SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

The Safety Advisory and Transportation Committee Meeting was held on February 29, 2012 at 5:00 p.m. with Chairman Hutchison presiding. Members present were Mr. Lynn, Mr. Davis, and Mr. W. Hutchison. Mrs. Russell was absent. Councilman Hare and Mayor Carey were also present

AGENDA ADDITIONS/DELETIONS

Mr. Davis moved for approval of the agenda, seconded by Mr. W. Hutchison and unanimously carried.

Presentation - Silver Lake to Isaacs Branch Trail Concept

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided members with a map depicting proposed bicycle/pedestrian improvements in the Silver Lake/Isaacs Branch area ***(Attachment #1)***. She reminded members that there is currently a concrete multi-use path that travels through Silver Lake Park and another path near Public Safety Boulevard, behind Winner Ford, that travels to Route 10 and is referred to as the Isaacs Branch segment. She advised members that the State has expressed an interest in connecting these two (2) trail systems with a St. Jones River Trail. Mrs. Townshend stated that in the last State Bond Bill, monies were earmarked for trails and, as a result, Delaware Department of Transportation (DelDOT) and the Department of Natural Resources and Environmental Control (DNREC) have become very active in cultivating community trails.

Mrs. Townshend indicated that both DNREC and DelDOT contacted the City regarding the possibility of conducting a study (concept plan) regarding a connection between these two (2) trails. Referring to the map, she reviewed a proposed phased project for the Silver Lake to Isaacs Branch Trail Concept, which would provide both recreational and transportation benefits for pedestrians and bicyclists. She noted that the long-term plan would involve several property owners, environmental issues, etc. Mrs. Townshend advised members that public workshops are planned to discuss the concept plan and she felt that this matter should be presented to the Committee for their information prior to the workshops.

The Committee took no further action.

Announcement of Road Closures *(Gary Laing)*

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison, Delaware Department of Transportation (DelDOT), explained that DelDOT has scheduled several repaving projects in the next year and advised members that some of the work includes the City's Historic District and involves curb ramps, road striping, etc. He assured members that DelDOT has complied with the mandate to notify residents regarding planned night work. Mr. Laing noted that very little response has been received in response to DelDOT's notification, which clearly indicated that non-response from residents would be construed by DelDOT as consent.

Mr. Laing stated that he was not aware of the construction schedule and, therefore, did not have a start date for the project. However, he noted that DelDOT takes certain events, such as Dover Days, NASCAR races, and holidays, into consideration when scheduling work and would not allow street closures during these times.

Chairman Hutchison requested that Mr. Laing provide staff with the details, including the exact dates and streets involved.

Responding to Mr. W. Hutchison, Mr. Laing explained that roadways are constructed so that the water runs off toward the curb and into the drainage system and water can accumulate where American Disabilities Act (ADA) sidewalk ramps are located. He indicated that it is hoped that the drainage system will support the runoff of water; however, water can sometimes build up in these areas, particularly during heavy rains.

Discussion - Establishing City Emergency Operations Center *(January 23, 2012 - Committee Recommended Referral Back to Staff for a Report to the Committee at the Next Committee Meeting)*

During their meeting of January 23, 2012, members reviewed correspondence from Mr. Dave Truax, Fire Marshal, relaying his concerns regarding the City's lack of emergency preparedness awareness (outside of emergency services and emergency management personnel) and the need for an operational Emergency Operations Center (EOC) in the City. After much discussion, the matter was referred back to staff for a report to the Committee at their next meeting.

Mr. Scott Koenig, City Manager, provided members a brief history of the City's Emergency Management Plan (approved by the Mayor in August 2010) and stated that he felt the basic plan would meet the City's current needs, although modifications would be needed as the City moves forward. He advised members that there are updates in the text of the plan that need to become more "fluid" and noted that this has not occurred because the Emergency Management Coordinator retired and a replacement was not hired due to budgetary reasons. The current plan provides for the EOC to be located at City Hall, the designation of the City's Police Department as a backup to the City Hall EOC, and the establishment of the Kent 911 Center as backup to the Police Department EOC. He stated that the City could also utilize the Electric Administration Building if necessary.

