

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

June 24, 2019

Those present at 6:00 p.m.:

Presiding:	Deputy Mayor Stu Markham District 1, James Horning District 2, Sharon Hughes District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn
Absent:	Mayor Jerry Clifton
Staff Members:	City Secretary Renee Bensley City Solicitor Paul Bilodeau Electric Director Bhadresh Patel Finance Director David Del Grande Parks and Recreation Director Joe Spadafino Planning and Development Director Mary Ellen Gray Public Works and Water Resources Director Tim Filasky

1. Mr. Markham called the meeting to order at 6:03 p.m.

2. **EXECUTIVE SESSIONS**

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

MOTION BY MS. WALLACE, SECONDED BY MR. HORNING: THAT COUNCIL ENTER EXECUTIVE SESSION A, PURSUANT TO 29 *DEL. C.* § 10004 (B)(4) AND (9) FOR THE PURPOSES OF A STRATEGY SESSION INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY; AND THAT COUNCIL ENTER EXECUTIVE SESSION B, PURSUANT TO 29 *DEL. C.* §10004 (B)(4) AND (9) FOR THE PURPOSES OF A STRATEGY SESSION INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY.

MOTION PASSED. VOTE 6 TO 0.

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

Nay – 0.

Absent – Clifton

3. **RETURN TO PUBLIC SESSION**

Council exited Executive Session at 7:04 p.m.

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

1:08

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

5. MOTION BY MS. WALLACE, SECONDED BY MS. HUGHES: THAT COUNCIL REMOVE ITEM 3A FROM THE AGENDA.

MOTION PASSED. VOTE 6 to 0.

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

Nay – 0.

Absent – Clifton

6. 1. **PUBLIC PRESENTATIONS:** None

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

- A. Elected Officials who represent City of Newark residents or utility customers:
None

8. 2-B. **UNIVERSITY**
(1) Administration

2:58

Caitlin Olsen, University of Delaware Administration, said UD is working on the parking link. She said that once it is all set, she will provide a link to everyone so that it can be forwarded to the community. This will allow them to see how easy it is to get a pass for a UD lot during the construction. She noted she does not have an answer to Mr. Hamilton’s question about the dorm but all she could provide was that it is at least three years out and that was the best she could do at this time.

Mr. Horning asked whether Ms. Olsen was referring to Mr. Hamilton’s previous question about whether it is going to be a delay or not in the construction of the dorm. He asked if that was what Ms. Olsen was still trying to figure out. Ms. Olsen confirmed that was the case. She said the plan was to prepare everything and then once in receipt of the funding, they could begin. She shared that is probably a couple of years away due to the various projects that are currently in process. She shared that the masterplan will need to be reevaluated. She announced they brought on John Long and need to bring him up to speed. Once she knew something, she would pass the information along. She shared that is the one on Academy and Park.

Mr. Horning asked for an update in terms of the Board of Trustees appointment. He believed there is one going through the Senate confirmation recently. Ms. Olsen confirmed that was the case. She shared that there are a couple of more on the agenda this week. She said she would provide Mr. Horning with an updated list as well. Mr. Horning asked if any of the Board of Trustees nominees resided within the city limits of Newark. Ms. Olsen was unsure if that was the case. There are a couple of new ones so she would have to investigate it.

9. 2-B-2. **STUDENT BODY REPRESENTATIVE(S):** None

10. 2-C. **CITY MANAGER:** None

11. 2-D. **COUNCIL MEMBERS:**

6:23

Ms. Wallace:

Ms. Wallace observed in the administrative report that WILMAPCO was looking for help in alerting the public to the survey and requested a link for that. She thought that adding one of the City’s regular partners’ link to the City’s website or including them in the newsletter would work in the City’s favor.

Ms. Wallace requested that Mr. Filasky send an email including a timeline of when the streets in Arbour Park are supposed to be paved.

12. 2-E. **PUBLIC COMMENT:**

8:04

John Morgan, District 1, noticed there was a discrepancy between the actual number of vacancies and in the number of vacant spaces as indicated on the countdown signs in parking Lot 1. He thought that if the City is going to be using the statistics to figure out what it should be doing with its parking situation downtown, which has a multimillion dollar implication for the City’s budget, it is critically important that the numbers produced by those countdown signs be reasonably accurate within +/- 1, 2 or 3. He said he has noticed such discrepancies more than just once or twice within the past year. He felt it was important that Council give direction to the City staff in charge of the parking, to very carefully count the actual

number of vacant spaces and compare it with the counts on the countdown signs at least once a day, preferably, twice a day. He said that any systematic problem with the software should be fixed.

Dr. Morgan asked Mr. Bilodeau if the City granted a special use permit that went with the property, for example in such cases as a restaurant selling alcohol or daycare facility, if the special use permit could be revoked only up to one year. Mr. Bilodeau confirmed that was the case. He shared that under the City's Code it just has a provision to revoke a special use permit for one year, but that amending it was being discussed.

Dr. Morgan thought it was a good idea for the City Code to be revised so that the special use permit did not go with the property, but, rather was designated for a specific owner so that if the property was sold, the new owner could apply for a continuation of the special use permit but it would not be guaranteed.

Mr. Markham believed the problem with that was the special use permit regulations were in the Zoning Code. He asked Mr. Bilodeau if that was correct. Mr. Bilodeau confirmed that was the case. The special use permit went with the property and he could research it, but he was fairly certain that the City could not just make it applicable to the holder of the permit.

Dr. Morgan asked Mr. Bilodeau if it was a matter of state law. Mr. Markham thought it would have to be researched more, but that was how the special use permit was able to be in existence because it is a zoning law. Dr. Morgan suggested it be investigated whether it required changing City Code, the charter or state law.

Mr. Hamilton asked if the City staff could respond to Dr. Morgan about why the parking count would have such a big discrepancy in the number of available vacancies. Mr. Markham asked if that was the will of Council because he did not want to assume that everyone is on the same page. He was okay with that. Mr. Lawhorn thought because of the reasons he has stated that the City would like to use the data in a few years to make some important decisions. In order to do that, the City must have an understanding that it is reliable data. There was Council consensus to obtain further information from staff on the parking lot sign count discrepancy.

Mr. Bilodeau said when Council has granted special use permits in the past, they had put limitations on them when they were granted. He noted that could be researched as well.

- 13. 3. APPROVAL OF CONSENT AGENDA:**
B. Approval of Planning Commission Minutes – May 7, 2019
C. Receipt of Alderman's Report – June 10, 2019

14:20

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton

- 14. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING:** None
- 15. 5. APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:** None
- 16. 6. SPECIAL DEPARTMENT REPORTS:**
A. 2020 Census Briefing – Devon Reed, U.S. Census Bureau

14:55

Devon Reed, U.S. Census Bureau, announced she works as a Partnership Specialist with the Census focusing primarily on the State of Delaware and hoped that everyone was aware that the census was approaching. She shared April 1, 2020 is Census Day. Ms. Reed introduced Jessica Gibson-Brokenbaugh.

