

these stops. Correspondence was received from George's Taxi in which an inquiry was made to the DART bus in August 2010. DART's response was that it does not know of any prohibition to taxicabs picking up or discharging passengers in marked bus stop areas. The municipalities that have exclusivity have two different zones for buses and taxi stands. Currently the City only has the bus stop zone. A taxi stand zone would need to be created. The holder of a taxicab license can petition to the Commissioners to have his own personal taxi stand in parking spot. This may possibly need to be reviewed at a future date.

Commissioner Pat Coluzzi said that the problem the Hastings family has is that the City Code allows for any vehicle to pick up or discharge passengers in their stops.

Commissioner Bill Sargent was not comfortable with changing the Code because of the possibility of causing a restraint on trade. There would be a huge practical difficulty if taxi zones are established.

Mayor Cooper did not know how effective taxi stands would be in the City, and he was not sure that there is any one place which would consistently deal with taxicabs picking up/discharging passengers other than Rehoboth Avenue and the Boardwalk. He was not sure it would be effective because of the time of day issues, etc.

Commissioner Lorraine Zellers said that the Section 92 in the City Code should be amended to add that a passenger vehicle can pick up/discharge passengers at the bus stops, not just any vehicle. She was in support of designating one space in the City for a taxi stand.

Commissioner Coluzzi thought that definitions would need to be included to define what a passenger vehicle is. It would make sense to locate taxi stands at the establishments which are open late at night and serving alcohol.

Mayor Cooper said that there are eight to ten bus stops in the City; and to be fair, this would mean that eight to ten taxi stands would be needed.

Commissioner Dennis Barbour said that people need to be encouraged to use taxis.

Commissioner Mills noted that the stopover on Christian street is not defined. Disallowing a taxicab to stop at the end of the circle at the Bandstand is questionable. The alternative could be in front of the restrooms. Alternative – front of bandstand and restrooms. Disallowing a taxicab to stop in front of the Convention Center would force the taxicab to turn off of Rehoboth Avenue to alongside of the Convention Center.

Mr. David Hastings of Jolly Trolley said that taxicabs are systematically taking a lot of business and potentially it could be a huge safety issue.

Mayor Cooper said that the issue is whether or not to give Jolly Trolley a protected area that other people cannot do business in.

Commissioner Sargent said that based on the City's law, taxicabs and/or private vehicles cannot line up at the Jolly Trolley stops. Those spaces need to be left open for the buses; and if they are not, then there is a serious safety problem which the Police Department needs to enforce.

Discussion ensued regarding this matter and a possible solution.

Mr. Hastings said that structure is needed. His family is looking for the ability to run their business unrestricted from unfair competition. A no solicitation rule at the fixed route mass transit stops is the simplest answer. He referred to other requirements in other municipalities to help the municipalities control their transportation in a way that best suits the community and the service providers, and the peripheral businesses which supports the service providers.

Commissioner Coluzzi encouraged more use of mass transit and the reduction in the use of vehicles. She would also like to have a jitney service in the City along with the use of bicycles and pedestrians walking around the City.

Mr. Hastings noted that their original proposition safety oriented and no solicitation because of what will happen with vehicles lining up, one after the other. No solicitation would be that a cab cannot solicit a bus stop customer.

Mr. Turner Hastings voiced concern that this may be precedent setting to allow taxicabs to solicit at bus stops.

Mayor Cooper did not like the idea of people being solicited, whether it is the Jolly Trolley, etc. It does not

present a good image for the City. He would be interested in it being broad regarding solicitation where someone who has a service or product to sell cannot approach another person in a public space to do that. City Solicitor Mandalas said that the reverse would be fine where a potential passenger or customer would hail a taxi. Commissioner Coluzzi agreed that the whole idea of soliciting is a worthwhile avenue of pursuing to limit that.

Mr. Hastings said that in regard to someone on the street soliciting a cab, the Hastings family never suggested that they would want to restrict people's rights to hail a cab. The whole point is cab solicitation within fixed-route mass transit stops.

