CITY OF NEWARK
DELAWARE

COUNCIL MEETING MINUTES

December 9, 2019

Those present at 5:45 p.m.:

Presiding:                          Mayor Jerry Clifton
District 1, James Horning
District 2, Sharon Hughes
District 4, Chris Hamilton
Deputy Mayor Stu Markham, District 6

Absent:   District 3, Jen Wallace
          District 5, Jason Lawhorn

Staff Members:  City Manager Tom Coleman
                City Secretary Renee Bensley
                City Solicitor Paul Bilodeau
                Assistant to the Manager Jeff Martindale
                Chief Communications Officer Jayme Gravell
                Finance Director David Del Grande
                Electric Director Bhadresh Patel
                Planning and Development Director Mary Ellen Gray
                Planner II Mike Fortner
                Code Enforcement Manager Stephanie Petersen
                Code Enforcement Officer Tim Poole

1. Mr. Clifton called the meeting to order at 5:45 p.m.

2. EXECUTIVE SESSION
   A. Executive Session pursuant to 29 Del. C. §10004 (b) (9) for the purposes of personnel matters in which the names, competency and abilities of individual employees are discussed, unless the employee requests that such meeting be open.
   B. Executive Session pursuant to 29 Del. C. §10004 (b) (2) for the purposes of preliminary discussions on leases of real property.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL ENTER EXECUTIVE SESSION PURSUANT TO 29 DEL. C. § 10004 (B)(9) FOR THE PURPOSES OF PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED, UNLESS THE EMPLOYEE REQUESTS THAT SUCH A MEETING BE OPEN; AND THAT COUNCIL ENTER EXECUTIVE SECTION PURSUANT TO 29 DEL. C. § 10004 (B)(2) FOR THE PURPOSES OF PRELIMINARY DISCUSSIONS ON LEASES OF REAL PROPERTY.

MOTION PASSED. VOTE 5 TO 0.

Aye – Clifton, Hamilton, Horning, Hughes, Markham.
Nay – 0.

Absent – Lawhorn, Wallace.

3. RETURN TO PUBLIC SESSION

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL DIRECT THE CITY MANAGER AND CITY SOLICITOR TO NEGOTIATE AND ENTER INTO A LEASE FOR ADDITIONAL MUNICIPAL PARKING ALONG HAINES AND EAST MAIN STREETS PER THE TERMS OUTLINES IN THE EXECUTIVE SESSION.

MOTION PASSED. VOTE 5 TO 0.

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

4. **SILENT MEDITATION & PLEDGE OF ALLEGIANCE**
   Mr. Clifton asked for a moment of silence and the Pledge of Allegiance.

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

6. 1-B. **UNIVERSITY**
   (1) Administration (5 minutes per speaker) (3 minutes): None

7. 1-B-2. **STUDENT BODY REPRESENTATIVE(S) (5 minutes) (2 minutes): None**

8. 1-C. **CITY MANAGER (2 minutes):**
   1:51
   Mr. Coleman thanked all City employees involved in putting together Winterfest and stated it was a wonderful event.

9. 1-D. **COUNCIL MEMBERS (5 minutes):**
   2:51
   Ms. Hughes:
   • Went to the tree lighting ceremony and enjoyed the small-town feel that reinforced how beneficial it was to live in the City.

   Mr. Markham:
   • Noted Winterfest and the Reindeer Run and Romp had over 1,000 participants and was well-attended. He and Mr. Coleman attended a brief ceremony by the fire house prior to the run where Special Olympics presented the City of Newark with a plaque thanking the City for its participation and specifically mentioned the administration, the Police Department, and Parks and Recreation for their support of the event. He was proud for the City to participate and noted it raised a large sum for Special Olympics.
   • Acknowledged the issue of parking in the City and noted that Council was working toward a solution. He got a letter from a resident of Kirkwood Highway that claimed there was no telephone number on the signage to call when her car was towed. Mr. Clifton asked if there was repercussion on remuneration to residents who were towed because towing companies did not follow City code.
   • Stated Aetna Fire Hall had an awards banquet and reported that ambulance runs totaled over 9,000 this year with over 3,000 fire calls. He was amazed at the number of runs considering that most of the firefighters were volunteers. The top firefighter recorded 621 runs in the last year. Mr. Clifton declared the volunteers were strained and reported that Station 8 was closing although Aetna was seeking alternatives. He thought the organization performed miracles given their budget and emphasized how community-centered it was. He suggested citizens donate to Aetna to help support them as the alternative of a paid fire department was a huge cost. He informed Council that Aetna’s current budget was $4 million, and a private fire company would cost over $10 million per year.

