

## COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole Meeting was held on October 26, 2021 at 6:00 p.m., with Council President Sudler presiding. Members of Council present were Mr. Anderson, Mr. Boggerty, Mr. Neil, Mr. Hare, Mrs. Arndt, Mr. Rocha, and Mr. Taylor. Mayor Christiansen was also present. Civilian members present for their Committee meetings were Dr. Jackson and Mr. Shelton (via WebEx) (*Safety Advisory and Transportation*), Mr. McCutchen (*Utility*), and Mr. Shevock (*Legislative, Finance, and Administration*). Mr. Contant (*Legislative, Finance, and Administration*) was absent.

Mr. Anderson requested that the Committee begin with the Safety Advisory and Transportation Committee Informational Item #16 - Update on COVID-19 Vaccine (Dr. Kandis Samuels, MD, Bayhealth Family Medicine and Rev. Rita Paige, President of the Interdenominational Ministerial Alliance of Dover (IMA) and strike the Legislative, Finance, and Administration Committee Item #12 - Proposed Amendments to Personnel Policy (Employee Handbook) (Matt Harline, Interim City Manager) from the agenda.

**Mr. Neil moved for adoption of the agenda, as amended. The motion was seconded by Mrs. Arndt and unanimously carried.**

### SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

The Safety Advisory and Transportation Committee met with Chairman Taylor presiding.

#### **Adoption of Agenda**

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

#### **Update on COVID-19 Vaccine (Dr. Kandis Samuels, MD, Bayhealth Family Medicine and Rev. Rita Paige, President of the Interdenominational Ministerial Alliance of Dover (IMA)**

Dr. Kandis Samuels-Leutzinger, MD, MPH, Bayhealth Family Medicine and Dr. Cameron Golden, reviewed a presentation entitled "COVID-19 Update," dated October 26, 2021 (**Attachment #1**).

Responding to Mr. Taylor, Dr. Samuels stated that regarding the effectiveness of the vaccine diminishing has to do with immunity and antibodies. She stated that there have been conversations about if people should get antibody testing to see how high their antibodies were.

Mr. Taylor asked if someone gets the COVID-19 virus and they are unvaccinated, are they going to have a stronger immune system than someone who would receive the vaccination. Responding to Mr. Taylor, Dr. Samuels stated that question comes up often and there is not a definitive answer, because there are a lot more variables involved and depends on risk factors. She noted that they are still gathering more of that information with the vaccines, but it is not like it would last indefinitely. Dr. Golden noted that new data came out this August stating that for patients who have had COVID-19 infection and have not gotten the vaccine, they are actually two times more likely to be reinfected versus someone who has the COVID-19 infection in the past, but also been vaccinated. There is more evidence to suggest, even if someone has been infected, the vaccine should still be administered to patients. Dr. Samuels noted that there are some long haul COVID symptoms that people have and tend not to get after someone has been vaccinated.

Responding to Mr. Taylor regarding variants, Dr. Samuels stated that the Center for Disease Control and Prevention (CDC) had a COVID variant proportion tracker on their website. She explained that when the vaccines were initially formulated it was not for the Delta variant. Dr. Samuels noted that because of this the vaccines were not as effective as the initial data which was saying 91% but they were still effective.

Responding to Mr. Boggerty, Dr. Samuels stated that they encouraged everyone to get vaccinated, especially pregnant women because they already have reduced immunity. She explained that they were still learning about the virus so there was no hard answer to whether or not COVID had an effect on infants whose mothers had experienced COVID while pregnant.

Responding to Mr. Rocha, Dr. Samuels stated that everyone should contact their doctor or healthcare provider to see what worked best for their needs when it came to receiving third shots or boosters, but generally anyone 65 years or older should receive a booster about six (6) months after they receive their second dose. Dr. Samuels noted that anyone 18 years or older should also receive a booster if they work in high risk settings or have underlying medical conditions such as but not limited to the following:

- Cancer
- Chronic kidney disease
- Chronic liver disease
- Chronic lung diseases
- Dementia
- Diabetes (type one (1) or two (2))
- Down's syndrome
- HIV
- Immuno compromised
- Depression
- Schizophrenia
- Obesity
- Pregnancy
- Current or former smoker
- Stroke
- Substance abuse disorder
- Opioid addiction
- Tuberculosis

Responding to Mr. Taylor, Dr. Samuels stated that currently they were not sure if additional shots would continue to be required because the data was evolving. She explained that flu shots were recommended yearly because viruses like the flu mutate, so it was likely COVID would be more similar to that than a shot for the chicken pox which an individual only needed to receive once but the situation was still evolving.

