COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole was held by video conference on July 14, 2020 at 6:00 p.m., with Council President Hare presiding. Council members present via video or telephone were Mr. Anderson, Mr. Sudler, Mr. Neil, Mr. Slavin, Mr. Taylor, and Mr. Lindell. Mr. Cole was absent. Civilian members present via video or telephone for their Committee meetings were Mr. Contant and Mr. Shevock (*Legislative, Finance, and Administration*), Ms. Maucher (*Utility*), and Col. Dix, Ret., and Mr. Caldwell (*Parks, Recreation, and Community Enhancement Committee*).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

ADOPTION OF AGENDA
Mr. Neil moved for approval of the agenda, seconded by Mr. Sudler and unanimously carried.

Proposed Ordinance - Staff Substitute #2 (SS#2) for Ordinance #2020-05 - Amending Chapter 22 - Buildings and Building Regulations, Art IX - Lodginghouses and Art X - Rental Dwellings, Appendix F - Fees and Fines, and Article 12 - Definitions
Mr. Dave Hugg, Director of Planning and Community Development, reviewed Staff Substitute #2 (SS#2) for Ordinance #2020-05. During the Committee of the Whole meeting of February 25, 2020 this item was referred to staff.

Staff recommended adoption of Staff Substitute #2 (SS#2) for Ordinance #2020-05.

Mr. Neil, regarding Section 22-355, suggested adding "or other fines and penalties," which are going to be defined in 358. He noted he would add that because all they are saying is they are going to revoke the license, but the owner will be subject to fines and penalties, particularly if somebody is culpable or is assisting in illegal activity. Responding to Mr. Neil, Mr. Hare stated that if he is living in a house, he is probably going to make sure that the illegal activity is not happening since he is living there. Mr. Hare stated one of the top things is that they have to be the resident of the property. He noted that if somebody is committing an illegal crime on their property, they are probably going to step up and say something or if that person is going to be involved in it, then the police are going to get involved regardless of what the ordinance says.

Mr. Neil stated that it is a little protection for the City at this point. Responding, Mr. Hugg stated he had no problem if they wanted to expand that language. Mr. Hugg noted that the provision about not knowingly allowing any illegal or criminal activities, is straight out of the concepts of nuisance law so it really makes it apparent to the owner that if they have no other grounds for taking legal action, they can invoke the concept of nuisance. Mr. Hugg stated they also have a provision later in the ordinance that has a "three strikes and you are out" rule, which essentially gives them one more protection from somebody who simply is just not being a good owner for whatever reasons and it is also founded in the notion of nuisance. He stated that any property cited three times as a nuisance or the location of illegal or criminal activity within a 12-month period loses its short-term rental license for at least the rest of the year.

Responding to Mr. Anderson, Mr. Hugg stated that a single-family zone was included, but a multi-family was not was because those kinds of uses are traditionally in this area of the country, in single-family or duplex residences. He stated that they decided, early on, that since they are regulating this as a land use, that they would limit it to zoning districts where single-family ownership is the predominant activity. Mr. Hugg stated in some of his research, he determined that a lot of jurisdictions did not permit it in apartment districts in part because of the question of subletting and who was responsible. He noted that it was really just a policy decision that single-family zoning districts are where they find the majority of property owners. He noted that they felt it was a more manageable ordinance if they were limited to single-family. Mr. Hare noted that it was not apartment districts and it is like an apartment complex. He noted that they are already subletting their apartment, they would not be eligible to sublet a room in their apartment as Airbnb because they are not the primary owner of that apartment.

Mr. Slavin stated that there is also a trend now that some of these Airbnb houses have self-corrected with COVID and that they are not being used, but that he thought it is just going to be the opposite. He stated he thought they are going to be used more because they are going to fly under the radar of some of those restrictions. Mr. Slavin stated in Section 22-355A, regarding that the person who is creating the Airbnb has to be a permanent legal resident of the City of Dover. He stated he was not sure what that means and was not sure what kind of legal standing they have from a constitutional point of view to require that. He asked what the thinking was behind that phrase and why they are limiting it just to residents. Mr. Slavin also asked if they do that for any other businesses in Dover.

Responding to Mr. Slavin, Mr. Hare stated they did speak to Mr. Nicholas Rodriguez, City Solicitor, and that it is saying the person who is going to have an Airbnb needs to be the legal resident of that property. Mr. Hare stated that they have to live there, he guessed that means they are a legal resident of the City of Dover. Mr. Slavin stated that Section B did not say that, he stated it said no more than one property in addition to the owner's primary place of residence. Responding, Mr. Hare stated that they have to be a resident of the City of Dover and they can have one other property that they can rent out as an Airbnb and be the legal owner of the property they are running.

Mr. Slavin stated he pushed back gently on the permanent legal resident as a phrase. He stated that kind of hit at a citizenship issue, which a permanent legal resident is a citizenship status in the United States. He stated he did not think that is what they intended and if they do not, he would not go near that.

