

CITY OF NEWARK
DELAWARE

SPECIAL COUNCIL MEETING MINUTES

September 29, 2021

Those present at 5:00 p.m.:

Presiding: Mayor Jerry Clifton
District 1, John Suchanec
District 3, Jay Bancroft (arrived at 5:18 p.m.)
District 4, Dwendolyn Creecy
District 5, Jason Lawhorn

Absent: District 6, Travis McDermott

Staff Members: City Manager Tom Coleman
City Secretary Renee Bensley
City Solicitor Paul Bilodeau

-
1. Mr. Clifton called the Special Council Meeting to order at 5:00 p.m.
 2. Mr. Clifton informed that Council would be meeting in Executive Session second.
 3. Mr. Clifton asked for an amendment to add 1.A., Remembering Councilwoman Sharon Hughes, 1.A.(1) Discussing the Resolution for Councilwoman Sharon Hughes, 1.B., Setting of the Special Election Date and Associated Filing Deadline to Fill the District 2 Council Vacancy, and 1.C., Direction to Staff Regarding the Scheduling of Items from Cancelled Council Meetings.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: TO AMEND THE AGENDA.

MOTION PASSED. VOTE: 4 to 0.

Aye – Suchanec, Creecy, Lawhorn, Clifton.

Nay – 0.

Absent – McDermott, Bancroft.

4. 1-A. **REMEMBERING COUNCILWOMAN SHARON HUGHES**

2:24

The Mayor opened the table to Council to share their memories of the late Councilwoman Hughes.

Mr. Lawhorn traveled to San Antonio with Ms. Hughes shortly after she was first elected to attend the National League of Cities Conference. They had the opportunity to share details about their lives and learn about one another outside of Council. He emphasized that Ms. Hughes not only cared greatly about her community and how to make Newark a better place but also took action. He stated that there were not many people who were willing to undertake the challenges of a Councilperson; Ms. Hughes not only made multiple attempts before she won an election but then returned for a second term. He credited her actions as an overwhelming commitment to her community. He noted that Ms. Hughes also worked with the Senior Center and cared for individuals who lived in her neighborhood and with whom she grew up. He described Ms. Hughes as a very good person who acted on her many good ideas which he found admirable and for which he respected her. He was sad to learn the news of her passing and offered his condolences to her family, loved ones, and neighbors. He reiterated that she would be missed, and he was sad to see her go.

Ms. Creecy described Ms. Hughes as her sister in politics and remembered how full of spirit Ms. Hughes was the Monday before she passed. The two were making plans to cooperate in order to move initiatives forward for the good of the community. Ms. Creecy would always remember Ms. Hughes for her strength and character, the love that she had for her community, grandchildren, and family, and the friendship and love that she and Ms. Creecy had for one another.

Mr. Clifton shared that he and Ms. Hughes kept an open avenue of communication and she invited him to coffee to discuss mutual interested within the City. The coffee date became a regular occurrence where they discussed life in general and the issues that they faced and provided him the opportunity to learn a different side of Sharon Hughes. He considered himself blessed to have been put in the position personally learn about and endorse Ms. Hughes. He spoke on behalf of his wife, Linda, who became very good friends with Ms. Hughes and often discussed their families over dinner. He emphasized how proud Ms. Hughes was of her family and how much he and his wife were impacted by her passing. He agreed with Mr. Lawhorn and Ms. Creecy that Ms. Hughes had a love for her community and did not seek public acknowledgement for her tireless efforts to better the community; he thought her best work was in constituent and community services. He shared that her loss created in his and his wife's hearts.

There was no public comment.

City Solicitor Bilodeau shared that he got to know Ms. Hughes through her service on Council and explained that a tradition on Council was that the rookie sat next to the Solicitor. He had the pleasure of sitting next to Ms. Hughes during her first years of service and got to watch her grow immensely as a Councilperson. He was very proud of the strides that she took and what she accomplished for the City during the short time that she served as a Councilperson.

5. 1-A-1. RESOLUTION NO. 21- : IN MEMORIAM SHARON R. HUGHES

10:59

Ms. Bensley read the resolution by title into the record.