Jessica Gibson-Brokenbaugh, Public Relations Officer for New Castle County Executive Matt Meyer, reviewed the past actions around previous censuses, which had not been significant, and updated Council on the "Commit to Be Counted" campaign for the 2020 Census, which had been launched in

February. They had gone through Phase I and were beginning Phase II. She outlined the census process as follows:

Phase I –

- Campaign requesting residents to commit to be counted.
- Figuring out the plan, including what does the campaign look like and what are the issues.
 - Identified that they were losing \$14 million annually in federal funding, which included money in the areas of streets, sidewalks to pass-through funding that may come to the state as well as at least \$5 million in the top youth funding areas. Ms. Brokenbaugh noted that when they looked at those education numbers there was a deeper issue. She said that the County partnered with the Census and questioned what the first thing is to be done. She explained that they began conversing with other states to figure out what are the next steps. She said that they learned very quickly that jobs needed to be created.
 - Low response issues in underserved communities.
 - Recognized Barrier 1 is jobs.
 - a. Create Jobs.
 - b. Local individuals in communities that are most at risk to have a low response rate and have job fairs in those areas. She concluded there were about 27 job fairs throughout New Castle County which garnered a great pipeline for the Census people to begin pulling from.
 - c. Utilize libraries in those areas.
 - d. Barrier 1 was echoed throughout different states was to identify people that work in the communities that live in those communities which would likely open the door for a neighbor.
 - Recognized Barrier 2 is Education
 - a. Why is it important and why should I respond? What is this piece of paper?
 - b. Through job fairs, outreach conversations began to take place with stakeholders and community groups and said the reason the job fairs and outreach were happening in their community was because:
 - a. Jobs were needed; and
 - b. Instruct the groups that it is needed to engage with the community and be enumerators to support the administrative efforts behind the scenes in those exact communities.

Ms. Brokenbaugh said this was very successful. She said round two would begin of those in late August or early September. In Newark, those are being held at the Newark Library throughout the day at different times. There are about four of those totaling 16 hours by the end of the sessions. The impact was great because people began filling out applications online.

Phase II – Call to Action

The call to action included communicating and giving out t-shirts and paraphernalia with a call to action was exactly what they were doing.

Ms. Brokenbaugh said the role is to create educational opportunities, encouragement and create excitement around what Census can do for some of the communities. She said they were in desperate need of the support in those communities that would benefit from some additional support. She said for New Castle County that looked like them beginning to go into the communities at a really grassroots level, talking to people and finding the stars in the community. She said the question to ask was who the people in the community were that knew everyone and could motivate and encourage others that this is coming. She noted that the City would begin hearing about it in January. She explained that in Delaware people would be able to self-report online. She said there would be some immediate confusion because of the different options which was why education was fundamentally important. She said there were 18 subcommittees that were reflective of different areas of the community such as housing, education, small business, faith-based organizations and the non-profit sector. She said the goal was to begin training those groups and empowering them with the knowledge that they needed to share with their constituency.

Phase III – Implementation Phase

Ms. Brokenbaugh said this was where the community organizations would begin to interact with their constituents and begin sharing. She wanted to begin talking with school districts about incorporating census into the curriculum. She said that if the people heard it in many places, such as daycare, church or City Council meetings, it would start clicking. She noted that this would become a phenomenon that would last for eight months and receive a really great response from it. She noted over the last 2 to 7 months there was only a 1% increase statewide. She expressed as a Public Relations, Marketing and

Outreach person that number was atrocious. She said she sat on the State Count Committee which was led by Lieutenant Governor Bethany Hall-Long. She anticipated hearing what the State's plan is. She announced that in New Castle County, there was an urgency to begin doing the legwork prior to understanding what the funding and plan was for the Governor or the legislature. She said her call to action to the audience and to Council was to communicate and go to the County website under the County Executive's page, click on Census 2020 and fill out the form to give information on how they wanted to take part. She encouraged Council to show up with their constituents so the grassroots efforts could begin. If efforts were not made over the next year, Ms. Brokenbaugh warned the state would not have the impact that it deserved.

Mr. Markham instructed Mr. Del Grande to make sure there is information on the City website. He also thought Channel 22 was a good place to display the t-shirts census workers would be wearing when they showed up.

The Chair opened the discussion to Council.

Mr. Hamilton suggested that Ms. Brokenbaugh reach out to The Newark Partnership to disseminate the information effectively to nonprofits registered in the City. Ms. Brokenbaugh said she would follow-up. She said it was equally beneficial to those who came to the library and to those who applied online.

The Chair opened the discussion to the public.

John Morgan, District 1, asked Ms. Brokenbaugh if the count included Green Card holders, students at the University of Delaware from other states of which there are about 15,000 and graduate students from other countries in addition to U.S. citizens. Ms. Brokenbaugh confirmed this was the case. Dr. Morgan thought it would be a good idea to get the University on board because he estimated there were at least 15,000 people who were not otherwise Delaware residents who should be counted. He said that timing was important and suggested doing so before the summer months when students were not readily available. Mr. Markham asked Ms. Olsen to connect with Ms. Brokenbaugh. Ms. Brokenbaugh said that they had an internal preliminary approach to counting people at the University. She said they recognized the need to be inclusive and innovative as to how the County would include the University of Delaware students and those that are in Newark.

Ms. Wallace shared that the benefit of the census is all of the demographics that comes from the census. She asked Ms. Brokenbaugh to discuss the approach for documenting the homeless population. Ms. Brokenbaugh explained she will share the innovative approach and the typical approach to Ms. Wallace's question. She said that New Castle County has one of the largest housing programs in Delaware and the housing program is funded by HUD which serves the underserved, family members who are couch surfers and the transient community. They began tapping into that market by talking to landlords that they have on file for their housing program. They are looking at this piece two ways – how do they get to them and figure out where they are and how do they talk to people that are most likely to engage with their population that they may miss because they might be couch surfing and they do not typically look like the homeless.

Ms. Reed shared that they work with HUD to do a point in time count for homeless living on the street. She said they have a group quarters portion of the decennial census that would count the homeless shelters and emergency housing centers. She shared they had a method to ensure that they were counting every single person in the county throughout the country.

17. 6-B. GENERAL ASSEMBLY UPDATE AND ASSOCIATED REQUESTS FOR COUNCIL DIRECTION – LOBBYIST

30:25

Mr. Armitage said the last four days of the Legislature starts June 25. He asked if there were any concerns with the resolution around the County Service Budget Task Force being created. He shared it will be introduced on June 25. Mr. Markham shared his concern about the various changes coming out of the County. He asked Mr. Bilodeau if he believed it still covers the appropriate agenda. He said it was not Newark in the resolution to begin with. Mr. Armitage said it was referencing the resolution that Representative Baumbach and Senator Sokola were going to introduce is to create a task force. Mr. Markham said it was his understanding it changed after the first drafting. Mr. Bilodeau believed that after it was drafted, New Castle County came back with their corrections to it. He asked if those corrections were included within what was submitted to the Legislature. Mr. Armitage said it had not been introduced yet but he had seen a draft of it. He did not know if Mr. Bilodeau saw the draft. Mr. Bilodeau confirmed he saw the draft. He knew the initial draft had a lot more information in it and that New Castle County

excised a lot of that information from what they wanted submitted. He said he believed that Mr. Del Grande was involved in it also.

Mr. Markham believed the question was whether there was any objection to what is going to be introduced to the state. He asked if Mr. Bilodeau had seen what was going to be introduced at the state. Mr. Bilodeau responded he had not seen the latest version. Mr. Armitage thought Representative Baumbach and Senator Sokola would look out for the City since they started the issue for the City even though the County is not happy with the City's pushback.

Mr. Markham stated it was his opinion the City should move forward with this and he wanted to make sure it accomplished the process and a fair and even-handed play. Mr. Bilodeau said he would review the language and consult with Mr. Armitage. Mr. Armitage would forward the latest version to Mr. Bilodeau as well.

