

COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole met on February 25, 2020 at 6:00 p.m. with Council President Hare presiding. Members of Council present were Mr. Sudler, Mr. Neil, Mr. Slavin (departed at 7:25 p.m.), Mr. Polce, and Mr. Lindell. Mr. Anderson, Mr. Cole, and Mr. Taylor were absent. Mayor Christiansen was also present. Civilian members present for their Committee meetings were Mrs. Doyle (*Utility*), and Mr. Contant (arrived at 6:14 p.m.)(*Legislative, Finance, and Administration*). Mr. Shevock (*Legislative, Finance, and Administration*) was absent.

UTILITY COMMITTEE

The Utility Committee met with Council President Hare presiding in the absence of Chairman Cole.

Adoption of Agenda

Mr. Neil moved for adoption of the agenda, seconded by Mr. Slavin and unanimously carried.

Request for Additional Well Locations -Dover International Speedway: Firefly Music Festival – Lot 18 Shower Building at 1229 Persimmon Tree Lane/Adoption of Resolution No. 2020-02

Mrs. Donna Mitchell, City Manager, reviewed the background information regarding the Request for Additional Well Locations - Dover International Speedway: Firefly Music Festival – Lot 18 Shower Building at 1229 Persimmon Tree Lane and Resolution No. 2020-02.

Staff recommended approval of up to three (3) new wells on Lot 18, property of Dover International Speedway. Should the request for additional wells be approved by Council, it is recommended that the depth of the wells not exceed 150 feet to avoid any potential interference with the City's existing water supply wells associated with greater depths.

Mr. Neil moved to recommend approval of staff's recommendation, seconded by Mr. Slavin.

Responding to Mr. Richard Kepfer, 13 Stewart Court, Mrs. Mitchell stated that Dover Downs would not be charged a fee for drawing water from the wells; however, they will be required to get permits from the State and there will be a City sewer charge based on the well usage. She noted each of the wells will be metered to determine the usage.

Mr. Neil called the question, seconded by Mr. Slavin and unanimously carried.

Mr. Neil moved to recommend approval of staff's recommendation, seconded by Mr. Slavin and unanimously carried.

Annexation Requests

Mr. Dave Hugg, Director of Planning and Community Development, reviewed the background information for the annexation requests for 1448 North Little Creek Road, owned by Holly L. Mayer and 1385-1389 McKee Road, owned by MEB Properties, LLC and Christopher Custis. The equitable owner is Louis J. Capano, III.

Staff recommended forwarding these items for consideration of the Planning Commission on March 16, 2020 and a public hearing before Council on April 13, 2020 for the annexation with the zoning.

Mr. Neil moved to recommend approval of staff's recommendation.

Responding to Mr. Richard Kepfer's concerns (13 Stewart Court), Mr. Hugg advised that traffic questions would be addressed by the Planning Commission and through the site design. He noted that McKee and Scarborough Roads were State maintained and, as a minimum, they will probably need to do a full scale traffic analysis.

Mr. Neil asked if the project could go forward without annexing the property. Responding, Mr. Hugg advised that it could go forward in the County under the County Subdivision rules and regulations and still have an impact on the City without the benefit of utilities, taxes and other charges and without the benefit of the City having control over the design and layout of the project.

Annexation Request - 1448 North Little Creek Road, Owned by Holly L. Mayer

Mr. Neil moved to recommend approval of Staff's recommendation, seconded by Mr. Slavin and unanimously carried.

Annexation Request - 1385-1389 McKee Road, Owned by MEB Properties, LLC and Christopher Custis. The equitable Owner is Louis J. Capano, III.

Mr. Slavin moved to recommend approval of Staff's recommendation, seconded by Mr. Neil and unanimously carried.

Mr. Neil moved for adjournment of the Utility Committee meeting, seconded by Mr. Sudler and unanimously carried.

Meeting adjourned at 6:09 p.m.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee met with Chairman Lindell presiding.

Adoption of Agenda

Mr. Neil moved for adoption of the agenda, seconded by Mr. Slavin and unanimously carried.