Mr. Clifton read the resolution:

WHEREAS, the untimely death of Sharon R. Hughes is a great loss to the Newark community; and

WHEREAS, during her nearly three years on City Council representing District Two, having been elected for the first time in 2019 and reelected in 2021, Sharon distinguished herself through her devotion and service to the citizens of Newark; and

WHEREAS, Sharon will be remembered for her thoughtfulness, compassion, dedication and her love of Newark and her constituents, which came second only to her love for her family and friends; and

WHEREAS, Sharon served as a vigorous advocate for the less fortunate as shown through her tireless work on pandemic response, responsible development, and helping Newark's senior citizens during her time on City Council; and

WHEREAS, Sharon will be remembered for her wonderful smile, her caring heart, her compassion for those in need and her ability to make everyone with whom she crossed paths feel special; and

WHEREAS, Sharon enjoyed spending time with her five grandchildren, traveling with her family, gardening and spirited political debate; and

WHEREAS, Sharon is survived by her daughter, Jennifer L. Tetlow and her son-in-law Raymond of Kennett Square; her son, John Hughes of New Hope, PA; her sister, Judith of Newark, DE; her brother, James of Yardley, PA and five grandchildren, Pierce, Rhianna, Tanner, Gavin and Grayson. She was predeceased by five brothers and sisters, Kenneth, Darlene, Eric, Gary, Debra, and her parents Kenneth Johnson and Virginia Shaw Johnson.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Newark hereby convey to the family of the late Sharon R. Hughes their deepest sympathy and express their profound sense of loss in the death of a colleague and friend, their mother, grandmother and sister.

Resolved at a regularly scheduled Special Council Meeting on September 29, 2021.

MOTION BY MS. CREECY, SECONDED BY MR. LAWHORN: TO APPROVE THE RESOLUTION.

MOTION PASSED. VOTE: 4 to 0.

Aye – Creecy, Lawhorn, Suchanec, Clifton.

Nay – 0.

Absent – McDermott, Bancroft.

(RESOLUTION NO. 21-T)

6. 1-B. SETTING OF THE SPECIAL ELECTION DATE AND ASSOCIATED FILING DEADLINE TO FILL THE DISTRICT 2 COUNCIL VACANCY

14:50

Mr. Clifton explained that Council needed to set a date for the Special Election and the associated filing deadline to fill the District 2 Council vacancy within 60 days of vacation.

Ms. Bensley stated that due to the unexpected passing of Councilwoman Hughes creating a vacancy for the District 2 Council seat, Council was required by Charter to hold a Special Election by a date fixed by Council not less than 30 and no more than 60 days after the occurrence of the vacancy. Since Councilwoman Hughes passed away on September 25, the window to hold the Special Election would be between October 25 and November 24. Since November 23 was the latest Tuesday, the day of the week that the City normally held elections within the 30- to 60-day Special Election window, staff recommended that the Special Election be held on Tuesday, November 23, 2021. The Department of Elections New Castle County Office confirmed their availability for the date and staff secured a polling place location. In regard to setting the deadline for the nominating positions, the Charter stated that the candidates should be filed during normal business hours not later than the Monday which was between 60 and 66 days before the election. Since the Special Election was required to be held within 60 days, the City would be unable to comply with the Charter provision, therefore staff recommends that Council set the deadline for nominating petitions as 29 days prior to the election, which would mirror the Charter prior to changes implemented in 2013 and follow the precedents set by the City's last Special Elections in 2013, 2014, and 2021. If Council elected to set the Special Election date as November 23, the deadline for nominating petitions would be Monday, October 25, 2021, and the nominating petitions would be accepted starting September 30, 2021.

The Mayor opened the table to Council comments.

Mr. Suchanec, Ms. Creecy, and Dr. Bancroft had no questions.

Mr. Lawhorn requested clarification on the normal time period for the normal election process after April register. Ms. Bensley replied that in a normal election the filing deadline was between 60 and 66 days prior to the election, which typically fell around 64 days prior to the election based on the calendar. Since the election had to be completed within 60 days and residents needed a reasonable amount of time to file, the recommendation was to go with the 29-day deadline which was what was in place prior to 2013 for all elections before it was decided to push the deadline further. She reminded that the guidelines had been used in Special Elections since the Charter change was made in 2013. Mr. Lawhorn did not feel there was enough time for anyone to run a campaign but did not think that Council was left with a choice given the Charter. Ms. Bensley interjected that the City was also required by State Code to provide a notice of solicitation of candidates at least 20 days prior to the filing deadline as well as a notice of election at least 20 days prior to the election so when the notification deadlines were included with the abbreviated timeline with the Special Election itself, staff was left with the option being presented that evening. She revealed that the only reason Council was having a meeting that evening was because the advertisement deadline for the newspaper was the following day at noon in order for staff to meet the deadline to advertise the Solicitation of Candidates notice in enough time.