Mr. Hamilton had concerns when New Castle County corrected something when clearly the City's position is, "we need a task force to review from a neutral standpoint concerns cities such as ours have".

Ms. Wallace had a concern as well that Council had not seen the last draft following some corrections made by New Castle County and wanted to ensure staff are included in that conversation and have the option to rebut some of that language that has been excised so that the City could ensure they were still being well represented.

Mr. Armitage asked if Council wanted a signing ceremony around the two charter bills. Mr. Markham said the Mayor may want to attend but he will make that decision when he returns. Mr. Armitage said the Mayor should send a letter requesting to attend the signing.

Mr. Armitage thought they were doing fairly well regarding the City's priorities. The amendment regarding civil penalties for alcohol had been introduced. There would be two civil infractions and the third time someone was contacted by the police, there would be an arrest. The two charter changes both passed the House and Senate and were awaiting signature from the Governor. The ask for Municipal Street Aid was discussed by the Bond Committee with the Secretary of Transportation, but never made the motion to change it to \$7 million. They talked about it and Mr. Armitage expected the Bond Committee to finish the next night. He knew that request was one of the things they planned to talk about again. Given how the Legislature was spending money, he did not think they were going to go beyond the \$6 million to \$7 million. Regarding PILOT, Mr. Armitage said that Senator McDowell told him that he was going to try to help Newark. The Joint Finance Committee drafts the Grant-in-Aid bill and that was where Mr. Armitage expected to see some support for Newark. They still had not seen anything introduced around the energy portfolio standards. Senator McDowell, the Governor and his staff were discussing what those percentage numbers should be and in what years. Mr. Armitage did not know whether they would see a bill this year or not. He noted it was pretty routine for Senator McDowell to introduce the energy portfolio standard bill in the last week of June, so he thought there may be something on paper, but he did not think it would be worked by the legislature. It would generate discussion with all of the stakeholders. Mr. Armitage also wanted to discuss House Substitute #3 for HB221 which adds people in the police and fire departments in the state who are not unionized to be able to unionize and negotiate for contracts, which was a very small group in Newark made up of the two deputy chiefs and the chief.

The Chair opened the floor to Council for questions.

Mr. Horning asked in regards to the alcohol decriminalization, did the amendment take out that someone's license would be revoked. Mr. Armitage said automatic revocation was taken out. SB123 had an amendment added that actually prohibited any court taking someone's license for any crime for failure to pay fines, so he did not know how they were going to sort that whole thing out as it was one of those things that was still in play. The revocation of licensing was still being reviewed and the real concern was if people were losing their jobs as part of those sort of offenses. Between 18 and 21 was where they were discussing since people who finished high school may have full time jobs where if they lose their license, they may lose their job too. They are trying to not have that happen. Mr. Horning understood that and thought Newark had pushed back on this as hard as they could due to the concern in Newark with the alcohol abuse. He thought they were getting the most out of it that they could and keeping it as strict as they can with the political climate in Dover. Mr. Armitage agreed with that analysis. He noted that for Newark and the beach communities, there were not a lot of tools to deal with the problems they experienced.

Mr. Horning asked in regards to SB123, he understood it was the amendment prohibiting the revocation of a driver's license for the inability to pay fines. He referenced a comment in a previous report

from Mr. Armitage. Mr. Armitage said there was a House amendment that had been introduced even though the bill had not been heard that stripped the prohibition out of the bill. The way it was introduced, it amended every part of the code where someone could lose their driver's license. He noted they may go back and change it, but they did not want it to be such a broad prohibition. Mr. Horning asked if it would impact the non-state courts. Mr. Armitage said that the program that was in place with the Department of Corrections now allows prisoners to work off their fines, and the bill referenced would raise that pay rate to minimum wage. What did not happen at this time was for that work to be credited back to the non-State courts, so the Alderman's Court was not part of that program. He had requested that the Alderman's Court be included since people did not understand that the money was going to the State, not the Alderman's Court to pay their fines. If the change was made, the money would come back to the Alderman's Court to pay their fines. Mr. Horning asked if at this stage, it was off the table. Mr. Armitage said he was still pushing that, but he did not know whether he was going to get there.

The Chair opened the floor to public comment.

John Morgan, District 1, said he was in Dover when the Senate Bill regarding prohibiting suspension of licenses for fines was passed. He thought with all of the Democrats in the Senate voting for it and all of the Republicans voting against it, he did not like the way it was done at the last minute and thought it could have some significantly negative effects on Newark especially. He wanted to point out if the City was concerned about collecting fines from people who were ignoring parking tickets or whatever, the City still had the ability to put a boot on a car, which might be more effective than suspending their license. He also wanted to comment on Council asking the lobbyist to work on HB129, which would have given school boards the ability to raise taxes up to 2% or CPI. He had reservations about the bill in its general form. When he attended the hearing, he spoke in favor of the bill if it was made clear that the extra money raised was to be directed towards teacher salaries, not administrator salaries or other projects. To his surprise, many people spoke against that bill for various reasons including Representatives Kowalko and Williams, the President of the Delaware Association of School Boards and Fred Polaski from the Christina School Board. He suggested it would be a good idea for Council to be very reluctant to endorse legislation that affects lots of other people without getting the full picture. He noted that just because one legislator thought it was a good idea did not mean others did.

18. 6-C. 2019-2020 COUNCIL RULES OF PROCEDURE DISCUSSION – CITY SECRETARY

46:08

Ms. Bensley noted that she reviewed the minutes from the meeting on May 20, 2019 regarding the Rules of Procedure. There were additional questions regarding items in her original memo where Council direction was needed in order to finalize the revised Rules of Procedure resolution. She said pertaining the meeting schedule, Council decided to add meetings on the first and third Mondays of the month and schedule those meetings to be until 9:00 p.m. The original proposal was having a meeting every Monday which would have included 5th Mondays on the months that had them. Ms. Bensley shared that the estimated meeting count provided had included those 5th Mondays. She confirmed there was also a request for comments regarding meetings around the April election and a potential summer break and those meetings were also included in the initial count, if it had not been approved. Unfortunately, since this had been delayed, the summer break timing was moot, but she requested feedback from Council on the items. Ms. Bensley confirmed that if Council did not meet on 5th Mondays, that would bring that meeting count down to 39-41 meetings per year. If suggestions regarding the meetings around the election and summer break were incorporated, that would bring the number of meetings down to 36-37 per year. She said she would like confirmation of:

1. Council's intent not to meet on 5th Mondays,
2. Council's desire regarding meetings around the April elections, and
3. Council's desire for meetings around a potential summer break.

Ms. Bensley said regarding the meeting format, the motion included a request for meetings to be in workshop format and a recommendation that staff come back with an agenda for each style of meeting. She said her original memo presented two options of either making the first and third Mondays much like the existing special meeting workshop formats where a specific topic will be covered in depth at those meetings and the second and fourth Mondays maintain the existing agenda categories or move certain agenda categories to the first and third Mondays. She clarified that they were two distinct options and not a compiled suggestion. She recommended that since there was a time limit on the additional meetings, that the first and third Mondays have agendas similar to existing special meeting workshop formats, where there were topics that were going to take a longer discussion. She suggested not having those on a regular Council meeting agenda. She provided two potential outlines for what agendas could look like if the City kept the standard format for the second and fourth Mondays, and if Council elected to divide the meeting categories over all of the agendas for each meeting.

