

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

August 17, 2020

Those present at 7:00 p.m.:

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

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
Chief Human Resources Officer Devan Hardin
Purchasing Administrator Cathy Trykowski
Electric Director Bhadresh Patel
Finance Director David Del Grande
Financial Analyst Trevor Miller
IT Infrastructure Manager James Reazor
NPD Chief Paul Tiernan
Parks and Recreation Director Joe Spadafino
Planning and Development Director Mary Ellen Gray
Public Works and Water Resources Deputy Director Ethan Robinson

1. Mr. Clifton called the meeting to order at 7:00 p.m.

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

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

Mr. Clifton explained the procedures for the GoToMeeting Platform. He stated that at the beginning of each item, he would call on the related staff member to present and, once the presentation was complete, he would call on each Councilmember in order of district number to offer their comments. If a Councilmember had additional comments to add later, they should signal Ms. Bensley through the GoToMeeting chat function. Members of the public wishing to comment should also signal Ms. Bensley through the chat function with their name, district or address, and the agenda item on which they would like to comment. He noted that for participants logged in by phone, names would only appear as Caller One, Caller Two, et cetera, so it was imperative that the participants inform Council of their identities. He stated that all lines would be muted until individuals were called to speak. All speakers were required to identify themselves prior to speaking and, in compliance with the executive order on teleconference meetings by Governor Carney, votes would be taken by roll call. He continued that it may be necessary to adjust the guidelines if any issues arose during the meeting. He reminded that all lines should be muted until called upon to speak.

Mr. Clifton asked for a motion to add Agenda Item 3-B, Special Departmental Reports, Discussion and Direction to Staff Regarding a Potential Ordinance Limiting Private Gatherings and an Associated Permitting Process.

MOTION BY MR. HORNING, SECONDED BY MR. LAWHORN: TO ADD AGENDA ITEM 3-B, SPECIAL DEPARTMENTAL REPORTS, DISCUSSION AND DIRECTION TO STAFF REGARDING A POTENTIAL ORDINANCE LIMITING PRIVATE GATHERINGS AND AN ASSOCIATED PERMITTING PROCESS.

MOTION PASSED. VOTE: 7 to 0.

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

3. 1. FINANCIAL STATEMENT: (Ending June 30, 2020) (30 minutes)

2:55

Mr. Del Grande began with review of the revenue estimates and reported that through June, staff revised the projected annual gross revenue loss to \$12.4 million, with \$7.6 million coming directly from utility sales. When compared to May, the revision reflected an overall improvement of \$1.3 million and was directly due to utility improvements in June. He noted electric volume sales fell 5.1% below budget but were better than the 10% reduction staff anticipated. Water volume met budgeted expectations and sewer volume was 17% below budget. He pointed that staff originally assumed that both water and sewer would be 20% below budgeted expectations due to COVID.

Mr. Del Grande admitted there were ongoing concerns regarding the City's inability to collect on overdue accounts. He informed staff froze all interest penalties from the middle of March through August 1st and explained the freeze resulted in over \$93,000 in unbilled interest charges across all utility accounts and classifications. Staff continued to reach out to all impacted customers and offered payment arrangement and financial assistance through the Catholic Charities program. Additionally, DEMEC granted its membership \$250,000 to help with customers impacted by COVID. The City received over \$83,000 of the grant which would be forwarded to Catholic Charities to administer on the City's behalf.

Mr. Del Grande stated that non-utility revenue sources remained consistent from May, with one exception. The Miscellaneous Grants and Donations line was reduced by \$250,000 to account for funding intended to help fund the Police Firearms Range. He explained that since the project was postponed indefinitely, the monies reverted to the Asset Seizure fund for future use.

Mr. Del Grande reported that:

- **Real Estate Transfer Tax** - Both activity and transactions through July were down compared to 2019 and only three properties sold for over \$1 million in 2020: Fulton Bank on Main Street, 401 Bellevue Road, and The Patriot Center. He noted there was still time left in the year for the real estate market to recover, but staff would continue to be conservative in the revised assumption that RTT would be \$560,000 short in 2020.
- **Property Taxes** – Staff anticipated an increase in uncollected tax accounts of 10% (\$746,800) and noted that while taxes were lien-able, it was possible the City could experience a cash flow issue. He informed tax bills were delivered at the end of July and staff could not estimate the impact until October.
- **Lodging Tax** – He revealed the hotel industry was slowly recovering, but nowhere near 2019 levels. Staff was in contact with hotels in arrears to discuss payment arrangements.
- **Fines** – He reported the number of parking and moving violations were down 55% for 2020. Police were back on normal patrol as of June 15th, but recently shifted back to 12-hour shifts due to COVID concerns and the Alderman's Court reopened June 29, but quickly closed for a week due to COVID concerns. Staff anticipated improvement from initial experiences in March/April, but not at original levels assumed during the 2020 budget preparations. He noted fine revenue could be down as much as \$840,000 by December 31, and the City was behind by \$450,000 compared to June 2019.
- **Parks and Recreation Fees** – He pointed that numerous programs were cancelled; summer camps were altered to comply with restrictions stated in the SOE declaration, and summer camps continued to be impacted by COVID. In addition to reduced program registrations, the City provided over \$83,000 in refunds through July. Staff estimated that Parks and Recreation fees would be 50% or \$334,000 under budget by year-end.
- **Parking** – He revealed parking lost roughly \$900,000 through June and could lose another \$500,000 in the second half of the year. He explained UD's recent decision to provide free parking to students would impact the City, but staff needed to first monitor how many students returned before giving Council an estimate.

Mr. Del Grande continued that non-utility revenues were projected to be \$2.9 million under budget, which was a reduction of \$244,000 from May projections.

Mr. Del Grande shared that department directors continually reviewed budgets to determine cost-saving opportunities. The reductions made to date, in addition to the decrease in need for electric and sewer utility purchases, would result in an expenditure savings of just under \$5.2 million. Staff included specific reductions in the June Financial Report, and he noted expenditure savings reduced by \$323,000 when compared to May, due to the revised estimate to purchase more electric, which was offset by anticipated revenue.

Mr. Del Grande reported the net current operating deficit (combination of revenue vs. expense) was negative \$3.6 million. He shared if the City were to reach all its budget estimates for the remainder of the year, it would take an additional \$3.6 million in reserves to balance the budget. The gross loss was estimated to be just over \$7.2 million but would be partially offset by the \$2.5 million from the RSA adjustment, and a \$1.15 million grant from the CARES Act. He explained the result was a \$1 million improvement from May's report. He revealed the June's end-of-month cash balance was \$36.6 million (\$24.3 million in the City's long-term cash account and \$12.3 million in operating cash) and was an increase of \$600,000 from May. The electric regulatory liability carried a debit balance (under-collection of regulatory asset) of \$163,000. The regulatory asset, which, by design and pursuant to code, would be managed through the 2021 rate stabilization adjustment (RSA).

The Mayor opened the table to discussions from Council.

Mr. Hamilton asked if UD's free parking meant the lots were free to everyone and wondered how UD would distinguish students from non-students. Mr. Del Grande suspected UD would vet using badges or other requirements. Mr. Coleman interjected that students would have to apply for and receive a free parking permit and the available allowable lots would be limited. Ms. Olsen explained that students needed a permit for UD's system and those would be in limited lots and on the outer edges. Mr. Hamilton asked if there was any indication of how parking was going since parking fees were reestablished. Mr. Del Grande informed Mr. Hamilton that it had only been a week since the fees were reinstated but he would ask staff for the numbers. Mr. Hamilton thanked staff and DEMEC for contributing aid and wanted staff to consider collection efforts.

