER AMENDMENT PERMITTING THE CITY OF NEWARK TO PROVIDE SEWER SERVICE OUTSIDE CITY LIMITS**

**1:42:17**

Ms. Schiano read item 6-C into the record.

Mr. Clifton thought this matter was a housekeeping ordinance for the City as he believed the State would be involved.

Tim Filasky, Director of Public Works and Water Resources said the City requested that the State to process this Charter amendment due to the number of annexed properties over the years. Mr. Filasky said annexations for properties typically occurred in a piecemeal manner; moreover, annexations were attributed to septic systems failure. He said Newark did not provide all City services with those annexations. Mr. Filasky stated Council asked staff to come back with options to provide sanitary sewer service without having to annex those properties into the City of Newark. Mr. Filasky said Mr. Bilodeau added a provision to the amendment which required the property owner to request the services; moreover, the City of Newark and NCC's (NCC) Department of Public Works would be required to sign off. He reiterated the amendment did not require annexed properties to have City sewer services and it only

enabled them to start the process. Mr. Filasky clarified the resolution would give the City the ability to get the Charter amended.

Mr. Clifton opened discussion to the table.

Mr. Hamilton questioned whether the City would be required to assume the cost and responsibilities associated with annexed properties who did not have sewer, or if their sewer was old and crumbling. Mr. Filasky said City sewer services would not be automatic and stated the resolution would provide the City with the ability to provide sewer service. He clarified the City did not want crumbling infrastructure from an environmental standpoint and said the intent was to provide sewer service through either the City or NCC. Mr. Hamilton asked how this would affect future annexations.

Mr. Coleman announced the resolution allowed the City to avoid annexation. In the past, Mr. Coleman said DeIDOT held Newark responsible for maintenance responsibilities for the street when properties were annexed. If a neighborhood annexed in for sewer service, Mr. Coleman said it would be one that would not currently have sewer service. He clarified the City would not necessarily take over any crumbling infrastructure.

Mr. Markham asked for clarification regarding the annexation process regarding the resolution. He questioned whether properties seeking annexation would be required to go through the Planning Department and other departments/commissions prior to coming to Council. Mr. Markham believed this method was a property by property. Mr. Filasky said properties would be allowed to go through that process and come back to Council if they still wanted to annex in. Mr. Markham did not support a piecemeal approach to annexation as he thought there would be inconsistencies in service levels.

Mr. Clifton asked if the Code changes would come back to Council for First Reading and Second Reading if the state approved the request. Mr. Bilodeau announced the City Code required properties to be within City limits in order to receive sewer service. Therefore, Mr. Bilodeau announced it would be necessary to amend the City Code after the Charter Amendment is enacted. Mr. Markham believed annexations raised more questions and had more complications. He thought the proposed resolution addressed concerns in areas outside his district (District 6) about annexing failing septic systems into the City's property. Mr. Markham thought the proposed resolution solved the problem for the City.

Ms. Wallace thought it made sense to wait until the resolution passed to have a larger discussion about the process. She supported the resolution and said it always bothered her that there were different levels of service for some of the annexations. Ms. Wallace thought the process was confusing and potentially cost the City money. She thought the resolution allowed the City to act neighborly and do the right thing.

Mr. Horning thought the express intent of the resolution as written was very clear. He received a question from a constituent as it pertained to statutory interpretation. Mr. Horning said one constituent currently was going through the sewer tie-in process. Since there was no existing easement, Mr. Horning said the constituent was required to approve a new easement through her property to get it done. Mr. Horning questioned whether the resolution would affect the approval process for the constituent or if it was a tie-in option. Mr. Filasky confirmed the constituent could still move forward. Mr. Coleman announced the resolution would not change any property rights and said the person who wanted to tie-in would still be required to get an easement to the property owner in order to proceed.

Mr. Clifton opened discussion to the public.

James Creque, District 4, asked for clarification about this process. He thought there were people outside of Newark who experienced problems with the sewers; moreover, he questioned whether the solution to their problem was to become part of the City. Mr. Coleman announced these properties had on-site septic systems which were failing. Pursuant to Newark's Charter, Mr. Coleman said the City was not allowed to provide sewer service outside of the City's limits. Mr. Coleman clarified NCC did not have sewers in the area; therefore, annexation into the City and connection to the sewer system was the only option. While this option was fine, Mr. Coleman stated it was relatively expensive and time consuming. Mr. Coleman announced the State's rules did not permit property transfers with failing septic systems. He announced most septic systems older than 15 years were most likely failing. Mr. Coleman said most failing septic systems were discovered during property sales. By that time, it was a race to attempt to get through the City's annexation process. Mr. Coleman said many of the properties ended up putting new on-site septic systems in which generally was more expensive, and it was worse for the environment.

Mr. Creque questioned whether property owners or the City of Newark paid for the connection. Mr. Coleman said whoever wanted to connect was required to pay for the connection.

John Morgan, District 1, thought the City did a lot of piecemeal annexations, particularly in the western part. Dr. Morgan believed piecemeal annexations resulted in some cases of the City completely surrounding an enclave, which was still in NCC. He referenced the triangular piece of land where part of the Studio Green Apartments were located, which had a number of problems. Dr. Morgan questioned Mr. Bilodeau previously about getting a Charter amendment which would allow the City of Newark to annex a piece of NCC property that was completely surrounded by the City. He wondered if the City had made any progress in developing a Charter amendment to allow the City of Newark to do that. Mr. Bilodeau said he investigated this matter and did not believe Dr. Morgan's suggested Charter amendment would be legal. Dr. Morgan thought State law might be required to be amended in order to make his suggestion legal.

Mr. Hamilton thought it would cost the City millions of dollars to annex the section of property at Studio Green Apartments. Mr. Coleman said it would only cost the City a large amount of money if they attempted to take the electric service from DP&L. Mr. Coleman clarified the electric service could be left with DP&L and it would not cost the City anything. He announced the Studio Green Apartments were scheduled to transfer on May 20, 2019; therefore, he hoped to contact the purchaser to see if they could get that triangle annexed in. Dr. Morgan frequently took the University bus in the area and thought the area had gone downhill. He believed this caused problems that negatively affected nearby City properties.