Ms. Bensley noted there was also discussion around potentially moving additional items to the consent agenda. The one thing that was referenced was contracts and bids. Ms. Bensley said no official direction was given regarding pursuing this further. There was also conflicting commentary around what to do with public presentations from outside groups. She explained at some points in the meeting, comments were made to move those presentations to the end of the council meeting agendas on the second and fourth Mondays and require a Council sponsor. At other times, the comments were to place them on the agendas for the first and third Mondays of the month. She requested clarity around how Council would like those to be scheduled. Regarding the request to list times on the agenda for each item, she requested direction as to whether the estimates should be based on the time that staff thought the items should take to help keep the agenda moving or if they wanted it based on historical data on how much time was typically spent on that type of item in the past.

The Chair opened the discussion to questions or comments from Council.

Mr. Lawhorn had a question because what is presented in the memo does not appear to be in workshop format. Ms. Bensley confirmed that what is presented in the memo would be what the recommendations are if agenda categories are divided off into a second meeting. She explained what an agenda would look like for the first and third Mondays and what it would look like for the second and fourth Mondays. If it was decided that the recommendation for the first and third Mondays follow the existing special meeting workshop format, then the agenda for that meeting would just be the topic that is on the agenda for that night which includes one, potentially, two topics depending on how long the topics would be. She said the agenda categories would remain the same as they were now for the second and fourth Mondays, except for the changes being implemented that were discussed on May 20, 2019. Mr. Lawhorn said it was not clear to him how the first and third Monday meetings were going to proceed. He asked if that was the one that was said would be over by 9:00 p.m. Ms. Bensley confirmed that was the case. Mr. Lawhorn questioned that the meeting that the most discussion would occur was the one that the time was limited. Ms. Bensley confirmed that is the case. Mr. Lawhorn expressed he was still unclear on the agenda format. Mr. Markham said to Mr. Lawhorn that the meeting format could be discussed further and asked Ms. Bensley if it was the time to do that. Ms. Bensley said the format is in the final resolution. She expressed that she needed direction concerning the meeting format. Mr. Markham said he would go through the various items and have Council say whether they wanted them or not.

Ms. Bensley discussed the process of how a Council agenda is built. She outlined the three categories she would review which were Land Use Projects, Ordinances and Public Presentations.

Land Use Projects

Regarding land use projects, approximately three to four weeks before each Planning Commission Meeting, Ms. Bensley explained she received an informal update from the Planning and Development Director, usually during one of the management staff meetings, regarding projects expected to be on the Planning Commission agenda. It was often outlined in the Administrative Report when things were coming up. She said those agenda items going from Planning Commission to Council were tentatively slotted on future agendas based on the elements of the projects, their associated pieces and the advertising requirements with their dates finalized. She announced advertising requirements had a lot of different configurations, depending on what kind of plan it is. Anything requiring an ordinance, such as a Comp Plan amendment, annexation and/or rezoning, require first and second reading. Ms. Bensley explained for ordinances, the second reading requires 15 days advertising between the first and second reading and they require direct mail notices. A special use permit requires 15 days advertisement and direct mail notices. She explained if it was on the first Tuesday's Planning Commission meeting then it would be on the first Monday meeting the following month for a Council meeting. Because of the advertisement requirements and the deadlines for the newspapers, it was too soon to get it on the fourth Monday of the previous month. For a major subdivision, that requires ten days advertisement. That would be on the fourth Monday of the month if it is on the first Tuesday for Planning Commission. She said for minor subdivisions, there was no additional advertisement requirement by Code but due to previous comments from Council, staff typically followed the major subdivision requirements of ten days advertisement and direct mail notices.

Ms. Bensley reviewed the March 25th Council meeting as an example since a lot of questions came up about that meeting on May 20th. The February 5th Planning Commission agenda had 924 Barksdale Road, College Square and the Green Mansion projects advertised on December 19, 2018 originally. 924 Barksdale Road had a Comp Plan amendment, rezoning and major subdivision. First reading was on February 25th and second reading was scheduled for March 25th. College Square had a Comp Plan amendment, major subdivision and special use permit. First reading was February 25th and second reading was March 25th. The Green Mansion had a major subdivision and special use permit so the Public Hearing

at that time was scheduled for March 11th since it did not have any elements that needed a first and second reading. However, the Green Mansion was withdrawn from the February 5th Planning Commission agenda and rescheduled for the March 5th Planning Commission agenda. The developer requested placement on the March 25th Council agenda in late December/early January due to the cancellation of the first meeting in April. Their request was forwarded to the Mayor and City Manager. She said it was decided jointly to accommodate the request on the condition that the Planning Commission acted on the project at their March 5th meeting. At that time, it was decided to close the March 25th agenda to non-urgent items which staff was informed of around that time.

Ordinances

Ms. Bensley said that ordinances that were non-land use project related began with an idea being brought forward by Council, staff, the City Solicitor and/or residents. It is researched and vetted by staff and the Solicitor. If it is determined to be necessary by the City Manager and/or requested by Council, the initial discussion item is placed on a Council agenda as an item for discussion, comment and direction. If the ordinance is required or recommended to either the City Board or Commission, the information goes to the appropriate group for review as outlined. She explained once the Board issues a recommendation, the final ordinance is prepared and placed on an agenda for first reading. If it is an amendment to Chapter 14A, 27 or 32, it needs 15 days' notice. The second reading would be scheduled for two meetings after the first reading. All other Code amendments require ten days advertisement and would be scheduled for the next Council meeting after the first reading.

Outside Presentations

Ms. Bensley said presentations are scheduled as requested on agendas based on availability at the time of the request. She outlined the presentations from the April 22nd Council meeting as an example since there had been some questions. The Newark Area Transit Committee presentation request was submitted on January 29th for placement on the April 22nd agenda. The Christina Referendum presentation was submitted on March 22nd for placement on the April 22nd agenda.

Ms. Bensley outlined the steps to prepare the agenda packet for each Council meeting. Staff prepared a draft agenda with items that had been tentatively scheduled and the draft was distributed to the Department Directors and Deputy Directors for review the Tuesday or Wednesday after the previous Council meetings. The Department Directors emailed any additional items to be added to that draft agenda by the end of day Wednesday so they could be included for discussion at the management staff meeting on Thursday. The draft agenda is discussed at the staff meeting on Thursday with items added and removed at that meeting. She said the draft agenda is sent to the City Manager and Mayor on Monday for review and approval. Once approval from both parties and all packet items are received, the final agenda and packet are posted and distributed the Monday before the meeting. If the Council meeting is on a random day of the week, the final agenda and packet are posted and distributed seven days in advance. Additional supporting items and/or addendums are provided as they become available through Friday. She explained that will typically include Council Minutes, Planning Commission Minutes once they are approved by the Planning Commission, public comments submitted on agenda items and any packet items that were not submitted by Monday.

Ms. Bensley reviewed the timeline for finalizing the agenda – 7 days prior to the meeting date the agenda is finalized; 11 days prior is the staff meeting to discuss the agenda; 12-13 days prior, the draft agenda is distributed to staff; 13-14 days prior, advertisement and direct mail notices for items that require advertisement and direct mail notices requiring ten days' notice are sent for publication or mailing; and 20-21 days prior sending the advertisements and direct mailing notices for items requiring 15 days' notice. She noted the reason for that gap with the advertising is due to the newspaper publication deadlines.