Ms. Hughes was also interested in student parking and thanked Mr. Hamilton for the clarification question. She commended Mr. Del Grande and the Finance team for their efforts and appreciated the detailed reports. She appreciated Catholic Charities and thought it was critical to help customers set up payment plans.

Mr. Lawhorn noted water and sewer were performing better than expected and asked if staff was carrying the 10% projected loss into 2021 until more data was available. Mr. Del Grande replied that electric was performing better than anticipated because of activity on STAR Campus and because temperatures reached over 90 degrees for thirty days when there were only ten days with similar temperatures in 2019. He noted it was the third highest July on record for DEMEC electric purchases and informed electric did not fall in hand with water and sewer because, as more rain fell, the City sold less water. He noted the August was a record month for rainfall and explained that since the City billed on water consumption for sewer, the sewer bills were lower. He added there were different rate classifications for water and sewer and if commercial businesses were not operating, the City was unable to collect revenue from commercial classes which shortened the City's ability to cover expenses. He continued that staff was more conservative on and concerned about water and sewer than electric.

Mr. Horning asked if staff was making progress on the lodging tax arrears and Mr. Del Grande confirmed at least three hotels were in negotiations for payment arrangements and he was pleased with the progress. Mr. Horning asked if staff needed direction from Council on any issues and Mr. Del Grande did not. Mr. Horning pointed to page nine of the report on the 'Expenditure Budget versus Actual by Department' and thought the cuts made were consistent with residents' concerns. He noted that the City was making necessary cuts and it should not be taken as an insult to employees or their work. He thanked staff for their efforts and Mr. Del Grande for the report.

Dr. Bancroft appreciated the reports and had no questions.

Mr. McDermott had no questions.

Mr. Clifton asked how the sewer revenue loss interplayed with the budget process that showed utility purchases, particularly electric and sewer, and asked if the amount came off the top end of the budget. Mr. Del Grande confirmed part of the loss would be covered through smaller bills paid by the City to DEMEC for electric and to New Castle County for sewer treatment. He continued that staff budgeted \$5.6 million for sewer treatment in 2020 and were trending to end up at \$5.1 million and were recognizing the \$500,000 as budgetary savings on the expenditure side which helped sewer because the revenue expenses were combined. He reiterated the lack of commercial and industrial customers operating at full capacity tended to cost more because, while flow was one piece of the sewer bill, so was strength (the contents of the water), which was the catalyst for higher bills. Mr. Clifton noted stormwater was down \$214,000 and asked what component caused the City to be low when there were fixed fees. Mr. Del Grande replied that staff assumed a 10% delinquency in storm water because the City billed electric, water, stormwater, and sewer on one bill to many customers. Staff anticipated shortfall in other areas

and expected the same for stormwater. He confirmed the City billed stormwater based on a flat fee, but staff was hesitant at this stage. Mr. Clifton thanked Mr. Del Grande for the report and thought the changes, suggested by Council and instituted by Mr. Del Grande and Mr. Coleman, on how the City viewed debt and structure was commendable. He did not want to minimize concerns but admitted the results could be much worse.

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

4. 2. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER \$75,000:** None

5. 3. **SPECIAL DEPARTMENTAL REPORTS:**

A. FY2021 Budget Overview Presentation – City Manager/Finance Director (90 minutes)

27:47

Mr. Clifton noted the budget timeline and explained the City segmented the budget for in-depth examination by department at a set time so staff could make appropriate changes based on Council direction so the budget would be clean by November. He instructed that any in-depth questions be held for the appropriate departmental budget presentation.

Mr. Del Grande presented the official start of the 2021 Budget Process to inform Council on the comparison between revenue estimates versus proposed departmental budgets. He noted the numbers in the Budget Overview reconciled with the departmental presentations that would take course throughout the next month.

Mr. Del Grande presented the budgetary timeline and stated the process was expanded four years ago to give Council and residents an in-depth view into each department's budgets. He noted that last year was the first year where staff provided an overview to departmental requests in order to frame the City's budget between total expenses requested and the estimated revenue required to balance the budget. He shared the dates when each department would present:

- August 31 – Planning and Development, Parks and Recreation
- September 8 – Administration, Public Works and Water Resources
- September 14 – Legislative Services, Alderman Court
- September 21 – Finance, Police, and the Electric Department

Mr. Del Grande reiterated the purpose of the departmental overview was to provide Council and residents the background information on the financial workshop presentation scheduled for October 5th. He informed that staff would incorporate any Council feedback into the workshop presentation and stated that the budget would be advertised in the Newark Post per City Code. Staff would return to Council on November 2nd to hold the first official budget hearing and, if the budget passed that evening, staff could remove the need for additional meetings on November 16 and beyond. He reminded Council and the public that all budget documents would be available on the website at www.newarkde.gov/budget and stated the evening's presentation was already posted on the site.

Mr. Del Grande noted there were always uncertainties with budgets, but this year was the most challenging staff faced because of the COVID pandemic. Staff forecasted a gross revenue loss of \$12.2 million, nearly 13% of the City's annual revenue. He shared that all revenue sources were impacted, and staff discovered losses in historically consistent revenue lines. He noted utilities were estimated to be down \$7.6 million and combined tax revenue sources were down \$1.9 million. He revealed that Parks and Recreation fees, Alderman Court, and parking fees were forecasted to be down a combined \$2.6 million by year-end. He warned there could also be potential cash flow issues for the City as taxpayers/customers defaulted on City obligations and shared that staff envisioned revenue stagnation to continue through the first half of 2021.

Mr. Del Grande expected 2021 COVID-related expenses to remain stable with zero to minimal impact because staff anticipated most COVID-related expenses to be expended before end-of-year and were reimbursable through CARES Act funds. He explained that after he submitted the presentation last week, he received updates on estimated completion dates and noted none of the changes impacted the 2021 projections. He revealed that construction projects provided assurances that the City would continue to recover post-COVID and shared that the UD's Whitney Athletic Center and Worriflow Hall would be online within the next two months. He also noted that McKinley Lab would likely start contributing to utility sales in 2022. He reported that STAR Campus was active and electric sales from Chemours increased monthly which helped the City absorb some declining sales from UD. He announced that the Biopharm/NIIMBL (National Institute for Innovation in Manufacturing Biopharmaceuticals)

building was issued temporary certificates for occupancy and the program recently secured a share of \$9 million in grant funds to help the national response to COVID. He shared that the Fin-Tech building was a 6-story, 100,000 square foot project created as a partnership between UD, Delaware Technology Park, and Discover Bank and had a projected completion date of early 2022.

Mr. Del Grande continued that other projects were delayed due to COVID: College Square, Dickinson Dorm, and the Green Mansion Hotel. He noted projected property growth was normal and estimated to be less than 1% because taxable property assessment increased only when the City added new or improved structures to the tax roll. He reiterated the City used County-provided property assessments and were stagnant at 1983 levels which meant the City did not see tax revenue growth as property values increased but did not lose tax revenue when the market dropped. He repeated that property values had not been adjusted for property tax purposes in nearly 40 years. He explained that although old assessment valuations were revenue neutral for the City, areas that experienced faster property value increases paid a smaller share of property taxes than should be. He shared that the County was currently involved in a lawsuit with the Red Clay School District and the City of Wilmington, which would result in a County-wide reassessment in the foreseeable future. He stressed that the reassessment would not factor into the 2021 budget because it was still in litigation and was delayed due to COVID.