City Solicitor Mandalas reminded the Commissioners that the City has a hawkers and peddlers provision in the Code, which is Section 120-22, but it does not go as far as prohibiting it. In Section 120-25, it read that it shall be unlawful for any person, licensed or unlicensed, to hawk, peddle or solicit within the limits of the City unless specifically exempted or excepted by this article.

Commissioner Sargent said that taxicabs need to be stopped from lining up at stops. The Commissioners owe it to the safety of the community and to the Hastings to enforce that and enforce it strongly. The Hastings have the right to compete fairly, and the Commissioners want to make sure it is a safe operation. The Commissioners need to make certain that the police enforce the law and that the taxicabs do not stand in the Jolly Trolley's areas.

Mayor Cooper did not like the idea of people who are standing at the bus stop to get picked up by the bus or Jolly Trolley, being solicited. He does not like restraining trade, but a person should have their space which should not be invaded by a taxicab driver soliciting rides.

City Solicitor Mandalas was not sure how solicitation would work with fair trade. Most businesses are required to have an establishment within the City, and there are specific provisions in Section 120-22 as to certain businesses and how they can solicit under what their license fees are. There may be something that can be done in Section 120 that would deal with the solicitation aspect of this matter if there would be a public policy reason to avoid solicitation from fixed-route stops. Unless the Commissioners are going to provide a taxi stand, they are not going to limit taxicabs from pulling into fixed-route stops. The question clearly focuses on solicitation and if there is something that can be done about it.

Commissioner Barbour said that the most applicable issue is public safety.

Commissioner Mills believed in the philosophy that anyone who is standing should be able to hail a taxicab. He could construe soliciting as standing which is prohibited because the taxicabs are pulling in and stopping at the bus stops. Mayor Cooper said that he would prohibit it anywhere, not just at fixed-route bus stops.

Commissioner Sargent did not see solicitation as a problem. Mayor Cooper said that if he is standing in a public space, he would want to be free of any solicitation by anybody.

Commissioner Barbour said that there are two possible solutions, anti-soliciting and public safety, and he suggested asking City Solicitor Mandalas to specifically find out what the limitations would be so that when the Commissioners return to a public meeting, they can have a specific discussion about them.

City Solicitor Mandalas noted that this matter has been placed Dewey Beach's agenda for its meeting on May 14, 2011, and it is considering establishing provisions for taxi stands and fixed-route stops.

This item will be placed on the agenda for the Regular Meeting on May 20, 2011.

NEW BUSINESS

Mayor Cooper called to discuss the proposed Task Orders, submitted by GHD, regarding field work required for the City's request for an ocean outfall permit.

Mayor Cooper said that Task Order No. 3.2 is to perform an archeological survey of the area in the ocean potentially affected by construction of the outfall. A boat will be taken out into the ocean with side scan sonar and other techniques to determine any abnormalities on the ocean floor and the area under discussion. If anything is found, it is to be further refined to see whether it is a shipwreck, etc. Task Order No. 3.2 must be done to satisfy the historical provisions of the environmental impact statement, and the cost is in the amount of \$29,106.00. Task Order No. 7.1 is to perform the force main alignment study which will determine the optimum route for the pipe from the treatment plant to the outfall. Task Order No. 7.1 would be a GHD assignment to look at topography, existing utilities, etc. and come up with the optimal route for the pipeline.

It is expected that this study will come back to the Commissioners along with a presentation of what the alternate routes might be and why the selected route has been selected. The route will have to be looked at from an historical standpoint to see if there are any impacts to historical structures, etc. This task order does not include any fieldwork. The cost of Task Order No. 7.1 is in the amount of \$37,700.00. In regard to Task Order No. 3.3, there was a meeting with GHD on April 29, 2011 to discuss any improvements to the wastewater treatment plant. The City has been working with a directional drilling contractor and a marine contractor about how to construct the outfall. Directional drilling will occur for some distance, but whether it is done entirely has not been decided. The City would like to get more information from these contractors; but until there is more information, there is not a lot that can be added. One of the big issues is what the composition is of the sediments to be gone through. Task Order No. 3.3 is to perform soil borings at 1,500 foot intervals along the preferred alignment to 80 feet below the mud line to see what the composition of the sediments are to be able to further refine the design. Quotes were received from a Salisbury, MD company which uses a barge, a firm which uses a jack-up barge. The cost of Task Order No. 3.3 is in the amount of \$113,380.00 with an escalator for diesel fuel. Funding will change, but the project will remain the same.