Peter Yonko, Physics teacher at Newark Highschool, said he lived in the Covered Bridge Farm neighborhood that was impacted by this Charter change. He was a member of the neighborhood's Maintenance Board. Mr. Yonko thought there did not seem to be much support for annexation; however, he believed many of his neighbors needed to do something about their septic systems. He went to the laundromat to wash his laundry because his system was failing. Mr. Yonko hoped this Charter change would pass and stated he and other neighbors worked with Mr. Coleman and staff and hoped it would pass at the State level and would receive the Governor's signature. Mr. Yonko emphasized his neighborhood did not have another option and stated the NCC sewer connection was across White Clay Creek and was very expensive.

Mr. Clifton agreed with Mr. Yonko's concerns and said sewer failures for the Covered Bridge Farm neighborhoods potentially would create problems for City properties. Mr. Yonko stated Covered Bridge Farm attempted to get sewer for years and it had been a difficult process. He thanked staff for their efforts and hoped the amendment would pass.

Mr. Clifton brought discussion back to the table for further deliberation by Council.

Mr. Hamilton asked for an estimate related to offering sewer services at Covered Bridge Farms. Mr. Filasky said the cost depended on the type of system; however, he thought the cost would be approximately \$15,000-\$20,000. Mr. Coleman said the Charter change would provide NCC with the option to serve Covered Bridge Farms; specifically, NCC could put in the sewer and tie into the City. This would permit NCC to run and operate the system in that neighborhood with a connection to the City. Mr. Hamilton questioned how this would work in 50 years if Covered Bridge Farms was not annexed into the City and Mr. Filasky said they would pay sewer fees. Mr. Filasky thought it would be a similar situation to out of town sewer. Mr. Coleman confirmed this was the case and stated the City conducted a cost of service analysis and set the rates accordingly. Mr. Coleman clarified there would be multiple rate classes.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: THAT COUNCIL APPROVE A RESOLUTION TO REQUEST AMENDMENTS TO THE NEWARK CITY CHARTER, BEING CHAPTER 152 OF VOLUME 48, LAWS OF DELAWARE, BY ALLOWING THE CITY OF NEWARK TO PROVIDE SANTARY SEWER SERVICE TO CERTAIN PROPERTIES OUTSIDE OF THE CORPORATE LIMITS OF THE CITY OF NEWARK.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.  
Absent – 0.  
Nay – 0.

**(Resolution No. 19-O)**

**18. 6-D. RESOLUTION NO. 19-P: A RESOLUTION TO REQUEST NCC GOVERNMENT RESTORE THE CITY OF NEWARK'S LOCAL SERVICE CREDIT FOR FIRE SERVICE FOR COUNTY FISCAL YEAR**

**2020; FREEZE THE IMPLEMENTATION OF ANY CHANGE IN THE LOCAL SERVICE FUNCTION PROCESS UNTIL ALL MUNICIPALITIES ARE PROVIDED AN EQUITABLE OPPORTUNITY TO DISCUSS ANY RECOMMENDED CHANGE; AND URGE THE COUNTY TO ESTABLISH SEPARATE FUNDS FOR GOB AND LOCAL SERVICE FUNCTIONS TO PROVIDE FULL TRANSPARENCY REGARDING THE FUNDING OF COUNTY SERVICES**

---

Ms. Schiano read item 6-D into the record.

Mr. Clifton welcomed NCC (NCC) City Council President Karen Hartley-Nagle and thanked her for attending the meeting.

Mr. Del Grande said the resolution this evening was to urge NCC Council to delay the approval of the 2020 County Revenue Ordinance. Over the years, the local service process remained relatively unchanged. Mr. Del Grande announced the City had always received the local service credit in the past for fire service. He said Newark received a credit for every service provided by NCC since 1982. When Newark residents and taxpayers received their annual tax bill, they would only pay for services that Newark residents did not receive from the City:

- Library services
- Recorder of Deeds
- Register of Wills
- Sherriff
- EMS/Paramedic system

NCC sent out their annual local service application to Newark on November 1, 2018 for completion. Mr. Del Grande emphasized the ability to apply for a fire service credit was removed from the application and there was no explanation. After staff brought the removal of the service credit to NCC attention, they returned it to the application and the City completed the application for the local service credit for FY2020. Mr. Del Grande said all municipalities were invited to attend a meeting at NCC on March 26, 2019. At this meeting, staff learned that the local service process was reviewed, and changes were made to the low-hanging fruit. Mr. Del Grande stated Newark's fire service credit was considered part of the low-hanging fruit and it was removed. He said City staff and NCC staff debated the fact that Newark's subvention provided to Aetna every year was equal to NCC's grant; specifically, regarding allocation and percentage of budgets. Mr. Del Grande believed Newark satisfied the intent of State Code; however, NCC disagreed. He said NCC referred to their removal of Newark's fire service credit as correct and legal.

Mr. Del Grande said NCC acknowledged the process of reviewing the local service process was not complete at their meeting on March 26, 2019. He said City staff brought up issues regarding equity and transparency with NCC and said it appeared other municipalities received credits which they should not receive (i.e. Odessa and Townsend with police service credits). According to Mr. Del Grande, Odessa and Townsend issued about \$45,000 a year collectively, just to run speed enforcement and they did not have their own police forces. Therefore, Odessa and Townsend did not pay for police services from NCC or the State.

Mr. Del Grande said there was significant focus to ensure every municipality paid exactly for what they received. However, he thought there was no attention as to where the funding went. Mr. Del Grande said NCC had a budget of \$300 million and \$200 million went to NCC's one [and only] general fund. Therefore, all services for paramedic, police and library etc. went to the same general fund in NCC. Mr. Del Grande said there was no ability for anyone outside NCC to see what made up the local service budget. Mr. Del Grande felt it would be best for NCC to be transparent and publish their budget. Additionally, Mr. Del Grande thought NCC's General Operating Budget (GOB) budget should be separated from the local service budget.

Mr. Del Grande announced staff asked NCC to respectfully suspend this process until they had a chance to review the entire local service process. He announced he previously worked directly with the local service process for over 15 years when he worked for NCC from 1999-2016. Mr. Del Grande understood the local service process needed to be revised and simplified; however, he thought it was not appropriate to remove the local service credit at this time.

Mr. Clifton opened discussion to the table.