Ms. Bensley summarized that meeting agendas are being compiled two to three months out from the meeting on a first come, first served basis. Looking at the requested end time of 10:00, she asked for direction on how agenda items should be scheduled that were expected to take a large chunk of time. She asked if Council wanted to continue with the first come, first served and put those at the end of the line. She asked if Council wanted previously scheduled items to be bumped if it is determined that there are higher priority items that come up. The City Solicitor, Mayor, City Manager and City Secretary would jointly determine prioritization.

She also requested direction about how data should be collected moving forward. Whichever items from the Rules of Procedure end up in the final and were approved, regarding cost, Ms. Bensley asked if Council would like to monitor staff and City Solicitor time to provide a better picture of what that

looked like and if so, how long did Council want the time to be monitored before bringing it back to Council. She asked for direction in terms of monitoring data about the timing for additional meetings, and if so, how long before bringing compiled information back to Council.

Mr. Markham noted that the information on building a Council agenda should be in the incoming Council member packet. He did not know all of this and he has been on Council for a while. He also thought that if the chair of the meeting was going to be someone other than the Mayor, that person should have some knowledge about the agenda. He also felt they hobbled some of their agendas when certain people were not there and he did not see any point in doing that. He noted there were six members there that night from Council and they could make decisions and have a full agenda.

The Chair opened the discussion to questions or comments from Council about data collection and scheduling.

Mr. Horning expressed concern that there is not a good understanding yet on what the additional cost would be to run the extra meetings. He said there is a concern from constituents that there would be investing of extra money into extra meetings and the question of how worthwhile that is. He asked if there was any estimates or data concerning that. He noted he had some discussion with the City Secretary about that.

Mr. Markham noted in response to Mr. Horning's concern that there is a question about monitoring that and certainly the City Secretary has put in her memo that is a question that requires direction. As far as discussion around the number of meetings, he believed that has already been decided by a vote of Council. He said that he voted against it and that he could open it up, but he did not think it was the right thing to do.

Ms. Bensley pointed out the answer on cost was largely dependent on whether Council meets the goal of having more shorter meetings rather than more meetings that end up as long as the existing meetings. If it turns a five-hour meeting once a week into two meetings that are two and three hours a week, the cost may not be as high. If it is two five-hour meetings, then they were going to see an increase in cost. She echoed Mr. Markham that the reason staff put in there to have a period of time to monitor both the Solicitor's costs as well as staff costs was to give a more accurate picture of what that information looked like.

Mr. Lawhorn said he would prefer Council had some sort of projection when that decision is made. He said they were voting to more than double the meetings and thought that would come with significant cost. He said before voting on that, it would be wise to ballpark cost, both in staff time as it was going to take them away from other things, related costs, such as potentially adjusting the pay of the City Solicitor, so that when Council decides to vote on it, they are informed. He noted that he did not want a costly decision to be made and then go back and have to correct it. He knew it may not be perfect and there are other variables, but he thought it was reasonable to have some idea of cost when the vote is made.

Mr. Markham responded that Council could ask for that at the meeting of the Rules of Procedure. While he understood the sentiment, he thought they would never finish this job if they have two or three meetings on the topic. The job was to get the business of the City done.

Mr. Markham asked that the City Secretary collect information by the Rules of Procedure meeting. Ms. Bensley responded she could collect the information but had a question would Council like a range of this is what the ideal would be if we meet the two and three hour meeting goal versus a range up to what happens if everything meeting turns out to be four to five hours. She said she did not want to give bad information to Council. Mr. Lawhorn suggested giving ideal and worst-case scenarios so that they have a range to understand an estimate of what that looks like. He also suggested including the time the staff is attending the extra meetings.

Ms. Bensley added when Mr. Horning contacted her, one of the questions he asked was what additional time would take away from other items that could potentially be done to have the extra meetings. She outlined for Mr. Horning, from the Legislative Department, it would mean:

- Every Monday or Friday (if the Monday was a city holiday), would be an agenda packet day as well as a Council meeting day.
- Every Tuesday would be follow up from the previous night's meeting.
- For minutes, if the meetings were shorter, the same person could do all sets of Council minutes. If the meetings were longer, they would be diverting a second staff member to work on those, similarly to how they handled special Council meeting minutes now.

- It would also be an agenda staff meeting for management every Thursday instead of every other Thursday.

The Chair opened the discussion for public comment.

John Morgan, District 1, said on the standard agenda for the second and fourth Mondays, he believed it would be best to put the Recommendations on Contracts & Bids and the Financial Statement near the very end of the meeting after, rather than before the Recommendations from the Planning Commission and Planning Development. He said those are the ones from the Planning Commission are usually those that are going to be the most controversial which the most members of the public will want to attend where there is likely to be the most public comment. He thought those should go earlier in the meeting so that they are not being addressed at 10:30 p.m., 11:30 p.m. or after midnight. He thought it would enable the planning staff to leave earlier. He believes the staff should not have to remain in the meeting to listen to the financial statement or the recommendations on contracts and bids. He also expressed that he believed that the City Solicitor did not have to remain in the meeting to listen to the financial statement. Dr. Morgan suggested that the City Solicitor to remain in the meeting if there is a legal or controversial land development issue.

Dr. Morgan thought that rearranging the standard agenda would be a step in the right direction. He thought it is important there is an opportunity for the lobbyist to interact with Council in public which is the only way that it can be done legally with FOIA whenever the legislature is in session, as particularly true in June, when the legislature does a lot on a short time scale. He suggested the first Monday in June, which is usually almost always the Monday before the legislature returns on the first Tuesday in June, is when Council would want the lobbyist present. He suggested that every Monday in June that the lobbyist be present to get direction on last minute legislation. He recommended having a standard agenda for all meetings except for the special ones on the budget. He said that Council could always cancel a meeting if they found that they did not need to meet four times in August. He noted that it was easier to cancel a scheduled meeting than to add a meeting on a couple of weeks' notice.

Jean White, District 1, said partly when looking back at the special Council meeting on May 20th, which she took part in as a member of the public, one of the topics extensively discussed was increasing the number of Council meetings from two to four. She noted that increasing the number of Council meetings was concerning as this was adding significant extra commitment of time to Council members and City staff. It was City Council's prerogative to decide the number of council meetings and the number of workshops. She said she would like to see the development projects be on the second and fourth Mondays, not on the first and third Mondays. Ms. White said if a council meeting or workshop is not held on the first or third Mondays, she would like a notice to be posted on the bulletin board and on the website that this is a cancelled meeting to show the public that there was nothing on the agenda and the meeting was cancelled.

The Chair brought the discussion back to the table.

Regarding holding meetings on fifth Mondays, all Council members agreed there would be no meetings on fifth Mondays. Regarding cancelling the meetings around the April elections, all Council members agreed those meetings should be cancelled. On the question of having a summer break, Messrs. Lawhorn and Horning thought there should be a summer break, while Meses. Wallace and Hughes and Messrs. Hamilton and Markham did not think there should be a summer break. Mr. Markham noted that regarding the summer break question, staff and Council members should schedule what works for them and everyone was going to miss meetings at times.

Regarding having the first and third Mondays as workshops, Messrs. Hamilton and Horning and Meses. Wallace and Hughes were against having the workshop format and Messrs. Lawhorn and Markham were in favor of having the workshop format.

Mr. Hamilton said he would prefer that majority of the meetings to be workshops but add more flexibility to every other meeting. Mr. Markham said the agenda style is more conversational, that is what the workshop is supposed to be. Ms. Wallace thought there was an opportunity for that conversation to happen. She thought items submitted for the published agenda was whatever they wanted it to be. It could be that they want to talk about planning areas and it still could be done in a conversational format. She thought it was a practical matter that if they wanted meetings to be shorter, some things needed to be switched over from the second and fourth. She thought more in-depth conversations could happen and she thought that was what was missing. She thought people were trying to cram in their Council comments, or they were getting put on the agenda and were not able to get to the topic. She thought this topic was not an either-or situation.

