



only affect new sidewalks. It will potentially affect a significant amount of existing sidewalks.

Mayor Cooper closed the public portion of the hearing and called for discussion among the Commissioners.

Commissioner Mills made a motion, seconded by Commissioner Sargent to adopt the ordinance before the Board of Commissioners amending Section 270-4 – Definitions, specifically related to the definition of “Sidewalk”.

Commissioner Mills said that his observations validate with what Mr. Mellen had said, and it largely reflects past practice. He was comfortable with adopting this amendment. Commissioners Sargent and Zellers agreed.

(Zellers – aye, because it will correct a situation that is presently unsafe and is for the best interest of the City. Mills – aye, for the same reasons Commissioner Zellers articulated as well as his earlier comments. Barbour – aye, for the reasons stated by previous Commissioners. McGuinness – aye, for the reasons stated by Commissioner Zellers. Coluzzi – aye, for the reasons stated by Commissioners Zellers and Mills. Sargent – aye, because there is no question that three feet is too restrictive. The wider width leads to safety and better aesthetics particularly when wider steps are proposed it is fully justified. Cooper – aye, for all the reasons given by all the Commissioners who voted before him.) Motion carried unanimously.

## **REPORT OF THE POLICE DEPARTMENT**

(See attached report.)

Police Chief Keith Banks presented the report of the Police Department for the month of April 2011. There were 20 criminal, 148 traffic and three civil charges made during the month. Eight traffic crashes were investigated. Each year at this time an increase is seen in the number of shoplifting complaints. Any business that would like the Police Department to hold training for their employees on what to look for and what can be done, should contact Detective Sullivan or Police Chief Banks. Twenty-four summer officers have been trained; and on May 18, 2011, some of the officers have started working. By the Memorial Day weekend, all summer officers will be working. The drug take back program was a success. On April 30, 2011, the Police Department participated in a statewide program to receive or take back unused drugs to help save lives and protect the environment. The prescription drugs disposed of in a container weighed more than 28 pounds. More programs such as this are proposed for throughout the year, even quarterly. Police Chief Banks will accept the prescription drugs throughout the year and properly dispose of them. On May 23, 2011, he will be putting out a press release reminding everyone about the City ordinances regarding dog issues, skateboarding, scooters, roller blades, bicycles, etc. The driver feedback signs for Columbia Avenue have been delivered. It is anticipated that the posts will arrive sometime next week. Police Chief Banks will be in contact with DelDOT regarding placement of the signs. The Dispatch Center handled 209 police incidents, 177 ambulance incidents, 51 fire incidents, 175 traffic stops, assisted other agencies six times during the month, and 9-1-1 calls totaling 306 were received. Thirty-two alarm incidents were responded to.

## **REPORT OF REHOBOTH BEACH VOLUNTEER FIRE COMPANY**

Mr. Walter Brittingham reported that the Fire Company is fully staffed for summer. On weekends, it will have two full paid ambulance crews. The Fire Company appreciated the opportunity to comment in the newsletter provided by the City. The Fire Company requested that in regard to hotels, etc., people should display the proper address numbers on their commercial structures.

## **REPORT OF THE BUILDING AND LICENSING DEPARTMENT**

(See attached report.)

Assistant Building Inspector Stephen Kordek presented the report of the Building & Licensing Department for April 2011. During the month, 94 permits were issued for a value of work totaling \$1,849,201.47. Fees collected totaled \$50,007.09 for the month. One hundred three permit processing fees were received in the amount of \$2,060.00. No restaurant applications were received in April. Two stop work orders were issued for contractors working without permits. Two stop work orders were issued for contractors working without licenses. Twenty-five notices of violation were issued for signs on City property. Twenty-nine notices of violation were issued for flags being too low. Twenty notices of violation were issued for obstructing the City sidewalk. Two notices of violation were issued for handbills being distributed. No signs were confiscated from City property. The Board of Adjustment heard one case in April.