Mr. Lawhorn commended Mr. Del Grande for his work. He believed this was a complex issue that needed to be addressed. While he believed NCC's review of the local service process stemmed from a logical and good place, he thought it was incomplete. Mr. Lawhorn thought NCC did not understand why

Newark needed the local fire service credit and believed they did not understand the implications of removing it. Mr. Lawhorn thought NCC needed to finish the review process to understand it. He echoed Mr. Del Grande's comments about inconsistency in the process and did not think it made sense to take money from Newark for the fire service credit. Mr. Lawhorn believed NCC's removal of the fire service credit took money away from Newark's residents without justification. He thought the process could be reviewed as it pertained to fairness for all residents.

Mr. Horning thanked NCC Council President Karen Hartley-Nagle for attending the Council meeting. He asked for clarification regarding the original and corrected applications that Newark received from NCC. Mr. Del Grande said the City typically received the same application every year and it was the same application that was sent to all municipalities. Mr. Del Grande announced municipalities typically were given a fair opportunity to apply for service credits etc. He said applications were submitted by the due date and there was no response given to the municipality about their qualifications. Mr. Del Grande described the process as a paper transaction that took place for the past 50 years. If there was any change in the local service credit function for any given year, Mr. Del Grande said it generally took place at least a year in advance of the actual application. Therefore, Mr. Del Grande said NCC and the City would work together to handle the function well in advance of any budgetary process.

Ms. Wallace thought there needed to be a larger discussion among municipalities and NCC. If the local service credits would be changed, Ms. Wallace did not think it should be done as a part of the budget process this year. Moreover, she believed there needed to be a conversation, agreement and changes could be rolled out with the next budget process. Ms. Wallace referenced the conversation from the April 22, 2019 Council meeting about the need for additional transparency and having a separate fund. She thought all items should be separately identified as part of a local service fund for it to be more equitable and transparent. Ms. Wallace believed separate identification of funding would help people to understand what they paid for and where the funding went.

Mr. Markham thanked Ms. Hartley-Nagle for attending the City Council meeting. He did not see this issue as the City versus NCC because City residents lived in NCC. Mr. Markham did not believe the City budget itself was affected; however, City residents would be affected by this change since they also were residents of NCC. Mr. Markham was concerned with the process and said he personally would not have been able to figure it out. He could not find information on NCC's website and echoed previous comments from Council regarding transparency. Mr. Markham encouraged NCC to publish the information and thought Newark would appreciate having conversations on this matter.

Mr. Markham understood the separate budget request because the City separated its budget for utilities into electric, water, sewer, and storm water. He believed it was easy to trace where utility funds went as it pertained to Newark's budget. Mr. Markham thought NCC should implement a similar process as it was easy to justify and explain where funds went. Mr. Markham questioned whether both NCC Council and Newark's City Council had to reach an agreement to transfer a service agreement. Mr. Del Grande confirmed this was the case as provided in Title 9 of the Delaware Code. Mr. Markham referenced NCC's Town Hall presentation at the Newark Library on May 6, 2019 and said additional information was provided about the change for local service credits. He was glad to see this information at the town hall meeting; however, he thought it needed to start earlier in the process in the budget discussion process. Mr. Markham emphasized his support for the conversation between NCC Council and Newark's City Council and staff.

Mr. Hamilton asked for clarification regarding the local service cost per year for residents. Mr. Del Grande confirmed this was the case. Mr. Del Grande announced there was a 7.5% credit in last year's tax rate increase to the City; therefore, NCC two-tiered a 15% increase. To make the issue more complex, Mr. Del Grande said NCC lowered the GOB tax rate – the tax rate that everyone pays – after last year's increase. Mr. Del Grande said the net of this was approximately \$19 a year to Newark. Mr. Hamilton asked for clarification regarding why Odessa and Townsend were exempt from the local service credit removal this year. Mr. Del Grande said NCC confirmed they were investigating this issue. Mr. Del Grande believed State Code required municipalities to have certain services to receive the local service credit. He restated Odessa and Townsend budgeted \$45,000 collectively just for speed enforcement, not for full police operations. Mr. Del Grande thought Newark's contribution to Aetna far exceeded what the intent of the service credit when compared to Odessa and Townsend.

Mr. Hamilton questioned whether the removal of the service credit was a done deal or if it was finalized. He questioned what steps would be necessary for NCC to hold off on moving forward. Mr. Clifton welcomed NCC Council President Karen Hartley-Nagle to the dais to discuss this matter.

Ms. Hartley-Nagle thanked City Council for reaching out to her and inviting her to attend tonight's meeting. She thanked City Council for informing about the issue and wanted to work together to address it. Ms. Hartley-Nagle acknowledged Newark and NCC had the same constituents and believed it was important to work together. She was surprised that the March 26, 2019 meeting with NCC about the local service credit was scheduled on the same morning as the budget hearing. Ms. Hartley-Nagle also thought it was unusual that the meeting was scheduled at NCC's Executive Offices instead of NCC Council's offices. She said many of NCC Council members worked full-time and were not able to attend the March 26, 2019 meeting.

Ms. Hartley-Nagle announced most meetings were scheduled after 1:30 p.m. or 2:30 p.m. on Mondays or Tuesdays to accommodate the majority of NCC Council members. She personally said concern to NCC Executive Matt Meyer about the March 26, 2019 meeting and asked if they could reschedule it. The meeting was unable to be rescheduled because Mr. Meyer stated it needed to occur before the budget. Mr. Del Grande said he attended the meeting and was the sole representative from Newark. Furthermore, Mr. Del Grande said Newark was told to limit the number of attendees due to space constraints. Ms. Hartley-Nagle wished everyone would have been able to attend and said she was told by staff from NCC that everyone seemed to be okay with the decisions made at the March 26, 2019 meeting. Ms. Hartley-Nagle clarified NCC Council did not ask for the local service function to be removed and said they were only made aware of it in the March 26, 2019.

She said the review of the local service function began when a NCC Council member asked NCC's Auditor to conduct an audit. NCC staff decided to conduct an audit and moved forward with the process. Ms. Hartley-Nagle restated her surprise as well as other members of NCC Council at the may the audit moved forward. She agreed with City Council members' comments and said there was a lack of transparency and the process could have been better. Ms. Hartley-Nagle thought it was a good idea to separate the funding from the GOB and service function and believed it would be helpful for people. While she acknowledged the local service credit needed to be reviewed, Ms. Hartley-Nagle thought it was necessary to provide an explanation as to how staff arrived at the changes. Ms. Hartley-Nagle firmly believed there needed to be a set way where every municipality was treated fairly. She said NCC staff sent her substantive documents with the formula for the local service credit and announced it was forwarded to Mr. Clifton. Ms. Hartley-Nagle said she forwarded a PowerPoint to City staff so they had additional information prior to their vote.