Temporary Employee Assistance with Special Enterprise Resource Planning (ERP) System Projects, As Assigned

Mr. Lori Peddicord, Controller/Treasurer, reviewed the Committee Action Form regarding the Temporary Employee Assistance with Special Enterprise Resource Planning (ERP) System Projects, as Assigned.

Staff recommended authorizing the Controller/Treasurer to maintain temporary staffing to assist with special projects and assist with the ERP implementation project.

Responding to Mr. Neil, Ms. Peddicord stated the request will cover one individual for the remainder of the fiscal year at about \$51,000.

Responding to Mr. Sudler, Ms. Peddicord explained the timeline and process related to the ERP Implementation Project. She noted that she did not anticipate another special project for at least 20-25 years. Mr. Sudler recommended that Ms. Peddicord speak with Mr. Polce to see if there are any new and creative innovations that are coming down the line that the City would be able to utilize in the future.

Responding to Mr. Polce, Ms. Peddicord stated that she had not received a date from Tyler Munis regarding their meeting; however, she plans on having Tyler come within the next month to two at most before they get into the next budget session.

Mr. Polce asked if the goal was for one person to act as project manager for the entire implementation phase. Responding, Ms. Peddicord stated that she hopes to have one individual jump from special project to special project. She advised that gathering the conversion data will not be necessary in future phases. Ms. Peddicord stated that this individual is helping with things that do not already exist. She advised that she has research done on the lodging tax and the stormwater is going to need to be built into the new system. Ms. Peddicord stated that the person has experience with utility billing and electric rates and they are willing to do whatever is needed.

Responding to Mr. Contant, Ms. Peddicord advised that the person she had in mind for this position has been working with them temporarily and they are willing to stay on. She did not believe they could be a contractor.

Responding to Mr. Sudler, Ms. Peddicord stated she would like to keep the job opportunity in-house. She noted that the individual that they currently have on staff is looking for a full-time position in a different environment.

Mr. Neil moved to recommend approval of staff's recommendation, seconded by Mr. Contant.

Responding to Mr. Slavin, Mrs. Mitchell stated this item was brought to Council because it is actually adding a temporary position. She stated that Ms. Peddicord filled her two accountant positions and this is an additional position, so they wanted to make sure Council was aware of what they were doing.

Mr. Sudler expressed his concerns regarding the hiring process, noting that he wants to make sure that everyone is given the opportunity to compete for the job opportunity, especially due to the fact that they just had a diversity inclusion assessment report that stated that they had some areas that they needed to strengthen in that prospect.

Mr. Neil called the question, seconded by Mr. Slavin and unanimously carried.

Mr. Neil moved to recommend approval of Staff's recommendation to authorize the Controller/Treasurer to maintain temporary staffing to assist with special projects and assist with the ERP implementation project, seconded by Mr. Contant and unanimously carried.

Evaluation of Requests for Proposals - A Study of Classification, Compensation, and Benefit System and Pay for Performance Option

Mr. Matt Harline, Assistant City Manager, reviewed the background and analysis regarding the Evaluation of Requests for Proposals for a Study of Classification, Compensation, and Benefit System and Pay for Performance Option.

Staff recommended the following: 1. Authorize the City Manager to negotiate and sign an agreement with Segal Waters Consulting of Washington D.C. for Part 1 of the study - Classification, Compensation, and Benefit System; and 2. Authorize the City Manager to negotiate language to add Part 2 of the study- Pay for Performance; and contingent upon the approval of the Proposed FY 2020-2021 Annual Budget, complete the optional study in FY21.

Responding to Mr. Slavin, Mr. Harline stated that the scope of the RFP's did not include a study of compensation of elected officials.

Responding to Mr. Sudler, Mrs. Mitchell stated the driving force was that they do raises every year, Council approves a percentage increase for non-bargaining and everybody gets the same percentage no matter what their performance is and she is a true believer in pay-for-performance and the raise should be based on performance, not just a straight percentage across the board for everybody.

Responding to Mr. Slavin, Mr. Harline stated that there are about 56 non-bargaining employees. Mr. Slavin noted as a reminder to Council and Committee members that, while all the other employees of the City are represented by bargaining units that do this bidding for them, they have 60-plus or minus employees who do not have that unified voice. The caveat to this is that regardless of the plan that they put in place for what the range of pay-for-performance compensation may be in any given year, it still remains Council's discretion to appropriate the funding to support those raises. He cautioned Council members that he thought the last time they went into pay-for-performance, they got into a "tail wagging the dog" system where the pay-for-performance system was dictating to Council how much money had to be loaded in the budget to meet those raises. Mr. Slavin stated there could be some balancing that takes place and that it will likely be addressed because Mrs. Mitchell was here during that time period.