Commissioner Barbour commented that when Mr. Bobby Edmonds, Code Enforcement Officer, was hired

and brought before the Commissioners, he had suggested that Building Inspector Terri Sullivan take Mr. Edmonds around to all the businesses and introduce him before enforcing things. Mr. Kordek confirmed that Mr. Edmonds had gone around with Ms. Sullivan, Mr. Walter Onizuk and himself. He was pretty sure that all the businesses which were open on Rehoboth Avenue had been visited during the day before 4:30 p.m. Mr. Kordek thought that the businesses on Baltimore and Wilmington Avenues had also been visited. He was not certain if the restaurants which had been cited for flag and sign violations had been visited previously for Mr. Edmonds to be introduced. Commissioner Barbour asked who made the decision that the City was suddenly going to crack down on these infractions. He knew that when Mr. Edmonds was hired, it did say signs and what not in the position description; but it was Commissioner Barbour's understanding that Mr. Edmonds' principal job is to enforce the noise ordinance this summer. When there was an uproar about all the citations, Commissioner Barbour was curious as to why Mr. Edmonds was doing this particularly given the fact that he is new on the job and goodwill needs to be established between the City employees and businesses.

Mayor Cooper did not know there was a definitive time. In his discussion with the City Manager in previous years, the City Manager has had a lot of complaints from people about these various issues. Mayor Cooper was frustrated because a lot of it happens in the evening and weekends, and there is nobody to enforce the ordinances. The Police Department does not handle these sorts of issues. In his view, this matter was getting out of hand, and people were doing whatever they pleased. The City needed to bring it back in line. The policy the way it is being enforced is very generous as far as there have been no citations. Commissioner Barbour said that the process is more than fair. He is taking issue with why a decision was made suddenly for Mr. Edmonds to be sent out. Mayor Cooper said that the crux of it is there was always the intent to enforce the ordinance by the City Manager and Staff, but the people were not available at the times; and with their other duties, it was a low priority. His sense was from the City Manager and other Commissioners that it was time to have a person dedicated to this sort of enforcement.

Commissioner Barbour said that currently a situation has arisen where businesses are outraged because they feel they are being picked on. City Solicitor Mandalas cautioned Commissioner Barbour about getting into a detailed discussion regarding a specific item which is not noticed on the agenda. This matter should be discussed under a properly noticed agenda item. City Solicitor Mandalas acknowledged that Commissioner Barbour has a right to ask questions of the Building Official of how policy is made about enforcement if he can answer those questions; but if it appears that Commissioner Barbour is getting into a deliberate mode as to policy matters, then that becomes a problem because it is not noticed for discussion. Commissioner Barbour asked how City Solicitor Mandalas would suggest resolving this issue. There is a problem with the public which is alienated and is angry and an employee who is pretty much disliked by the business community. He asked if the Commissioners are not going to address this matter and figure out how to fix it. City Solicitor Mandalas said that Commissioner Barbour's policy concerns are noted and the City Manager and Building Inspector probably have heard them. To the extent of something being done between now and the time it is put on a properly noticed agenda, then maybe it will be; but otherwise a lengthy discussion in this form should not take place. He acknowledged that the Commissioners should discuss how policy is implemented so long as it is properly noticed.

This matter will be placed on the agenda for the June 6, 2011 Workshop Meeting.

## **REPORT OF THE PLANNING COMMISSION**

Vice Chair David Mellen presented the report of the Planning Commission. The Regular Meeting was held on May 13, 2011. A Preliminary Review was conducted on an application requesting the partitioning of a property located at 80 Kent Street. The Planning Commission voted to move the application to Public Hearing which will be placed on the agenda for the June 10, 2011 Planning Commission Meeting. Two (2) new partitioning applications for properties located at 2 Oak Avenue and 36 Columbia Avenue have been submitted and will be placed on the agenda for Preliminary Review at the earliest possible meeting dates based on the current Planning Commission workload. The Planning Commission had previously reported to the Board of Commissioners that in the course of its consideration of the Oak Grove major subdivision, various issues relative to the City's Municipal Code became apparent. These relate to both the need to better ensure the protection of the City as well as to increase efficiency. The Planning Commission discussed these and a number of additional planning related issues that could ultimately require some adjustment of the current City Code. No decision as to how to proceed in this process was reached. Discussion on these matters will continue.

## **OLD BUSINESS**

Mayor Cooper called to continue discussion of limiting stopping at and the use of transit stops to fixed route operators only and the solicitation by taxi operators and others on public streets.