Ms. Hartley-Nagle personally supported City Council's request and agreed that NCC needed more time prior to moving forward. She spoke with NCC's Auditor and said the municipalities needed a process to appeal the removal of the service credit; moreover, she emphasized municipalities might have a different perspective than NCC. Ms. Hartley-Nagle understood Newark gave money to Aetna for services and acknowledged NCC also charged them for this. Ms. Hartley-Nagle said the NCC Auditor agreed there needed to be a process and thought the path forward needed to be discussed in the near future. When she asked if the service credit removal could be delayed, Ms. Hartley-Nagle said she was not given a firm response. She hoped municipalities would be allowed to appeal what they were assigned for local service credits in the future.

Mr. Hamilton believed Newark's Council would not accept staff attributing work or decisions to them that they were not involved in. He believed NCC Council should put the decision on hold because he thought they clearly did not have time to discuss the issue with their constituents because of staff. Mr. Hamilton did not believe NCC handled this matter appropriately. He believed it was important for members of Council to vote to do the right thing and hoped NCC Council would do the same. Ms. Hartley-Nagle agreed with Mr. Hamilton's concerns and said there was apparent confusion on NCC staff's executive and council sides. She believed NCC staff tried to resolve the issue quickly and thought they were doing the right thing. However, Ms. Hartley-Nagle restated the process could be done better as it pertained to Newark.

Mr. Hamilton asked for clarification regarding NCC's budget presentation process. Ms. Hartley-Nagle said Mr. Meyer presented the budget and NCC Council would vote on it. She stated NCC Council had not yet voted on the budget. Ms. Hartley-Nagle said NCC Council members could choose not to vote for the budget in its current state.

Ms. Wallace noted the changes to the local service function were presented by Mr. Meyer as being revenue neutral for NCC. She thought it was possible to change the course of action for this year. Ms. Wallace said the change to the local service credit was not revenue neutral for Newark and the other municipalities that would be impacted. She believed NCC needed to be flexible when implementing the changes to the upcoming budget. Ms. Hartley-Nagle thought NCC needed to take another look at the process. She acknowledged the service credit increased for some municipalities and decreased in others.

Ms. Hartley-Nagle thought NCC Council received minimal information on the process and deferred to NCC's finance and executive departments. She believed municipalities needed to be treated fairly and in the same way. Ms. Hartley-Nagle personally believed information about the process needed to be made available online to help the public understand the cost associated with these services.

Ms. Hughes asked Ms. Hartley-Nagle about her position on fixing the local service credit and returning it to where she thought it needed to be. She specifically asked Ms. Hartley-Nagle if she would vote in Newark's favor. Ms. Hartley-Nagle was not at liberty to say how she would vote; however, she contacted the appropriate people in order to provide accurate information to Mr. Clifton. She educated herself about the process and made herself more familiar with the formula used to determine the formulas for the local service credit. Ms. Hughes questioned whether the formula changed from the previous budget process and Ms. Hartley-Nagle believed it did. Mr. Del Grande said Newark always paid only the GOB tax rate. He believed there were 9 or 10 items that made up the local service tax rate. Mr. Del Grande said the local service tax rate was supposed to include items/services that municipalities did not provide to their residents. Since Newark always provided everything that NCC did, Mr. Del Grande said Newark used to pay the minimum tax rates.

Ms. Hughes questioned whether the budget came from Mr. Meyers' office and Ms. Hartley-Nagle confirmed this was the case. Ms. Hughes asked Ms. Hartley-Nagle if she could formally discuss the topic with Mr. Meyers and NCC Council. Ms. Hartley-Nagle said she could urge Mr. Meyer to move forward in a slightly different manner; however, there were other members of NCC Council and she was only one vote. Ms. Hughes questioned if members of NCC Council would be able to discern marked changes in the budget process. Ms. Hartley-Nagle stated NCC Council members were briefed on the changes that have taken place. Mr. Del Grande said there were 20 legal ways to provide a budget; however, it was problematic when philosophical changes occurred from administration to administration. Mr. Del Grande stated Mr. Meyer decided to take \$1.4 million and place it in a contingency as a credit this year, thereby lowering the tax rate for the GOB that everyone paid. Mr. Del Grande said NCC only budgeted for 98% of salary and there usually was a negative credit in each sideline (i.e. only \$600,000 out of the \$1.4 million would belong to police). Since the police budget was higher, Mr. Del Grande restated NCC moved the credit to the GOB fund.

Mr. Del Grande said the City of Wilmington would see their tax rate decrease while everyone else would see their rates change. He stated communication was needed between municipalities and NCC because of the significant change. Mr. Del Grande announced the Sherriff's Office, Recorder of Deeds and other offices would bring in \$9 million more in revenue in 2020 than they would spend. He believed all parties needed to be involved to some extent when changes were made. Mr. Del Grande thought it was important for parties to provide feedback and dialogue throughout the process. Ms. Hartley-Nagle said she would ask NCC staff why the numbers and rates were different as she thought it was important to determine if municipalities paid too much or little. She believed things needed to be fair for municipalities across the board. Mr. Del Grande thought NCC Council had the ability to submit their own amendments to the recommended budget. He said City staff wanted to ensure all municipalities had open levels of communication with NCC staff. Ms. Hartley-Nagle agreed with Mr. Del Grande and thought constituents deserved to know why rates increased and what they were paying for.

Mr. Clifton thanked Ms. Hartley-Nagle for attending the Council meeting and appreciated her candor. He said Odessa and Townsend hired the Delaware State Police (DSP) for speed enforcement and thought it was a choice they made. Mr. Clifton announced DSP and NCCPD would continue to provide police support for all residents. Ms. Hartley-Nagle said NCC hoped to have a good relationship with the City and said they needed to work hand in hand.

Mr. Clifton opened discussion to the public.