Mr. Sudler asked why there was not any discussion in regards to the elected officials, whether it is pay-for-performance or just an increase. Mr. Sudler stated that some time ago they were looking at possibly a pay increase, but never heard anything about that two or three years later.

Responding to Mr. Sudler, Mr. Slavin stated that he does not think it was appropriate for this scope of services. Mr. Slavin noted that Council had a Compensation Commission structure and it did not work and so a few months back they abolished that system, and now it is left to the discretion of Council to determine what their salaries will be. Mr. Slavin noted that he has been on Council for 16 years and receives the same pay now as he did 16 years ago. He advised that it was not a complaint and stated that he does not do it for the money.

Mr. Harline stated that they could ask the Delaware League of Local Governments (DLLG) to get comparable information, but no two cities are alike. He noted that these are positions where they can compare job criteria and professional requirements. Mr. Harline advised that it is harder to compare elected official to elected official.

Mr. Neil stated that they had a study that was made or requested for Council to say how many hours do they put in for doing their job and he filled that out. He noted that he figured out it was about 25 cents an hour, but he does not do it for the money. Mr. Neil wondered what happened to that study that was done, or those papers that they filled out.

Mr. Slavin stated that if Council wanted to pursue this conversation about their compensation, he would also include the Mayor's compensation, which is an issue that should be addressed fully, possibly at the Council Workshop. Mayor Christiansen advised that when he was first elected to Council, they made \$10.00 a meeting. He also thought that, as Mr. Slavin mentioned, there used to be a clause that had something to do with the cost-of-living index or something that went across the board.

Mr. Sudler stated that, as a City Councilman, he spends quite a bit of time addressing his constituents' concerns, holding meetings, and going out to sites to review situations in his and other districts. He noted that times have changed and the demand for representation and accountability is higher with the current challenges in their communities. Mr. Sudler stated that he would welcome some data from other municipalities, whether it be by population or by the challenges that they are faced with, if the City Manager would be amenable to that.

Mr. Slavin asked that if they want to have that conversation that they firewall Staff from collecting the data for Council, that way it cannot be looked upon as them exerting pressure on Staff to prove a number up or down. Mr. Harline stated this study was on the professional non-bargaining Staff and a few other positions which they have had trouble filling.

Mr. Lindell stated that this study would be moving in the right direction and he agreed with what had been said. He noted that he is not as concerned with his compensation as he is with the 56 non-bargaining workers who are hard-working and have no negotiating background, nor the power of a union behind them. Mr. Lindell, noting that they were having trouble filling positions, thought that compensation could help with retaining good people.

Mr. Contant noted that he agrees with Staff's recommendation and is in favor of pay-for-performance and proving their value and tying increases to merit. He stated that a lot of people assume that government employees, no matter what they do, whether they do well or not, they are still going to get the same amount and are still going to get base raises. Mr. Contant noted that this will show some accountability to the citizens who are paying taxes that people's raises are being tied to their performance, but at the same time the City is lacking in compensating and trying to be competitive especially when you face the State of Delaware.

Mr. Lindell stated that moving forward they should not put themselves in a position where their policies are dictating what they do. He noted they should have the courage to make those decisions as they come up when it comes to looking at those particular issues.

Mr. Sudler asked if the recommendations from the Diversity and Inclusion Report and Assessment were included in the pay-for-performance and if they were looking at some of the workers and employees that have had concerns moving forward in their ownership of the assessment, challenges, and weaknesses that they have to strengthen. Responding, Mr. Harline stated that, as a part of the RFP, they made it clear that the successful consultant would be required to review the recent Diversity and Inclusion study and consider

that in the way they set up the compensation package. He noted that they are trying to incorporate that and they are looking at that specifically.

Mr. Sudler stated that it is going to play a huge part in not just obtaining employees, but also retention rate, keeping employees happy, not just about performance but also opportunities for all across the board to achieve a higher position in the workplace separate from performance.