Responding to Mr. Slavin, Mr. Hugg stated off the top of his head he could not think of any other businesses that they license that require people to be residents of the City of Dover. Mr. Hugg noted that he had not thought of that. Mr. Hare suggested that they change it to where the person has to be the resident of the property. Mr. Slavin noted then they would have to strike Section B in its entirety. Mr. Hugg stated he would discuss that language with Mr. Rodriguez.

Mr. Slavin expressed his concerns that they are creating a precedent with this and asked if they are sending a wrong signal to the business community that are being more restrictive about businesses. He noted that in Section 22-356A, where they have a formula for the number of guests, it shall not exceed twice the number of bedrooms, maximum of eight occupants at any time. He stated it kind of reminded him of the issue of Oxford Houses that they have in the City. When an Oxford House opens in a community, he personally supports the Oxford House model, but when they open in a community there is typically a concern about the number of residents they will have. He stated they bumped into this issue as it relates to fair housing. Mr. Slavin stated that he would just want to make sure that whatever they are prescribing here meets that test that they have faced in other places as well. Mr. Slavin asked Mr. Hugg to research this topic. Mr. Hugg stated he found the calculation for occupancy in a lot of other ordinances in varying forms, but they will take a look at that as well.

Responding to Mr. Slavin, Mr. Hare stated that they spoke with five people who owned and operated an Airbnb and they were all residents of Dover. Mr. Hugg noted that they all had been in business for some period of time. Mr. Hare also stated they were residential.

Mr. Slavin stated he did not want to discredit their input and appreciated it, but if he were an owner of one of these businesses and lived in the City of Dover, of course he would recommend that no one but people who live in the City of Dover can run this business. Mr. Slavin requested a little balancing on that issue.

Responding to Mr. Slavin, Mr. Hugg stated he briefly spoke with Ms. Judy Diogo, Central Delaware Chamber of Commerce (CDCC) President, and that she was most concerned in the previous version with the idea of the lodging tax. That upset her more than anything else because the law does not actually apply to B&Bs or Airbnb's, so they took that out. He stated he sent her an earlier version, but has not heard much back from her. Mr. Hugg stated he is certainly willing to reach back out again. Mr. Hare stated he spoke with Mr. Tom Kramedas, President of Axia Management, and that he had no problem. He noted the people Mr. Kramedas is representing said that they understand Airbnb's and the work that Mr. Hugg has done is okay, because the person is a resident or the legal owner of the property and lives in the City. Mr. Hare stated that their only concern is the fact that there are some people that come into the City, buy a four or five bedroom house, and then turn it into a hotel and do not have to meet any of the hotel requirements.

Mr. Slavin stated he would recommend that if it is coming to City Council in two weeks, in the intervening two weeks, a copy of it and an invitation for comment be sent to both the CDCC and to Kent County Tourism so they can obtain their comments and make sure that they have been included in that process. Mr. Sudler also recommended that the State Human Relations Division have an opportunity to review this as additional eyes.

Mr. Neil stated that they are talking about having people who care about the City be the owners, as opposed to an outfit that comes and takes the money out of it. He noted they could be an international conglomerate and that profit never comes back to the City. He expressed that his concern is to make sure that they have people who are responsible and have an interest in the success of the City. Mr. Neil stated, regarding Mr. Slavin's concern for the occupancy, there are safety issues because he does not know what the requirements are in terms of a fire or egress that has to be or sprinklers that would happen during an emergency. He noted they have to weigh the safety of the people who are using the facility.

Mr. Lindell stated he did not feel comfortable sending the ordinance to Council even with the reread process and prefers to refer it back to Staff. He noted that then they can reach out to all the interested parties to get their input as well the Council members and add their thoughts and opinions. Mr. Lindell noted that it will be easier if and when it does pass that they have a cleaner resolution and people understand where they are coming from when it gets to the Council floor.

Mr. Hare encouraged Council to let Mr. Hugg know what they would recommend. He stated it will be complaint driven by the neighborhood and not something that they are going to be out looking for issues with.

Mr. Contant stated that he believed more so in property rights as long as people are safe. He noted if someone is willing to buy a property, they should be allowed to do mostly what they want to do with it, provided it is not criminal in nature. Mr. Contant stated that in the Village of Westover, they have almost 100 townhomes and they have got another 60 to 70 duplexes that he did not think fell under single-family homes, but they are also not apartment complexes. He stated according to the Staff substitute, it is not applying to them, but he thought they would be setting up an unfair unequal advantage for certain residences over other ones and that they need to be careful in doing that.

Mr. Hugg clarified that townhouses, duplexes, and traditional single-family homes are all single-family homes, even if they are attached. They are a different form of property than an apartment complex building, it is built as a multi-family structure. He stated there is a distinction in zoning that recognizes that there are variations in single-family residences. Responding to Mr. Contant, Mr. Hugg stated that he believed the same zoning applies to condos. Mr. Hare stated that they talked to Mr. Rodriguez about this and as long as it is a single-family residence and they own it, they can do an Airbnb if they want.

Mr. Neil moved to recommend referring Staff Substitute #2 (SS#2) for Ordinance #2020-05 back to Staff, seconded by Mr. Sudler.

Mr. Anderson stated that he would like to see if Staff can get a fair housing opinion. He stated that he did not see where that will be a problem because they are not talking about somebody living there, but they are talking about safety issues and occupancy.