John Morgan, District 1, thought it would be a violation of FOIA for Ms. Hartley-Nagle to share her views of this subject with six or more NCC Council members before the vote in a couple of weeks. Dr. Morgan believed it would also be a violation of FOIA if Mr. Clifton shared his thoughts on an upcoming matter with a quorum of City Council members. Dr. Morgan thought staff should not rely on Ms. Hartley-Nagle to communicate their concerns to other NCC Council members. He believed Council needed to take a clear stand on this matter tonight and thought Mr. Bilodeau or another staff member could share their thoughts with NCC Council; specifically, in a well-crafted letter as opposed to merely a resolution. Dr. Morgan was surprised DSP provided speeding enforcement for Odessa and Townsend.

Dan Seador, Aetna Hook Hose and Ladder, supported the proposed resolution. He thought NCC utilized a piecemeal approach in their review of the local service credit. Mr. Seador believed NCC's process

was unfair. He thought Aetna might suffer loss in donations as a result. Mr. Seador hoped NCC would not go through with the process until it would be completely inclusive.

Mr. Clifton brought discussion back to the table for further deliberation from Council.

Mr. Markham said concerns related to assessments; specifically, regarding commercial properties as he believed they would pay the most into the tax. He was concerned with the potential affect to Aetna.

Mr. Horning questioned what it would cost NCC to provide fire service to Newark if they did not have Aetna. Mr. Del Grande thought it would cost NCC millions of dollars.

Ed Klima, Aetna Hook Hose and Ladder, said it would cost approximately \$8-\$10 million for a fire crew and department for a city the size of Newark.

Mr. Horning thought the City met the statutory intent to properly receive the service credit by providing a functionally equivalent fire service. He thought steps could be taken to codify fire service provisions.

Ms. Wallace thought it was important to note that NCC did not have their own fire service. She emphasized NCC paid Aetna just like Newark did. Mr. Del Grande said Aetna's budget was allocated based on the number of calls and Newark contributed 13% and NCC was at 12.8%. Ms. Wallace acknowledged Aetna's value for the residents. She thought there were two separate issues: (1) The process and how it came about and (2) Newark's questions related to the fire service. Ms. Wallace believed Newark was not the only municipality with questions about their particular changes and the overall transparency of the process.

Mr. Lawhorn believed there was still action that could be accomplished and said people throughout NCC government thought the process lacked transparency and was incomplete. He also thought impacts to the fire service credit were not clearly understood. Since the budget was not passed, Mr. Lawhorn thought it was important to expect elected officials to amend this provision out or vote against it. Mr. Lawhorn firmly believed NCC Council could amend the budget to take out the unfair piece.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: TO ACCEPT THE RESOLUTION AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

**(Resolution No. 19-D)**

**19. 6-E. LOBBYIST:**

3:03:57

Rick Armitage, Lobbyist, announced SB 44 was introduced and would enter committee this week. He asked for direction and talking points from Council. Mr. Armitage received information from NPD about the average number of alcohol arrests over a three-year period. He reviewed data from 2015, 2016 and 2017 where NPD averaged under 600 alcohol related arrests per year; moreover, UDPD averaged approximately 700 arrests per year for the same period. Mr. Armitage acknowledged Aetna responded to as many as 27 alcohol overdoses on weekends during the University football season. He believed Newark had an alcohol problem and thought the other problem was due to decriminalization efforts in Dover.

After speaking to members that supported SB 44, Mr. Armitage said they thought the alcohol charges should be changed in a simpler way to reflect decriminalization efforts of marijuana. Mr. Armitage asked Mr. Bilodeau to clarify the process for marijuana prosecution. Mr. Bilodeau said individuals that were under 18 years of age would be delinquent and would go to Family Court. Individuals who were under 18 years of age would be charged criminally for the second offense. Mr. Bilodeau said individuals who were 18 years of age or older would get one civil violation for possession of marijuana. After the first offense, individuals would be prosecuted criminally.

Mr. Bilodeau said Alderman's Court likened this process to the first alcohol violation for underage drinking where individuals received Probation Before Judgment (PBJ). He clarified PBJ could be expunged

as if a conviction never occurred. Mr. Armitage thought Council should suggest that the legislature mirror the process that they put in place for marijuana as it pertained to alcohol.

Mr. Clifton opened discussion to the table.

Mr. Lawhorn personally did not think the City should change the current method of prosecution for underage alcohol consumption.

Mr. Horning echoed his concerns from the April 22, 2019 Council meeting about the deterrent effect of a criminal violation versus a civil violation. He questioned what difference a civil or criminal violation would make in the eyes of a University student resident. Mr. Horning spoke with Alderman Lisa Hatfield about decriminalizing alcohol offenses. Generally speaking, Ms. Hatfield supported decriminalization in the sense that criminal charges sometimes could hold young people back from getting jobs or joining the armed forces. Mr. Horning thought Ms. Hatfield's main question about this issue was if there was a Probation Before Judgement (PBJ) option for civil violations. Mr. Bilodeau said civil violations required people to pay a \$100 fine; however, police would be able to see the civil violation if they ran the records. He restated the PBJ process for alcohol related offenses and announced the record of an arrest was the only item that would remain on an individual's record. Mr. Bilodeau clarified the remaining arrest was the item that people would need to get erased from their record.

Mr. Armitage said there were a number of disqualifying incidents that would show up in someone's criminal history as part of licensing and professional regulation. He said certain incidents (i.e. criminal arrests) often disqualified people from obtaining a license or professional regulation. Mr. Armitage restated criminal histories had the potential to negatively impact people from moving forward in their careers.

Mr. Horning said Ms. Hatfield announced Newark's fines were higher than elsewhere in the State. He questioned whether fines for civil violations truly offered a deterrent effect.

Ms. Wallace said she was okay with Council and staff changing tactics for prosecuting underage alcohol consumption. She thought it made sense to ask the legislature to mirror for alcohol what they did for marijuana. Ms. Wallace appreciated decriminalization efforts and believed Council did not intend to ruin lives down the road. She believed Council's goal was to change behavior. Ms. Wallace did not think moving underage alcohol consumption to a civil offense would change behavior. She thought it did not matter to people that fines were higher because they were not a deterrent. Ms. Wallace believed Council's adoption of the Unruly Gathering Ordinance supported this. She suggested that Mr. Armitage share this with the legislature.