Mr. Neil moved to recommend acceptance of Staff's recommendation to: 1. Authorize the City Manager to negotiate and sign an agreement with Segal Waters Consulting of Washington D.C. for Part 1 of the study - Classification, Compensation, and Benefit System; and 2. Authorize the City Manager to negotiate language to add Part 2 of the study– Pay for Performance; and contingent upon the approval of the Proposed FY 2020-2021 Annual Budget, complete the optional study in FY21. The motion was seconded by Mr. Polce and unanimously carried.

Proposed Ordinance #2020-05 Amending Chapter 22 - Buildings and Building Regulations, Article IX - Lodginghouses and Article X - Rental Dwellings

Mr. Dave Hugg, Director of Planning and Community Development, reviewed Proposed Ordinance #2020-05 which amends Chapter 22 - Buildings and Building Regulations, Article IX - Lodginghouses and Article X - Rental Dwellings.

Mr. Hugg advised that the amendment adds language to minimize public safety risks, noise, trash, and parking problems often associated with short-term rentals and to ensure that traditional neighborhoods are not turned into tourist areas to the detriment of long-term residents. Additionally, the amendment strikes the Safe Communities provision which was well intended but in actual practice turned out to be non-enforceable.

Mr. Hugg explained that the Safe Communities ordinance provided a mechanism for the Police and Code Enforcement to work together to move for eviction if there had been three or more criminal activities at a particular property. He noted that sometime in 2016 a decision made by possibly his predecessor and others not to enforce that ordinance, particularly the provisions that required an addendum to the lease. He advised that the Police Chief recently chose to exercise the ordinance on a property downtown, and they realized as they got into it that there was no signed lease addendum and therefore they could not actually enforce it in that case. Mr. Hugg advised that they did some legal research and talked to Mr. Nicholas Rodriguez, City Solicitor, who advised them that there were a couple of serious problems with the ordinance. After reviewing the issues with the ordinance, Mr. Hugg stated that the recommendation from City Solicitor Rodriguez was to strike the provision in its entirety and then, if they wished, to revisit the notion of criminal activity in dwellings as a condition of continued rental as a separate discussion. He noted it removes what would have been Division 3 of Chapter 22 and eliminates that unenforceable set of provisions.

Staff recommended adoption of proposed Ordinance #2020-05.

Mr. Hare advised that the ordinance is changing the definition of a short-term rental to 30 days and it allows a short-term rental in a proper zone. He noted that if someone wants to rent for 30 days, and then have another renter come in for 30 days, they will need another inspection. Mr. Hare stated that it would prevent renting for multiple days to different people in a residential neighborhood, zoned strictly residential.

Responding to Mr. Sudler's concerns about the ordinance possibly conflicting with §5106 of the Landlord-Tenant code, Mr. Hugg stated that it was an issue and that this language was drafted by Mr. Rodriguez, particularly for that reason. He advised that they define short-term rental, not the length of the lease itself. Mr. Hugg stated they do not think they have that problem, but he would ask Mr. Rodriguez. Mr. Hare stated that it could be an issue even if it is a one-year lease. Mr. Hugg noted that it is a very difficult area to regulate, so they are trying to define short-term leases or short-term rentals as the basis for responding to complaints. He advised that he does not have the manpower to do that proactively, but at least it gives some greater enforcement authority.

Mr. Slavin noted that they have a quality of life issue with potentially negative effects and they have to protect that quality of life. Mr. Slavin requested Staff to develop options for the replacement of the Safe Communities ordinance that respect the original intent, which was the quality of life in neighborhoods.

Mr. Slavin asked if they have vetted the ordinance out in the community with the Chamber of Commerce, hotels, and with some of the neighborhood groups that are having an issue with it and if staff has received any responses. He noted that Kent County Tourism was very surprised that in certain parts of the United States the hotel industry is actually embracing airbnbs because it creates a larger carrying capacity in the community for beds and therefore attracts larger meetings, conventions and events to the community than just what hotels will allow. Responding to Mr. Slavin, Mr. Hugg stated that they have not done any vetting of this before bringing it forward, other than the neighborhood in which the issue has become a recurring concern.