Responding to Mr. Anderson, Dr. Samuels stated that regardless of whether it was COVID or not pregnant women fall into the category of decreased immunity. She explained that there are side effects with every vaccine but they

still recommend that pregnant women be vaccinated due to the risk to the fetus and the risk of death of the mother if COVID were contracted.

Responding to Mr. Taylor, Dr. Samuels stated that as of that afternoon the Federal Drug Administration (FDA) panel stated that it was safe to use the vaccine potentially in children 5 years and up. She explained that for Pfizer, a third of the adult dose would be given to children.

Responding to Mr. Taylor, Dr. Samuels stated that they did not know for certain what the long term effects of the vaccine would be and whether or not it would affect children's innate immunity, adaptive immunity, or passive immunity, they were just operating in the midst of a pandemic and trying their best to give children the best chance for immunity.

Responding to Mr. Rocha, Dr. Samuels stated that they did not know at this time if boosters would be recommended for children because they were just starting with the vaccine and adults did not receive a booster until about six (6) months after the last dose of the series.

**Safety Advisory and Transportation Committee meeting recessed by unanimous consent.**

Meeting recessed at 6:31 p.m.

#### **UTILITY COMMITTEE**

The Utility Committee met with Chairman Rocha presiding.

#### **Adoption of Agenda**

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

#### **Evaluation of Proposals - Turnberry Pump Station Upgrade Engineering Design Support (Jason Lyon, Water and Wastewater Director)**

Staff recommended awarding contract to Century Engineering for the Turnberry Pump Station Upgrade Engineering Design, RFP #22-0005WW, for the amount of \$20,592.

Mr. Hare moved to recommend approval of staff's recommendation, seconded by Mr. Anderson. The motion failed with Mr. Neil, Mrs. Arndt and Mr. Anderson voting no.

Mr. Jason Lyon, Water and Wastewater Director, reviewed the background and analysis regarding the evaluation of proposal for the Turnberry Pump Station Upgrade Engineering Design Support.

Responding to Mr. Taylor, Mr. Lyon stated that it was an option to put the same amount of money into training City engineering staff to do these types of jobs in the future.

**Mr. Anderson moved to recommend awarding contract to Century Engineering for the Turnberry Pump Station Upgrade Engineering Design, RFP #22-0005WW, for the amount of \$20,592, as recommended by Staff. The motion was seconded by Mr. Neil and unanimously carried.**

**Annexation Request - Right-Of-Way at Raymond Street, Grove Street, and Railroad Avenue (Dawn Melson-Williams, Principal Planner/Dave Hugg, Planning and Community Development Director)**

Mr. Dave Hugg, Planning and Community Development Director, reviewed the background and analysis regarding the Annexation request right-of-way at Raymond Street, Grove Street, and Railroad Avenue.

Staff recommended that the right-of-way known as Raymond Street (aka Jason Street), Grove Street, and Railroad Avenue be annexed into the City to close an enclave and “clean up” the City boundary by including areas of right-of-way that were intended to be included in the City upon the previous annexations of neighboring properties. Furthermore, certain utilities are already available in this area under some of the right-of-way described and can be brought up to current standards with any further development of the area.

Responding to Mr. Anderson, Mr. Hugg stated that he believed the request encompassed the streets that were coexistent with properties in the City that were specifically affiliated with some of the potential development that had been suggested for the area. He explained that there were a number of private parcels that were not in City limits in the annexation exhibit but the responsibility for requesting annexation would fall on those property owners.

Responding to Mr. Neil, Mr. Hugg stated that the area was a combination of a couple of zones but he did not have that information with him. He noted that he would get the explanation to the Committee. Mr. Hugg clarified that the City was initiating the zoning request.