City Solicitor Mandalas said that the purpose of this discussion is for the Commissioners to reach a decision as to whether they want to move forward with an ordinance that would prohibit certain types of verbal solicitation by taxicab drivers or not. He had forwarded a memorandum to the Commissioners outlining the legal aspects of it with concerns being free speech and free trade. At the end of this discussion, it will help to make the decision as to whether the Commissioners want to move forward with an anti-solicitation type law or not. City Solicitor Mandalas' preference was that the anti-solicitation should be citywide. In regard to free speech aspects, it needs to be a regulation that is narrowly tailored to advance a substantial government interest. The Commissioners would need to identify the government interest. In regard to the anti-trade or anti-trust concerns, trade can be regulated to some extent as long as it is reasonable and it advances a government interest.

Commissioner Mills was comfortable with considering a broad anti-solicitation regulation as well as perhaps consideration of establishing one taxicab stand, if needed. If it is framed broadly enough to encompass taxicabs stopping and interfering with bus stops, the side benefit would be that it would create less congestion and safety issues would be minimized if the taxicabs are not allowed to pull into and stop at a park and ride stop, etc.

City Solicitor Mandalas said that the Commissioners have identified safety as a real concern regarding taxicabs and other vehicles pulling into the fixed route stops. In regard to the anti-solicitation law, the Commissioners could consider whether they find it to be a public nuisance to have taxicab drivers, etc. verbally soliciting fares, etc. If the Commissioners find that to be a public nuisance and it is a substantial government interest, they can narrowly tailor an ordinance to address that government interest.

Commissioner Barbour thought it would be wise that this is as focused as it could be and it be based on public safety and not be a broad anti-solicitation thing. He suggested that the best way to proceed would be to base this on public safety and have it as narrowly drawn as possible so the Commissioners are not accused of overreach. Commissioner Sargent agreed. An anti-solicitation ordinance at this point is a solution in search of a problem. At this point, the Commissioners have very little evidence to go by and very little reason to put in something other than safety.

Commissioner McGuiness said that she would like to see the City narrowly draft an ordinance that deals with the health, welfare and safety to the general public. Honking horns, flagging people over, etc. are public nuisances. The State has approved mass transit fixed routes and what they are for because it is a specific entity. Commissioner Sargent said that the City currently has an ordinance which prevents a taxi from pulling in and waiting for a fare. Commissioner McGuiness thought that this is a problem. Mayor Cooper said that anyone should be able to pull in as long as the stop is not being blocked. Commissioner McGuiness did not like the idea of someone honking because it is a nuisance. It is also a nuisance if someone is in the way of mass transit trying to get to the stop. She is not against taxicabs, but there are safety and public nuisance issues.

Commissioner Mills thought that at the last meeting, the Commissioners had reached consensus that for the fixed route stops where buses and the Jolly Trolley can pull in, the Commissioners were comfortable with the City Code which allows passenger vehicles and taxicabs to discharge and pick up people, but it does not allow standing at the stops such as a taxi stand nor for cars to park there. He thought the Commissioners had recognized the problem with taxicabs coming in, soliciting and stealing the Jolly Trolley's business; and that the potential way to deal with this is to develop a no solicitation rule. Commissioner Barbour said that the Commissioners did not talk about stealing business. The business of the Commissioners is public safety, and they cannot get involved in trade. Commissioner Mills did not disagree, but his intent was to do the no solicitation rule because the Commissioners believe it is a public nuisance and disturbance of the peace. As a side effect, it happens to help different businesses.

Commissioner Coluzzi suggested a simple solution to this issue. The only vehicles which would be allowed to pull in and pick up passengers at the stops are mass transit fixed route vehicles. This would outlaw private vehicles, taxicabs, etc. from pulling in at those stops and picking up people because it is a public safety issue. Mayor Cooper agreed that everyone other than the mass transit fixed route vehicles should be excluded from the stops. He had a problem with the premise because this was brought to the Commissioners because the Jolly Trolley owners said it was cutting into their business. Commissioner Coluzzi said that the owners of Jolly Trolley had a presentation which showed safety issues.