Mr. Hare advised he was at the Chamber's Legislative Affairs Committee meeting and this was discussed. He stated Ms. Diogo brought it up and Mr. Hare told her the same information he told Committee that if this ordinance did not change, a person would still have to have a permit to rent their house for Firefly or NASCAR.

Mr. Slavin advised that he is thinks they are on the road to something that can be beneficial for all parties. He noted he is fearful because they are creating an ordinance that, because it is unenforceable, will push the activity underground. He also echoed Mr. Polce's concerns that if they are going to align themselves with a new economy and a new way people are doing business, they should be a little bit more flexible in finding a way because their ordinances are lagging behind an economy that is going to move without them anyhow.

Mr. Contant asked for clarification that they are looking at defining what short-term rentals are and they are going to disallow people to rent their homes through like Vacation Rentals by Owners (Vrbo) or airbnb. Responding, Mr. Hare stated if it is not zoned property. Mr. Contant advised that the ordinance is not detailed enough. He noted that the idea that someone with their home that they owned would rent it out, does not bother him, now if they lease that home, they are going to sublet it, that is an issue for them to work out with their landlord. He stated that the ordinance needs to go back and needs more detail and how a short-term rental may work and does not agree with the restricting or asking people to have their home, their specific parcel, rezoned in order to rent it out for a couple of big events a year. He noted that this needs to go back and be reworked and for the "Safe Communities," section, that should probably be a second line item brought to the Committee and then to Council. That way that issue can be dealt with separately because obviously this is a lot bigger.

Mr. Contant advised that in the Village of Westover, they looked into trying to use this to get someone evicted. They were threatening neighbors, stalking people, damaging property and one of the biggest issues they ran into was when they tried to look into doing this as an Homeowners Association (HOA), is that nine times out of ten, when Dover Police Department (DPD) comes out, they do not want to do paperwork and if there is no paperwork, they cannot actually invoke this clause whether it was constitutional or legal or violates any other parts of the code. He stated they could not actually use it because there was no paperwork done by DPD, which sets in motion any type of mechanism to get someone evicted for what they are doing to their neighbors. He agreed that if that portion is going to be repealed, they need put something in place that can actually work first and that they have to get DPD on board because if they are going to be the first line to making sure this paperwork to back up the claims that are being made against the tenant, they have to be willing to do it.

Mr. Neil stated the purpose of this is positive in that they are setting up certain standards and they have to go back and take a look at what those standards are. He noted if there is a fee involved, if the fee compensates for the time that becomes very positive. He stated when they talk about an act where they have a consistent problem that they are saying now they cannot use it, it is unconstitutional. Mr. Neil advised they also needed to work on harassment of panhandling and that they needed to have a bill in place to allow them to enforce something like that.

Mr. Lindell agreed with Mr. Slavin and noted that there is a way forward that they can best meet these things. He stated they have gotten into trouble before where they have the best intentions in mind, but they do not necessarily go through the processing and getting the input that they need to create an ordinance that works for most people and one that they can actually enforce. He expressed concerns regarding eliminating the section regarding "Safe Communities." Mr. Lindell stated that as a homeowner they are investing in the community. He also referenced an Air Force veteran who was a victim of the neighbor in the Village of Westover and stated they owe it to people like her to create an ordinance that actually can be enforced and to help those individuals when they do have issues with problem neighbors.

Mr. Richard Kepfer, 13 Stewart Court Dover, Delaware expressed his concerns regarding the ordinance and a situation regarding a neighbor. Mr. Kepfer stated there has been a problem since November and the City cannot seem to move forward without updating a new ordinance cause there is no definition of short-term rental. He stated he does not believe that an airbnb should be there. Mr. Kepfer noted that every time the home is rented out the City is not getting any taxes from that room or other benefits. He stated that the neighborhood has suffered and that back in November, there was a party there and was told that the person had to fix it and it was \$7,000 worth of damage to the house. Mr. Kepfer noted that is the character people that are coming into that house and it needs to be stopped. For a bed and breakfast the home has to get rezoned, he asked why it does not for airbnb. Mr. Kepfer stated there was no difference between a bnb and an airbnb. He noted when the neighbor finally did get the home inspected, it failed inspection the first time because it was not up to current standards. Mr. Kepfer stated a lot of people do not realize the moment they put a piece of property out for rental, it must meet current code, not the code when the house was built and a lot of these properties do not meet code, so they are endangering people that are in that house. He stated he just wants the ordinance changed and the ordinance enforced.