Responding to Mr. Sudler, Mr. Hugg stated that his understanding was that Conwell Street was in City limits but was not an improved City street and was not part of this annexation. He explained that his understanding was that it was a partially improved or pretty much unpaved street.

Responding to Mr. Sudler, Mr. Hugg stated that Conwell Street was a separate matter from what was before the Committee in this request but City Council could direct staff to address it.

Mrs. Sharon Duca, Public Works Director, stated that Conwell Street was not a recognized City street, the only streets in that area which belonged to the City were portions on Mishoe Street and Raymond Street. She explained that part of Conwell Street was adjacent to sections that were not in the City. Mrs. Duca noted that she would assume that as a part of this annexation it would be brought in for dedication to the City for the right-of-way so her personal opinion was that Conwell Street should be included.

Responding to Mr. Anderson, Mrs. Duca stated that the streets would need to be dedicated to the City. She explained that the original development was from 1899 so there was not a developer to dedicate it to the City which was why she asked if part of the annexation was to accept the streets as City of Dover street in addition to being within City limits. Mrs. Duca noted that staff would want to make sure it was documented as dedicated streets so they could report it to the State.

Mr. Anderson moved to add the dedication and if needed an annexation of Conwell Street to the item. The motion was seconded by Mr. Sudler.

Responding to Mrs. Arndt, Mrs. Duca stated that the parcels adjacent to Conwell Street on the north were not in the City but were on the South end so the right-of-way was never dedicated to the City or annexed in as the other parcels were.

**Mr. Anderson moved to recommend adding the dedication of Conwell Street and, if needed, the annexation of Conwell Street to the item. The motion was seconded by Mr. Sudler and unanimously carried.**

**Mr. Anderson moved to recommend that the right-of-way known as Raymond Street (aka Jason Street), Grove Street, and Railroad Avenue be annexed into the City to close an enclave and "clean up" the City boundary by including areas of right-of-way that were intended to be included in the City upon the previous annexations of neighboring properties. Furthermore, certain utilities are already available in this area under some of the right-of-way described and can be brought up to current standards with any further development of the area, as recommended by Staff. The motion was seconded by Mr. Hare and unanimously carried.**

**Mr. Hare moved for adjournment of the Utility Committee meeting. The motion was seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 6:53 p.m.

#### **LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE**

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

#### **Adoption of Agenda**

Mr. Hare requested that the Committee begin with item #15 - Presentation - Downtown Dover Partnership Update on the Comprehensive Downtown Dover Parking Plan (Diane Laird, Executive Director, DDP).

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

#### **Presentation - Downtown Dover Partnership Update on the Comprehensive Downtown Dover Parking Plan (Diane Laird, Executive Director, DDP)**

Ms. Diane Laird, Executive Director, DDP, introduced Mr. Jed Hatfield, president of Colonial Parking, Inc. And his colleague Chris Hankins.

Mr. Hatfield and Mr. Hankins reviewed a presentation from the Downtown Dover Partnership and Colonial Parking entitled "Downtown Dover Parking," dated October 26, 2021.

Responding to Mr. Boggerty, Mr. Hatfield stated that residents downtown could get a monthly permit which would cost \$30 per month instead of paying daily which equaled \$150 per month. He explained that the permits would be available to anybody. Mr. Hatfield noted that there were also different programs that had not been contemplated for Dover because the hours did not quite fit.

Responding to Mr. Rocha, Mr. Hatfield stated that there was a cost to using a credit card at the meter but it would be absorbed by the program and would not be passed on to the consumer. He explained that he believed there was a service charge on parking applications such as Park Mobile but that would be independent of them and the application would assess that charge.

Responding to Mr. Rocha, Mr. Hatfield stated that he did not know which application would be used for the Dover area, it would be a bid process.

Responding to Mr. Rocha, Mr. Hatfield stated that they were currently contemplating piloting two (2) electric vehicle charging stations, it would be one (1) unit with two (2) charging cords for the Bradford Street parking lot. He explained that depending on acceptance and demand it would grow from there.

**Evaluation of Bids - Award of Circuit Breakers for Garrison Oak Technical and Business Park Substation (Paul Waddell, Electric Director)**

Mr. Paul Waddell, Electric Director, reviewed the background and analysis regarding the evaluation of bids - award of circuit breakers for Garrison Oak Technical and Business Park Substation.