10. 1-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):**
   10:14
   Nick Wasileski, District 3, and D. Hall, Wilmington resident, referred to comments from Representative Baumbach about fine reform. Mr. Wasileski and Mr. Hall read a prepared statement regarding the impact of fines on impoverished citizens of Delaware. (Statement attached.)

   Mary Beth Gonce suggested ticketing parking offenders instead of towing. She asked about the timetable for the substation as she thought it was between three and five years and Mr. Coleman estimated it would take longer. She asked how many substations were in Newark and Mr. Coleman answered one. She asked how long it normally took to construct a substation and Mr. Coleman thought it could be constructed under one year. She asked what the City was cutting from the budget to prepare for the $15 million cost because she was concerned about property tax increases. She asked about layoffs and furloughs for City employees and Mr. Clifton stated he could not answer. She reiterated concern over her personal finances and tax increases. Mr. Coleman said he would give her additional information about the budgetary plans.
Jean White, District 1, reiterated her opposition to moving the murals in Council Chambers and did not feel it was important for viewers of the livestream feed to watch unencumbered by a busy background. She believed only those who were physically attending the meetings had the right to voice an opinion and thought it was good enough for viewers at home to listen to the meeting. She did not think it was necessary for other citizens to clearly view their councilmembers if it meant redistributing the murals, to her great displeasure.

11. 2. APPROVAL OF CONSENT AGENDA: (1 minute)
   A. Approval of Council Meeting Minutes – November 18, 2019
   B. Approval of Council Meeting Minutes – November 25, 2019
   C. Receipt of Planning Commission Minutes – November 5, 2019
   D. Update to Council on the Purchase of Sanitary Sewer Root Foaming Services
   E. First Reading – Bill 19-37 – An Ordinance Amending Chapter 32, Zoning, Code of the City of Newark, Delaware, to Allow Agricultural and Related Uses in RH, RS and RT Zoning Districts for Parcels of Ten or More Acres – Second Reading – January 27, 2020

Ms. Bensley read the consent agenda into the record.

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

MOTION PASSED. VOTE: 5 to 0.

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

12. 3. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:
   A. Reappointment of James Cloonan to the At-Large Position on the Board of Building, Fire, Property Maintenance and Sidewalk Appeals for a Five-Term to Expire August 31, 2024 (5 minutes)

Mr. Clifton explained Mr. Cloonan’s service history with the board and extensive qualifications.

The Chair opened the floor to questions from Council.

Mr. Hamilton asked why Mr. Cloonan was not present and Mr. Clifton could not answer.

There was no public comment.

MOTION BY MR. CLIFTON, SECONDED BY MR. HORNING: TO APPROVE JAMES CLOONAN TO THE AT-LARGE POSITION ON THE BOARD OF BUILDING, FIRE, PROPERTY MAINTENANCE AND SIDEWALK APPEALS FOR A FIVE-YEAR TERM TO EXPIRE AUGUST 31, 2024.

MOTION PASSED. VOTE: 4 to 1.

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

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

14. 5. SPECIAL DEPARTMENT REPORTS:
   A. Unicity Bus Service Agreement for Fiscal Year 2019-2020 – Planning and Development Director (15 minutes)

Ms. Gray presented the proposed Unicity Bus Service Agreement for 2019-2020 between Delaware Transit Corporation and the City of Newark and the Companion Agreement between the City and UD for the Continuation of Unicity Bus Service for State Fiscal Year Beginning July 1, 2019. She explained the State’s commitment to Unicity was $143,380 and remained unchanged for the last five fiscal years. She noted both agreements remained unchanged save for editing the dates which were further indicated in the tracking lists described in the November 27, 2019 memo. She explained the process for
the agreement started with the receipt of the agreement for the Delaware Transit Corporation, received August 27, 2019. She noted the process for the agreements started after the respective budget approval.

Ms. Gray described improvements the City initiated to increase ridership, safety, and bus route coordination. She referred to the Newark Area Transit Study involving the Transit Improved Partnership (TRIP) and noted the recommendations for Unicity and the members of TRIP. She explained that she and Heather Dunigan, of WILMAPCO, intended to meet to go through the recommendations after January 1.