Mr. Markham agreed with Ms. Wallace's comments and thought SB 44 should mirror the language and method of enforcement for marijuana consumption. He believed SB 44 needed to be clearly defined so there would be no ambiguity.

Mr. Hamilton echoed Mr. Markham's comments.

Ms. Hughes said she did not want the offense to be criminalized at all.

Mr. Clifton fundamentally disagreed with the general decriminalization efforts for alcohol related offenses; however, he understood both sides. He believed it was not a solid argument to state that individuals under 18 years of age should not be criminally charged with this offense. Mr. Clifton thought even young children knew the difference between right and wrong. He heard the University claim the City did not treat students like they were adults. Mr. Clifton agreed with this statement and thought taking responsibility for criminal offenses was part of being an adult.

There was no public comment on SB 44.

Mr. Clifton brought discussion back to the table for direction from Council.

MOTION BY MS. WALLACE, SECONDED BY MR. HORNING: THAT COUNCIL DIRECT THE LOBBYIST TO SUGGEST TO THE GENERAL ASSEMBLY THAT THEY MIRROR THE CURRENT LAW FOR MARIJUANA USE BETWEEN THE AGES OF 18-21.

MOTION PASSED. VOTE: 5 to 2.

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

Absent – 0.

Nay – Hughes, Lawhorn.

Mr. Armitage said SB 11, the PILOT bill, lost four votes at the Republican Caucus meeting on Tuesday (May 14, 2019) according to the minority whip. Mr. Armitage said he and Senator Dave Sokola were compiling additional talking points around SB 11 to debunk some myths about Newark's subvention from the University. He said people had a misconception about the amount of money Newark collected in fines through the Alderman's Court. Mr. Armitage stated there were 16 legislative days left and would do his best to attempt to move SB 11 forward. If SB 11 moved forward, Mr. Armitage stated it would be an increase of \$447,000 to the City.

Mr. Clifton was disappointed the legislature brought up the Alderman's Court in this matter and thought fines should never be a revenue stream. He hoped fines would act as deterrents for crime in order to change behaviors. Mr. Clifton adamantly believed fines were not annual sources of revenue that the City should depend on to offset taxes.

Mr. Markham thought the goal of PILOT was never to hurt other municipalities; furthermore, he thought it was written at some point that it would not happen. He supported requests to change the bond so other municipalities (i.e. Wilmington) did not get hurt. Mr. Markham questioned whether any of the four votes that were lost were local. Additionally, he asked if Council could reach out to them. Mr. Armitage thought this would not be possible because all republican legislators in the Senate were located in Kent and Sussex Counties. Mr. Armitage said the Governor's suggested budget reduced the amount of funding that would go to PILOT by \$1 million. He thought the DEFAC numbers were positive; therefore, Mr. Armitage believed the cash on hand would be able to fund PILOT at the same level that it was [at least] last year. He clarified Senator Harris McDowell is the Co-Chair of the Joint Finance Committee which makes that appropriation.

Mr. Markham questioned whether people truly understood the subvention from the University. He believed the subvention was \$240,000, with \$500,000 reimbursed by electric. Mr. Armitage announced this was explained. He said part of his talking points centered on the backfill that Newark made towards Aetna in relationship to the University's contributions to Aetna. Mr. Armitage said Newark's contribution to Aetna was more significant than the University's. Mr. Clifton thought part of the subvention was the \$7,000 that Mr. Armitage helped negotiate; specifically, the University formerly planned to make the bookstore on Main Street tax-exempt. Mr. Armitage announced he would continue conversations on this matter with the University.

Mr. Armitage said the City's Sewer Charter Change request moved through the Senate and was scheduled for committee on Wednesday (May 15, 2019). He did not anticipate any problems. Mr. Armitage said he had Council's resolution in this matter and would use Newark's delegation to do the next Charter change. Mr. Markham questioned whether a representative from NCC could provide a resolution to support this. Mr. Armitage said he would speak with NCC's lobbying staff who would consult with Mr. Meyer.

Mr. Armitage announced the Joint Finance Committee (JFC) would meet on May 21, 2019 through the end of the month. The Bond Committee was scheduled to meet June 18, 19, and 20. Mr. Armitage said DEFAC's next meeting was scheduled for Monday, May 21, 2019.

Mr. Armitage said the Delaware League of Local Governments (DLLG) would oppose HB 129 because of the possible impact on tax increases for municipalities. He thought Council should stay out of this matter because of what was happening with Newark's Charter bill. He said Senator Gerald Brady introduced HB 130 that would start to reduce/eliminate stores from being able to hand out plastic bags.

Mr. Armitage would continue to monitor SB 41, which dictates persons committing a crime if less than 18 years of age would be tried in Family Court.

Mr. Armitage announced SB 85 would permit transfers of cases from Alderman's Court to Justice of the Peace (JP) Courts in cases of judicial conflict. He would continue to monitor this bill for Alderman's Court and Mr. Bilodeau.

Mr. Armitage informed the audience that Rehoboth submitted a Charter Change to implement hotel tax.

Mr. Armitage announced construction started on the PJM project. The Federal Energy Regulatory Commission revisited distribution costs, which were now allocated in a more equitable manner.

Mr. Clifton opened discussion to the table.

Ms. Wallace referenced HB 130 and questioned whether it applied to businesses over a certain square footage. Mr. Armitage said this version of HB 130 had a better chance of passing.

Mr. Coleman questioned whether Council wanted to direct staff and the lobbyist to work to remove the full exemption for real-estate transfer tax (RTT) on property sales involving the University. If the University sold a piece of property to a third-party, both parties were exempt from RTT. Mr. Armitage used this fact as a talking point. Mr. Clifton asked Mr. Armitage if he wanted Council's direction and Mr. Armitage confirmed this was the case. Mr. Armitage and Senator Sokola thought this would have a better chance of passing than PILOT at this point in time.

There was no public comment.

Mr. Clifton brought discussion back to the table.

Ms. Wallace said concern regarding the RTT and whether RTT or PILOT would be of greater benefit to the City. Mr. Coleman thought PILOT would be the better option for consistency because RTT was not as consistent. Mr. Del Grande said Newark's large real estate transaction brought in approximately \$2.2 million in RTT; moreover, \$1 million came from five properties. He said the windfall from RTT was big when there was a large apartment complex. Mr. Del Grande confirmed PILOT funding would be more consistent than RTT.