Staff recommended awarding the bid for circuit breakers for Garrison Oak Technical and Business Park Substation #22-0007EL to Southern States via Anixter, as they were the only bidder to offer Siemens's breakers.

Responding to Mr. Neil, Mr. Waddell stated that Irby was a distributor would handled different vendor line cards but Siemens was the manufacturer.

Responding to Mr. Bogerty, Mr. Waddell stated that there were three (3) different levels of vendor preference, local within the City, within the State, and minority owned businesses. He clarified that Anixter was in the State, not the City. Mr. Waddell noted that there were not any bidders within the City.

Responding to Mr. Rocha, Mr. Waddell stated that there was a total budget of \$7 million for this project, they had not budgeted each individual line item. He explained that for the circuit breakers, the circuit switchers, the transformer, and the switch gear they were at about \$2.5 million which left upwards of \$4.5 million for construction and everything else they may be needed.

Responding to Mr. Taylor, Mr. Waddell stated that for Electric equipment or bids they usually did not do pre-bid meetings. He noted that he would speak to Mr. Barry Wolfgang, Contract and Procurement Manager, about possibly implementing them.

**Mr. Neil moved to recommend awarding the bid for circuit breakers for Garrison Oak Technical and Business Park Substation #22-0007EL to Southern States via Anixter, as they were the only bidder to**

**offer Siemen's breakers, as recommended by Staff. The motion was seconded by Mr. Rocha and unanimously carried.**

**Evaluation of Bids - Award of Circuit Switcher for Garrison Oak Technical and Business Park Substation (Paul Waddell, Electric Director)**

Mr. Paul Waddell, Electric Director, reviewed the background and analysis regarding the evaluation of bids - award of circuit switcher for Garrison Oak Technical and Business Park Substation.

Staff recommended awarding the bid for circuit switcher for Garrison Oak Technical and Business Park Substation #22-0006EL to Southern States via Anixter, as they were the only bidder.

**Mr. Sudler moved to recommend approval of Staff's recommendation. The motion was seconded by Mr. Neil and unanimously carried.**

**Approving Proposal of Advantech for Weyandt Hall Security Upgrade (Kay Sass, Public Affairs and Emergency Management Coordinator)**

Mrs. Kay Sass, Public Affairs and Emergency Management Coordinator, reviewed the background and analysis for the Weyandt Hall security upgrade.

Staff recommended authorizing the City Manager to accept the reimbursement grant for all costs associated with the purchase and installation of the video surveillance and access control expansion and authorize the sole source designation for Advantech.

**Mr. Sudler moved to recommend approval of Staff's recommendation. The motion was seconded by Mr. Neil and unanimously carried.**

**Weyandt Hall Building Security Modifications (Kay Sass, Public Affairs and Emergency Management Coordinator)**

Mrs. Kay Sass, Public Affairs and Emergency Management Coordinator, reviewed the background and analysis for the Weyandt Hall security modifications.

Staff recommended authorizing the City Manager to accept the reimbursement grant for all costs associated with modifications of security enhancements in Weyandt Hall and proceed with the project.

**Mr. Neil moved to recommend approval of Staff's recommendation. The motion was seconded by Mr. Rocha and unanimously carried.**

**City Emergency Operations Plan Update and Inclusion of Cybersecurity (Kay Sass, Public Affairs and Emergency Management Coordinator)**

Mrs. Kay Sass, Public Affairs and Emergency Management Coordinator, reviewed the background and analysis for the City Emergency Operations Plan Update and inclusion of cybersecurity.

Staff recommended authorizing Staff to accept the reimbursement and execute a contract to rewrite the Emergency Operations Plan with the addition of including cybersecurity.

**Mr. Boggerty moved to recommend approval of Staff's recommendation. The motion was seconded by Mr. Sudler and unanimously carried.**

**American Rescue Plan Act (ARPA) Administration Proposal (Tracey Harvey, CDBG Program Administrator)**

Mr. David Anderson, Councilman Fourth (4<sup>th</sup>) District, reviewed the proposal to manage the American Rescue Plan Act funding awarded to Nonprofit Organizations for Housing and Homelessness.