Police Chief Banks agreed that there is a lot of congestion which has become a safety issue. If no one other than mass transit fixed route vehicles are allowed to pull in at the stops, this will affect handicapped and elderly people who are assisted in getting in and out of their vehicles. Commissioner McGuiness suggested that the first offense could be a warning, and after that a ticket could be issued.

Commissioner Zellers said that there is evidence this matter can be a public safety issue. The way the current ordinance reads is that vehicles are allowed to pick up and drop off at bus stops, so the Commissioners would have to make language changes to the ordinance to limit the bus stops to mass transit vehicles. Commissioner Mills did not agree with the premise because it would be a nightmare to enforce. It would not be right for tourists to not be able to pull in, discharge and pick up at those stops.

Commissioner Sargent did not think that this is a problem. The State policy allows people to drop off at the stops. Particularly at the Boardwalk, tourists will be very angry if they cannot drop people off and pick them up, and then are ticketed.

City Solicitor Mandalas said that the owners of Jolly Trolley do not have a problem with a taxi pulling into the stops. Their concern is more about solicitation by taxicab drivers. The question is whether the Commissioners think solicitation by taxicab drivers, etc. is a problem or not.

Commissioner Barbour did not think that solicitation by taxicab drivers is a problem. Pulling in to discharge and pick up people at the stops is a public safety issue which would be a substantial government interest. Mayor Cooper had issues with tourists being solicited by anyone. The issue brought before the Commissioners was taxicabs soliciting customers at fixed route stops. He would not agree to ban people from dropping off and picking up at fixed route stops.

Commissioner Barbour said the problem is a public safety issue at these stops. Those areas are heavily congested with pedestrians walking along with vehicles coming in and out of those areas at the same time. If a Jolly Trolley is at the stop and a taxicab comes behind it, the taxicab will stick out in the street. It is dangerous and is a public nuisance.

Mr. Walter Brittingham, 123 Henlopen Avenue, said that prior to Streetscape, cars would be able to pull in at the corners of the street to discharge or pick up people. As a result of Streetscape, the bump outs are parallel with what would normally be the back of a car of the person who pulled in. There is no place in front of City Hall to park to go to the Police Department. The problem is the person who sits at the stop and occupies the space. Horn honking, etc. can be handled with the ordinance for disturbing the peace. There is a separate issue on Baltimore Avenue where trucks are stopped on the street to unload. Places are needed on Rehoboth Avenue where people can pull in to drop people off or pick them up.

Commissioner Barbour said that there is a far more dangerous situation with delivery trucks parking on Rehoboth Avenue to unload. That would be of higher priority to deal with than this situation. This matter should be left alone.

Commissioner McGuiness said that there is a public safety issue. If the Boardwalk is such a precious area to unload or load a car, then have an area behind the fixed route stop as an unloading/loading area.

Commissioner Barbour suggested that courtesy signs be put up in addition to the existing bus stop signs which are consistent with the ordinance.

Police Chief Banks said that he would need direction and his department will enforce whatever the Commissioners agree to.

Mr. Brittingham said that one of the things which has brought matter to light is the proliferation of taxicabs in the City. Whatever signs are put up should be legal. Since the City currently has an ordinance, signs could be put up at a few places saying "Only authorized regulated vehicles may stand in this area".

Mrs. Nancy Meadows, 506 Newcastle Street asked if the taxicab companies which are being referenced have City business licenses. Commissioner Mills confirmed that they do.

Mayor Cooper said that there seems to be no consensus among the Commissioners regarding this matter.

Commissioner Sargent did not know what can be done further than the current law in regard to this matter.

Commissioner McGuiness suggested that the Code should be interpreted technically and solicitation should be watched.

Mr. Tim Spies, 53 Columbia Avenue, asked if establishing a taxicab stand would resolve this problem. The east parking lot beside the Convention Center could be used. Mayor Cooper thought that this would only work if the taxicabs are banned from other areas.

City Solicitor Mandalas thought the Commissioners had concluded at the last meeting that they were

satisfied with what is on the books with regard to stops as it currently exists is sufficient, and they wanted to go to the next step to consider whether they want to do anything with the solicitation laws.