Mr. Lawhorn questioned whether pursuing RTT would hurt the PILOT conversations. There was discussion at the table and Council decided to pursue PILOT at this time and RTT at another time.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: SECONDARY TO THE PILOT PROJECT, COUNCIL DIRECTS THE CITY LOBBYIST TO SUPPORT REMOVING THE PERCENTAGE OF THE REAL ESTATE TRANSACTIONS INVOLVING THE UNIVERSITY AND A PARTY THAT WOULD HAVE TO ORDINARILY PAY REAL ESTATE TRANSFER TAX.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

**20. 7. RECOMMENDATIONS ON CONTRACTS & BIDS**

- A.** Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark for the Purchase of Demolition Services for Two Structures Located at 42 and 46 East Delaware Avenue

**3:39:50**

Mr. Filasky read item 7-A into the record. He said staff had the plan signed by all necessary parties and announced Mr. Bilodeau worked with the University's legal team to complete the deed paperwork.

Mr. Clifton opened discussion to the table.

Mr. Horning questioned whether there were any concerns related to hazardous disposal. Mr. Filasky said hazardous materials were previously removed and the contractor was aware that hazardous materials needed to be removed appropriately.

Mr. Clifton thought \$215,000 was allocated to this and \$70,000 were utilized. Mr. Filasky said the demolition would cost \$70,000; however, there were additional fees that needed to be paid (i.e. attorney's fees, design fees, engineering fees). He said the \$215,000 was allocated for paving. Mr. Filasky said the request was in reference to the demolition in the amount of \$70,650. He announced he would likely come back to Council to authorize additional funding for the actual paving and striping on the lot.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF THE

DEMOLITION SERVICES FOR TWO STRUCTURES LOCATED AT 42 AND 46 EAST DELAWARE AVENUE FROM MARTY'S CONTRACTING OF YORKLYN, DELAWARE IN THE AMOUNT OF \$70,650.

MOTION PASSED. VOTE: 7 to 0.

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

Absent – 0.

Nay – 0.

**21. 7-B. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF T2 SYSTEMS SYSTEMS MULTI-SPACE PARKING KIOSKS AND TWO (2) LICENSE PLATE READERS FOR PARKING ENFORCEMENT**

**3:43:52**

Courtney Mulvanity, Parking Superintendent, read item 7-B into the record. He referenced the Special Council meeting on April 29, 2019 where the alleviation of space reduction during Main Street's Rehabilitation was discussed. Mr. Mulvanity said Council raised several questions at the April 29, 2019 meeting. The answers the questions were detailed in the Parking Department's memo to Mayor and Council dated May 6, 2019. Mr. Mulvanity said there were 82 active parking permits on the street out of 87 possible parking spots. Most of the permits were student rental permits, mostly concentrated on Choate Street. With the proposed changes, Mr. Mulvanity said 13 parking spaces would be removed from Center Street and 12 spaces would be added to North Chapel Street. Mr. Mulvanity said one residential space would be lost.

Mr. Mulvanity stated Newark recently passed a change that permitted parking on north side of New Street rather than the south side, thereby creating 15 additional parking spaces in the zone. Because the changes did not result in the active number of permits being higher than the number of spaces within the zone, staff decided to move forward with the changes in the zone. Mr. Mulvanity though the high number of residential permits on Choate Street should have little issue parking one street over from their residences.

Per Council's request, staff reviewed Special Residential Zone B which included Haines Street, Continental Streets, Lovett Avenue and five other streets in the area. In the entirety of the zone, Mr. Mulvanity stated there were currently 111 active permits but there were only 208 available parking spaces. He said the residential permits that would be moved off Haines Street would be supported by Continental Avenue, as Haines Street and Continental Avenue together had 40 active permits. Additionally, Mr. Mulvanity said Continental Avenue alone could support 40. Mr. Mulvanity said overflow could move to other streets in the zone and there was a low chance all 40 permits would be in the area at the same time. He stated there were a number of driveways and private parking lots that could be better utilized on the street. Because the changes would not restrict parking to residents – and in the interest of the need for public parking – staff moved forward with the proposal on this street in the bid process.

Mr. Mulvanity announced T2 Systems was one of the leading companies for multi-space; moreover, they had been in the industry for 25 years. T2 Systems was regarded by many of Newark's peers as the premier company for multi-space metering. Mr. Mulvanity stated University of Delaware used T2 Systems and believed it would be beneficial for the City if patrons could use the same system in parking lots owned by both parties. According to Mr. Mulvanity, staff believed the City already paid for many of the features offered in this waive of bid in previous projects presented to Council. Moreover, staff believed going to another company would force the City to re-buy some of those features at a cost to taxpayers.

Mr. Mulvanity said T2 Systems allowed for multi-business validations on all multi-space parking kiosks, which was relatively rare in the industry. He said the City would be able to offer pay-by-phone under this system at no cost to the taxpayers. Additionally, T2 Systems could also allow for cost savings to credit card fees that currently were paid by the City. Mr. Mulvanity said staff already used T2 Systems for parking enforcement and experienced great success with it.

Staff's recommendation to Council was to amend the 2019 Capital Improvement Budget and waive the bid process in accordance with the Code of the City of Newark for the purchase of the multi-space metering equipment and license plate recognition technology and services from T2 Systems and Integrated Technical Systems (ITS) in the amount of \$496,767.

Mr. Clifton opened discussion to the table.

Mr. Horning asked Mr. Mulvanity how staff could ensure they would receive a reasonable deal from T2 Systems without going through the bid process. Mr. Mulvanity said staff looked at other companies and announced T2 Systems cost generally was in line with other companies.

Ms. Wallace asked whether the parking changes for Haines Street, Center Street, Choate Street and others were permanent. Mr. Mulvanity said the proposal was for permanent parking and said it would ultimately be discussed. He announced there were a number of resolutions and ordinance changes that needed to be done per street. Mr. Mulvanity said the parking spots as presented at the April 29, 2019 were permanent parking spots. Mr. Mulvanity clarified new parking additions were expenses for 2019. Ms. Wallace asked if there was a benefit to purchase all kiosks at once. Mr. Mulvanity said there would still be streets that had IPS single-space meters; however, the recommendation would provide multi-space meters for the proposed streets and municipal lots as outlined in staff's memo to Mayor and Council dated May 6, 2019.