Ms. Gray stated University Transportation Services managed the bus drivers and she participated in a meeting which discussed ridership improvements and safety on Unicity buses by using radios linked to the Police Department. She informed that Dave Vispi was researching security cameras for the Unicity buses. Ms. Gray stated staff was researching GPS tracking and phone apps per TRIP recommendations. She acknowledged a challenge to the Unicity bus system was scheduling and thought that utilizing an app with an active bus route map would be beneficial. Staff intended to display a code of conduct on buses.

Ms. Gray explained staff was working to improve Unicity within the current resources to make it more efficient, increase ridership, and would continue to seek ways for sustained improvement. Staff asked that Council approve the Unicity Bus Agreement between Delaware Transit Corporation and the City of Newark and the agreement between the City of Newark and the University of Delaware for the continuation of the Unicity bus service.

Mr. Hamilton asked if the study determined the City's ridership and Ms. Gray responded staff kept monthly statistics on ridership, but she did not have the numbers available. Mr. Hamilton asked how many bus stops the City had and if changes were planned. Ms. Gray explained the recommendations from the trip group were to realign the N1 to be a more directional service on London Road, Cleveland Avenue, Main Street, Delaware Avenue, and Marrows Road, and to provide hourly service to Fairfield Shopping Center, Newark Transit Hub, Newark Senior Center, Chestnut Hill Plaza, and Newark High School Technology Park. She indicated any change would follow DART’s process which included public meetings to inform citizens of changes prior to implementation. Mr. Hamilton asked if it was possible to include a marquee for users without smartphones and Ms. Gray thought it would fall into the GPS tracking conversation. Mr. Coleman informed the ridership averaged 20,000 per year for the last two years which was down from 2013-2016 where it exceeded 25,000 every year with 2013 recording nearly 29,000.

Mr. Markham thought having an app and GPS would increase ridership. He asked if the City was seeking further funding from the State as it was not currently enough. Ms. Gray responded that the State granted the City $143,380 and the City subsidized the amount with $136,889 from the approved 2020 budget.

Ms. Hughes asked why ridership dropped and Ms. Gray thought it was a combination of dependability and routing choices. Ms. Hughes asked if something had been changed to cause the drop-off and Ms. Gray could not answer to the history of the program.

Mr. Horning asked if it was appropriate to consider the contract terms to address underfunding issues and Ms. Gray understood the lobbyist was engaged in seeking additional funding. Mr. Clifton confirmed he was meeting with Secretary Cohen and Director Sisson about funding and efficiency and Ms. Gray offered her notes to assist Mr. Clifton in the discussions.

Mr. Horning thought the WILMAPCO project would help address the inefficiencies. He pointed to page 6 of the City's agreement with the University where it stated the administrative fee of $20 would be charged per hour per loaner bus and asked if the charge was as the clock runs or if it was engine hours. On page one of the same agreement, Section II, under the Obligations of the University, Subsection (a), Employee Unsupervised Suitable Property License and Insurable Driver, Mr. Horning thought it was a typo and should read “properly”.

Mr. Clifton thanked Ms. Gray with providing the timeline and she agreed that it was confusing. He referred to a two-mile bus trip he took from the Municipal Building to Fountainview which lasted an hour and forty-five minutes. He commented that it was a free route but took second place to convenience and that the routes needed to be simplified and referred to New York’s system of telemetry. He noted the bus was a convenience for low income residents during the day, but the system had to be utilized better to create a flow of patrons to downtown in the evening hours.

Mr. Hamilton asked for the overall budget and Ms. Gray answered it was $280,269. Mr. Hamilton estimated the cost per trip to be $12.50 and noted how in efficient the system was versus the expense and Mr. Clifton agreed.
Mr. Markham thought inner circle and outer circle routes would be helpful. Mr. Horning asked Ms. Gray what the University was investing in the project. Ms. Gray answered UD provided and oversaw the drivers, store and kept the buses, performed accounting and provided loaner buses, if needed. Mr. Clifton asked Mr. Bilodeau about the typo reported by Mr. Horning and Mr. Bilodeau stated it should read “properly”. Mr. Horning asked about the language regarding the $20 per hour and Mr. Bilodeau answered that the language could be amended to read “operating hour” but it was possible UD could reject the language. Ms. Bensley thought the initial amendment was simply correcting a typo and, if there was no objection at the table to add the additional word “operating” to the language, she did not think it was necessary for a formal motion.