Staff recommended approval of the proposal as submitted.

Responding to Mr. Boggerty, Mr. Anderson stated that Ms. Harvey's role would be to administrate the funds, help the committee with the applications, hold the public meetings, and make sure the funds are administered to the different organizations in conjunction with the Finance Department.

**Mr. Rocha moved to recommend approval of the proposal to manage the American Rescue Plan Act funding awarded to Nonprofit Organizations for Housing and Homelessness, as recommended by Staff. The motion was seconded by Mr. Boggerty and unanimously carried.**

**Fiscal Year 2021B Street and Alley Program - Additional Work (Sharon Duca, Public Works Director)**

Mrs. Sharon Duca, Public Works Director, reviewed the background and analysis regarding the Fiscal Year 2021B Street and Alley Program - Additional Work.

Staff recommended awarding the additional work of regrading and repaving the American Legion, Walter L. Fox Post #2 parking lot to Grassbuster's Landscaping Company, Inc. for the City of Dover FY 2021B Street and Alley Program in the amount of \$201,284 for a total project cost of \$582,367.

Mr. Anderson thanked the legislators who participated in this including the Senator Paradee, Representative Sean Lynn and Senator Colin Bonini.

Responding to Mr. Rocha, Mrs. Duca stated that they did try to make contact with legislators annually at a minimum to go over the roads that are in poor condition or need addressing. She explained that they had a meeting with them a few months ago and provided a map of all the roads in the City that were at a reconstruct level eight (8), but they were scattered throughout the City not in a particular zone, it was based on their use. Mrs. Duca noted that they were trying to make them aware of the needs of the City and trying to get more focus on them. She stated that staff expected that the program would continually expand year after year.

Responding to Mr. Rocha, Mrs. Duca stated that the City would want to keep itself aware of what funding opportunities were out there so it could continually improve its streets.

**Mr. Neil moved to recommend awarding the additional work of regrading and repaving the American Legion, Walter L. Fox Post #2 parking lot to Grassbuster's Landscaping Company, Inc. for the City of Dover FY 2021B Street and Alley Program in the amount of \$201,284 for a total project cost of \$582,367, as recommended by Staff. The motion was seconded by Mrs. Arndt and unanimously carried.**

**Kent County Levy Court Grant (Thomas Johnson, Police Chief)**

Police Chief Thomas Johnson reviewed the background for the Kent County Levy Court Grant.

Staff recommended approval of the new grant program and the intended purchases.

**Mr. Hare moved to recommend approval of Staff's recommendation. The motion was seconded by Mr. Boggerty and unanimously carried.**

**Proposed Ordinance #2021-24 - Project Carry-Forward Budget Balances/Proposed Budget Amendments (Lori Peddicord, Controller/Treasurer)**

Ms. Lori Peddicord, Controller/Treasurer, reviewed the background and analysis regarding the Proposed Ordinance #2021-24 - Project Carry-Forward Budget Balances/Proposed Budget Amendments.

Staff recommended approval of the proposed Budget Amendments totaling \$9,773,800 for Fiscal Year 2022 and adoption of Ordinance #2021-24.)

Responding to Mr. Anderson, Ms. Peddicord stated that staff planned to bring another proposed budget amendment before Committee and that what was presented was a lot of cleanup of 2021 carrying projects into 2022. She explained that Jeff Dill, Budget Analyst had spent a lot of time preparing this proposed amendment but she thought it would be cleaner if they brought back another amendment identifying the bond bill money. Ms. Peddicord noted that there was a possibility the City would get some Federal funds but it was still unknown and there would be some additional American Rescue Plan Act (ARPA) funds that would be pulled through depending on when the second tranche of that was received. She stated that staff figured it would be cleaner to have a smaller report that identifies just those projects.

Responding to Mr. Anderson, Ms. Peddicord stated that staff would bring another proposed budget amendment before Committee hopefully in the next month or two (2).

**Mr. Hare moved to recommend approval of staff's recommendation. The motion was seconded by Mr. Sudler and unanimously carried.**

**Proposed Amendments to Personnel Policy (Employee Handbook) (Matt Harline, Interim City Manager)**

This item was removed from the agenda at the beginning of the meeting.