The Chair opened the discussion about the agenda format to Council. He said he heard workshop, dividing agenda and somewhere in between. He noted in the memo, there was a starting point for the conversation for the first and third Mondays, the agenda includes silent meditation, financial statements, special department reports and other items. Mr. Markham asked if anyone would add anything to that list.

Mr. Hamilton said if that helps shorten the other meetings, what he would add is whatever topic they could decide was workshop material. He said he would like a lot more flexibility with that in the first and third meetings. He would like to take some of the other items such as financial statement and special department reports which could also shorten and save money on the other meetings.

Mr. Markham asked Ms. Bensley was number four her item for flexibility. Ms. Bensley said the idea behind this was to move items that tend to be more of the longer discussion items that are for direction for further action later to the first and third Mondays. The financial statement was something that was routine, and it did not require Council action. There was no business reason for it to have to be on the second and fourth meeting days. She said that special departmental reports tended to be where items are placed if the City Manager wanted more in-depth discussion and direction on a topic such as a proposed ordinance. She noted the reason that it was included in both agendas is because it also included some official action like resolutions, for example when Council is asked to do a resolution of support for a grant application. She explained an official action like that would stay on the regular second and fourth Council meetings. She said looking at items submitted for the published agenda, those are items that are requested to be on by Council members for discussion. Those discussions typically take longer time and are a little more in depth. She noted that is why those items were placed on the agenda on the first and third Mondays. The remaining items on the agenda have all been kept on the second and fourth Mondays.

Ms. Wallace said the one thing that she thought was missing is public presentations. She noted there is now a spot on the agenda and thought it made sense to include the public presentations on the first and third as opposed to second and fourth. Mr. Markham agreed with Ms. Wallace. Ms. Bensley said her thought on public presentations was that they are included on the first and third Mondays under 4-B, Others.

The Chair asked if there were any other recommendations for changes to either agenda format.

Ms. Wallace proposed to add contracts and bids to the consent agenda. She suggested potentially not doing all of them but possibly a specific dollar amount. She thought it was possible for more routine ones and not the ones where Council is waiving the bid process. She thought this could shorten the meetings and potentially save money by not having staff present waiting until later in the agenda to speak on items. If it was on the consent agenda, it can always be pulled from the consent agenda to ask questions and then staff could go home earlier.

Ms. Bensley provided information for Council from 2017 to give an idea of the different threshold levels. There were 43 contracts in 2017. 16 of those were \$50,000 and under, 25 were \$75,000 and under, 29 were \$100,000 and under, and 37 were \$250,000 and under.

Ms. Wallace asked what threshold level Council would be comfortable with moving to the consent agenda. Mr. Lawhorn asked that the City Manager make a recommendation on that. Mr. Markham said the City Manager was not present to make the recommendation.

Mr. Markham recommended \$50,000 or \$75,000 as the threshold and asked if anyone else had any recommendations. Messrs. Lawhorn, Horning and Hamilton and Ms. Wallace were all in favor of \$75,000 being the threshold for contracts and bids to be added to the consent agenda.

The Chair opened the discussion for Council for timing of the items on the agenda. He asked if Council should use historical data or an educated guess. Ms. Wallace said she thought the educated guess should be used and saw it as a tool to help guide Council not repeat the past not so great behavior. Mr. Lawhorn said it is an expectation to be used as a tool both for building and for Council and also with a caveat that estimates should also improve over time. Mr. Markham expected them to be off when the timing started.

The Chair opened the discussion to Council for scheduling of the agenda items first come first serve or prioritization by the City Solicitor, Mayor, City Manager and City Secretary. There was consensus from Council that generally first come, first served should be followed, but that conflicts should be decided by the prioritization group listed.

Mr. Horning referenced comments about the Green Mansion project and having the Planning Commission minutes to review prior to voting on the project. Mr. Markham asked if Mr. Horning was asking for completeness of information including approved minutes from every Board that goes with the item Council is discussing, which Mr. Horning confirmed that was the case.

Mr. Hamilton asked Mr. Bilodeau if there was any law against Council members observing the Planning Commission meetings. He understood the concerns about Council speaking out at the meetings. Mr. Bilodeau confirmed that Council can attend the Planning Commission meetings. Mr. Markham said he was previously told by the Chair of the Planning Commission that he was not speaking before the Planning Commission. The concern was the appearance of trying to influence a board that reports to Council. There is nothing against it but that is the sentiment.

Mr. Hamilton said as long as Council is not giving verbal cues without actually speaking, he thought it was not inappropriate for Council to be at the planning commission meeting. He said as far as the question goes, he thought it should be first come first serve but he also thought that it is necessary occasionally for something important to be prioritized. He said he would like Council and the public to know that something has been prioritized.

The Chair opened the discussion to Council on monitoring additional staff to provide a better picture of cost – yes or no and if it is a yes, how long before information is reported back.

Mr. Lawhorn said his answer is yes and that Council has already discussed that the next meeting when Council votes on the final Rules of Procedure to have an estimate. He said January would be reasonable for a review. This gave Council five to six months of data to see where they stand.

Mr. Horning agreed with monitoring the cost, but he would like to see information reported back in three months.

Mr. Markham echoed Mr. Horning that three months was a proper time, and that six months was too long. He said it is almost the next year and a brand-new election. Mr. Lawhorn said he could agree with three months.

Mr. Hamilton said six months is reasonable. He said there are seasonalities that happen and could have some anomalies that occur in three months and that six months gave them more data points.

Ms. Wallace said that she thought that the City Secretary should come back in the first month or two for the initial monitoring if there was an exorbitant, outrageous cost. She thought six months made more sense. She said it was critical that Council did the analysis before the election and there were potential new people. She agreed three months was too small because there are busier times of the year than others.

Ms. Hughes agreed on a six-month timeframe. She asked what the options were if it came back that this was a really high cost.

Mr. Markham noted that Ms. Wallace and Hughes and Messrs. Hamilton and Lawhorn said six months and Mr. Horning said three months.

Mr. Lawhorn revised his recommendation to three months. He said it was important to look at historical data at six months going forward.

Ms. Bensley said if Council did need to do a budget amendment to amend the contracted amount for the City Solicitor, the data would be brought back earlier than six months because in six months the budget year is over.

The Chair opened discussion to Council about monitoring timing for each agenda item and overall meeting time. Ms. Bensley said she was looking for direction on monitoring the time for the agendas and also the length of time for the meetings as a whole to see if the goal of two- and three-hour meetings was being met or exceeding them.

Ms. Hughes said that was going to be a six-month timeframe.

Ms. Wallace thought they were combined. She said she is fine with bringing back the potential increase to the City Solicitor or any other cost before six months, but the data should be six months.

Mr. Lawhorn said he looked at them as hand in hand also with the caveat that the City Solicitor estimate should be brought back soon.

Ms. Wallace explained the difference in the questions as one is a look back at if what the City is doing working and the other question is does this year's budget need to be adjusted because the City is spending more money on the City Solicitor. She thought to bring the information back as soon as there is any knowledge of changes for the City Solicitor and otherwise six months look back to see if it is working makes sense.