Mr. Neil moved to recommend referring Staff Substitute #2 (SS#2) for Ordinance #2020-05 back to Staff. The motion was seconded by Mr. Sudler and unanimously carried.

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

Meeting adjourned at 6:41 p.m.

UTILITY COMMITTEE

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

ADOPTION OF AGENDA

Mr. Neil moved for approval of the agenda, seconded by Mr. Anderson and unanimously carried.

Water Production Division Proposed Operational Changes

Mr. Jason Lyon, Water and Wastewater Director, reviewed the background and analysis regarding the Water Production Division proposed operational changes.

Staff recommended beginning this operational plan to assist with the ground water resource for all stakeholders. This would be put into action after the completion of the Water Treatment Plant Process Improvement Project.

Mr. Anderson asked if they were coordinating efforts with other users, particularly of the two deep water aquifers and if there is a coordination with other municipalities. Mr. Lyon stated he had not been informed by Delaware Department of Natural Resources and Environmental Control (DNREC) if they were actually putting a plan into place, and they have been informed about the issues. Mr. Lyon stated he has been at consortium meetings with different stakeholders throughout the area, DNREC and the Delaware River Basin Commission (DRBC). He stated he could reach out to DNREC and see if they have heard from other municipalities or users of this resource.

Mr. Anderson stated he was in favor of this recommendation, but noted that they are such a small user of this aquifer. He noted that he hoped they were taking the lead and not merely going through a motion that is not out of their control. He asked Mr. Lyon to relay their concerns that there needs to be other coordination as well, while they have their cooperation, they need others.

Mr. Anderson moved to recommend beginning this operational plan to assist with the ground water resource for all stakeholders. This would be put into action after the completion of the Water Treatment Plant Process Improvement Project, as recommended by Staff. The motion was seconded by Mr. Neil and unanimously carried.

Update on Development of Provisions and Ordinance for Wireless Communication Facilities

Mr. Matt Harline, Assistant City Manager, Mr. Dave Hugg, Director of Planning and Community Development, and Mrs. Dawn Melson-Williams, Principal Planner, reviewed a presentation titled, "Wireless Communications Facilities - Update on Development Provisions and Ordinances," (**Attachment #1**).

Staff recommended discussion only at this time of preliminary documents, unless the Committee develops specific recommendations during discussion.

Mr. Harline stated they are going to continue to refine agreements and licensing with pole attaching on City-owned poles and access to City right-of-way. He noted the information on page 34 of the packet has the final things that they will need to review before the proposed ordinances comes back to the Council Committee of the Whole, which right now they have set for August 11th. He noted that since there is no Council meeting on August 24th, they may have to adjust that timeline a little bit, but the idea would be possibly to have it finalized by September 27th. Mr. Harline stated that they should have proposed master license agreements with Verizon and AT&T before the City Council.

Mr. Neil asked if the new lighting system for the City could be used for this purpose and if it was an extra cost to do that. Responding, Mr. Harline stated that the lighting system that they are working on, that originally came out of the survey by Citelum, can have wireless technology to adjust lighting. Mr. Harline stated that for other purposes, these facilities would be either in addition to or on separate poles. He noted that there are some applications where 5G and 4G technology, when in the City, will assist with the management of that lighting system. They would need to do this ordinance and design whether or not they are getting a smart street lighting program. Mr. Harline stated this could assist a smart street lighting program, but it is possible to do that without so they are independent, but they do work together.

Responding to Mr. Neil, Mr. Harline stated, regarding the master licenses, others could come in and apply and have a master license with them. Mr. Harline stated he would expect at least T-Mobile, Sprint, to come in at some point and other major organizations that are deploying at 4G, 5G wireless network capacity. He noted that these have to be every several hundred feet to get a network, a mesh, and part of the effective prohibition is preventing them from developing that mesh.

Responding to Mr. Anderson, regarding the small wireless provisions review, Mrs. Melson-Williams stated that it is written as 10 days, and believed it is probably calendar days. She stated they can confirm that one way or the other.

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

Meeting adjourned at 7:29 p.m.

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE

The Parks, Recreation, and Community Enhancement Committee met with Chairman Anderson presiding.

Adoption of Agenda

Due to the absence of Mr. Bobby Wilson, Mr. Anderson requested that item #4 – Mr. Bobby Wilson and Wilmington Hope Commission be moved to the next Parks, Recreation, and Community Enhancement Committee meeting.

Mr. Neil moved for adoption of the agenda, as amended, seconded by Mr. Hare and unanimously carried.

Review of Active Recreation Area Plans (Request for Cash-in-Lieu) - Landing Square Apartments - 600 Bay Road (Planning Reference #C-20-02)

Mrs. Dawn Melson-Williams, Principal Planner, reviewed the active reaction area plans (request for cash-in-lieu) at landing square apartments – 600 Bay Road (Planning Reference #C-20-02).

Staff recommended approval of the active recreation area plan with the comments and conditions provided and acceptance of the $98,387.52 cash-in-lieu of recreation area construction donation, as the amount complies with the requirements of the Zoning Ordinance.