Responding to Mr. Polce, Mr. Kepfer stated if the ordinance was to pass the change would be that the person could not rent the house out more than once in a 30-day period. Mr. Polce stated but they did not have a

permit to begin with so they were operating illegally to begin with. Mr. Kepfer agreed and stated it was another concern that if the City knew, they never went in and shut it down.

Mr. Polce stated this conversation was very warranted and they needed to have it, but the ordinance does not have teeth to actually be enforced and moreover there would not be any repercussions to begin with. Responding, Mr. Kepfer stated the repercussion under the ordinance would be if they did not follow the ordinance, do not have a permit, the City has the right to shut off all utilities to the property. Mr. Polce stated the ordinance that is drafted will not be enforceable because they do not have the capacity to go out and look and evaluate on a monthly basis, which essentially is what it would be. Mr. Kepfer stated it would be a complaint driven process. He noted he rented his out for almost 10 years and never rented for less than one year because he did not want people in that house for less than that. He stated he had a renter live there for six years and through his property manager, he spent over \$4,000 making repairs to the house because they did not tell him and the property manager did not do proper inspections and he understood that part. He noted he understands that something needs to be done about people creating airbnbs and that it should be inspected, have a license, and pay hotel tax.

Mr. Sudler stated what about the elements of people that are law abiding that are desirable and a lot of times when they take a look at one or two bad apples, they generalize the whole bunch. He suggested they come up with some statistical data in regard to the probability of something like that occurring. He noted that a lot of times when there are few individuals who have not been law abiding or undesirable residents or tenants, that the ones who have been desirable have caught a bad reputation, so he does not really think that they should generalize a whole population of prospect new clients based off of one or two bad apples, especially without any statistical data.

Responding to Mr. Hare, Mr. Polce stated they have zoning in the City because zoning, historically, has been brought forth because of the need for greater urban development and ultimately when they look at the zones that they have on their books, he would argue that half of them do not need to be there because ultimately they need to be looking at how community standards are created and defined in a different way than they have over the past 150 to 200 years. Mr. Polce noted in his neighborhood is zoned residential and they have small businesses being operated out of the neighborhood and they have short term rentals in the area and that is fine. He noted it does not impact the valuation of his home. Mr. Polce stated they have to be realistic that short-term rentals are a reality, it is a new market to the economy and ultimately one bad apple and they change every policy and that is not the way the world works and frankly, that is not how public policy works, because they have seen that kind of reactionary type of public policy over the past 20 years and it ended creating nothing but greater bureaucratic gridlock. Mr. Polce stated they should revise the current draft and use it as a framework. He noted they should call the National League of Cities (NLC) to see what other jurisdictions are engaged in and they can come together with the solution to the City while not hurting a new emergent sector of the economy.

Mr. Ricky Pryor stated his mother lives in 20 Stewart Court and expressed concerns with neighbors. He stated he agrees if someone owns a home and wants to rent it for race weekend or one weekend, that is fine. Mr. Pryor stated his mother has been living a nightmare since October, because a neighbor has had different people every night of the week. He stated during Thanksgiving there were over 20 people there and there is no accountability, nobody is being responsible. He stated his mother has lived in her home since 1966 and that they should have some respect for the residents that have lived in a property forever and then being put through this nightmare. Mr. Pryor noted they have trash and raccoon issues. Responding, Mr. Polce stated

Mr. Pryor's mother's situation is horrible and wants to find a solution, unfortunately does not see how this ordinance is that answer. He noted he is dedicated to finding a solution that both is helpful to Mr. Pryor's mother's situation while not hindering further economic development. Mr. Polce also stated the majority of the folks who are doing airbnbs and doing short-term rentals are not bad actors.

Responding to Mr. Sudler, Mr. Pryor stated code enforcement has been called out many times and that he lives in the City of Dover. Mr. Sudler suggested getting contact information from Mr. Dave Hugg, Director of Planning and Community Enhancement, and have code enforcement come out, review and document some of his concerns.