Task Order Nos. 3.2, 3.3 and 7.1 will be placed on the agenda for the Regular Meeting on May 20, 2011, for approval.

Mayor Cooper called to discuss proposal from Sposato Landscaping for landscaping in the area of the round-about including removal of three Holly trees, the mass planting of Juniper and Barberry, all planting in the north island, installing sod, installing other plantings and modify the irrigation system to split the turf areas from the planting beds.

Commissioner Coluzzi noted that the Streets & Transportation Committee had received two proposals for the traffic circle area. One of the proposals had to do with removing the wall. At this stage, the Committee is most interested in relocating the plantings because there is a line of sight issue.

Mr. Marcus Richardson of Sposato gave his presentation. One of the issues looked at prior to today, was pedestrian safety concerns. He was asked to look at pending concerns with the circle along Rehoboth Avenue, and the entrance to and exiting of the City. The main safety issues are where the crosswalk areas are located and pedestrians crossing immediately to the east and west of the traffic circle. There are limitations to traffic when entering and exiting, and there are sight line issues at the circle. Option A is being proposed to remove the roses, at a minimum, from the four quadrants of the circle and reduce the four planting beds to two larger beds to open up the sight line. Also what is being proposed is to eliminate the taller plant material in the eastern median such as the holly, barberry and juniper because drivers cannot see pedestrians until they are at the crosswalk area. It is proposed to eliminate the height in the northern median and mirror the planting bed on the western side of the circle. Option B is a more ambitious approach and would involve removing the wall completely in the circle and incorporating a more naturalized area which would keep the sight line wide open. The roses would be eliminated as well as the dune grasses on top of the wall which would provide a more naturalized area.

Commissioner Sargent said that removing the wall would provide a better sight line, but it will encourage people to drive faster around the circle. The wall has a protective effect.

Commissioner Mills thought that the retaining wall serves a purpose in that it directs the eye to the left which is where the predominant attention should be.

Commissioner Coluzzi said that approximately one year ago, two Committee members, Mr. Jim Ellison and Ms. Cindy Lovett, took a look at the circle because there has been problems with sight lines and see pedestrians in particular. Both the members had recommended the shifting of the plantings in the circle. In addition, Sposato was contacted to look at additional sight line improvements. The Committee had looked at removing the wall and having a more naturalized look and better sight lines. All Committee members agreed that the plantings should be changed, at a minimum. Approximately half of the members agreed that the wall should be removed. Commissioner Coluzzi favored removing the wall because it is a safety issue. The process the Committee agreed upon was to move forward with Option A which requires shifting the beds and replacing the roses with daylilies.

Commissioner Zellers distributed photographs showing the sight lines and roses.

There was consensus among the Commissioners to remove the roses.

Mayor Cooper said that the accident data does not bear it out that this is a safety issue. The areas of biggest concern to him are the island immediately to the east and west of the circle. The grasses have grown high

enough that someone cannot see over the grasses there. They should be low plantings, and nothing should be above 18 inches at maturity.

Mr. Richardson had noticed the impeding view of pedestrians by the junipers, barberries and holly trees when going west on Rehoboth Avenue and approaching the circle. The encroaching vegetations along the curb-side edge are the barberries and junipers. With that particular vegetation and the additional height of the bed, someone cannot see another person in the crosswalk until almost right on them.

Commissioner Mills saw the possibility of removing all three, but he also saw the possibility of removing the first holly tree to expend the line of sight. Another part of the formula is to entertain speed reduction items or better signage for pedestrian crossings.

Mr. Ferrese will have the Public Works Department paint the crosswalk in front of City Hall to see how effective it is for people while driving to see the crosswalk.