Mr. Lawhorn said he would like to have a reasonable cost estimate before there is a vote on this. He thought it made sense to review the budget as soon as possible.

Mr. Hamilton said four meetings was already voted on. Mr. Markham confirmed that was the case. Mr. Lawhorn said the vote was for staff to bring back a plan. He said there were a lot of things that have gone on with this plan. In his mind, Council had not officially voted on four meetings yet. He said that was that direction that Council gave staff but they had learned a lot more since then. Mr. Markham disagreed with Mr. Lawhorn. He said there was a formal vote that said the number of meetings would be four each month. He said Council had not approved policy and procedures yet but did have approved vote on it.

Mr. Lawhorn asked if it was not part of policy and procedures. Ms. Bensley responded it would be a part of the final resolution. Mr. Lawhorn said he thought it should still be open for discussion if it came back with an exorbitant cost then a fair compromise with that increased cost may be to amend that to go to three instead of four meetings a month. He thought it was reasonable still for conversation. Mr. Markham said Mr. Lawhorn would have that opportunity when the resolution was presented.

Ms. Wallace noted in terms of cost, that it may be additional costs for the City Secretary's office to the Solicitor but she thought there were also cost savings that could be realized elsewhere and that was going to be harder to quantify. She said the goal was to be saving on staff over time in other areas so it would balance out. Mr. Lawhorn said he thought it was a fair discussion, but he did not see that and did not think Council has had that conversation.

Mr. Markham asked Ms. Bensley if she had all of her questions answered. Ms. Bensley confirmed that was the case and summarized the direction received.

Mr. Horning asked for clarification as to whether the recommendations from the Planning Commission and Planning Development Department would stay as item 9 on the second and fourth Mondays and not move it up in the agenda. Ms. Bensley responded there were motions made at the last meeting about moving things around on the agenda, which had been incorporated in the proposal. She said there was no direction given to do that. She said if Council wanted to revisit that, they were welcome to, but Ms. Bensley did not put that on as a question because she felt that had been answered on May 20th. Mr. Horning said to Dr. Morgan's point, he knew some of the public wishes to speak to some of those items earlier in the evening as they came up. He noted that part of the extra meetings was to get those items accomplished sooner anyway. He said he did not know if Council wanted to do anything about that now. Ms. Bensley responded when land use items are moved up, then ordinances need to be moved up as well because often they are a package deal because they need ordinances for certain land use related items such as Comp Plan amendments, rezonings and annexations. She said both of those categories need to be moved in tandem if they are going to be moved. Mr. Markham asked Council to give this a try and see how things turn out.

Mr. Markham asked the City Solicitor if there were any issues with the conversation that needed to be addressed. Mr. Bilodeau responded there were no issues.

(Secretary's note: There was a five minute break at this time)

19. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

- A.** Recommendation to Increase State Contract No. T201504401, Elkton Road, Maryland line to Casho Mill Road Construction Project – Parks & Recreation Director

01:58:32

(Secretary's note: Mr. Markham relinquished the gavel to Ms. Wallace to chair this portion of the meeting)

Ms. Wallace thanked Mr. Markham for handling the last agenda item very smoothly.

Mr. Spadafino reported DeIDOT and Johnson, Mirmiran & Thompson (JMT) have asked the City to expand the scope of reimbursable work to be performed by the City for the state contract for the Elkton Road to Casho Mill Road construction project.

He noted the added work would be for tree clearing and removal for the purpose of moving the power lines back ten feet. The tree contracts will be used that are currently in place with Millers Tree Service and Asplundh. The additional cost for the state contract and the existing contract for tree trimming and removal is \$197,020.00 for Millers Tree Service and \$29,986.20 for Asplundh. He added that DeIDOT will reimburse the City for all costs associated once invoices are submitted with the state contract per the DeIDOT letter of agreement dated June 11, 2019.

The Chair opened the floor to questions from the table.

Mr. Horning asked why the power lines were being moved back ten feet. Mr. Spadafino responded they were being moved for the Elkton Road project and also for the trail that will be added from the Maryland line all the way to Gravenor Lane.

Mr. Horning asked if any work done with City workers is reimbursable as well. Mr. Spadafino said it is all contracted work and no work will be performed by City staff. The work is performed from contractual services that currently exist with the two tree companies.

There was no public comment.

MOTION BY MR. LAWHORN, SECONDED BY MR. MARKHAM: THAT COUNCIL INCREASE CONTRACT 19-01 FURNISHING LABOR AND EQUIPMENT FOR TREE PRUNING, REMOVAL AND CREEK CLEARANCE OPERATIONS IN THE AMOUNT OF \$197,020 AND CONTRACT NO. 16-19 FURNISHING LABOR AND EQUIPMENT FOR ELECTRIC TREE TRIMMING IN THE AMOUNT OF \$29,968.20 TO COVER THE COST FOR THE ADDITIONAL SCOPE OF WORK TO BE PERFORMED AS PART OF STATE CONTRACT NO.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton

20. 7-B. RECOMMENDATION TO AWARD CONTRACT 19-08 – RODNEY COMPLEX DEMOLITION

02:03:10

Mr. Filasky said this contract addresses the demolition of the Rodney Dormitory Complex. The recommendation and details are attached to as an agenda item. He reported they would not be blasting using any explosives in this contract. Mr. Filasky wanted to point out the PCB removal is underway, has not experienced any issues and will be completed within the next two weeks. Most of the hazardous material has already been removed and the rest will follow in the next two weeks. Mr. Filasky reported there will be a public hearing in late July or early August on both the status of the Rodney Complex project in general as well prepping the residents for the next step which is the demolition. Demolition will occur after Labor Day. Once the contract is approved there will be a pre-construction meeting with the contractor where further detail will be provided on the methods to be used as well as a timeline. Mr. Filasky said he is in receipt of a letter that provides detail on the air monitoring process that will be used during the demolition process. He noted it has been made clear to City staff the air monitoring is important on all projects that create dust. He added that it is a very robust monitoring program costing \$100,000 and is a separate contract with JMT. He reported the City will own the data and will be provided on the City website with daily updates as work progresses. Mr. Filasky said there will be some work started prior to Labor Day and this will also be discussed during the public meeting. There will be perimeter controls, sediment controls, erosion sediment controls and fencing to channelize pedestrians during the project. There will be times where pathway will be closed but there will another pathway available coming around the other side as there will be heavy equipment used and they do not want to put anyone in danger.

Mr. Filasky noted there will be several trees removed that are interior to the site. They are still working on a plan to make sure the majority of trees are saved. He said he will be distributing the memorandum regarding air monitoring and dust control prior to the public meeting so Council may distribute to residents with the hopes to address any questions beforehand, but any questions that are raised afterwards will be addressed as well at the meeting. He noted with regard to the bid price they go from a low of \$864,000 to \$3,700,000. He said they were fortunate to receive 9 bids as it is a very busy

time for contractors. There were some that were close to the engineers' estimate and there were others that were not. Mr. Filasky said they were confident in the contractor as they spent quite a bit of time on site. He added they received very favorable reviews of the contractor.

The Chair opened the floor to questions from the table.

Mr. Lawhorn asked about the perimeter fencing around Oaklands Pool during the season as well as the access road next to the dormitory that runs along the property line to include grading issues as well. Mr. Filasky said the fencing is to keep an access point into both areas. There will be times when they will be working very closely to the perimeter but they will give advanced notice when that is to occur.

Mr. Hamilton thanked Mr. Filasky for supplying information to the public and for holding a meeting ahead of time.