Mr. Clifton recalled that a previous Councilman relinquished his office, and at the time, it was Council's responsibility to appoint a new Councilperson to the fill the position which became a point of contention because the majority of Council wanted someone who would not run for office. He explained that Council did not want to offer someone with three or four meetings to use a political sounding board and put the forthcoming election at unfair odds to other candidates while the newly appointed Councilperson was not truly the long-term incumbent. He considered the situation at hand to be the net result of the conversation where, going forward, it was the 60-day window. He agreed with Mr. Lawhorn's point that Council needed to consider the situation going forward and recalled the only exception was the vacation of Mayor under six months did not require a special election and followed the normal election schedule.

Ms. Bensley informed that the provision applied to the Mayor or any Councilmember and if there was less than six months left in a term, it stayed vacant until the next election. She referred to the issue of the timeline and explained that staff was looking to hold a discussion with Council regarding a potential Charter amendment around special elections if for nothing else than to codify the 29-day deadline for the filing if it was decided to allow current practice to remain the same so the City was still in compliance, but also have a larger discussion about whether 30 to 60 days was a sufficient timeline when the timeline was

automatically at 40 days when the State notifications were included. The discussion was slated for the fall so if there was action to be taken, Council could give direction and the lobbyists could work on the issue in the spring with the new legislative session.

Mr. Suchanec stated that he had firsthand experience of the situation and agreed that it was very difficult to run an effective election. He pointed that the accelerated pace did not allow for a proper campaign as a normal election period would. He continued that while it was possible, the candidates experienced tremendous burdens and it was difficult to reach all of the voters using the various channels available in order to spread their messages. He suggested changing the parameters in the future.

Mr. Clifton agreed and noted that short-term campaigns relied heavily on mailings and other forms of communication whereas a candidate who wanted to campaign through traditional door knocking to meet voters was faced with difficulty.

There was no further Council comment.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL SET TUESDAY, NOVEMBER 23, 2021, AS THE DATE FOR THE COUNCIL DISTRICT 2 SPECIAL ELECTION AND TO SET THE FILING DEADLINE FOR SAID SPECIAL ELECTION AS MONDAY, OCTOBER 25, 2021.

VOTE: 5 to 0.

Aye – Lawhorn, Creecy, Bancroft, Suchanec, Clifton.

Nay – 0.

Absent – McDermott.

7. 1-C. DIRECTION TO STAFF REGARDING THE SCHEDULING OF ITEMS FROM CANCELED COUNCIL MEETINGS

25:22

Ms. Bensley reminded that in 2019, Council expanded the number of meetings and implemented a time limit on the agenda of two hours for the first and third Mondays and three hours on the second and fourth Mondays. Additionally, if there was a City holiday on a Monday and for three meetings in April around the election, and two meetings at the end of December, meetings were canceled. In 2021, the decision was expanded to include the first weeks of January, June, July, and August however, due to a lack of quorum for two meetings and because special elections for Districts 1 and 2 canceled an additional three meetings, there were five meetings that had been unexpectedly canceled, creating a large backlog of items for the remainder of 2021. She noted that at the Organizational Meeting, Councilmembers indicated there was no interest in adding more meetings, so staff requested that there be an increased time limit of 3.5 hours implemented for all Council agendas for the remainder of 2021. While staff would strive to keep the agendas shorter, the additional flexibility would stop the perpetual postponement of items and would allow for outstanding items to be completed in 2021 while still addressing larger scale deliberations such as the 2022 Budget and the 2021 Council District Reapportionment.

The Mayor opened the table to Council comment.

Mr. Suchanec asked if Council would consider an earlier start time if the meetings were going to run longer. Overall, he supported the motion.

Dr. Bancroft was in support of the motion but said that having a meeting earlier than 6:00 p.m. would present a problem.

Ms. Creecy was fine with extending the meeting time and agreed with Mr. Suchanec about an earlier start time but suggested 6:30 p.m. would be more appropriate for the working population.