Mr. Del Grande informed that the Consumer Price Index (CPI) was over 2% pre-COVID and had decreased to 0 or 0.1% as of June. Staff anticipated the CPI to remain under 0.5% through next year until after the pandemic and election cycle. He shared that 80% of the City's Operating Budget was accounted for by two items: personnel costs (including employee funding, retirement plans, healthcare and post-employment benefits) (38%) and utility costs (including costs to purchase electric and sewer services) (41%).

Mr. Del Grande shared that while cost containment was always staff's priority, cuts were made in order to continue to provide services to which residents were accustomed, to maintain the core infrastructure, to comply with State and Federal mandates, and to safeguard employees. He noted that because the City provided a full range of utility services on top of standard programs provided by other cities, staff could only cut costs so far without impacting services or risking non-compliance with mandates. He noted staff sunset outdated portions of Code that would have provided tax abatements for certain commercial construction in order to control exposure to lost revenue. Additionally, Council approved increasing non-residential electric deposits to \$300 to ensure that the City was made whole by transient electric customers each year.

Mr. Del Grande stated staff would return to Council at the end of September to recommend moving towards lease/purchase agreements in the purchase of large equipment in order to maintain cashflow. Management was in the process of meeting with the City's Benefits Committee to discuss modifications to healthcare plans, had implemented a hiring freeze, paused contractual spending where appropriate, and reduced or eliminated all non-essential travel and training for 2021 and 2022. He continued that staff postponed the use of \$3 million in approved debt, approved in the 2018 Referendum, until the second half of 2021. He indicated staff was also reviewing all large sewer accounts for appropriate classification to ensure that the City recovered costs from the correct customer classes.

Mr. Del Grande presented the overall view of the anticipated revenue at the summary level and noted staff expected a \$3.9 million (4%) decline in 2021 and estimated \$93.1 million next year. He noted that utility sales and fees for service were expected to be the most impacted by COVID in 2021.

Mr. Del Grande explained utility sales comprised electric, water, sewer and stormwater revenue, and provided 75 cents on every revenue dollar collected by the City. He reiterated if utilities were not consumed, the City did not earn enough capital to fund daily operations. He admitted yearly utility projections were not simple calculations, so staff generally considered three years of history and adjusted for new development projects, utility pricing, et cetera. While 2020 started strong, the City reported some of the lowest months of utility sales in March and April. He noted the City experienced a strong rebound of electric sales in July, but that water and sewer did not as well. He explained utility consumption was directly tied to weather so hot, dry summer months yielded high utility usage and high utility revenue while high temperatures accompanied by rain meant high electric usage and low water revenue.

Staff anticipated typical operations as of July 2021 and for normalcy to be established once UD returned to a traditional scholastic year with commercial businesses following suit. By examining each utility, staff projected electric sales to be 2% less (-\$900,000) under the amounts budgeted for 2020. Although Chemours and residents were strong customers, commercial consumption declined. Staff expected electric use for UD but not at the levels with students in residence. He repeated Whitney Athletic

Center, WorriLOW Hall, and the Biopharm/NIIMBL building on STAR Campus should be completed by the end of the year and would be welcome additions to the electric grid.

Staff conservatively estimated water and sewer utilities to be down 15% for the first half of 2021 and 5% for the last half of 2021 with a net result was of \$915,000 reduction in water revenue and \$742,000 reduction in sewer when compared to the 2020 budget. Stormwater was expected to be up \$411,000 due solely to a rate increase necessary to pay the State Revolving Loan for the Rodney Stormwater project, which should be in its final stage of completion by the end of the year and was an item already approved in the 2018 Referendum.

Mr. Del Grande revealed the pandemic demonstrated the City's ability to meet revenue requirements was challenged by reliance on consumption. Switching from consumption-based revenue recovery to a fixed customer charge implementation would result in a reliable cash flow necessary to fund City infrastructure.

Mr. Del Grande described property taxes as a revenue source and explained the \$10.3 million projected for 2021 came from real estate taxes, transfer taxes, franchise taxes from Comcast and Verizon, and the lodging tax paid by the hotel industry, or 11% of the City's total revenue. In total, the revenue class had a reduction of \$24,000. He noted the lodging tax revenue experienced a small rebound but was not performing as well as earlier this year. Staff did not anticipate hotels to rebound quickly and estimated a 40% (-\$300,000) reduction when compared to the 2020 budget. He noted real estate transfer taxes met or exceeded budgets for three years prior to COVID and were expected to reduce by 9% (-\$150,000). He indicated large transactions over \$1 million strongly impacted the City because every \$1 million in sales brought the City \$15,000. He explained franchise fees were derived from agreements with both Verizon and Comcast and expected continuing decline because of the number of cable subscribers and cable providers allowing bad debt (included in the City's franchise agreements). Staff expected an overall impact reduction of 10% (-\$50,000) but noted the City would have a \$492,000 revenue increase from the property tax increase passed last year, when combined with a small amount of growth. Together, all taxes totaled \$10.3 million.

Mr. Del Grande described fees for service as revenue derived from fines, park fees, business licenses, parking and internal services, and said it consisted of facilities and fleet management divisions. Staff expected a reduction of 11.6% (-\$1.2 million) in 2021 when compared to the 2020 budget. He admitted the figures were an improvement over 2020 projections but were a significant reduction from what was budgeted last year.

Mr. Del Grande stated intergovernmental revenue included revenue sources derived from other governmental agencies and primarily included the annual subvention payment from UD, the UniCity Bus grant, and funding from the Christina School District for two school resource officers. It also included the \$400,000 PILOT Grant that the City received from the State for the past two budget cycles. He informed staff removed the one-time grant of \$250,000 from the Police Asset Seizure fund and listed other revenue of the City's interest income on operating funds held in bank accounts, rental income, asset sales, and reimbursable overtime. The 2021 reduction was due to the expected loss on interest income and the loss of tower rental income.

Mr. Del Grande shared that the 2021 operating expenses were a collective 1% (-\$867,000) under 2020 and total operating expenses were estimated to be \$89.8 million, compared to 2020's \$90.6 million. He described operating expenses as necessities to run the City's day-to-day business and noted personnel services and utility purchases totaled 83% of the City's operating expenses. He disclosed personnel services were up \$525,000 to \$35.8 million from 2020 and said staff estimated a \$100,000 increase in health care premiums, which reflected a 6% increase when it was time for renewals in October. Salary lines increased approximately \$360,000 and included many additions and subtractions. He described the breakdown of contractually obligated COLAs and merit steps for CWA and AFSCME, with no cost of living adjustments assumed for management and FOP staff. He informed the FOP contract expired at the end of the year and staff had not begun negotiations. He noted an additional \$30,000 was included for an increase in bailiffs' hours for coverage in the atrium. There was a \$35,000 reduction in overtime, an \$18,000 removal of standby pay in IT, and a \$57,500 removal for most of the City's intern program. Additionally, the City did not fund two full-time positions and one part-time position.