Col. Dix stated that he did not find grass on the entire layout and it gives him the appearance of a New York City apartment layout. He noted that he did not know where a person exercises a dog in that type of environment or for human exercise. He stated that every tree that is on the plan is used to screen the apartment complex from two restaurants and Verizon store and that there are no trees for beautification or shade in the layout. Col. Dix questioned the bike parking. He stated that is a place where bike parking is designated, and it is not going to withstand that neighborhood.

Mr. Johnathan Street, Becker Morgan, stated that the State Police administrative offices are going in the building which is under construction. He noted that the plan and application provided is essentially the developer's proposal for phase two. Mr. Street stated that they have stripped the retail out of the plan and proposed an additional 20,000 square foot office space and the 80-unit apartment complex. He noted that active rec with the initial application was pretty generalized as an internal clubhouse and the rooftop of fourth-floor deck.

Mr. Street stated that in the DAC and Planning Commission comments, it was requested that they give some kind of a further explanation of what is proposed. He stated that what the developer is proposing for the building itself is akin to a multimedia clubhouse room, coffee bar, game room with shuffleboard or other games and activities for the residents themselves, a library with computer access, and a fitness center with after hour's access. Then, the fourth floor sundeck would obviously be for the residents too, which would be facing the western side of the building or the internal side of the complex itself and would lend itself to chairs, lounge activity and larger games, for the residents to do outside up on the fourth floor. Mr. Street stated as far as staff's recommendations and comments with the report that was provided to them, they do not have many comments. They do not disagree and will work on connectivity. He stated a lot of the issues they fight with the site right now is based on the amount of trees and plantings that are proposed and required by City code and working within that to propose better connections to the Bay Road Trail System.

Mr. Street stated one of the questions they had was that the comment on the report says to provide indoor parking storage. He stated right now, they are looking at a number of what is required by code, which is external bike storage, but also covered bike storage to try and propose. Mr. Street noted that when looking into those options, they can discuss the indoor bike storage, but providing separate rooms and separate closets for indoor bike storage was not something that they were proposing as of right now. He stated that this is going off of the developer themselves, who is listening to, not just their current residents from other facilities, but their history with building and running these types of environments. Other than that, he is sure they will develop additional open space and non-paved areas as this plan gets further developed.

Responding to Mr. Neil, Mr. Anderson stated the issue tonight is the recreation plan and the Planning Commission deals with the rest, that includes whether or not the Committee accepts the cash-in-lieu or refers it back to Staff with instructions on developing another alternative.

Mr. Caldwell expressed his concerns that they not go overboard with recreational activities, because they can have so much going on and more activity than they really want to have out there. He noted that they have the public starting to live in these facilities, it could be a little more than they want to deal with for the City.

Mr. Anderson asked which other developments of this type had the developer done in the area in Delaware and what prompted the sudden change over to making it an apartment. Responding, Mr. Street stated this is more driven by the end user and the end tenant, at least for the 20,000 square foot building. He noted that it started about three years ago. They had a plan in place then and as they have switched tenants and gotten new tenants, the plan has kind of tweaked and changed as they get new tenants and are signing long-term leases.

Mr. Bill Krapf, Capano Management Inc., stated they originally had a larger grocer that they were working with and that fell through, then they developed a relationship with the State Police. He noted they got them and they have another State agency going in there and they thought this would lend itself to a mixed use development. Mr. Krapf stated they are the developer and manager of over 5,000 residential units through about 20 different communities, most of them are in the State of Delaware, most are in New Castle County, a few in Sussex County and two communities in Florida. He noted they are developing a community in

Camden, Delaware right now.

Mr. Anderson asked when it comes to communities designed like this, with very little natural recreation that is mainly in a commercial office area, have they had any feedback with this similar design, but with the internal recreation as this community has. Mr. Krapf stated as far as communities that they have developed like this, no. He stated they do have a community of one building, 68 units, on the Christina River in Wilmington, it is in a commercial district and has an internal community space that is very similar to what they are proposing here. He noted that they are full and have a waiting list.

Col. Dix noted that this would be the first apartment complex in the Dover area that has no grass. Mr. Street stated that there is grass proposed for the project. There are a lot of trees planted on the project as well, but there is grass. Mr. Street stated everything surrounding the building itself, with the exception of the sidewalks and the access to the building itself, is grass.

Mr. Neil moved to recommend approval of the active recreation area plan with the comments and conditions provided and acceptance of the $98,387.52 cash-in-lieu of recreation area construction donation, as the amount complies with the requirements of the Zoning Ordinance, as recommended by Staff. The motion was seconded by Mr. Caldwell and unanimously carried.

Consideration of Request to Delaware Congressional Delegation Regarding Disposition of Wetland Pond Adjacent to Pat Lynn Drive at the Site of the Proposed New Middle Schools

Mr. Sudler reviewed the background information regarding the consideration of the request to Delaware Congressional Delegation regarding the disposition of the wetland pond adjacent to Pat Lynn Drive at the site of the proposed new middle schools.