Commissioner Coluzzi thought that the Commissioners had decided they do not want make something that broad. The people and solicitation at the Boardwalk are at issue. Police Chief Banks suggested that a sign referencing the current ordinance could be put up, and his officers could be more attentive at the stops. He will designate an officer at the Boardwalk. Police Chief Banks requested permission to work with City Solicitor Mandalas and City Manager Gregory Ferrese regarding a sign.

Mr. David Hastings of Jolly Trolley said that he was not clear where the City stands regarding taxicabs pulling up at stops and solicitation. The issue is with the stop in front of City Hall, not at the Boardwalk. Police Chief Banks said that from 10:00 p. m. to 1:30 a.m., he may not be able to designate an officer at the stop in front of City Hall. His main focus is at the Boardwalk.

Mayor Cooper said that the City will make every attempt to keep the bus areas available to the buses when they get there. He assumed Police Chief Banks will meet with them or send a letter if it gets to be a problem. Mayor Cooper wanted Mr. Hastings to work with the Police Department.

Mrs. Christine Hastings of Jolly Trolley noted that at the last Workshop Meeting, City Solicitor Mandalas had mentioned that in the Code the stops are designed for safety and efficiency, but technically they do not have to exist. Those stops exist because large vehicles carry massive amounts of people and meet safety and efficiency.

Mr. Brittingham mentioned that the Building & Licensing Department should be added to the mix because they are the only people who know all the people who are licensed. Mayor Cooper said that this would be up to Police Chief Banks whether he feels Building & Licensing should be involved.

Commissioner Coluzzi summarized that the Hastings will work with Police Chief Banks regarding their issues. Police Chief Banks will enforce the Code. The City will make a good faith effort to keep the bus areas available. Police Chief Banks will set up a meeting with the taxicab drivers, will also be in contact with the owners of Jolly Trolley, and will have a sign put up at the Boardwalk.

## **NEW BUSINESS**

Mayor Cooper called to consider approval of Task Order No. 3.2 to perform the Archeological Survey of the area potentially affected by construction of the outfall, Task Order No. 7.1 to perform the Force Main Alignment Study which will determine the optimal route for the pipe from the treatment plant to the outfall, and Task Order No. 3.3 to perform four soil borings in the ocean along the proposed alignment of the outfall, submitted by GHD regarding field work required for the City's request for an ocean outfall permit.

Mayor Cooper noted that Task Order No. 3.2 is to perform the Archeological Survey which will be done with a boat and side scan radar, etc. to find any abnormalities on the bottom that might indicate a shipwreck or some other manmade feature. The cost is \$29,806.00. Task Order No. 7.1 is to perform the Force Main Alignment Study which is in regard to the pipeline on land and what make the most sense from a constructability standpoint, interference, etc. The cost is \$37,700.00. Task Order No. 303 is to perform four soil borings in the ocean. This entails going out in the ocean and do soil sampling to a depth of 80 feet below the floor of the ocean to see what the sediments are, to better determine what the best construction method is or if there are any limitations to the construction method based on the sediments. The cost is \$113,280.00. The actual cost may be more due to the price of diesel fuel.

Commissioner Sargent made a motion, seconded by Commissioner Mills to approve Task Order Nos. 3.2, 7.1 and 3.3 with GHD in regard to the ocean outfall. (Sargent – aye, Coluzzi – aye, McGuinness – aye, Cooper – aye, Barbour – absent, Mills – aye, Zellers – aye.) Motion carried.

Mayor Cooper called to consider a proposed ordinance to amend Section 88-16 of the City Code related to reducing the portion of the year that dogs and other animals are prohibited from the beach and Boardwalk.

Commissioner Zellers said that topic resulted from a recent meeting of the Animal Issues Committee. The current ordinance prohibits animals on the Boardwalk and beach from April 1 to October 31. Several requests were received from resident pet owners and visitors to have the Commissioners consider relaxation of that prohibition because they would like to enjoy the shoulder season with their pets in the Spring and Fall. A review was performed of the various animal ordinances in neighboring towns of Dewey Beach, Bethany, South Bethany, Fenwick Island and Lewes, and found that most of the regulations concerning animals are pretty consistent across the town, but the beach and Boardwalk are significantly different. The City is the most

restrictive of all the municipalities. There was confusion due to the special events in the Spring and Fall where pets are allowed with special exceptions and people think that the restrictions are lifted. The Animal Issues Committee felt that was reasonable to recommend to the Commissioners that the ordinance be revised with the dates starting May 1 to September 30.