Staff projected no change in the City's annual pension and OPEB contributions. Collectively, the \$5,150,000 the City contributed annually to the Pension and OPEB accounts equated to over 14% of the personnel budget. The contributions were required to ensure a continual pool of funding to pay current and future eligible retirees for contractually obligated benefits. He noted the City's pension was closed to

all new hires except police officers and new hires were now part of the City's 401A Deferred Compensation Program and Health Savings Account.

Mr. Del Grande stated utility purchases included wholesale power costs from DEMEC for electric and from New Castle County for sewer treatment. Overall, staff expected at a 1.7% decrease from \$39.3 million to \$38.6 million, due to an overall decline in electric sales. The sewer treatment fee paid to the County was budgeted at \$5.6 million of the \$38.6 million. Legislation passed by Council last week now enabled the City to retro-bill customers to cover the City's expenses whenever the County increased the sewer bill. He added that the figures were preliminary because wholesale power pricing for 2021 would not be available from DEMEC until the end of 2020. Staff anticipated a wholesale rate reduction based on recent power supply contracts. He noted the County would not change their sewer rate until July 1, 2021 at the earliest. Electric projections included a 2% overall decrease in consumption in 2021 and, although STAR Campus growth helped offset electric losses from UD and other commercial customers, consumption could not be compensated by STAR Campus alone.

Mr. Del Grande noted projections did not include the "renewable opt-out" program previously discussed. He explained the plan was to enroll new customers into a 100% renewable electric portfolio and provide an opt-out fee to cover the City's additional expenses and would be included in the October presentation. He pointed to a decrease of 6% (-\$150,000) in materials and supplies and stressed reductions were made in all departments. He highlighted a \$35,000 reduction in fuel purchases for Public Works, as staff projected fuel prices would remain stable in 2021.

Mr. Del Grande stated contractual services were down 4% (\$428,000) in 2021 and included the Workers Compensation Program. He shared that Workers Comp renewed at a \$30,000 reduction from 2020 due to the City's positive workplace injury experiences in the inaugural year of the program. The \$850,000 DFIT budget was part of the \$1.7 million paid annually for all insurance programs. Contractual services included \$1 million in merchant fees, the primary cost for accepting credit cards across utilities, which declined by \$20,000 and could be adjusted. Contractual services included \$470,000 for landfill costs related to the refuse program, \$253,000 for tree trimming around electric lines, and \$255,000 in legal/consulting services. Contractual services dropped by \$428,000 overall due to a reduction of \$168,000 for one-time CDBG CARES Act funding in 2020 and a \$200,000 reduction for outside contractors.

Mr. Del Grande explained equipment depreciation as the expense account where the City funded its equipment replacement program. He informed the City currently paid cash for all equipment, but shared staff was researching lease/purchase options for large equipment so critical equipment could be paid over a six-year period to aid with cash-flow.

Mr. Del Grande noted that other expense line items reduced 9.1%, or \$111,000, from 2020 and reflected reductions in training for staff. The line included the City's subventions to Aetna, the Newark Senior Center, and Catholic Charities for the utility assistance program. Staff did not budget any funding for The Newark Partnership in 2021.

Staff estimated 2021 to increase by \$733,000 due to the projects approved in the 2018 referendum. He noted a portion of the 2011 GO Bond was paid in full and freed up \$186,000 but the debt would be replaced by the interest payment for the recently approved Energy Services lease going to settlement at the end of this week. He highlighted the approved 2018 referendum projects and explained as they moved towards completion, the interest-only payments converted to full loans and allowed the City 20 years to repay debt. He noted the largest change was the Rodney Stormwater project, slated for completion by end of year or early next, and informed the 2021 Referendum Debt Service was being finalized. He reiterated the capital budget was dramatically reduced in 2021 and all projects were either pre-approved or had associated grant funding.

Mr. Del Grande revealed the gross CIP Budget decreased by \$9.1 million to \$11.4 million and the net CIP decreased by \$1.5 million to \$1.6 million. The 48% reduction represented the portion of the capital budget supported primarily by current tax and fee revenues. Additionally, staff proposed to use \$448,000 less in reserves than in 2020 to fund the 2021 capital program.

Mr. Del Grande credited department directors for seeking grant opportunities and stressed that staff would seek Council approval to amend the budget if any grants became available that were not originally included in the CIP. He reported the total operating revenue was down 4% (\$3.9 million) from the 2020 budget, and total expenditures were down 1.7% (\$1.6 million) which included operating and capital expenses. Comparing 2021 estimated revenue to expenses revealed a shortage of just over \$2 million. During the 2020 Budget, Council approved incorporating customer charges to recover the costs of debt service related to the 2018 Referendum projects. He indicated Council could choose to increase

the customer charge to cover debt service in 2021. Additionally, adjusting the customer charge further could help recover fixed costs and would provide more stability to the utility revenue, making the City less reliant on sales volume. He pointed that 50% of general fund operations were funded by utilities and that every dollar the City generated through taxes or fees was one less dollar in utilities. Although the City operated on 40-year-old assessed property values, property taxes were a more stable source of revenue than utilities.

Mr. Del Grande stressed the City's practice of operating as lean as possible and credited a creative workforce that considered several options before committing funds. He noted that management kept budgets in line and understood the limitations and constraints the City faced. He informed staff was at point where reductions in service levels or the elimination of services were necessary to make significant cost reductions. Any change in the services provided to residents could take a year or longer to implement, especially if other levels of government were involved.

Mr. Del Grande summarized that staff was working towards solutions to balance the 2021 budget and recommendations would be presented to Council at the Financial Workshop on October 5th. He shared if Council had concern on specific items, staff would work to address them at the October meeting. He explained that the intention was to frame the 2021 budget beforehand, so Council and residents had grasp of the overall budget process prior to each departmental request.

Mr. Del Grande thanked the directors, staff, and especially his accounting team, for their efforts in crafting the evening's presentation and the departmental presentations due over the next month. He also thanked the City's workforce for their ongoing commitment and dedication of service to the residents and businesses.

The Mayor opened the table to discussion from Council and wanted to discuss the potential measures on slide 19 as part of individual comments.

Mr. Lawhorn thanked Mr. Del Grande and staff for an outstanding job on the presentation. He asked if there was value in moving the water presentation to the end of the presentations so staff could collect better data. Mr. Del Grande noted it was a possibility and explained he met with Mr. Coleman and Ms. Bensley to ensure presentations fit within the allotted timeframes. Mr. Lawhorn agreed with Mr. Clifton that Council should work hard to vote at the first hearing given all the detailed presentations scheduled prior to the vote. He wanted Council to do everything possible to be informed and ask questions and provide feedback so a budget could be approved on November 2nd. He asked if the -\$7.6 million on slide three in utilities assumed current rates with no additional customer charge and Mr. Del Grande confirmed the amount assumed total sales based on the current consumption estimates based on current rates. Mr. Lawhorn asked if construction projects were a continual source of cashflow for permitting or if the City lost revenue if construction paused. Mr. Del Grande confirmed developers paid for permits throughout the construction process. Mr. Lawhorn asked if staff assumed current usage when assuming revenue values at STAR, Chemours, NIIMBL and FinTech or if staff factored in anticipated growth. Mr. Del Grande replied staff worked with UD on their estimates of anticipated electric usage and followed the practice with large non-UD projects. He noted standard projects were considered on a case-by-case basis. Mr. Lawhorn pointed that Chemours was not fully staffed and asked if the calculations were with anticipated growth or the current number. Mr. Del Grande replied staff used the current number with minimal growth and were in talks with Chemours who understood there was room for usage and admitted staff could change the numbers to account for growth. Mr. Coleman met with Chemours and learned the building was at half occupancy but noted most electricity was with HVAC which was already running. He pointed that full occupancy would provide some increase, but staff was unsure of the level. Mr. Lawhorn asked if staff was on the conservative side of accurate and Mr. Del Grande confirmed.