Mr. Sudler stated their constituents in the Fourth District at Woodcrest have asked them to put something together as a last effort to get approval to get that area back-filled in. Due to recent discussion with the Capitol School board members, some of the constituents, and Mr. Dave Hugg, Director of Planning and Community Development, they have come up with a formal draft letter to send to the United States senior and junior Senators and the At-Large Congressperson. Mr. Sudler stated he welcomed feedback and additional information, if needed, to be added to the letter. He stated they plan on sending the letter by the end of the month, if approved and has met the satisfaction of City Council and the Capitol School District, they are anticipating their approval because they have told them in previous meetings that they are in agreement with back-filling the area, the only holdup is federal approval.

Mr. Sudler stated that it appears the Army Corps of Engineers has jurisdiction over that area. Mr. Sudler stated that if they cannot gain approval or if it is not within federal jurisdiction, then at least they can get a letter of support from the U.S. Representatives stating they are in agreement to file for City records. He stated they are just trying to do due diligence and to make sure that there is a consensus among all parties to move forward and bring some relief to their constituents as soon as possible

Mr. Anderson stated they have been working on it for a few years now and hopes they are finally getting to a place of resolution. He noted that they are moving forward with this in cooperation with the school board. He stated they have a situation where there is an artificially created wetland which they believe has a deficiency and is creating safety problems, including sinkholes, property damage and creating safety hazards, expenses, and trees are starting to fall in.

Mr. Anderson stated he was able to bring that to the attention of staffers in the United States Senate Environmental and Public Works Committee. He noted that the Army Corps of Engineers claimed that they had never heard the safety concerns before and asked that the letter highlighting the safety concerns, in particular, be sent back. He stated they have a good chance of one of two things. Number one will be mitigation and it is almost certain, because of these concerns, it will be allowed to move this wetland. Mr. Anderson stated if that application is put in place and another site is the design, because this one was done to move another wetland from another area and they moved it here, it should have been moved to the back of the property, but it was not. Mr. Anderson stated there is also the possibility, which is less of a possibility that they may allow it to be filled in. He is currently having a review of it. He stated that the application will have to be put in by the owner of the property, which is the school district either way, but the support of the City will be an outlining.

Mr. Anderson stated that this is their opinion of what should happen, so therefore, whether it is mitigated or filled in will be somebody else's distinction, it does not hurt them to make the best case that they can.

Mr. Gregory Moore, Becker Morgan representing Capital School District, stated they are doing the design of their new school and the wetland has been a big issue in the process. He stated that this is a federally protected wetland and Becker Morgan, along with the previous superintendent, had Mr. Michael Yost, U.S. Army Corps of Engineers, out to walk the site and they discussed whether it was a wetland. Mr. Moore stated that Mr. Yost informed them that it was, then they had it evaluated by a wetland specialist who also stated that it is a protected wetland that meets the criteria of the Corps.

Mr. Moore stated they had a meeting in Dover with Mr. Yost and the district and were told, in no uncertain terms, that they would not get a permit to fill the wetland because of its protection. Mr. Moore stated because of the plans they had on the site, Capital School District owns the property, but has no use for this area. He stated their buildings, parking, and fields are located in the back of the property, closer to where the old Dover High School was. He noted that they are removing all of the parking that is along the back of the neighbors in this area because they do not need the parking like Dover High School needed. He stated that the piece of property becomes unusable to them, even though they own it.

Mr. Moore stated they do not take exception to this pond being filled. He noted they appreciate the neighbor’s complaints and concerns and have met with them many times. He stated that the problem is that it cannot be filled without the Corps’ approval. He stated they have in writing, a letter that was presented to them that they provided the Planning Commission and the City that says with the plan that they have, it cannot be permitted. Mr. Moore stated they believe that unless the Federal Delegation intervenes and gives the approval to fill it, it is a waste of the Capital School District’s money to make an application to the Philadelphia district. Mr. Moore stated that at Becker Morgan, they want to be a good steward of the school districts’ money.

Mr. Moore stated they support City Council making a notice on a letter to the Federal Delegation to see if they can do anything. He noted that the wetland was created in the early 2000s and there is nothing that is a part of the wetland system or any of the pipes that the school district uses at all. It drains Pat Lynn Drive and a portion of Walker Road as well as other portions of the City. He noted that it is really a community drainage system that drains another portion of the City and it does not offer any help to the new school.

Mr. Moore noted that the district is aware that the neighbors are very vocal about their neighborhood and it is an old community. He stated, starting next week, they will be installing an opaque fence that will run the entire boundary of all of their properties. He stated they will be taking down the 45-year old metal fence and put up a vinyl fence so that folks have a good screening. He also stated they are going to be removing trees that people have complained about and are going to increase the maintenance. Mr. Moore stated they have hired an outside company to do that and will include spraying for bugs and fish in the pond to eat larvae for insects. He stated they will also be doing grass cutting in this area once a week before the school is actually built through an outside vendor. He noted once the school is built, they will have their team of landscapers and property folks that will be there on a weekly basis to make sure that the property stays as high category of property as it can.