Responding to Mr. Sudler, Mr. Hare stated yes, there were times that warrant for police to be present. Mr. Hare noted three weeks in a row there was an issue because there would be five or six cars parked in the court in front of the house and they would never move and Mr. Hare received calls. He noted he went out at 3:30 a.m. on Fridays, calling the police to come and issue tickets to those cars because the street cleaner could not get through there. Responding to Mr. Sudler, Mr. Hare stated three weeks in a row, police showed up and wrote tickets for all those cars, but now the complaint is on Thursday night, all those cars are parking up in the neighborhood, in front of people's houses, congesting everything up there. He noted they are not parked in the court.

Responding to Mr. Hare, Mr. Hugg stated he thinks that yes, if they do not own a property, they can sublet a property they do not own, unless they are prohibited by their master lease, there are provisions. He noted that he does not know how many active code cases they have on this particular property, but his code officer has been out there repeatedly at night and other times, but it is a regular stop on kind of the code circuit and sometimes they have code violations, sometimes they are not. A lot of times there are police related violations because if that is what Mr. Hare said, if it is cars parked in the street blocking the trash truck or parked on paved surfaces, it is their problem, if they are parked in the grass, it is Mr. Hugg's problem.

Mr. Sudler stated it sounds like there needs to be a stronger partnership between code enforcement and Dover Police Department in regards to this matter. Maybe it needs tougher ordinances that combine both agencies together.

Mr. Hare stated the other thing they could consider is if they are going to leave the ordinance the way it is, maybe if someone is going to have a short-term rental, they get a one annual inspection and then get a \$25.00 permit and then if they are going to rent it the next month, they get a permit for \$25.00 for that rental, it is just like an airbnb. They get a permit every time they rent the property, it is an option.

Mayor Christiansen stated they have gone out there to ad nauseam and wrote tickets. He suggested one solution might be that the residents of the neighborhood should have parking permits and if those other folks do not have parking permits to park on the street, then their fines be increased and maybe they would get the message. He noted they certainly do not want anyone to ever feel unwelcome, but they certainly do not want them to be a nuisance in somebody's neighborhood. Mayor Christiansen stated he thinks that would be a solution, but wants to assure everyone that Mr. Hare has called the police and the police do a regular patrol out there to write tickets for these folks as do the code inspectors as well.

Mr. Hare noted if they do not want to change anything, then maybe an airbnb should be fall in the same category as a bed and breakfast. He stated if someone is going to have an airbnb or a bed and breakfast, to

be the same thing, so they meet all of the same requirements, that takes away the short-term rental. It just makes it an actual lodging house and a bed and breakfast.

Mr. Hugg noted those are requirements for bnbs that are authorized, also requirement for a legal bnb, the owner or an owner's agent must live on the property, so it is a much stricter standard for a bnb and they are only in a couple of zones. Mr. Hugg noted that on his desk he has a folder of examples of how other jurisdictions have attempted to deal with this problem and it is an extremely complicated one. It gets tied up in lodging tax and in reporting. He advised that there is a federal IRS requirement that if it is 14 days or less, they treat it one way for taxes, so there are a lot of ramifications to the problem. Stewart Court is clearly the one that has brought this issue to the forefront in Dover, but it is not the only complaint that they have gotten about the possibility of folks using their properties for airbnb, so it has been on occasion. He stated by the time they have gotten the code complaint, there is no evidence that it was being used that way.

Mr. Hugg stated to some degree bringing this ordinance forward tonight was to get this discussion to occur because in the absence of some solution, his code enforcement officers and the police officers basically react when the crisis reaches the point that it shows up on one of Council's desks and his desk. Most airbnbs are set up in such a way that people could individually lock the bedrooms. The City's fire code does not allow people to have locks on the outside of the individual bedroom, so there are a lot of ramifications here. Mr. Hugg noted that with Mr. Hare, they believe that leasing is a step in the right direction.