Mr. Lawhorn noted UD's consumption was a pass-through and asked how the infrastructure was paid. Mr. Del Grande revealed UD had roughly 250 electric accounts and less than 30 were on the special electric service agreement with the City. He continued that the special electric accounts paid a wholesale contractual rate for electric, but UD also paid demand charges and fixed customer charges above the wholesale rate and were paying their share through the customer charge. Mr. Lawhorn asked if staff anticipated a stronger second half when calculating the lodging tax and Mr. Del Grande confirmed. Mr. Lawhorn wanted to prepare for underperformance until a vaccine was available and assumed conversation if it was not available in 2021. Mr. Del Grande confirmed. Mr. Lawhorn asked if the Parking Committee Plan for 2021 called for researching dynamic parking rates and if the study was delayed due to COVID. Ms. Gray informed staff was still looking into the study and whether a launch was forthcoming. She anticipated reporting to Council in two months with more data. Mr. Lawhorn wanted to be prepared for when normal operations were reinstated, and Ms. Gray confirmed the plan was to have the discussion but hold on launching until more data was available. Mr. Lawhorn asked if staff was confident the City

would receive PILOT funding again and Mr. Del Grande noted it passed through the State's last budget cycle and thought it was possible the City could receive more funding. Mr. Lawhorn asked for a brief explanation on the status with OPEB and if it was worth having a conversation on funding less than planned to avoid using reserves. Mr. Del Grande agreed it was a hard conversation but OPEB was an obligation the City had to current employees within the group and current pensioners. He stated the City was 45-50% funded in OPEB with an account balance of around \$12 million and the annual OPEB expenses for next year was \$1.6 million with \$600,000 funded directly from the operating budget as an annual expense and another \$1 million commitment into the OPEB fund to lessen the impact of the City's liability as funding the full liability came closer. He explained the expense would increase for the next few years before it would start to decline and stressed the necessity to keep the obligation current, otherwise, it would be worse in the out-years. Mr. Lawhorn agreed with Mr. Horning's comments on eliminating training and wanted staff to know it was not an easy decision and their efforts were not unnoticed. Mr. Lawhorn asked what the City lost in the reduction of \$200,000 in outside contractors and if it would translate to a reduction in service for residents. Mr. Del Grande replied \$90,000 was in Planning and \$25,000 was in Legislative for attorney fees but did not expect an impact to customers. Mr. Lawhorn asked how much of the reserves would be used in 2020 and Mr. Del Grande replied \$3.6 million. Mr. Lawhorn asked if another \$2 million would be used in 2020 and Mr. Del Grande confirmed. Mr. Coleman interjected that at the beginning of the year, staff budgeted \$700,000 so the amount was \$3 million worse than originally budgeted. Mr. Lawhorn asked if there was \$11.5 million in the reserve fund and Mr. Del Grande confirmed and noted \$5 million in rate stabilization. He estimated the City could get by for a year assuming nothing changed but it was a large risk to consider. Mr. Lawhorn wanted to be informed of the reserve status as the budget progressed and Mr. Del Grande confirmed it would be part of the October presentation. Mr. Lawhorn fully supported customer charges and asked if water and sewer would be done first and electric would wait until the rate study could be utilized. Mr. Del Grande confirmed and informed the increase in the State Revolving Loan was \$700,000 in debt for next year so moving forward would knock the difference down to \$1.3 million by incorporating the customer charges. Mr. Lawhorn asked when it could be implemented pending Council approval and Mr. Del Grande replied it could be part of the 2021 budget process and staff could bring legislation to Council at the end of the year for adoption on January 1, 2021. Mr. Lawhorn agreed with the notion of reduced reliance on City utilities and understood it would be achieved primarily through tax increases but hoped to have a corresponding reduction in rates to make it as cost neutral for residents as possible. He noted it was a sensitive topic and required public outreach and education and did not think it could happen for the 2021 budget. He supported developing a strategy to reduce the City's dependency on utilities. Mr. Lawhorn pointed it would take a year for reductions in services to make a difference and did not support a service reduction because he hoped to return to a sense of normalcy by July 2021. He thought they were worth discussion and wanted staff to inform Council of ideas to cut costs but stressed the residents wanted to maintain services.

Mr. McDermott noted the \$35,000 reduction in overtime and asked for typical overtime expenditures, the percentage of the \$35,000 reduction, and the departments that typically had overtime. Mr. Del Grande replied most cuts were in Public Works and noted Police overtime increased \$20,000 and was usually \$350,000 per year. Mr. Coleman added that one item proposed in the budget was for an extra water plant operator because the water plant required 24-hour coverage with four employees and staff planned 1,000 hours of overtime for the crew that would be significantly reduced with the addition of a fifth water plant operator. He shared that staff was fearful of burnout with the current crew and did not want to risk coverage if someone fell ill. He indicated the current crew agreed to hold off until 2021 because of the impacts of COVID but staff wanted to add the fifth operator. Mr. Del Grande interjected that the City had an annual overtime budget of \$1 million. Mr. McDermott asked about the \$45,000 increase to fleet for tires and maintenance and wondered if it was for aging vehicles. Mr. Del Grande confirmed the fleet was aging and staff was researching a more proactive replacement program for City vehicles. He shared staff would be before Council in a month to present a lease/purchase agreement for two pieces of heavy equipment. Mr. McDermott asked if the City had a formula for an attrition rate on employee turnover. Mr. Del Grande replied staff budgeted for 100% full-time employees, and part-time permanent and part-time seasonal were budgeted as a dollar amount. He shared if staff anticipated a retirement, funds were budgeted to cover the cost of shadow coverage and training. Mr. McDermott asked if the vacant positions listed in the presentation were budgeted but unfilled and asked where the salary funds went. Mr. Del Grande replied the Human Capital Manager would be removed via legislation, but staff requested to keep all other the titles in the 2021 budget. He explained the positions would not have funding and would not be filled unless the economic situation improved, and staff would ask Council to appropriate the funds separately from the budget. Mr. McDermott supported the customer charge and asked if customers were billed a set amount. Mr. Del Grande explained a customer charge was intended to cover the fixed costs associated with the utilities such as bill processing and debt service for the infrastructure. He explained that 10% of the accounts rolled over every year and some had no usage for one or two months and had customer charges for 66 cents for water and 30 cents for sewer. He noted the amounts did not cover the costs of issuing and mailing the bills or the infrastructure leading to the

property. Mr. McDermott asked if the customer charge was across the board or if it was for customers below a usage amount. Mr. Del Grande replied that once the City covered the additional debt service coming with the referendum, the consumption rate would be lowered to cover an increased customer charge. Mr. McDermott supported the customer charges. He stated he was hesitant on raising property taxes and wanted to see more information but would not currently support the measure. He agreed with Mr. Lawhorn that reduction of City services was unwanted but could be necessary. He thanked Mr. Del Grande for the report.