Responding to Mr. Anderson regarding substituting another property for the wetland, Mr. Moore stated that they believe if the Corps were to permit filling this wetland, they would require another wetland twice this large, perhaps three times this large. He stated they do not believe it makes sense to relocate what has been a nuisance to the neighbors there to somewhere else on the property. Since the wetland has been built, there is now a new community on the other side of the high school, so moving it from one side to another is just going to move a nuisance. Mr. Moore noted they do not think that makes any sense to be on this property or to be on other school properties because of the nature of their use, kids and safety issues. He stated that the City actually has a better option, perhaps down by the St. Jones. He noted that the City owns the property down there, where the old treatment plant was or other properties.

Mr. Anderson stated Mr. Moore liked the option of looking at City preserved property. He noted there would be a possibility of working to utilize that to relocate a wetland. Responding, Mr. Moore stated they believe it should not be on this site and would work with the City to talk about other options. Mr. Anderson stated he liked that option and that it was something that he would like to see come out of tonight's meeting, a referral to the staff to discuss that particular issue.

Responding to Mr. Anderson, Mr. Slavin cautioned against Staff to start looking into the issue, only because the decision on swapping lands for wetlands has to do with the scoring system rated on, not just acreage. He noted that it is an analysis that would be done by the U.S. Army Corps of Engineers on the ecological value of the lands. Mr. Slavin stated they could end up doing a lot of work identifying areas that simply would not score out and they may want to initiate that conversation with them informally so that they do not get on the wrong foot when they start on that process.

Ms. Linda Goodnight stated they understood the stormwater and asked about the area on the other side of the storm water drainage. Responding, Mr. Moore stated the neighbors believe that this pond actually serves Capital School District's property or building, but it does not. He stated they do not have any use of the pond or system for the school. Ms. Goodnight stated she never felt it had anything to do with the school. Dr. Sylvia Henderson, Capital School District Interim Superintendent, stated she shared Mr. Moore's remarks.

Mr. Anderson stated he would have an addition in the header after Fourth District City Councilman to add, "and undersigned Councilmen," because he hoped this would be approved and receive the signatures of everyone on City Council.

Mr. Sudler moved to recommend pushing the letter to City Council for endorsement with proper signage and proofreading with Capital School District. The motion was seconded by Mr. Caldwell.

Mr. Taylor thanked Capital School District for being good stewards and great neighbors. Mr. Neil stated that he would be moving this item forward as good faith for those residents in the area who basically have to put up with the problems that have occurred. He also thanked Mr. Moore and Capital School District for bringing forth the information.

Mr. Sudler moved to recommend forwarding the letter to City Council for endorsement with proper signage and proofreading with Capital School District. The motion was seconded by Mr. Caldwell and unanimously carried.

Renaming of New Street Park to Bishop L.T. Blackshear Park

Mr. Slavin provided background information regarding the renaming of New Street Park to Bishop L.T. Blackshear Park. Members of Council Committee of the Whole recalled Bishop Blackshear's contributions to the community and relayed several of their personal experiences with him.

Mr. Anderson requested that they place in the record any commendations or proclamations, if they had one at his funeral, added to the record.

Mr. Lindell stated that as a City they need to do a better job telling their story. He suggested with any dedication of any park that they provide some historical context and the story of who these individuals were.

Mr. Hare moved to recommend the renaming of New Street Park to Bishop L.T. Blackshear Park. The motion was seconded by acclamation, and unanimously carried.

Mr. Bobby Wilson and the Wilmington Hope Commission

Due to the absence of Mr. Bobby Wilson this item was deferred to the next Parks, Recreation, and Community Enhancement Meeting.

Summer Park Activities Update

Mr. Matt Harline, Assistant City Manager, and Ms. Carolyn Courtney, Administrative Assistant, Parks and Recreation Department, reviewed the Summer Park Activities Update.

Responding to Mr. Sudler, Ms. Courtney stated they posted signs at the basketball court on Kirkwood Street. She stated they took down the actual rims and that is about all they could do. She stated she was not sure what happened on Kirkwood Street, but would check on it. Mr. Harline stated he spoke with Mr. Robin Eaton, Director of the Parks and Recreation Department. He noted that based on the new guidelines people are not supposed to play close defense, but there are guidelines by which they can be opened. Mr. Harline stated they have removed rims in other places because everything they did to try and prevent people from playing basketball, when it was completely banned, did not work.

Mr. Anderson noted that there is a lot of positive research that outdoors is different than indoors which is why the Department of Public Health (DPH) has recommended that. He noted that they did contact tracing on tens of thousands of people and only counted one that had an outdoor contact. Responding to Mr. Anderson regarding new guidelines issued by DPH, Mr. Harline stated they have been trying to follow the Governor's guidelines and that they can review the guidelines on basketball. Mr. Harline stated that they actually had to do a more extensive protection back when the guidelines said that basketball could not be played, but they will review those and see if they can open up more basketball courts. Mr. Anderson stated it would be possible if it can be done safely.

Responding to Mr. Anderson, Ms. Courtney stated that Ms. Sherwanda Rachel-Speaks, Recreation Program Specialist, spoke to Mr. Eaten about whether they can get the outdoor movies up. Ms. Courtney stated they are even looking at using the green and doing them there, possibly looking at a Tuesday evening. She stated that it is something that they are going to move forward on and get up and running hopefully in the next month.