Mr. Markham thanked Mr. Filasky for attaching the information from the University stating they agree with choice of contractor as they had veto power on this matter.

Ms. Hughes said she was very impressed with the bidding process and amazed at the differences in the bids. She noted that alone emphasized the need for the bidding process. She thanked Mr. Filasky for all the information included.

Ms. Wallace asked what the engineers' estimate was. Mr. Filasky reported it was slightly over \$1 million with a contingency so he estimated \$1.1 million.

Ms. Wallace asked if the underpass would be impacted. Mr. Filasky replied the two paths he referenced would lead to the underpass. He reiterated there would be times it would need to be closed for a period of time. Ms. Wallace asked for public notification and also requested a timeframe be offered as well. She has a group of residents who bike or walk to campus and they need to when it will be opened. Mr. Filasky said when the environmental remediation was done the paths were closed longer than anticipated but an update was offered.

There was no public comment.

MOTION BY MR. HORNING, SECONDED BY MR. HAMILTON: THAT COUNCIL AWARD CONTRACT 19-08 RODNEY COMPLEX DEMOLITION, TO AMBIENT GROUP, LLC OF SEWELL, NEW JERSEY IN THE AMOUNT OF \$860,500.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton

21. 8. FINANCIAL STATEMENT: (Ending April 30, 2019 and May 31, 2019)

02:12:13

Mr. Del Grande reported expenditures were under budget based on the spending activity through May. Statements reflect a positive seasonalized variance of \$1.1 million with \$665,000 coming from City operations and \$460,000 as a result of utility purchases which are electric but fall short of budget expectations. Personnel costs are \$300,000 under budget due to the number of vacancies to date; however, the vacancy numbers are starting to drop. Revenue budget has been experiencing some hits and misses through 2019. Utility sales, electric and water have been under budget for three of the five months with sewer falling short in two of the five months. He said he is not overly concerned about monthly variations and staff will become more vigilant when multiple months begin to fall short. As he has stated in the past, the utility rates are based solely on consumption and are directly impacted by the weather which will be corrected in the immediate future. If the City meets the utility sales expectations for the months of May through the December, he anticipates a shortfall of 1% under budget for the year in utility sales. That would equate to about \$700,000 to the bottom line.

Non-utility revenue has remained consistent with only a few areas requiring immediate focus. The lodging tax has recorded \$310,000 through May which is better than what was projected for the 2019 budget. He noted depending upon what the next seven months brings for activity, there could be an additional \$50,000-\$100,000 in revenue from that particular line item.

Real estate transfer tax, although not reflected on the May financial statement as the real estate transfer tax is always recorded a month behind, will reflect two large transactions appearing in the June report. Both the Studio Green apartments and the Retreat had real estate transactions in the past six weeks that would add nearly \$1.2 million in revenue to the City. These two transactions alone accounted for 77% of the entire real estate transfer tax budget of \$1.55 million for the year. He noted depending upon how the rest of the year continued they could be \$500,000 over budget in revenue.

The permit activity was falling a little under budget in the seasonalized budget by \$126,000. He noted the old Studio Green apartments were undergoing renovations which would bring that number back slightly along with a few other projects that are still in the infancy stages.

The parking meter and lot fee revenue is falling under estimates resulting in another \$120,000 reduction in revenue. He stated he is currently working with staff in revising the numbers to see what happens by year end.

Mr. Del Grande noted overall for May, expenditures are revenues netted out to a positive \$93,000 variance not including the recent real estate transfer tax mentioned previously. He added utility sales are aided by real estate activity and expenditure savings to mitigate the underperformance.

The cash balance at the end of May was \$35.6 million which includes \$22.6 million in the long-term cash account and another \$13 million in operating cash. The electric regulatory liability continues to carry a credit balance of \$1.5 million.

The Chair opened the floor to questions from the table.

Mr. Markham believed the numbers were balancing out fairly well to date between electric sales being down as well as the personnel costs being down. However, personnel are being added so that savings will not be there for the remainder of the year. He stated the transfer tax is a good number but he said it is concerning if the City is using that to balance the budget. He understands that it is not the intent of the Finance Director but Mr. Markham wanted to make sure that he understood how that would be incorporated into these numbers. Mr. Del Grande said all the revenue is netting all the revenue against expenses so those that are under performing and over performing tended to balance each other out along with any expenditure activity that went to the plus or minus side. At the end of the year, everything was incorporated into the total. Therefore, they were mitigating utility losses against real estate transfer gains for the year.

Mr. Markham said he got a little concerned when this occurs in May. He asked Mr. Del Grande if this was still the trend in July or August, what were the contingency plans. He added that was not a question for Mr. Del Grande tonight but Mr. Markham said he should confer with the City Manager at some point on this matter.

Mr. Markham believed the rainy season affected the utilities in electric. However, he noted the good news is there would be hot weather at the end of June. His suspicion with regard to parking is the paving on Main Street and that people are concerned about coming into town. He suggested the City media person do more to alleviate people's concerns and reaffirm that businesses are open. He believed at one time it had been suggested to do summer parking rates to encourage people to come into the City but he is not certain how that discussion progressed.

Mr. Hamilton asked when the charge would occur to take some of the pressure off the usage revenue. Mr. Del Grande said he and Mr. Coleman are currently reviewing and compiling the raw data to see where they stood and the hope is to bring that together with the 2020 budget. He hoped to have information by year end. Mr. Hamilton said he had hoped to already have that in place.

Mr. Hamilton inquired about the City's new account. Mr. Del Grande said the daily cash account is in a Fulton Bank account. As there was more activity going on with the capital projects, they were carrying a larger balance than they would normally would because of the Rodney dormitory project. Mr. Del Grande said they were working with Fulton Bank and the bank is putting the money into CD's in different banks and investing it overnight. It was all FDIC insured and they were getting return on their money. Otherwise, the money would just be sitting in Fulton Bank and not doing anything. Mr. Hamilton asked why they did not do more of this in the future. Mr. Del Grande said they could do a little better in the money managed account that is being held by PFM.

Mr. Markham inquired about the savings from the reservoir and was it still on the to do list. Mr. Del Grande said he would discuss with Mr. Coleman. Mr. Markham believed it was important to show.

Ms. Wallace opened the discussion to public comment.

John Morgan, District 1, commented about the parking situation. He understood the parking revenue was down substantially from the previous year. He thought it was certainly true the construction on Main Street was a major reason why. He referenced an article in the News Journal about construction on Main Street having a negative effect on business. He thought it was very important that the Main Street merchants realize that the more they complain to the newspapers, the more they are hurting themselves and their neighbors. It should be emphasized that it is still possible to come to Newark and that there is plenty of parking available, even if people may have to look for it a little harder. In the months ahead, he thought it would be helpful if the Finance Department and Parking Division could break down parking revenue coming in from each of the City's lots and, if possible, on the income of the meters on Main Street versus other locations. He thought a detailed view of what was going on could help with decisions on adjusting parking rates in the future.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL ACCEPT THE FINANCIAL STATEMENTS ENDING APRIL 30, 2019 AND MAY 31, 2019.

MOTION PASSED. VOTE: 6 to 0.

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

Nay – 0.

Absent – Clifton

- 22. 9. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None
- 23. 10. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:** None
- 24. 11. **ITEMS SUBMITTED FOR PUBLISHED AGENDA**
 - A. **Council Members:** None
 - B. **Others:** None
- 25. **Meeting adjourned at 9:35 p.m.**

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

/dad