Dr. Bancroft stated some of his points were already discussed. He commented that cuts in personnel were not personal but cost-saving. He agreed it made sense to lower electric bills and put the money in straight taxes, so it was clearer to customers. He thought investing in a fifth crew member for water treatment would pay for itself over time and wanted to be smart about investing in new vehicles with cost-of-use built into planning. He supported creative ways to stabilize revenue.

Mr. Horning asked if the construction mentioned on page five included the Barksdale Adult Care Center and if staff expected positive revenue impact in 2021. Ms. Gray informed the Barksdale project was not included in slide five and staff understood the project would resume in September with a projected completion at the end of 2021. Mr. Horning said it was a negligible impact on revenue and Ms. Gray confirmed for 2021. Mr. Coleman interject there were a handful of smaller projects that would be completed in 2021 but staff only modeled the larger projects in the budget forecast. Mr. Horning agreed with Mr. Lawhorn's comments and shared that District 1 residents appreciated the City services. He understood the impact fees would not be put forth in legislation before early 2021 and asked if they would be captured in water and sewer revenue. Mr. Del Grande informed staff anticipated a completion date in the first quarter of 2021 and the fees would be included as revenue as part of the CIP project and not counted as operating revenue. He stated it would decrease the cost of the City's need to fund the CIP directly with City funds.

Ms. Hughes was still unsure of customer charges and asked Mr. Del Grande for clarification on fixed costs and if the proposal was to increase the customer charge. Mr. Del Grande explained the customer charge for a residential water customer inside the City was 66 cents per month and Council passed customer charges during last year's budgets in order to help cover the cost of the interest payments the City made on State Revolving Load debt related to water. As the City incurred more debts to pay from water, the 66 cents would increase over the next few years until it covered the full debt service payment. He continued other fixed costs necessary for annual recovery included labor from customer services, the cost of the mailed bills, and credit card fees incurred by the City. He indicated staff was able to determine what was included in the customer charge for cost recovery and was not suggesting every single fixed cost go into the customer charge. He continued that the issue was that water projections were down \$900,000 in 2021 because commercial businesses were not at usual consumption and the City still needed cover fixed costs. If the City had rates structured according to best practices, staff could recover all fixed costs and would not need to rely on utility sales. Mr. Coleman added it was not realistic for the customer charge to be at a level to fully insulate the City from a sales reduction because it would disincentivize any customer conservation measures. He shared the most important aspect was that it reduced the City's exposure to reductions. Mr. Del Grande added that 40% of a water bill from Artesian was a fixed customer charge where nearly 100% of a City water bill was consumption. Ms. Hughes thanked Mr. Del Grande for the presentation.

Mr. Hamilton thanked staff for their efforts and believed the customer charge was overdue and had his support. He asked if the City received a lodging tax from the State for putting the homeless in hotels. Mr. Del Grande noted the consistent revenue from hotel lodging tax from hotels providing support to the State and could not confirm because the City did not have access to the necessary information. Mr. Hamilton noted the CPI decreased and asked if there were any contracts tied with the CPI where the City could save money. Mr. Coleman replied none of the employee contracts referenced the CPI but thought the CPI could help in the City's capital program. He referred to the low construction costs after the Great Recession and expected a reduction in long-term construction costs if the current recession lasted as long as anticipated. Mr. Hamilton suggested staff consider creative solutions and said if the State did not plan to help the City with rental tax on personal rentals, then the City should reconsider increasing taxes and giving out a homestead credit. He pointed to the high number of properties that were not taxed relative to their value and wanted to have more in-depth discussions on introducing the proposed tax. He admitted the challenge in determining a proper time to discuss parking revenues and revealed the City's revenue was below UD's. He wanted to see the dynamic parking rate more aggressively pursued and considered it lost revenue from outsiders. He requested the Parking staff research raising the City's rates to UD's level because the City was losing millions. He wanted to discuss an income tax again in the next eight months and asked if the franchise tax was a one-time fee for applicants or a monthly fee for each cable subscriber. Mr. Del Grande did not know how it appeared on the cable bill but staff received

quarterly payments from Verizon and Comcast based on number of subscribers, pay-per-view, and other features, and noted there was a reduction for an allowance for uncollectable accounts which amounted to \$450,000 per year combined. Mr. Hamilton reiterated he was not in full support of a tax unless done so in a creative way and thought there were some opportunities for cost cuts. He noted UD top earners took a pay-freeze or pay cut and thought it should be considered.

Mr. Clifton said staff estimated the lodging tax would be reduced 40% and asked if the estimation considered the lack of homecoming weekend, parents' weekend, or football games and Mr. Del Grande confirmed. Mr. Clifton asked if the quarantine increased the trash tipping fees because residents generated more refuse by ordering takeout food and Mr. Coleman confirmed and informed some refuse companies added a COVID surcharge. He said some homes did have a refuse increase, but the amount was offset by the vacant homes. He expected an increase through Thanksgiving with the return of students and their early departure. He anticipated a wash for 2020 refuse. Mr. Clifton supported base charges as a fair way to move forward. He took pride in the City's motto, "Committed to Customer Service Excellence", and thought residents consciously moved to Newark for the services provided. He pointed that he was against the trash fee because he thought it detracted from the value of living in the City and thought cutting services was a nuclear option. He commended staff for controlling costs and hoped the improvements made by staff over the last five years would help the City weather COVID into 2021. Mr. Clifton referred to past discussions on tax increases where it was claimed that the time was not appropriate because residents were on fixed incomes. He commiserated with those residents but understood there was no unilateral offset in decreased services that would yield the necessary result. He pointed that the City could either continue to increase revenue or decrease services and he thought the presentation offered a good balance. He opposed a tax increase for this year even if it meant using more reserve funds. He agreed it was one of the worst years and did not think it was fair to the residents under the current crisis conditions. He acknowledged controlling costs was critical for the City and thought it was equally important to control costs for residents.

The Mayor opened the floor to public comment.

Ms. Bensley read a comment into the record from Adelina Rivera-Woolard, University of Delaware, Class of 2022:

"We are here on Behalf of the UD Family and Women's Basketball, we are here today in pursuit of addressing issues pertaining to the training, education, and budgeting of the police force in the City. Based on the recent and current events happening all over the world, we feel that there is a need for change and stricter implementation on the police force. We want to see the rebudgeting of the polices resources. In PowerPoints, there is talk a lot about reconstruction of different housing zones, but there was no mention of anything about funding for police as far as body cams, training. Therefore, we are here to address these key issues today."

Ms. Bensley read a comment by Sasha Aber, Home Grown Café, into the record:

"Raising parking fees directly affects businesses. The parking attendants are very efficient at their job, let's talk about ways to safely drive patrons downtown, which will in turn increase parking revenues. We are at a time when positive feelings towards downtown are needed and we all know that parking fees and ticketing has been an issue for locals and non-locals alike."

Mr. Clifton stated the City had been using bodycams for two years and many of the dynamics that stemmed from the civil unrest were already common practice in the City's Police force. He explained he had a community conversation with the Police Chief and the President of the Newark NAACP that discussed concerns. He was grateful City Police were proactive in their practices.

Chief Tiernan stated that every year, the Commission of Police Training (COPT) issued a report which showed Newark as one of the top two departments with the most training hours for Police officers in the State of Delaware.

Ms. Olsen thanked Council and appreciated acknowledgement that UD was in the same financial situation as the City. She agreed it would be a tough year and shared that many top-tier UD employees took salary cuts as a first step in what would be a very busy time for the finance department.