MOTION PASSED. VOTE: 5 to 0.

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

15. 6. RECOMMENDATIONS ON CONTRACTS & BIDS OVER $75,000:

A. Recommendation to Award Contract No. 19-13 – Procurement of Equipment and Services for SCADA System Master Station Upgrade (20 Minutes)

Mr. Patel noted that Council had the recommendation for this item and that he could answer any questions Council may have.

The Chair opened the floor to questions from Council.

Mr. Horning asked Mr. Patel to explain what the software did for the City. Mr. Patel explained it monitored the entire grid to inform staff of how the substation and the circuits were operating and gave an alarm to notify of any issues at the substation. Mr. Horning asked if the current system was outdated and Mr. Patel confirmed and added the current maintenance fees were $54,000 which would drop to $20,000 with the new system. Mr. Coleman informed that the new system would allow staff to create outage maps. Mr. Patel explained the current system did not allow for staff to merge Advanced Metering Infrastructure (AMI) or the Geographical Information System (GIS) systems. He stated the new SCADA allowed staff to bring in AMI information so staff would be able to detect any low voltage issues prior to customer call-ins. He noted staff was also able to merge GIS which was important because the current system did not allow employees to see where the feeders went. The new SCADA enabled employees to view the GIS on the tablet and respond faster to issues. Mr. Horning stated the new SCADA would not eliminate personnel but would make the process more efficient and Mr. Patel confirmed. Mr. Horning asked if Mr. Sullivan, the Quad-3 group consultant, was a consultant staff used for software selection. Mr. Patel answered that Mr. Sullivan wrote the specs, staff bid the project, and then did the recommendations based on vendor presentations.

Mr. Markham asked if it would be necessary to report power outages and Mr. Patel answered outages by developments were most likely a breaker issue but individual meter outages would be identified more quickly. Mr. Markham asked if it was possible to give the outage map to police dispatch to assist after-hours with customer calls. Mr. Patel replied it was up to dispatch if they wanted to view it on the network and Mr. Markham suggested an interactive map for the public. Mr. Patel noted an add-on option for an outage management system provided a customer portal to allow providers to send text messages about outages. Mr. Markham asked if the option was included in the purchase and Mr. Patel explained it was, but he had budgeted for $350,000 where the base SCADA cost $182,725 and add-ons cost more. Mr. Markham explained that the customer portal option saved time for both staff and Police dispatch.

Mr. Clifton complemented Mr. Patel on his submitted presentation materials. He noted the program was being paid for from the Capital Budget and asked if any unused portion would be returned to the Capital Budget or go into the General Fund. Mr. Coleman answered if the project was not completed in one year, the funds rolled forward into the next year but if the project was finished, it reverted to the fund’s reserves. Mr. Coleman pointed that the recommendation included authorizing funding for up to $350,000 which included the additional modules. Mr. Patel interjected the $350,000 included GIS module.
and he was working with the SCADA vendor to provide an Outage Management System (OMS) code that would determine how much would be spent on an OMS system for future use.

There were no public comments.

MOTION BY MR. HORNING, SECONDED BY MR. MARKHAM: THAT MAYOR AND COUNCIL AWARD CONTRACT 19-13 TO SURVEILLANT TECHNOLOGY, INCORPORATED, FROM BUFFALO, NEW YORK, FOR THE BASE PRICE OF $182,725 AND A TOTAL PROJECT COST NOT TO EXCEED $350,000, AND TO AUTHORIZE ANNUAL MAINTENANCE COSTS OF AS APPROVED TO THE ANNUAL BUDGET PROCESS.

MOTION PASSED. VOTE: 5 to 0.

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

16. 7. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

A. Bill 19–32 – An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, to Update the Standards of Ethical Conduct Governing the Alderman (10 minutes)

Ms. Bensley read the title of Bill 19-32 into the record.