Commissioner Zellers made a motion, seconded by Commissioner McGuiness to adopt the ordinance before the Commissioners to amend Section 88-16 of the City Code. (Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Barbour – absent, Mills – aye, Zellers – aye.) Motion carried.

Mayor Cooper called to consider approval of a proposal from Delmarva Power & Light to provide twelve street lights and poles on the west side of Scarborough Avenue.

City Manager Gregory Ferrese noted that the Commissioners had received a petition from the residents living on the west side of Scarborough Avenue. He met with Delmarva Power & Light in regard to this matter. The cost of DP&L's proposal is approximately \$11,700.00 which pertains to the construction on Scarborough Avenue. Twelve lights will be installed that are consistent with the lights in Country Club Estates. The monthly cost per light will be \$23.56. Once the Commissioners authorize Mr. Ferrese to proceed, he will call DP&L in which it is anticipated that the lights will be delivered in twelve weeks. The City will be renting, not purchasing the lights.

Commissioner Sargent made a motion, seconded by Commissioner Mills to approve the proposal from Delmarva Power & Light to provide twelve street lights on the west side of Scarborough Avenue. (Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

#### **CITY MANAGER'S REPORT**

(See attached report.)

City Manager Gregory Ferrese reported that the recently renovated Baltimore Avenue restroom will be open starting May 28, 2011. It looks favorable that the City will receive a State grant to upgrade the Delaware Avenue restrooms during the winter. Sealed bids were opened for the Convention Center roof and the replacement of windows in the Municipal Building and Police Department. The bids are presently being evaluated by the City's architect. Low bid is \$369,900.00 which is higher than \$250,000.00 which was anticipated in the grant. Options are to see if other funds are available, the projects can be eliminated or complete the Convention Center roof only. Mr. Ferrese will keep the Board of Commissioners informed. The City passed the State Workplace Safety Inspection, and a nine percent reduction will be received on the Workers Compensation rates. The Administrative Office will be open each Saturday from 8:30 a.m. to 12:00 p.m. beginning May 28, 2011. The City Administrative Offices will be open on Memorial Day from 8:30 a.m. to 4:30 p.m. The City Newsletter has been mailed, and the Courtesy Notices have been delivered. The 95-gallon yard waste containers have been delivered and distributed to those who requested them. The 65-gallon containers will be delivered from the vendor on May 23, 2011 and will be distributed on May 25, 2011. Memorial Day services will be held on May 30, 2011 at 11:00 a.m. at the Bandstand. The City will have available quarters in \$500.00 increments for those businesses which requested that amount. Quarters will be available beginning May 28, 2011 at the City Administrative Office.

Commissioner McGuiness requested that either the City Newsletter be posted on the City website, published quarterly or updates sent out. People could sign up to receive the Newsletter instead of mailing them out. Commissioner Mills said that the Communications Committee has been working on an email bulletin program where people can sign up to receive notices, etc. Commissioner Sargent said that a certain percentage of the population does not have email so the Newsletters will need to be mailed to them.

Mr. Ferrese recommended the approval of the Street Aid expenditures:

05/18/11	503	Delmarva Power	\$7,810.24 (Street Lights)
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Commissioner Mills made a motion, seconded by Commissioner Sargent, to approve the Street Aid expenditures as presented. Motion carried unanimously.

#### **COMMITTEE REPORT**

There was nothing to report.

#### **CITY SOLICITOR'S REPORT**

There was nothing to report.

## **COMMISSIONER ANNOUNCEMENTS/COMMENTS**

Commissioner Sargent reported that today he met with the City Engineer who is working on the location of the planks. An archeologist and a representative from Cultural Resources are interested in where the City will go through undisturbed land; and it looked like Columbia Avenue was fairly undisturbed so the State would appreciate the City going through Henlopen Avenue. Other potential options are being looked at.