Mr. Horning interjected to ask Chief Tiernan if the COPT report was available to the public and the Chief did not know it was published publicly but said the information could be posted the City's website and the FOP Facebook page.

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

Mr. Clifton thanked the budget hearing participants for their effort and creative suggestions and looked forward to the departmental budget presentations.

6. 3-B. DISCUSSION AND DIRECTION TO STAFF REGARDING A POTENTIAL ORDINANCE LIMITING PRIVATE GATHERINGS AND AN ASSOCIATED PERMITTING PROCESS – CITY MANAGER

2:06:00

Mr. Coleman presented a memo that outlined discussion on social gathering. He explained that staff and Chief Tiernan coordinated to recommend Council enact a Newark-specific risk-based numerical cap on private social gatherings. He noted the Governor's cap was 30 square feet per attendee and admitted it was yet unknown if the number applied to the square footage of the house or just the rooms used for the gathering. He thought it was unrealistic for Police to measure a home and then issue citations and supported having a fixed number for Police to count. Staff recommended a slightly higher number for outdoor gatherings in recognition that outdoor gatherings were safer. Staff asked that the violations of the cap be added to the list of trigger criteria for an Unruly Social Gathering charge. Staff recommended Council monitor the success of the restrictions throughout the fall and periodically review to determine necessary changes. He informed that the entire state of North Carolina had a 10-person indoor and 25-person outdoor gathering limit (10/25) and UNC Chapel Hill had to close to all person instruction after two weeks and had 400 students under quarantine. He stressed the need to be proactive and thought North Carolina's guidelines were realistic and said they could be loosened as the year progressed.

Mr. Clifton asked that Council address the other components of the ordinance during discussion.

Mr. Horning believed the UNC on-campus gatherings was 25 and the City imposed a 10-person limit in March. He revealed that Tulane University and the University of Virginia instituted an indoor limit of 15. He referred to his calls with the Governor and wanted to encourage outdoor gatherings. He cautioned that allowing larger outdoor gatherings could mean that attendees would be forced together inside during inclement weather. He proposed a 15/25 limit and recalled a comment from a landlord who stated residents with a six-bedroom house could each have a visitor and exceed the limit. He wanted the restriction to be enforceable and believed a low number would not be meaningful. He thought prohibiting basement gatherings was sensible. He shared concerns from a District 1 resident who was upset about having to apply for a permit to host a birthday. He explained to her that the ordinance could not target students and thought allowing a higher gathering limit by permit, with approval by the City Manager or Assistant to the City Manager, was a possible solution. He supported a civil over a criminal penalty and welcomed continuous improvement. He referred to discussions with Mr. Clifton, Representative Baumbach, Chief Tiernan, Captain Van Campen, and Mr. Coleman, and informed there would be weekly calls with the Department of Health and Social Services to review enforcement progress. He noted there would be close coordination with UD police to monitor off-campus residents because it seemed like off-campus areas would have the most problems. He supported having a presence in the community and reiterated his desire for a permit to allow for larger outdoor gatherings. He thought the permit should be available online and the City should not charge a fee. He added that Code Enforcement could assist in enforcing gathering restrictions but would defer to management and Police. He did not know the fine structure for the Unruly Gathering but did not want to start below \$100 and wanted it charged to the host and not attendees. He admitted some residents felt penalized but wanted the community to be prepared for positive cases. He wanted UD to disclose contingency plans for isolating positive cases. He noted Tulane University distributed a statement to students informing non-compliance with the City's gathering restrictions could result in suspension or expulsion and thought the statement carried more weight than a monetary fine from the City. He supported including an exception for youth sports and community organizations who had restrictions in place to adhere to the Governor's orders. He wanted to restrict the ordinance to private residences and noted congregate housing was a source for outbreaks.

Mr. Clifton wanted to discuss a way to limit children under 17 from being included in the ordinance.

Mr. Horning noted the State did not require children 12 or under to wear a mask and wanted to further consider the idea.

Ms. Hughes opted for civil penalties but was not opposed to criminal penalties for repeat offenders. She acknowledged the City was in a difficult position because no one wanted to police personal behavior but stressed that people died when the rules were not followed. She admitted students were not the only problem population and said her neighbor had a large party without social distancing. She supported vigilance and wanted to be prepared for spikes caused by non-compliance and supported using

the ordinance as a factor in the Unruly Social Gathering violations. She did not know how it would be enforced on children under 17 and admitted it was a complicated situation. She asked Mr. Clifton if the number suggested was 20 and Mr. Clifton replied Mr. Coleman suggested 20 and Mr. Horning suggested 15/25. Ms. Hughes agreed there should be less restrictions on outdoor events but wanted to deter basement parties. She wanted to offer more education for offenders. She commented that schools that opened were already under quarantine and had isolated many students and understood that parties at some colleges had unmasked attendees who did not adhere to social distancing. She supported the list of penalties provided in the memo and reiterated that repeat offenders be given criminal penalties.

Dr. Bancroft noted the fewer details specified could help Police response time to control gatherings. He was excited to learn how UD would deal with an outbreak in dorms. He agreed with 15/25 and thought charging a host was practical. He supported a minimal fee for a permit and thought the application process could include an educational aspect. He wanted to limit gathering in public parks and thought crowd-size was easiest to enforce. He agreed the limitation on juveniles was a difficult topic and generally agreed with previous comments.

Mr. Hamilton was pleased that Council was considering the ordinance and hoped the rules and regulations would be simple for Police to enforce. He pointed that Ms. Olsen offered UD's support and said the previous regulations were the same as when students left in the spring. He was not overly concerned with a specific number but preferred it be small. He understood that some residents had large families and stressed it was an unusual time and he did not understand the desire to hold large gatherings. He wanted to get the virus under control and return to normal. He wanted to defer to the experts' recommendations, including the City Manager and Police Chief, and would follow their recommendations.

Mr. Lawhorn shared he had been in discussions with residents about the ordinances over the last month and supported an indoor guest limit of 20 and an outdoor of 40. He received feedback that the numbers were reasonable but admitted a subset of residents proclaimed DPH were experts and did not want further restrictions, and a smaller subset wanted more than 20/40. He researched the colleges that reported spikes and discovered that every town already had a gathering ordinance in place which he interpreted as the ordinance was ineffective. He understood why an ordinance was desirable and supported enforcement having clear numbers to determine when it was necessary to enforce. He argued that when it was necessary to enforce the ordinance, the damage was already done and if Council wanted to stop the spread, education and punishment were paramount. He pointed to UD's strength as a catalyst and believed it could be used to the City's advantage to push students to follow the ordinance. He reiterated his belief that gathering ordinances did not work to prevent spreads. He supported some level of a gathering ordinance but wanted to discover effective ways to prevent the behavior. He believed the 20-person limit was reasonable given the stability of cases in recent months and thought the resident community demonstrated the ability to have responsible gatherings. He wanted to communicate to the community that larger outdoor numbers were preferable to larger indoor numbers. He supported an outdoor permitting process and wanted to use the Governor's guidelines of 30 square feet per person. He agreed with Mr. Clifton's proposal of excluding children under 17 from resident numbers so large families could be flexible. He originally wanted to limit the ordinance by family units but agreed it was too difficult to enforce. He understood the issue with basements but believed students would break the rules. He was not adamantly opposed to the basement topic but did not think it was helpful. He asked if Mr. Coleman had clarity on square footage for the entire house or living space and Mr. Coleman replied suspicions were that it applied to the whole house but stated he did not yet have confirmation. Mr. Lawhorn understood it was not enforceable and supported Police feedback that it would be cumbersome to calculate non-compliance. He pointed to the disparity between small student housing areas versus larger, single family home areas and thought a 20-person limit was a compromise and was one third of the State's recommendation. He preferred civil versus criminal offenses and requested Police bring problem homes before Council. He believed Police should enforce the ordinance but would defer to their expertise if Code Enforcement should be involved and thought it should be a trigger for Unruly Gathering but wanted to see a full ordinance to determine if it was reasonable. He agreed with Mr. Horning than an approval process for permits could be approved by the Assistant to the City Manager and that it should be restricted to private residences.