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

Mr. Bilodeau explained the ordinance was a housekeeping item as the Aldermen were subjected to the rule and the candidates for Judicial Ethics for the Superior Court of Delaware prohibited judges from having another job as an attorney of law, as well as prohibiting judges from acting as mediators or arbitrators. He stated the rule was written for full-time judges as opposed to the part-time Aldermen. He explained the City was exempting out of Rules 3.9 and 3.10 that prohibit judges from acting as attorneys of law or mediating. He pointed that the Canons of Ethics of the American Bar Association no longer existed and so the wording would now read “The Alderman and Deputy Alderman shall be governed by the conduct of his or her office by the Canons of Judicial Ethics as observed by the Superior Court of the State of Delaware with the following exceptions: 3.9 and 3.10” and reference to the Canons of Ethics of the American Bar Associates would be eliminated.

Mr. Horning asked if it was necessary to eliminate the references to Rules 3.9 and 3.10 and Mr. Bilodeau answered that the references stayed. Mr. Horning asked what the rules reference and Mr. Bilodeau explained they referenced the Superior Court rules.

Mr. Hamilton asked about the second jobs being a conflict of interest and Mr. Bilodeau replied they would recuse themselves.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: TO APPROVE BILL 19-32, AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, TO UPDATE THE STANDARD OF ETHICAL CONDUCT GOVERNING THE ALDERMAN.

MOTION PASSED. VOTE: 5 to 0.

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

(ORDINANCE NO. 19-32)

17. Mr. Clifton recognized the petitioner for agenda item 8A in the audience and asked Council to move the agenda item forward.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO MOVE AGENDA ITEM 8A TO BE HEARD BEFORE 7B.

MOTION PASSED. VOTE: 5 to 0.
Mr. Fortner introduced the application for a special use permit for Atexquita Mexican Grill and Bar to allow the sale of alcohol with meals. The special use was permitted in the BB zoning district at 136 South Main Street, the criteria in Section 32-78 stated it did not adversely affect the health and safety of persons residing in the City of Newark, was not detrimental to the public welfare or injurious of property or improvements within the City and was not in conflict with the Comprehensive Development Plan. He explained the applicants met all the requirements of having fifty seats and serving during the times permitted. Mr. Fortner pointed that the site plan included fifteen bar seats where code called for no more than 15% of the total seats to be bar seating and so the applicants decreased the bar seating to thirteen.

Mr. Fortner stated the Planning Department was in favor of the application for the commercial mixed-use area. The Department noted that alcoholic beverages for lunch and dinner would enhance the experience of dining. The Police Department stated no objections to the restaurant, or its location, and Code Enforcement had basic questioning. Because the proposed use did not conflict with the land-use guidelines of the Comprehensive Development Plan and because the proposed use was compatible with the Zoning Code Special Use Permit Criteria and because of relevant city departments had no objection to the proposal, the Planning and Development Department recommended Council approve the special use permit for the sale of alcoholic beverages at Atexquita Mexican Grill and Bar at 136 South Main Street, Suite 106, with the conditions under Department Comments. Mr. Fortner indicated there was a typo on the application that should read “South Main Street” under the recommendation report. Mr. Fortner introduced the owners, Eduardo and Chelsea.

Chelsea Torres, Pike Creek, introduced herself.

The Chair opened the floor to questions from Council.

Mr. Hamilton asked Mr. Fortner how staff planned to ensure there were only thirteen seats at the bar and he explained Code Enforcement would do unplanned visits. Mr. Hamilton noted one of the owners had a history of success with similar restaurants and asked if staff confirmed there were no alcohol violations at the other establishments. Mr. Fortner answered that the Police Department reviewed the application and found no issues. He was unaware of the review process and deferred to the applicants. Mr. Hamilton asked Ms. Torres if there were any alcohol violations at the other location. She denied there were and stated they were hesitant to get into trouble with the liquor license and would not put in extra seats at the bar.

Mr. Markham explained the Police performed undercover checks for underage alcohol. Mr. Markham asked for the location of the restaurant and Ms. Torres replied the location was between the tanning salon and the liquor store. Mr. Markham stated the special use permit was how the City controlled alcohol issues and problems and should there be an issue, the permit could be pulled which would suspend the liquor license. Mr. Bilodeau confirmed and explained the City could prohibit the sale of alcohol for thirty days if there were enough violations. Ms. Torres understood the State approved condition upon the City’s approval so if the City pulled approval, so too would the State. Mr. Markham explained the City could not pull the liquor license but could hold a hearing to pull the special use and Ms. Torres understood.