### **Discuss items to include on future agendas.**

Items to include on the next Workshop agenda are: 1. Discussion of extending trees throughout the City. 2. Discussion of providing passes for employees of businesses who ride to Park and Ride to catch the bus into the City. 3. Discussion of decriminalizing open containers for alcohol. 4. Discussion with the Building Inspector about enforcement of the sign ordinance.

## **CITIZEN COMMENT**

Ms. Libby Stiff, 1007 Scarborough Avenue Extended, commented that in 2009 the property owners on Scarborough Avenue Extended formed a grass roots community organization for their street because the residential character was being abused. The building at 1014 Scarborough Avenue Extended consists of a main house and an apartment in violation of R-1 zoning. The previous owners received a building permit in 1976 to enclose the garage into a sitting room, bedroom and bath for the use by their in-laws. The permit was granted including a proviso that the dwelling would remain the single family residence. Building & Licensing was asked to intervene. Mr. Walter Onizuk toured the building on April 14, 2010, and he told the owner that his structure was grandfathered in as a dwelling with an efficiency apartment. Building Inspector Terri Sullivan stated on April 16, 2010 that Mr. Onizuk's decision was based on an approved building permit allowing the conversion of the garage to living quarters. Mr. Frank Cooper, Ms. Mable Granke, Mr. John Bisch and Ms. Stiff met with Ms. Sullivan, City Solicitor Mandalas and Mr. Ferrese on Jun 18, 2010. City Solicitor Mandalas advised them that since this had been in operation for as long as it has there is in effect a statute of limitations which would preclude them from doing anything about it. Ms. Stiff had contacted the previous owners; and they said as soon as the last inspection in 1976 was done, their brother put in a kitchenette. It has never been rented to outside people before the present owner. Ms. Sullivan has called it a dwelling with an efficiency apartment. It is now rented as two units with one unit being a group home, and the other unit an efficiency apartment. There is no designation in the Code for a dwelling with an efficiency apartment. In addition, Ms. Sullivan has advised them that only one rental license is needed. The owner of the structure at 1014 Scarborough Avenue Extended and 1011 Scarborough Avenue Extended has rented the dwellings out as Oxford Houses. The term Oxford House refers to any house operated under the Oxford House model, a community based approach to addiction treatment which attempts to provide an independent supportive and sober living environment. They are advertised on the Oxford House Delaware website for occupancy by six individuals. SOS Scarborough is the name of the organization and stands for Save Our Street, bears no animosity towards any of the residents of the these houses and respects the works that they are doing. What is happening on Scarborough Avenue Extended makes a mockery of R-1 zoning. The residents of Scarborough Avenue Extended ask for the Commissioners' attention, enforcement and consideration as they try to live their lives in peace in their own homes in their own town. A copy of the Scarborough Avenue Extended Newsletter was provided to the Commissioners. SOS Scarborough is putting together the plans for the open space at the end of the street, helping a neighbor with house repairs and lawn cleanup, considering Neighborhood Watch to combat break-ins, encouraging Spring Cleanup as a community improvement effort, encouraging proper trash disposal, and encouraging participation in a tree planting program.

Police Chief Banks requested that Ms. Stiff provide him with dates for the different events so he can contact organizations that may be able to help with cleanup, etc.

Mr. Brittingham said that notifications of the meetings held regarding the patio ordinance were not sent out to all the residents or all the businesses. He went to Building & Licensing, City Hall and Chamber of Commerce. Mr. Brittingham informed Ms. Everhart of Chamber of Commerce that Building & Licensing is not enforcing the flags, etc. Ms. Everhart sent to the members of Chamber of Commerce that most of the businesses should know flags are required to be eight feet above the ground. The Commissioners hired the Code Enforcement Officer to take care of zoning regulations.

**CONSIDER APPROVAL OF A PROPOSED MUTUAL AGREEMENT** with 2 St. Lawrence Street LLC which would resolve ownership issues relating to the property extending to the Atlantic Ocean and originating from the easternmost boundary of property located at 2 St. Lawrence Street designated as Lot Nos. 25, 26, 27 & 28, Block 33, as shown on a plot of lots of Rehoboth Heights, said plot being of record in the Office of Recorder of Deeds, in and for Sussex County, in Deed Book No. 264 at Page No. 410.