Mr. McDermott agreed the City needed to be proactive and noticed UD students were already posting social gatherings on Facebook and were having larger parties than allowed. He supported a 15/20 limitation and said it was possible for houses on Wilbur Street to follow the ordinance while still having large gatherings because each house backed up to other houses with large backyards. He was not sure Police could act because it depended on how the ordinance was written. He noted there were other areas of the City where the scenario could take place, but he was only concerned with outdoor gatherings. He shared he could also support 20/40 because he did not believe the number was significant enough to cause a difference. He thought a civil offense was easier to prosecute and allowed a lower burden of proof

for the Police. He did not want to charge young adults with criminal charges for having parties. He suggested a fine between \$500 and \$1,000 and thought \$100 was insignificant. He agreed the host should be fined and supported escalation for repeat offenders. He agreed with Mr. Lawhorn to defer to Police on whether Code should respond to the issue. He agreed children under 17 should be excluded and noted there were discussions on communal learning centers to combat school closures and help facilitate the educational process.

Mr. Clifton called on Ms. Olsen to comment on quarantine issues. Ms. Olsen informed UD had isolation spaces with individual bathrooms where students could come to limit their exposure to any groups or the outside community. She stated UD had isolation and quarantine possibilities and Resident Housing would hold town halls with Student Life and she would have more information later. She stressed that UD was serious on providing space to keep students safe. Ms. Olsen met with Vinny Jackson, Student Conduct, who indicated a need for flexibility to determine consequences. She reiterated that UD was serious about sanctions and stressed all communications were quickly shared. She noted that expulsions and suspensions were possibilities for violating policy, but she would not guarantee they would be the first order of discipline. UD wanted to be fair while being cognizant of community spread. She reiterated quarantine and isolation would be taken care of and students would not be wandering throughout the City. Mr. Clifton thanked Ms. Olsen for the information.

Chief Tiernan had discussions with staff on enforcement and it was determined that it was not the Police Department's place to recommend the specific limit but agreed the smaller the number, the less complicated and safer it was for Police to enforce. He referred to Mr. McDermott's comments on backyards and admitted it was possible to go from Cleveland Avenue to Main Street with adjoining, unobstructed backyards. He noted it would be difficult to determine boundary lines and guest limits and repeated it was easier to quick count smaller numbers and smaller groups tended to disperse with less difficulty. He shared that the Police Department understood the desire and discussion for the larger groups for social gathering, but Officers were being asked to meet many people over the course of a day and then return to their families. He wondered if it was unreasonable to balance the sacrifice required of the Officers to ask residents and students to have patience a little longer and have smaller gatherings until a vaccine was available. He admitted it was a challenge because Police could not determine residency because many students held out-of-state licenses. He reiterated the smaller number allowed, the safer it was for Police to disperse. He did not think charging the host provided enough initiative or deterrent effect for attendees and wanted students to be reluctant to join large gatherings with high fines and referral to UD Judicial Affairs. He noted Police had no issue enforcing but thought the ability should be extended to Code Enforcement to share responsibility.

Mr. Bilodeau supported Ms. Olsen's comments that UD was serious about enforcement and noted if a student got a DUI, they were generally suspended for the semester. He cautioned the limitation of 17-year-olds opened the door for large gathering of high school kids and house parties and recommended exemptions for eighth graders and younger. He thought it was possible to use the framework of the Unruly Gathering Ordinance but cautioned that it needed to be different because those who were ticketed for an Unruly Ordinance were ticketed for civil and criminal violations. He stated the fines \$500 and the offenders were required to complete a significant amount of community service. He reiterated Council could follow the guidelines of the Unruly Ordinance but cautioned against the criminal charges. Mr. Clifton thanked Mr. Bilodeau for his points.

Mr. Clifton believed the spring statistics were low due to UD's quick response and credited the University for being proactive. He suggested if the limitations were 15/25, that there be a total number enacted to ensure there were not 15 people indoors and 25 outdoors at the same party. He suggested the total number of guests be limited to 25. He appreciated the suggestion of including Mr. Martindale in the process to assist the City Manager. He understood the revenue neutral permitting process should cover costs but noted the circumstances were unusual and did not think there should be a charge associated. He agreed any violations should be civil and stated the Unruly Gathering Ordinance fined \$500 for a first offense, \$1,000 for second, \$1,500 for third and \$2,000 for the fourth. He was not averse to making a third violation a criminal charge and wanted to deter non-compliance. He supported Chief Tiernan's suggestion of including Code Enforcement and reiterated his support of using Code Enforcement at the bars versus a uniformed officer.

The Mayor opened the floor to public comment.

Rick Armitage commented that Council was worried at the behavior of other schools and forced to create an ordinance for accountability. He recalled the alcohol ordinance and pointed that the first two offenses were civil and the third was criminal with more substantial fines than the State's. He suggested the alcohol ordinance be used as a framework to guide the discussion.

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

Mr. Lawhorn requested staff consider a way to structure outdoor events as a controlled environment for students to reunite with their friends. He suggested an outdoor event with a mask mandate to offer students a safe environment.

Mr. Horning supported the 14 and underage limit because it accounted for full-time residents' concerns and thought it helped make the 15/25 numbers more manageable. He asked Chief Tiernan if he preferred 12 or 15 adult attendants with respects to officer safety. Chief Tiernan suggested 10/25. Mr. Horning asked if Chief Tiernan had concern of the 10-person indoor limit when considering a six-bedroom living space and Chief Tiernan supported whatever Council suggested because two additional persons did not make a major difference. Mr. Horning amended his support for a limitation of 12/25 and then turned his attention to UD's questionnaire and assumed UD was organizing a daily health questionnaire to determine if students attended larger gatherings. He also noted UD was working with the State on a contact tracing app. He repeated Ms. Olsen's comments that UD was hosting a town hall and he hoped UD could relay the information and mention the City's extensive camera network could monitor gatherings. He supported criminal charges with the third offense and fining all attendees.

Dr. Bancroft reiterated Ms. Olsen's point about flexibility and wanted to extend latitude on enforcement. He pointed to research that indicated children could be the worst culprits and expected elementary schools would be the nexus for the worst outbreaks.

Mr. Clifton asked Mr. Martindale if he had enough information to work with Mr. Bilodeau and Mr. Coleman to draft an ordinance to be presented at the next Council meeting. Mr. Martindale confirmed, and Mr. Clifton looked forward to the discussion.

7. 4. ITEMS SUBMITTED FOR PUBLISHED AGENDA:

A. Council Members: None

8. 4-B. OTHERS: None

9. Meeting adjourned at 10:31 p.m.

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

/ns