Mr. Lawhorn preferred extending meetings versus adding meetings. He was fine with an earlier start time if necessary and asked Ms. Bensley what would have to be done to accommodate an earlier start time and if she felt it was necessary. Ms. Bensley replied that her only caution with an earlier start time would be that Council typically held executive sessions prior to the main agenda and the meetings with executive sessions started earlier. She noted that the executive sessions were moved to the beginning of the meetings several years ago because members tended to be more alert earlier in the day for considerations during the session and also prevented meetings lasting until midnight or 1:00 a.m. She cautioned that Council consider the point when choosing what time to start the meetings and if the regular meeting start time was at 6:00 p.m. or 6:30 p.m., whether members would still be able to make executive session if it was earlier.

Mr. Lawhorn explained that his work schedule made it a challenge to join executive sessions that began at 5:30 p.m. or 6:15 p.m. He hoped the situation could be avoided but said he would be open to an earlier start if it was necessary. He wanted to focus on prioritizing what business needed to be taken care of versus more nights to address the backlog. He reiterated that he was open to an earlier start time if required but felt that there had been a number of executive sessions lately. He hoped to avoid the situation if it was not needed.

Mr. Clifton agreed with Council comments regarding earlier meetings and noted that some executive sessions ended at Council meeting start times. He and Ms. Bensley had discussed beginning 15 minutes earlier to respect meeting attendants' time. He agreed and acknowledged that he and Mr. Lawhorn had not always agreed on the number of meetings but noted that he was retired and was likely to make any meeting. He emphasized that if the City wanted to attract younger Councilmembers, then a 5:15 p.m. or 5:30 p.m. executive session would be difficult for Council who worked out of the area. He considered the online meetings an odd blessing and hoped that they would not last forever. He believed the subject matter would dictate when the executive sessions would be held. He was open to the majority decision.

There was no further Council comment.

Mr. Suchanec noted the quality comments and suggested testing the schedule out to determine feasibility before starting earlier. Mr. Clifton, Mr. Lawhorn, and Ms. Creecy agreed. Mr. Clifton announced that there was consensus to leave the schedule as it was. Ms. Bensley understood there was direction for start times to remain at 7:00 p.m but she was unclear if everyone supported the extended end time.

Mr. Lawhorn asked if reading the motion supplied in the memo would offer clarification and Ms. Bensley confirmed.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT COUNCIL SUSPEND THE TIME LIMITS AS OUTLINED IN THE 2021-2022 COUNCIL RULES OF PROCEDURE TO ALLOW STAFF TO SCHEDULE COUNCIL MEETING AGENDAS FOR A LENGTH UP TO 3.5 HOURS FOR THE REMAINDER OF 2021. THE EXISTING COUNCIL AGENDA TIME LIMITS SHALL GO BACK INTO EFFECT AS OF JANUARY 1, 2022, UNLESS FURTHER ACTION IS TAKEN BY COUNCIL.

VOTE: 5 to 0.

Aye – Bancroft, Creecy, Lawhorn, Suchanec, Clifton.

Nay – 0.

Absent – McDermott.

8. EXECUTIVE SESSION

A. Executive Session pursuant to 29 *Del. C.* §10004 (4) and (6) for the purposes of strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and discussion of the content of documents, excluded from the definition of “public record” in §10002 of this title where such discussion may disclose the contents of such documents

35:52

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL ENTER EXECUTIVE SESSION A.

VOTE: 5 to 0.

Aye – Lawhorn, Creecy, Bancroft, Suchanec, Clifton.

Nay – 0.

Absent – McDermott.

Council entered Executive Session at 5:37 p.m.

8. RETURN TO PUBLIC SESSION

A. Potential vote to approve settlement agreement – Newark v. Suez Water Delaware Inc., et al.

11:00

Council exited Executive Session at 5:58 p.m.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL APPROVE THE SETTLEMENT AGREEMENT AS PRESENTED IN EXECUTIVE SESSION.

VOTE: 5 to 0.

Aye – Lawhorn, Creecy, Bancroft, Suchanec, Clifton

Nay – 0.

Absent – McDermott.

9. ADJOURNMENT OF SPECIAL MEETING OF THE CITY COUNCIL

Mr. Clifton announced the next Council meeting was scheduled for Monday, October 4, 2021.

Meeting adjourned at 6:00 p.m.

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

/ns

DRAFT