Commissioner Sargent thought that a rubber stick with yield on it would catch people's eye and would be effective. Commissioner Mills said that it would be effective but would probably need to be replaced daily throughout the entire summer.

Commissioner Zellers said that doing the sod and improving the sight lines coming off of Columbia Avenue would be a great improvement.

Mr. Richardson said that for years the irrigation in the traffic circle has been an issue since its installation. The system was designed more towards turf. What is being proposed is to have two annual flower beds instead of four. Currently, the irrigation system irrigates the flower beds the same as irrigating the sod. A lot of annuals have been lost because they cannot be watered every day. He proposed that to correct the irrigation system and keep the wall, the cost would be approximately \$2,500.00 to \$3,000.00. Timing is crucial because the roses should be removed tomorrow. The four quadrants of flowers in the circle would need to be planted along with trimming the hollies and splitting the irrigation system. The north and east beds could be done as well.

Commissioner Coluzzi recommended that the Commissioners direct the City Manager to move forward with this plan with the exception of removing the hollies. There was consensus among the Commissioners to move forward with this proposal.

Mr. Ferrese will talk to Sposato in regard to getting a proposal to move forward with the work.

Mayor Cooper called to discuss the proposal from Delmarva Power to provide twelve street lights and poles on the west side of Scarborough Avenue.

Mr. Ferrese said that the Commissioner have received a petition from nine residents on Scarborough Avenue requesting streetlights. Mayor Cooper and Mr. Ferrese have met with DP&L of which it has proposed the installation of twelve streetlights. These lights would be of the same type as in Country Club Estates. The lights would be located on Scarborough Avenue at the request of the residents who signed the petition. Total cost of construction to install the twelve lights would be \$11,700.00 with a rental in the amount of \$23.56 per month. After authorization from the Commissioners, it will take twelve weeks to order the fixtures. Monies have been budgeted for this project.

Commissioner Zellers felt that there is a need for the lights because currently there is only lighting on one side of Scarborough Avenue.

Commissioner Mills said that currently there are ten lights on east side of Scarborough Avenue. Having twelve lights on the west side of the street would mean that some of them would be positioned at street ends and some would be at mid-block. There will be a different style of lighting.

Mr. Ferrese said that from the driveway coming out of the bank down to the end of Scarborough Avenue before the bend, there will be twelve streetlights. The locations for the lights will be staked by the end of next week. Some of the street lights will be located in front of homes, and some will be near driveway entrances to the homes. The location for the streetlights has been done by DP&L's light specialist. Mr. Ferrese will contact Ms. Joan Wallis to call the residents to inform them of the streetlight locations.

This item will be placed on the agenda for the Regular Meeting on May 20, 2011.

Mayor Cooper called to discuss amendments to the City's tree ordinance, Chapter 253 of the City Code.

Commissioner Barbour had forwarded the proposed amendments from previous meetings to the Commissioners prior to the meeting. There was consensus on two issues, and they are limited to the list of preferred/acceptable/unacceptable trees and the appeals process. Currently the appeals process is through the Parks & Shade Tree Commission. The Parks & Shade Tree Commission was originally formed to oversee planting trees, etc. on public property. It was never anticipated that the Commission's jurisdiction would include appeals from the tree ordinance. Commissioner Barbour has proposed that there will be another body call the Park & Shade Tree Forestry Commission which will consider the appeals.

Commissioner Mills noted that his wife, Ms. Marcia Maldeis, is currently a member of the Parks & Shade Tree Commission. He was comfortable with the comprehensive review of the ordinance which had been conducted. In terms of the tree list, Commissioner Mills was not sure the list is complete enough. Section 253-7 of the existing Code includes species to be planted and is only specific to street trees; whereas the new proposal, there are not tiers of preferential trees and it is specific to every property. Commissioner Mills was hesitant about expanding it to private property because there are certain trees which people should be allowed to plant on their own property. Commissioner Barbour said that the focus was on a list of trees for private property.