**Mr. Hare moved for adjournment of the Legislative, Finance, and Administration Committee meeting. The motion was seconded by Mr. Rocha and unanimously carried.**

Meeting adjourned at 7:56 p.m.

**SAFETY ADVISORY AND TRANSPORTATION COMMITTEE**

The Safety Advisory and Transportation Committee reconvened with Chairman Taylor presiding.

Mr. Taylor requested that the Safety Advisory and Transportation Committee Item #14 - Request to Lower Speed Limit on North State Street into North Governors Boulevard and North Governors Avenue (Mayor Robin Christiansen) be considered before Item #13 - Proposed Ordinance #2021-26 - Creating a New Chapter 28 - Dawdling and Amending Chapter 62 - Law Enforcement, Article II - Police Department, Section 62-38 - Police Cadet Program and Chapter 74 - Parks and Recreation, Article - In General, Section 74-11 - Loitering (Councilman David Anderson and Councilman Ralph Taylor, Jr.).

**Request to Lower Speed Limit on North State Street into North Governors Boulevard and North Governors Avenue (Mayor Robin Christiansen)**

Mayor Robin Christiansen briefed Committee members on the request to lower speed limit on North State Street into North Governors Boulevard and North Governors Avenue.

Mr. Anderson and Mr. Taylor both stated that they did not support lowering the speed limit in this area.

Mr. Anderson stated that as a compromise he would propose a petition to the State to allow the this area to be a strictly enforced zone.

Mr. Boggerty stated that he supported lowering the speed limit.

**Mr. Neil moved to recommend a study to evaluate the use of strict speed limit enforcement and the reduction of speed limit without prohibiting the flow of traffic. The motion was seconded by Mr. Rocha and carried with Mr. Anderson voting no.**

**Proposed Ordinance #2021-26 - Creating a New Chapter 28 - Dawdling and Amending Chapter 62 - Law Enforcement, Article II - Police Department, Section 62-38 - Police Cadet Program and Chapter 74 - Parks and Recreation, Article I - In General, Section 74-11 - Loitering (Councilman David Anderson and Councilman Ralph Taylor, Jr.)**

Mr. David Anderson, Councilman Fourth (4<sup>th</sup>) District, briefed Committee members on the Proposed Ordinance #2021-26 - Creating a New Chapter 28 - Dawdling and Amending Chapter 62 - Law Enforcement, Article II - Police Department, Section 62-38 - Police Cadet Program and Chapter 74 - Parks and Recreation, Article I - In General, Section 74-11 - Loitering.

Mr. Anderson requested striking lines 24, 25, and 26 which read “Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon the appearance of a policeman or refuses to identify himself or herself” due to Police Chief Thomas Johnson’s concerns about the district’s constitutional interpretation.

Mr. Boggerty stated that he was opposed to the proposed ordinance and wanted everything dealing with Parks and Recreation to be struck from the ordinance due to his not being consulted as the Chairman of the Parks, Recreation, and Community Enhancement Committee.

Mr. Anderson stated that he would be amenable to striking the Parks and Recreation language from the proposed ordinance. He explained that it was not part of the original draft.

Responding to Mr. Boggerty, Mr. Anderson stated that the proposed ordinance did not repeal disorderly premise or affect any of those types of ordinances but there was a problem in that eventually when crowds gather a lot of police are needed. He explained that if somebody reported a crowd was starting to gather, this would give a mechanism to prevent the large crowds by allowing the police officers to say, "Move on". Mr. Anderson noted that what the proposed ordinance said was that a violation cannot occur until an individual receives a warning, a chance is given to move on. He explained that the proposed ordinance was made to affect law breakers, not law abiding citizens. Mr. Anderson noted that a person had the right to be in the City anytime and any place but there were certain activities after hours that if they could not be done on private property should not be able to be done on public property.

Responding to Mr. Boggerty, Mr. Anderson stated that several factors led his reasoning for this ordinance at this time to include:

- Several complaints that have come about dealing with certain areas including Minus Street.
- There have been several gatherings in parking lots which have created certain problems.
- There was a shooting at a popular restaurant on the highway and he had spoken to the father of a young lady who was shot and had told him he would do his best to do something about it.
- He had been at the hospital with people too many times not to do something.