Mr. Contant stated the ordinance just needs to be revised and he does not have an issue with defining short-term and if they want to expand the definition of bed and breakfast or include that under another term that they make up that would address bed and breakfast, airbnbs, or Vrbos or the like, he does not have a problem with that, but the few changes that are made in this ordinance do not explicitly define various circumstances under which a homeowner may find themselves trying to rent out a room or rent out their house for a short period of time. Mr. Contant stated they should certainly take this back, look at what some of the other jurisdictions are doing. He noted they are not Dewey Beach, however, Dewey Beach may or may not have ordinances related to these short-term rentals. Mr. Hugg stated they have an excellent short-term rental ordinance, but the nature of Dewey Beach's economy is so much different that it is not applicable for the City of Dover.

Mr. Contant noted there may be components of Dewey Beach's ordinance, that are clearly missing from what they are looking at tonight. He stated it would be good to take this back and try to incorporate some components knowing that while they may not be a destination like the beaches whose economy is built around short term rentals, they do have a couple of large events every year that they know people will rent out for. Mr. Contant noted he wanted to bring up that the companies that organize all this can collect taxes. He stated most people probably do not appropriately report it, but that may be a conversation that the City Solicitor needs to have with the legal department of those of airbnb or Vrbos or there are several other main ones out there, just to make sure that they are aware that the City does have that tax in addition to the State of Delaware having that tax, because that can be collected through their contract and when they make payment and that could be remitted back to the City.

Mr. Hugg stated he believed that it is actually voluntary on their part, but knows that the case and noted they need to be careful. Airbnb is a registered trademark of a company, in the industry, these are referred to as short-term rentals, so they want to be sure that in whatever they are doing they are cognizant of the fact that there are a number of companies in the business, one of whom is named Airbnb.

Mr. Neil moved that they return this to the staff for reconsideration, which to include not only the economic benefit that they foresee in it, but as well as putting teeth into the law to prevent difficult situations that affect the neighborhoods.

Mr. Lindell clarified the motion which is to refer it back to staff to tighten up the loose ends that they discussed this evening. Responding, Mr. Neil stated yes and that everything they have discussed this evening is on the record. He noted the two things primarily that they are looking at, is to recognize that there is an economic factor in there, there should also be some teeth into the law so that if they find a situation as they have heard tonight, that they are able to cut off the individual, to prevent that from happening. Whether they are in a lease, somebody is going to have to be responsible for it. If they cannot, we can close them down, shut them down, put them out of business and the other factor is the safety factor. Mr. Neil stated they should consider if there are fees involved to make sure that the City has paid for those fees, which is another factor that should be considered. Mr. Neil if they do not call them on it, that is okay, but if there is a complaint on it and it is true and if they have not paid then they should be penalized.

Mr. Neil moved to recommend referring Proposed Ordinance #2020-05 back to staff based on the discussion they have had tonight with their concerns. The motion was seconded by Mr. Contant.

Mr. Lindell suggested if Mr. Neil and Mr. Contant would agree to it, they should leave the Safe Communities portion of the ordinance alone for now, even though they know there are flaws in it, to deal with the two big issues first and then they can go back and revisit that and noted they need to deal with them separately.

Mr. Neil stated he does not think that is actually necessary because if they are going to look at the safety aspect of it, it is there and they should be able to then take that in consideration of how to adjust, change, keep or whatever. He stated it is inherent in the motion.

Mr. Hare stated there should be something in there that says unless the person owns the property or has a signed lease agreement, they cannot rent the property. He stated that needs to be, so they cannot sublet the property, unless they are the owner or have a signed rental or lease agreement.

Mr. Sudler requested that a person cannot sublease unless the landlord has authorized it to be included, because if the landlord authorizes them to sublease then they got permission from the landlord.

Mr. Neil moved to recommend referring Proposed Ordinance #2020-05 back to Staff based on the discussion they have had tonight with their concerns. The motion was seconded by Mr. Contant and unanimously carried.

Mr. Neil moved for adjournment of the Legislative Finance and Administration Committee meeting, seconded by Mr. Hare and unanimously carried.

Meeting adjourned at 7:50 p.m.

Mr. Neil moved for adjournment of the Council Committee of the Whole meeting. The motion was seconded by Mr. Sudler and unanimously carried.

Meeting adjourned at 7:50 p.m.

William F. Hare
Council President

WFH/TM/jt

S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Minutes\2020\02-25-2020 CCW Minutes.wpd