Ms. Hughes asked how having a liquor license would impact the restaurant and Ms. Torres thought it would not change the clientele but would increase it. Ms. Torres explained the New Castle location reported liquor sales of under 20% of the total restaurant sales and the applicant prided themselves authentic Mexican food in a family setting. Ms. Hughes asked if the applicants had received feedback to apply for a liquor license. Ms. Torres replied that the Penns Grove, New Jersey location did not have a liquor license and customers frequently commented about the lack of alcoholic beverages. She claimed their intent on establishing a restaurant in Newark was not to have a bar scene but to have a bar so patrons could wait for tables. Ms. Hughes asked if the restaurant appealed to families and if the other location reported alcohol sales of less than 20% of the total charges and Ms. Torres confirmed.
Mr. Horning cautioned Ms. Torres about alcohol consumption in a college town and advised her to be mindful of fake IDs.

Mr. Clifton reiterated the purpose of the special use permit and hoped the applicants held to the closing time as it deterred a drinking crowd. Mr. Clifton asked if the parking requirement was reviewed and how many spots were set aside for the site. Ms. Gray answered the application was to serve alcohol and not review the permit for the tenant fit-out. Mr. Fortner explained the restaurant was in a shopping center which already had approval regardless of the business. The shopping center had four spots for every 1,000 square feet of area and was set up for a shared dynamic so certain businesses might be occupied at times when others were not. He stated the parking equation was approved under the original development.

Mr. Hamilton asked Ms. Torres if they intended to use a card scanner or simply eyeball IDs. Ms. Torres replied the ABC certification instructed how to appropriately check patron identification. Mr. Bilodeau explained the point system in Newark with underage serving and informed her that Sergeant D’Elia would train her staff if requested. Mr. Clifton explained how efficient card scanners were and how they eliminated any issues of underage drinking.

MOTION BY MR. HAMILTON, SECONDED BY MR. MARKHAM: THAT COUNCIL APPROVE THE SPECIAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ATEXQUITA MEXICAN GRILL AND BAR AT 136 SOUTH MAIN STREET, SUITE 106, WITH THE CONDITIONS UNDER DEPARTMENTAL COMMENTS.

Mr. Clifton asked Ms. Torres when the restaurant would be open, and she replied it depended on when the State approved the liquor license but hoped in January.

Mr. Hamilton approved the special use permit because the proposal does not conflict with the land use guidelines in the Comprehensive Development Plans and is compatible with the zoning special use permit criteria, and because the relevant City departments, including the Police department have no objection to the proposal, and it will not adversely affect the health or safety of persons residing or working within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware or be detrimental to the public welfare or injurious to property or improvements within the City of Newark boundaries or within one mile of the City of Newark boundaries and within the State of Delaware and it will not be in conflict with the purposes of the Comprehensive Development Plan of the City.

Mr. Markham supported the special use permit for the reasons stated in staff’s memo and stated by Councilman Hamilton.

Ms. Hughes supported the special use permit for the reasons stated in staff’s memo and stated by Councilman Hamilton.

Mr. Horning supported the special use permit for the reasons stated in staff’s memo and stated by Councilman Hamilton.

Mr. Clifton supported the special use permit for the reasons stated in staff’s memo and stated by Councilman Hamilton.

MOTION PASSED. VOTE: 5 to 0.

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

19. 7-B. BILL 19-33 – AN ORDINANCE AMENDING CHAPTER 7, BUILDING, CODE OF THE CITY OF NEWARK, DELAWARE, TO ADOPT THE 2018 INTERNATIONAL BUILDING CODES WITH AMENDMENTS (45 MINUTES)

Ms. Bensley read the title of Bill 19-33 into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: FOR SECOND READING AND PUBLIC HEARING.
Ms. Petersen explained the International Business Code (IBC) was a model building code developed by the International Code Council in 1994 to create a single set of national model building codes to replace the practice of regional code development. She reported the first edition was published in 1997 with a new code edition released every three years and the City currently used the 2012 IBC with amendments. She said IBC was a base code that was amended to meet local conditions and requirements and staff and Fire Marshall assisted in crafting recommendation. The key recommendations were:

- Define
  - Certificate of Occupancy
  - Temporary Certificate of Completion
  - Temporary Certificate of Occupancy
- Fee Schedule
  - Allow exceptions separate trade permits for owner-occupants and licensed multi-trade contractors
  - New fees added for TCC and TCO
  - Limit number of tents on one permit to two
- IBC
  - Amendment to identify Code Enforcement as responsible for enforcing Building Code
  - Delete ICC Code exceptions regarding fire-resistance ratings
  - Amend verbiage on automatic sprinkler systems for clarity
  - Resolve conflict between handrail requirements of IBC and Life Safety Code
  - Require two means of egress from basements
  - Allow exception to permit requirements for tents less than 400 square feet
  - Prohibit dry-stack masonry
  - Clarify proper installation process of masonry veneer
  - Require scheduled inspections by third-party agency for masonry veneer
- International Existing Building Code (IEBC)
  - Annual Permits and Annual Permit Records deleted throughout Chapter 7
- International Energy Conservation Code (IECC)
  - Minor edits for consistency in editions
- International Plumbing Code (IPC)
  - Properly identify commercial piping for contents and flow direction
  - Mirror State Code requirements for Thermal Expansion Controls
- International Mechanical Code (IMC)
  - Mirror pipe amendments to IPC
  - Delete IMC exception for recirculating hoods in commercial structures
- International Fuel Gas Code (IFGC)
  - Mirror amendments for ICC edition date, annual permits, piping system identification
- International Residential Code for One- and Two-Family Dwellings
  - Update Climatic and Geographic Design Criteria Chart to reflect best practices for Mid-Atlantic Region
  - Prohibit use of common walls in townhomes to meet structural requirements of a firewall
  - Amendment stating firewalls and/or assemblies shall not have penetrations
  - Clarify requirements for glazing adjacent to doors
  - Mirror sprinkler system, basement egress and Thermal Control Expansion language
- Historic Buildings
  - Add verbiage inadvertently dropped during 2006 Code update

Mr. Hamilton stated a few of his constituents were shocked to learn they had to add sprinklers to home additions, but he understood safety updates were necessary.

Mr. Markham asked if the tents mentioned were related to construction and Ms. Petersen stated they were just tents. He asked about the dry stack veneer on page thirteen and if it was the material used on Washington House. Ms. Petersen did not know specifics but acknowledged there were problems. Mr. Markham noted the building had to do extensive repairs. He asked if there was any feedback from Aetna and Ms. Petersen replied the Chapter 14 changes dealt with Fire Code and would be before Council in the future. Mr. Poole reiterated the changes and Mr. Markham asked staff to follow up with Aetna.

Mr. Horning commented that codes that are more stringent that base codes could have an impact on affordable housing. He asked if the codes were effective upon adoption and Ms. Petersen confirmed. Ms. Gray interjected that any application in process would be under the old code but were welcomed to follow the new one. Mr. Horning asked about historical structures and Ms. Gray explained the language was clarified.
Mr. Clifton anticipated changes to sprinkler systems in the next legislative session. He asked for clarification on the issue of tents and Mr. Poole explained a permit was currently required for any tent over 400 square feet or greater than 20 feet by 20 feet required a permit where staff verified it to be appropriate for use. Mr. Clifton asked if the permit fees listed on page three were presently in City code and Mr. Poole answered the fee schedule was unchanged. He noted the only changes were to the cost of the TCC and TCO as reductions because they were originally $250 for 30 days and were now $500 for 90 days. Staff noticed the work was rarely done in the first thirty days and took action to make the process more efficient. Mr. Clifton understood staff’s intent but also thought the prior fees served as incentive to complete work in a timely manner.

Mr. Clifton asked if the annual permit deleted from page nineteen was a building permit and not a business license. Mr. Poole answered staff had never issued annual permits and Ms. Bensley pointed that the amendment was specifically deleting language that was in the 2018 International Existing Building Code and would not be related to any other permits elsewhere in City code.

Mr. Clifton referred to Mr. Horning’s comments and asked for clarification of when “in-process” started. Ms. Gray answered it began when staff received a formal application.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: TO APPROVE THE 2018 IBC AS PRESENTED.

MOTION PASSED. VOTE: 5 to 0.

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

(ORDINANCE NO. 19-33)

20. 7-C. BILL 19-34 – AN ORDINANCE AMENDING CHAPTER 25, SEWERS, CODE OF THE CITY OF NEWARK, DELAWARE, TO UPDATE A CODE REFERENCE FOR AN EXISTING FEE (5 MINUTES)

Ms. Bensley read the title of Bill 19-34 into the record.