Mr. Neil moved to recommend acceptance of the Summer Park Activities Update, seconded by Col. Dix, and unanimously carried.

Library Reopening Plan

Mr. Matt Harline, Assistant City Manager, and Ms. Patricia Crosby, Interim Library Director, reviewed the background information and analysis regarding the Library Reopening Plan.

Staff recommended a soft reopening on Monday, July 27 with a full Grand Reopening on August 10. If the Committee is in agreement the Committee should direct staff to proceed. Option B would be to push the dates back by a week or two.

Mr. Harline stated that due to information they received this week, they were now recommending a soft opening on August 3rd. He noted that the reason is that it would give them a chance to better coordinate with Sunstates Securities, their security detail under the State contract, because they schedule two weeks out, giving them another week from this meeting would help a lot. Mr. Harline stated they are also scheduling training with Advantech and it would be better that week because the main person for the training is on vacation.

Ms. Crosby noted that the grand reopening would be later in the month of August the 17th or the 24th. She stated that Mr. Brian Sylvestor, Library Director, and Ms. Meegs Johnson, Assistant Library Director, will be starting on Monday July 20, 2020.

Mr. Neil stated he received a complaint for someone who he presumed was either an employee or a volunteer at the library with concern. He noted that the information in the packet that was available to the public to look at was very complete and had no problem with that. He stated that even in that packet, it indicated that it is going to be a little bit flexible depending upon certain circumstances and that it has been pushed back. Mr. Neil stated he asked this individual to comment on it and let him know what they thought, but he has not heard back from that individual. Mr. Neil noted that he is anxious for the library to be open because he is a reader and looks forward to it and greeting the new folks that are coming in.

Mr. Harline stated that their modified request would be to establish a Monday staff day and then have it open from 10:00 a.m. to 1:00 p.m. and 3:00 p.m. to 6:00 p.m. for the public, Tuesday through Saturday. Then have the building closed to the public from 1:00 p.m. to 3:00 p.m., with curbside delivery and pickup available and they do some staff cleaning in there.

Mr. Lindell stated they have asked their City employees to head back to work and to accept certain risks. He stated when he thinks about leadership, you lead from the front and it seems like they are asking their employees to go back to work, but they are still having meetings online and not in person. Mr. Lindell stated they should not just dismiss employee issues when it comes to concerns about their safety and going back to work, even if they think it is premature to go back.

Responding to Mr. Hare, Ms. Crosby stated as of last Thursday, the County building is not physically open and they have been doing curbside. She noted that they have weekly director meetings for all of the libraries in the State of Delaware.

Mr. Anderson noted that there are two small libraries currently open and they are proposing to open in August, not July. Ms. Crosby noted that the both of those small libraries are in Sussex County.

Mr. Neil moved to recommend approval of Staff's revised recommendation with the understanding that it could change, depending on circumstances. The motion was seconded by Mr. Anderson and unanimously carried.

Mr. Neil moved for adjournment of the Parks, Recreation, and Community Enhancement Committee meeting. The motion was seconded by Mr. Hare and unanimously carried.

Meeting adjourned at 9:05 p.m.

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

Meeting adjourned at 9:05 p.m.

William F. Hare
Council President

WFH/TM/jt
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Attachments
Attachment #1 - Presentation titled "Wireless Communications Facilities - Update on Development Provisions and Ordinances"

ATTACHMENT #1

Council Committee of the Whole Meeting of 07/14/2020

WIRELESS COMMUNICATIONS FACILITIES

UPDATE ON DEVELOPMENT OF PROVISIONS AND ORDINANCES

JULY 14, 2020 – COUNCIL OF COMMITTEE OF WHOLE: UTILITY COMMITTEE MEETING

PURPOSE

- To establish uniform standards for the siting, design, permitting, installation, maintenance and use of **Wireless Communication Facilities** in the City of Dover.

TASKS UPDATE

- Update to CCOW-Utility Committee on February 11, 2020; directed Staff to continue
- Topic continues to be worked on by Staff of City Manager's Office, Electric Department, Planning Office, and Department of Public Works
- City continues to utilize Cohen Law Group as subject matter/legal resource
- City Manager's Office (Assistant City Manager) serves as leader in coordination among City Departments, law firm, and industry representative inquiries
- Planning Office continued work on refinement of a WCF Ordinance
- Planning Office & Electric Department worked on development of SWCF Design Manual
- Electric Department & City Manager's Office working on Master Licensing Agreements for pole attachments and licensing (on City owned poles and rights-of-way)

WIRELESS COMMUNICATIONS FACILITIES

- Small Wireless Communications Facility
- Non-Tower WCF
- Tower Based WCF

EXHIBIT A:
PRELIMINARY DRAFT OF WCF ORDINANCE (WCF ORDINANCE VERSION 1A – PLANNING 7-8-2020)

- Development of Ordinance for adoption of regulations into *Dover Code of Ordinances* by creating new section *Zoning Ordinance*, Article 5 Section 23
  - Purpose
  - Definitions
  - Applicability
  - Type of Activity Determination
  - Application Procedures
  - Regulations & Standards by Facility Type
  - General Requirements