Commissioner Coluzzi said that since the list of trees was forwarded from Mr. Bryan Hall, 168 trees have been ordered and will be planted on public property. The idea of unacceptable tree species is there for a reason, and the reason is that in some cases the root system can interfere with pipes, and trees can be weak and blow over and cause problems. Extending the ordinance to have an unacceptable tree list is more to be helpful than to be a hinderance.

Mayor Cooper said it could be written that because of reasons, the following trees are prohibited from being planted in the City as opposed to having a list.

Building Inspector Terri Sullivan commented that currently Building & Licensing does not regulate when someone wants to plant a tree on their property unless it is a requirement. She did not know how it would be regulated for someone to plant a tree that is not required. Commissioner Barbour said that the tree ordinance is only triggered when there is an application for a building permit. A person can plant whatever tree they want to if they are not applying for a building permit.

Commissioner Zellers liked the idea of the list. Commissioner Mills suggested that salt tolerant should be included in the list. Mayor Cooper said that the street trees should be separated out. He thought that the lists should be readily available on the City website.

Commissioner Mills said that the Code outlines the duties and responsibilities of the Parks & Shade Tree Commission. A new Forestry Commission would be an attempt to get rid of the composition of the members to the Parks & Shade Tree Commission. He recommended that the Parks & Shade Tree Commission should be allowed to do the appeals; and either re-affirm or get rid of the members at the appointment session.

City Solicitor Mandalas noticed it has been proposed in the Forestry Commission section that there would be two Commissioners from the Board of Commissioners on it. Currently, the appeals of the Parks & Shade Tree Commission's decisions would come before the Board of Commissioners. The appeals of the Forestry Commission' decisions would go directly from the Commission to court. Mayor Cooper has always been uncomfortable that an appointed board can put this City into court without the Commissioners.

Commissioner Barbour said that the current Parks & Shade Tree Commission was established to determine planting on public property. It was not intended to be appealable. The people who are on that Commission should have some background in trees if it is a true appellat body. If the Commission has explicit appellate authority, they would be provided the direction as to the statutory obligations, etc. The current Commission does not make reference to specific sections of the tree ordinance when it affirms or denies a decision of the Arborist or Building Inspector. City Solicitor Mandalas said that there is no clear standard out in the tree ordinance as to how the Commission makes a decision. The current structure of the tree ordinance does not provide that. The standard would need to come from the Board of Commissioners as to what the standard would be. If a Forestry Commission is established, the terms of office should be laid out. The proposed revisions set out what the composition would be, but it does not actually establish a Forestry Commission.

Mayor Cooper did not support the appeals section of the proposed amendments. He did not think that what was before the Commissioners is actionable. Commissioner Mills also did not support it. He agreed that the standards for appeal can be clarified and set; and that whatever body hears the appeals needs those standards.

Commissioner Coluzzi said that the whole idea of the tree selection and referencing the website is fine.

Standards for the body are needed.

The consensus of the Commissioners was not to move forward.

CITY MANAGER'S REPORT

City Manager Gregory Ferrese reported that sealed bids will be opened on May 17, 2011 at 1:31 p.m. in regard to a new roof for the Convention Center and new windows in the Municipal Building and Police Department. The decking around the Delaware Avenue restroom has been completed except for the punch list items. A grant has been submitted to the State for \$80,000.00. If approved, the money will be used towards upgrading the interior of the Delaware Avenue restroom. Notification should be received by the end of September 2010 or sooner. The upgrade of the Baltimore Avenue restroom and Beach Patrol is on schedule to be completed by May 23, 2011. The Stormceptor Project for Country Club Estates started today and will be completed by May 20, 2011 or sooner. The City Newsletter is being printed and will be mailed by May 20, 2011 or sooner.