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

Mr. Coleman explained the bill corrected a mistake from 2017 where the development fees were increased from $5 to $50 for the annual inspection fee for sewer deduct meter but staff failed to delete the previous mention of $5. The $5 reference would now reference Chapter 27 where all the fees were contained.

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: TO APPROVE BILL 19-34, AN ORDINANCE AMENDING CHAPTER 25, SEWERS, CODE OF THE CITY OF NEWARK, DELAWARE, TO UPDATE A CODE REFERENCE FOR AN EXISTING FEE.

MOTION PASSED. VOTE: 5 to 0.

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

(ORDINANCE NO. 19-34)

21. 7-D. BILL 19-35 – AN ORDINANCE AMENDING CHAPTER 25, SEWERS, CODE OF THE CITY OF NEWARK, DELAWARE, BY IMPLEMENTING A CUSTOMER CHARGE FOR SEWER EFFECTIVE JANUARY 1, 2020 (15 MINUTES)

Ms. Bensley read the title of Bill 19-35 into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: FOR SECOND READING AND PUBLIC HEARING.
Mr. Del Grande stated this was a result of the discussion of the inception of a customer charge for sewer as discussed throughout the budget process.

Mr. Markham if most residential customers fell at 5/8 or 3/4 and Mr. Del Grande responded 5/8 and Mr. Coleman stated there more than 9,000 5/8 meters. Mr. Markham asked if it was $0.27 per month and Mr. Del Grande confirmed.

The Chair opened the floor for public comment.

Jean White, District 1, asked if the charge would be a separate item and Mr. Del Grande confirmed but would vary to reflect the number of service days.

The Chair brought the discussion back to the table.

Ms. Bensley asked Mr. Del Grande if he wanted the amendment to be prorated by billing days and Mr. Del Grande confirmed. Ms. Bensley explained after the ordinance was initially published, Mr. Del Grande requested Council consider an amendment to Bill 19-35 and Bill 19-36 adding after word “billed” in the first sentence “prorated by billing days” and then “monthly as follows”.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: TO PROPOSE AN AMENDMENT TO ADD THE WORDS “PRORATED BY DAYS” BETWEEN THE WORDS “BILLED” AND “MONTHLY”.

MOTION PASSED. VOTE: 5 to 0.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. HORNING: TO APPROVE THE ORDINANCE AS AMENDED.

MOTION PASSED. VOTE: 5 to 0.

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

(ORDINANCE NO. 19-35)

22. 7-E. BILL 19-36 – AN ORDINANCE AMENDING CHAPTER 30, WATER, CODE OF THE CITY OF NEWARK, DELAWARE, BY IMPLEMENTING A CUSTOMER CHARGE FOR WATER EFFECTIVE JANUARY 1, 2020 (15 MINUTES)

Ms. Bensley read the title of Bill 19-36 into the record.

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

Mr. Del Grande presented the ordinance to introduce a customer charge for water bills like the sewer charge as discussed during the 2020 Budget process.

Ms. Hughes asked how the meter size was determined. Mr. Del Grande explained it was based off the water meters and was 5/8 lines for residential customers. Ms. Hughes asked how she would know what her meter was, and Mr. Coleman answered the register on the meter states the size.

Mr. Horning asked if the customer fee was to help with the seasonality of the revenue. Mr. Coleman acknowledged it was to help seasonality and weather impacts but was also the referendum-related increases staff captured via the customer charge. Mr. Coleman explained it brought in $115,000 in additional revenue. Mr. Horning asked if it helped cover vacant summer rentals and Mr. Coleman confirmed.

Mr. Markham commented it was prorated by days and the $0.66 for 5/8 was for 30 days and Mr. Del Grande confirmed. Mr. Markham asked why it was not listed as $0.022 per day rather than calculating monthly. Mr. Coleman thought it was a good idea.
There were no public comments.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: TO PROPOSE AN AMENDMENT TO ADD THE WORDS “PRORATED BY DAYS” BETWEEN THE WORDS “BILLED” AND “MONTHLY”.

MOTION PASSED. VOTE: 5 to 0.

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

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: TO APPROVE THE ORDINANCE AS AMENDED.

MOTION PASSED. VOTE: 5 to 0.

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

(ORDINANCE NO. 19-36)

23. Meeting adjourned at 9:13 p.m.

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

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