EXHIBIT B:
PRELIMINARY DRAFT CITY OF DOVER SMALL WCF LOCATION, DESIGN, AND PERMIT APPLICATION MANUAL (SWCF DESIGN MANUAL 7-8-2020)

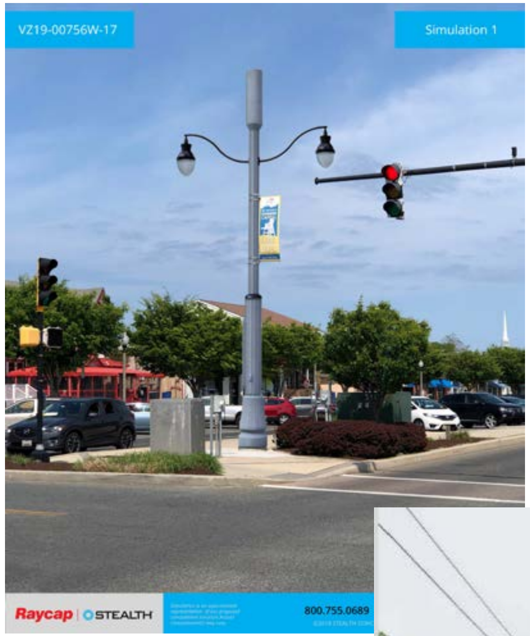
- Development of a Small Wireless Communication Facility Design Manual
  - Definitions
  - General Standards
  - Antenna and Accessory Equipment Standards
  - Utility Pole Standards
  - Review and Approval
  - Approval Timing
- Development of Application Checklist and associated forms

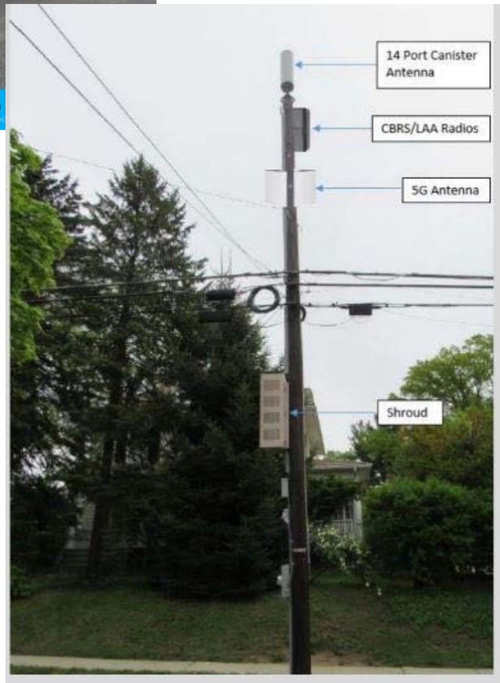
NEXT STEPS

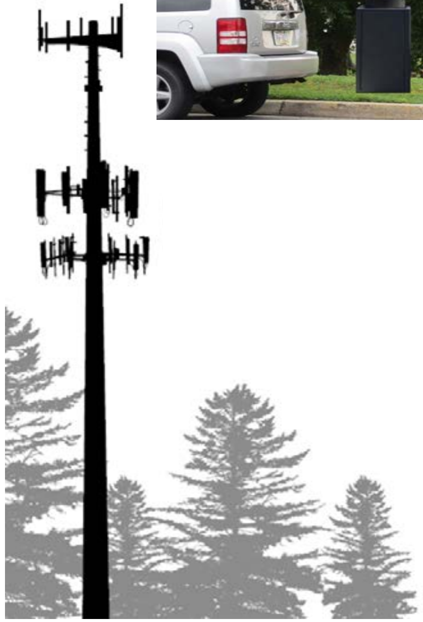
- Continuing Ordinance Drafting Work:
  - Coordination between WCF Ordinance & SWCF Design Manual
  - Cross-check with *Zoning Ordinance*
  - Cross-check with *Dover Code of Ordinances*
  - Determine Fees for Permit/Application Types
- Establish Application Review Processing Procedures

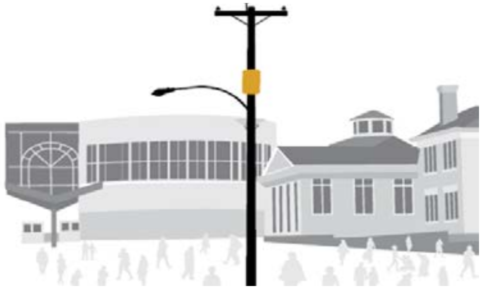
NEXT STEPS

- Final editing & formatting of Ordinance and Documents
  - Legal Review
- Continued development and refinement of agreements and licensing associated with attachment on City owned poles and access to City right-of-way
- Timeline for Formal Review of Ordinance
  - Introduce Proposed Ordinance at CCOW
  - First Reading at City Council
  - Public Hearing & Recommendation by Planning Commission
  - Public Hearing, Final Reading & Adoption of Ordinance by City Council









QUESTIONS & COMMENTS

WIRELESS COMMUNICATIONS FACILITIES