Mr. Coleman explained the recommendation would simply authorize the purchases; however, the City would not buy everything all at once. He said the CIP would be amended, the money would be moved from the electric fund and the City would purchase the multi-space meters appropriately.

Mr. Markham questioned whether the individual streets as it pertained to parking would come back to Council to determine permanent versus temporary. Mr. Mulvanity confirmed this was the case and emphasized staff would come back to Council by street. Mr. Markham questioned whether staff would try Lot #6 as a pilot first because there already were meters in that lot. Mr. Mulvanity confirmed Lot #6 would be used to test volume on a pay station. He said it was necessary to test the pay stations from a customer service standpoint. Mr. Coleman said Lot #6 would be used to determine how many pay stations would be required and Lot #3 would be driven by the Lang Hotel Project. Mr. Mulvanity said Lot #1 and Lot #4 were expenses for year two; therefore, Lot #6 would undergo pilot testing first. Mr. Coleman said changes for Delaware Avenue were explicitly listed as temporary changes.

Mr. Clifton opened discussion to the public.

John Morgan, District 1, echoed his comments from the Special Council meeting on April 29, 2019. Dr. Morgan counted vacant parking spaces at the end of last week (week of May 6, 2019) on Main Street at various times of the day. He thought there was no immediate crisis that required the City to install parking meters on Haines Street, Lovett Avenue or Center Street. Dr. Morgan believed a better solution would involve working with the University to make better use of the Trabant Center garage. He thought an essential ingredient in any solution to Newark's immediate or longer-term parking problems would be raising the rate to park in Lot #1 from \$1.00 to \$2.00 an hour, effective the last week in August 2019. This would match the rate to park in the University's parking garages. Dr. Morgan thought the ideal time to raise rates from an economic viewpoint was when there is a shortage. He believed there would be fewer parking spaces in downtown Newark several months from now than currently. Dr. Morgan thought raising the parking rate was the obvious thing to do to maintain the City's income. Furthermore, Dr. Morgan believed this would address the issue that half the people who parked in Lot #1 when the University was in session – between the hours of 9:00 a.m. to 5 p.m., Monday through Friday – appeared to be University students. Dr. Morgan thought this was established by a survey conducted by the Planning Department in 2004.

Dr. Morgan thought this would remove about 100 cars from Lot #1 that belonged to undergraduates to have them use University parking garages. He thought this would free up approximately 100 spaces in Lot #1 to be used by the patrons of downtown businesses. Dr. Morgan believed staff should not purchase more multi-space meters than were truly needed.

Meghan Mullennix, Student Government Representative, believed people would rather see the solutions as temporary instead of permanent. Ms. Mullennix appreciated Mr. Coleman's clarification that the multi-space machines would not be purchased all at once. She would have been disheartened if the meters were purchased prior to the ordinances coming forward for each individual street. Ms. Mullennix agreed with Dr. Morgan's suggestion to match the City and University's parking rates in Lot #1. She thought this would be more appealing than messing with residential parking. Ms. Mullennix observed unfilled parking capacity on Haines Street; however, she was hesitant to endorse permanent plans that would hinder students from parking close to their residences. Ms. Mullennix personally did not object to item 7-B, provided that the purchases would not be made until the ordinances were voted on.

Jean White, District 1, attended the Special Council meeting on April 29, 2019. She thought the multi-space meters accepted coins and Mr. Mulvanity confirmed this was the case. Ms. White parked in

Lot #3 when she drove to downtown Newark. She questioned whether multi-space meters would be placed in Lot #3 behind M&T Bank. Ms. White thought the nice thing about parking in Lot #3 in its current state was that people could stay as long as they wanted and were charged when they left. She questioned whether M&T Bank would still be involved in the parking validation process. Mr. Clifton thought parking validation would continue to be up to the bank. Ms. White was concerned that she would no longer be able to stay in Lot #3 as long as she wanted unless she used a credit card.

Ms. Wallace thought people would be able to pay at any kiosk when the multi-space meters were installed. Mr. Mulvanity confirmed this was the case as the system used LPR technology. Ms. White thought it was appropriate to utilize multi-space meters in Lot #6 because it was already metered. She questioned whether staff planned to keep parking meters that were on South College Avenue. Mr. Coleman restated staff would not adjust parking meters in the Campus District.

Dan Seador, Aetna Hook Hose and Ladder, said Aetna had concerns related to parking on Delaware Avenue and Lovett Avenue. He thought parking on both sides of Lovett Avenue narrowed the street and said EMS was concerned about getting safety equipment and trucks down there with oncoming traffic. Mr. Coleman clarified parking was on one side of Lovett Avenue and said it was illegal to park on the other side. Mr. Coleman said metered parking would be moved to the north side of Lovett Avenue and said staff would enforce the fact that parking on the south side was prohibited.

Mr. Clifton brought discussion back to the table for further deliberation from Council.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL AMEND THE APPROVED 2019 CAPITAL IMPROVEMENT BUDGET AS OUTLINED IN THE MEMO DATED MAY 6, 2019 AND WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF THE MULTI-SPACE METER EQUIPMENT AND LICENSE PLATE RECOGNITION TECHNOLOGY AND SERVICES FROM T2 SYSTEMS AND INTEGRATED TECHNICAL SYSTEMS, INC. IN THE AMOUNT OF \$496,767.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.  
Absent – 0.  
Nay – 0.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: TO EXTEND THE MEETING TO HEAR THE FINANCE REPORT.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.  
Absent – 0.  
Nay – 0.

**22. 8. FINANCIAL STATEMENT (Ending February 28, 2019):**

**4:11:38**

Mr. Del Grande presented the financial statement ending February 28, 2019.

There were no questions or comments from Council or the public.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: TO ACCEPT THE FINANCIAL STATEMENT AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Horning, Hughes, Lawhorn, Markham, Wallace.  
Absent – 0.  
Nay – 0.

**23. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT**

None.

**24. 11. ITEMS SUBMITTED FOR PUBLISHED AGENDA**

**A. Council Members: None.**

**25. 11-B. OTHERS: None.**

**26. Meeting adjourned at 11:13 p.m.**

Tara A. Schiano  
Acting City Secretary

/wcp