City Solicitor Mandalas noted that this item originated with the Planning Commission. A partitioning application was filed with the Planning Commission to partition the property at 2 St. Lawrence Street. Through its process, the Planning Commission realized there is a question as to ownership of the land extending from the numbered lots at 2 St. Lawrence Street extending out to the ocean. The Planning Commission came to the conclusion that it could not act on or approve the partitioning application without having the issues of ownership being decided. At that point, the applicant and the Planning Commission agreed to allow the applicant to work with the Commissioners and City Solicitor Mandalas to try to clarify the ownership issues. Through that process, an possible agreement has been presented to the Commissioners for consideration as to whether the Commissioners want to approve this agreement that would clarify the ownership issue at 2 St. Lawrence Street.

Commissioner Mills made a motion, seconded by Commissioner Coluzzi to move to Executive Session at 8:53 p.m. to conduct a strategy session. (Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously.

Commissioner Mills made a motion, seconded by Commissioner Sargent, to reconvene to the public forum at 9:20 p.m. Motion carried unanimously.

City Solicitor Mandalas noted that the Board of Commissioners met in Executive Session and discussed the documents which are subject to 2 St. Lawrence Street and the possibility of resolving ownership issues. Mr. Chase T. Brockstedt, Esq. of the law firm Bifferato Gentilotti LLC, representative of the owner of the property and Mr. Richard Harris, owner of the property were in attendance at the meeting. City Solicitor Mandalas said that there was no issue with the items Attorney Brockstedt had raised: 1. The desire to find final resolution with everything in the Mutual Agreement. 2. To make clear on the tax records and other City documents that the ownership of 150 feet extending out from the numbered lots would be in 2 St. Lawrence Street LLC. In regard to the conservation easement terminating upon a change in zoning of some sort in that area, this would not be appealing to the Board of Commissioners. They would like to preserve that area as conservation easement for a number of reasons. To the extent that Attorney Brockstedt and his client are willing to accept the documents as they are, the conservation easement is there and in place; and the only way the conservation easement would be undone is through a mutual agreement between the owner and the City. If Attorney Brockstedt and his client are willing to accept the documents, they would probably see a vote from the Commissioners this evening to move forward and authorize the Mayor to work through whatever additional details to be worked out in the exhibits to clarify the ownership issues. If that is a point which still needs to be worked through, then Attorney Brockstedt and his client will probably not see a vote tonight.

Attorney Brockstedt said that today is the first time he and his client have been able to look at the documents in detail. There are other changes in regard to tightening up of the language, but they are not substantive and will not change the intent or the effect of the documents. Attorney Brockstedt and his client have not seen the quitclaim deeds.

Commissioner Coluzzi thought it has worked well with City Solicitor Mandalas and Mayor Cooper working with Attorney Brockstedt and his client.

Commissioner Mills thought that the question which was raised in regard to the conservation easement needs to be resolved.

Mr. Richard Harris, owner of the property, said that there are three areas which can trigger the null and void type of the language: 1. A significant change in use of the surrounding properties perhaps as a consequence of a change in zoning. 2. Change in zoning or use that would be inconsistent with the spirit which is talked about in the conservation easement. 3. Land trust or some other entity like a land trust is set up to deal with the question of ownership along the Boardwalk.

Attorney Brockstedt said that the owner wants what is currently there, and he would like to make sure that the documents reflect that through no fault of the owner should his status quo change to something else, then his property can be used with whatever is consistent with the then status quo. If the entire area begins to change, the owner does not want this conservation easement agreement to prevent that property from changing with the surrounding area. There would be substantial change in the character of the neighborhood.

Commissioner Sargent made a motion, seconded by Commissioner McGuiness, to authorize the Mayor and City Solicitor to continue discussion and arrive at an agreement with Mr. Harris as consistent as possible with what the Commissioners agreed to so far and executable. (Sargent – aye, Coluzzi – aye, McGuiness – aye, Cooper – aye, Barbour – aye, Mills – aye, Zellers – aye.) Motion carried unanimously..

The Workshop Meeting will be held on June 6, 2011 at 9:00 a.m.

There being no further business, Mayor Cooper declared the meeting adjourned at 9:36 p.m.

**Respectfully submitted,**

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**(Kathy McGuinness, Secretary)**