COMMITTEE REPORTS

Commissioner Zellers reported that the Animal Issues Committee met on April 18, 2011. The City has supported the trap, neuter and release program of feral cats which is headed by Mr. Bob Harrison and Ms. Marcia Maldeis since 2009. It has been a successful partnership between the City, business owners, residents, animal groups and a veterinarian. To date, all feral cats within their boundaries have been spayed/neutered. Businesses have been cooperating with the group to identify and trap any of the outliers and any new kittens. Forty-seven feral cats have been treated since 2010. The costs for neutering have been split between the City and Delaware Humane with the remainder coming from area animal groups, private citizens and a veterinarian. Commissioner Zellers commended Mr. Harrison and Ms. Maldeis for their commitment and hard work, and the relationships built with the group around the City. Commissioner Zellers provided an update on Delaware Humane Walk which took place on April 30, 2011. It is noteworthy that for every \$10,000.00 raised, the City get free slots on the spay/neutering vans. A letter, dated March 31, 2011 was received from Delaware SPCA in Georgetown requesting to host a dog walk on the Boardwalk in the fall. The walk will raise awareness and funds for the SPCA shelter. Mr. Harrison has worked out an agreement with SPCA that it will provide five free spay/neuter spots per month in turn for the City's help in hosting the walk. The Committee's recommendation for changing the dog restrictions on the beach and Boardwalk is that residents would like to enjoy the "shoulder season" of April and September with their pets by allowing them on the beach and Boardwalk during these months. The Committee has received a petition with over 75 signatures seeking to expand the "dog season" on the beach and Boardwalk. Commissioner Zellers presented a review of the existing animal laws and boardwalk/beach pet restrictions from other municipalities. The Committee recommended that the restriction for dogs on the beach and Boardwalk be modified to May 1st to October 1st, increase awareness of the requirements for waste pick-up and leashed animals and provide signage and pet waste bag dispensers/systems at a few locations on the Boardwalk.

Mayor Cooper favored extending the "dog season" from May 1st through September 30th for the beach and Boardwalk.

Commissioner Mills favored the extra month at the beginning and end of each season. All regulations should be consistent with the ban from May 1st through September 30th. Ms. Sullivan said that being more consistent overall with the dates would be helpful for enforcement.

Ms. Carol Everhart of the Rehoboth Beach/Dewey Beach Chamber of Commerce supported the idea of overall consistency of the dates for enforcement.

Mr. Al Hoffman, 3 Grove Street, supported the May 1st through September 30th enforcement of the ban for dogs on the beach and Boardwalk. He suggested being consistent with other abutting communities, put up signs and use enforcement on the beach and Boardwalk.

There was consensus among the Commissioners to ban the dogs from the beach and Boardwalk from May 1st through September 30th.

The issue of banning bicycles on the Boardwalk from May 1st through September 30th will be placed on a future agenda.

Mayor Cooper suggested that a list be made of all the things that have enforcement dates.

The proposed ordinance will be placed on the agenda for the Regular Meeting on May 20, 2011.

Ms. Carol Everhart and Mr. Ferrese will work with the SPCA to decide on a date for the walk in Fall 2011.

Commissioners Zellers noted that the Committee had also discussed “pet pick-up” waste stations in the City and recommended to install them in a few locations in parks, playgrounds and walking paths as a trial, choose a cost effective model such as a bag dispenser with single dispense bags and consider revised signage. Examples of pet waste bag dispensers from other municipalities were provided. The key issue is to create more awareness. Costs would be in the range of \$75.00 to \$540.00. Restocking and pickup could be done as part of the City garbage collection. Dispensers could be attached to existing posts.

Mr. Ferrese agreed with the receptacles but the drawbacks are that the people will use them for household trash and garbage.

Mayor Cooper said that having bags and receptacles will send the wrong message. Using them at the entrance to a park could be effective, but not on the Boardwalk. Commissioner Sargent agreed.

CITY SOLICITOR’S REPORT

There was nothing to report.

COMMISSIONER ANNOUNCEMENTS/COMMENTS

Commissioner Mills announced that SOLA3 held their annual lake cleanup at Silver Lake on May 7, 2011. He thought the City should send SOLA3 a thank you for having the annual cleanup and targeting Silver Lake.

Discuss items to include on future agendas.

There were none.

The Mayor and Commissioners Regular Meeting will be held on Friday, May 20, 2011 at 7:00 p.m.

There being no further business, Mayor Cooper adjourned the meeting at 12:05 p.m.

Respectfully submitted,

(Ann M. Womack, Assistant Secretary)