Mr. Hare stated that he agreed that there was a need for a curfew 30 minutes after the bars closed.

Responding to Mr. Taylor, Thomas Johnson, Police Chief, stated that the loitering statute was a State statute. He explained that the Attorney General's Office had informed him that the most recent case law on loitering enforcement had shown that the courts recognize loitering enforcement. Chief Johnson noted that similar to the proposed ordinance, as long as the person affected by the enforcement was given proper notice about the pending enforcement to give them an opportunity to move on and take corrective action, passes constitutional muster. He stated that from a practical standpoint, they could effectively use the existing State statute to address similar conduct that was described in the proposed ordinance, however, there was a practical barrier he was not sure how to fix or resolve. Chief Johnson explained that the loitering statute was considered a very low level offense and once a loitering charge made it to the judiciary there was almost no scenario, absent any other circumstance, that serious accountability occurred. He noted that the mechanism currently was fines or some other kind of financial levy or a probationary type of resolution. Chief Johnson stated that even upon default of fines or violation of that probation, there was almost nonexistent decisions made to take the step of incarceration, even for a brief time. He explained that for those that would tend to violate the loitering ordinance, it became learned behavior and once it was recognized that there was no consequences, it was hard to get compliance. Chief Johnson noted that as a police administrator if you cannot get the follow through on the judicial side of the equation, you have to think about what you do with your staff time, and whether or not you need to find another strategy to address the issue that was before you, that loitering was a byproduct of.

Responding to Mr. Taylor, Chief Johnson stated that without having asked his records team he did not think the number of counts of record keeping per offence would change, they would just have another category that would be getting data for them to compile. He explained that he would not view it as an additional burden if this proposed

ordinance were passed, it would just be one more thing they had to add to their record management and one more data point they would have to track.

Responding to Mr. Taylor, Chief Johnson stated that regarding collecting fines, the records department would attempt to follow up like they would with any other local ordinance violation through a process of repeated mailings and at some point there was a mechanism to turn it over to collections.

Responding to Mr. Sudler, Chief Johnson stated that there was a mechanism that would allow the Police Department to upgrade the ordinance violation to an applicable State violation but then the collection of the fine and the disposition over the fine would be transferred to the judiciary.

Responding to Mr. Sudler, Chief Johnson stated that if there was a *capias*, an arrest would occur briefly. He explained that they had 24 hour judge accessibility so if someone was taken before the judge at 2:00 a.m., they wouldn't be taken to a secure facility, they would be given a new court date and the process would start over.

Responding to Mr. Sudler, Chief Johnson stated that he did not believe there was a conflict with the proposed ordinance and the State because it was not being called the same thing.

Responding to Mr. Taylor, Dr. Jackson stated that she did not know if the Police Chief's Advisory Committee would be able to take on a complex study on this issue.

Ms. Lachelle Paul, 55 Glen Street, stated that as a business owner she did not want her patrons to be harassed by criminal elements or police. She noted that the police department should be allowed to do their job and figure out how to implement the laws that were already in place rather than reinventing the wheel.

Responding to Mr. Will (a WebEx participant), Mr. Anderson stated that the metric counts were the crime statistics and they looked over them monthly. He explained they had seen a number of reports and complaints in different areas of the City.

Ms. Javonne Rich, Policy and Advocacy Director of The American Civil Liberties Union (ACLU) of Delaware, stated that they were asking that City Council to reject the proposed ordinance. She explained that Council was correct to eliminate its ordering because Federal courts, including the United States Supreme Court had generally struck down similar laws. Ms. Rich noted that re-framing the loitering Code as a dawdling ordinance did not make it any less unconstitutional.

Responding to Mr. Sudler, Ms. Rich stated that she would send her public comment and an informal letter to the City Council the following day for their review.

**Mr. Hare moved to table the ordinance, seconded by Mr. Boggerty and unanimously carried.**

**The Safety Advisory and Transportation Committee meeting adjourned by unanimous consent.**

Meeting adjourned at 8:50 p.m.

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

Meeting adjourned at 8:50 p.m.

Roy Sudler Jr.  
Council President

RS/JMITS/mr

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Attachments

Attachment #1 - COVID-19 Update Presentation