Mr. Koenig advised members that the Delaware Emergency Management Agency (DEMA) uses guidelines entitled "Design Recommendations and Criteria for Emergency Operations" as a framework for designing their EOC and advised members of some of the criteria included. He indicated that keeping the EOC at City Hall would meet many of the requirements and that it would be nearly impossible to integrate an EOC into any building and have it meet all of the requirements. Mr. Koenig noted that City Hall has ample space that is readily accessible by employees, public officials, and the public and felt assured that the Police Department would not find it desirable for people (such as volunteers) to wander through their facility during a crisis event. In addition, he noted that City Hall has restrooms, kitchen facilities, and separate rooms for confidential meetings and briefings (which play an important role in the establishment of an EOC), and additional space for a sleeping area if deemed necessary.

Mr. Koenig noted that the only shortcoming for the use of City Hall as the EOC is the lack of a backup power source. As a result, he suggested that a generator be installed at City Hall, which would produce enough power to run a portion of the building.

Mr. Koenig stated that during the design of the new Library, there was discussion regarding the concept of adding space for a designed and constructed EOC, at a cost of $500,000 to $1M. Staff felt that due to the costs, it was not possible to include an EOC and there was no further action taken to bring the matter to City Council.

Mr. Koenig stated his opinion that it would be in the best interest of the City to assign City Hall as the primary EOC. He also suggested that City Council be requested to reassign emergency management duties to a specific individual within the City's organization. He advised members that this request will be presented to the Legislative, Finance, and Administration Committee during their next meeting scheduled for March 12, 2012.

Responding to Mr. Hutchison, Mr. Koenig indicated that upon the retirement of the City's Emergency Management Coordinator, his duties were dispersed among three (3) employees: the Public Affairs Coordinator, the Public Services Manager, and the City Manager. He recommended that all responsibilities be assigned to the Public Affairs Coordinator.

In response to Mr. Davis, Mr. Koenig stated that the generator is currently being stored at the Warehouse and that the electrical engineers have estimated connection costs at $15,000 to $50,000, depending upon the need for a new pad. He indicated that he had not resolved to use that particular generator at this time; however, staff would continue to review this matter and will likely include a recommendation as part of the budget preparation for next fiscal year.

At the request of Mr. Hutchison, Chief Hosfelt indicated his support for the recommendations presented by the City Manager.

Mr. Lynn moved to recommend approval of staff's recommendation to establish City Hall as the City's designated Emergency Operations Center (EOC), with the Dover Police Department to serve as the backup EOC, and the Kent County 911 Center to serve as the City's temporary (alternate) backup to the Police Department. The motion was seconded by Mr. Davis and unanimously carried.

Proposed Ordinance - #2012-06 Creating a New Chapter 59 - Juvenile Curfew

Mr. Hare reviewed Proposed Ordinance #2012-06 - Chapter 59 - Juvenile Curfew and explained that the proposed ordinance mimics the City of Milford's juvenile curfew ordinance. He noted that the proposal was the result of his participation in numerous "ride alongs" with the Dover Police Department. Mr. Hare felt that there was no reason for individuals under the age of 17 to be out in the late night/early morning hours. During his "ride alongs," he observed several 13 to 14-year-olds walking the streets at 2:00 a.m. When questioned by the police, these juveniles indicated that they would be going home, only to be observed walking the streets again at 3:00 a.m. or 4:00 a.m. He advised members that the police indicated that they have no authority to take action in this regard.

Referring to the comments submitted by Mrs. Russell, dated February 29, 2012 ***(Attachment #2)***, Mr. Hare advised members that his observations were made in various areas throughout the City and not just in the Fourth District. He indicated that the State of Delaware does not have a curfew law.

Mr. Hare felt that the proposed ordinance includes provisions that would allow a juvenile with legitimate reasons to be out late in the evening or early morning hours and addresses other concerns that may be raised.

Responding to Mr. W. Hutchison, Chief Hosfelt indicated that the proposed ordinance would provide police officers a useful tool and he did not feel that enforcement would place a burden on the Police Department.

Mr. Lynn moved to recommend adoption of Proposed Ordinance #2012-06 - Chapter 59 - Juvenile Curfew, seconded by Mr. W. Hutchison and unanimously carried.

Proposed Ordinance #2012-08 Amending Chapter 70 - Offenses and Miscellaneous Provisions

Mr. Lynn presented Proposed Ordinance #2012-08, which would amend Chapter 70 - Offenses and Miscellaneous Provisions, by prohibiting registered Tier II and Tier III sex offenders from living or working within 500 feet of a daycare center and from participating in certain events involving children. He advised members that constituents in the White Oak/Towne Point area approached him regarding their concerns related to a home that had been occupied by multiple sex offenders and was located in close proximity to a daycare center.

Mr. Lynn advised members of a situation that occurred in the City of Wilmington whereby a daycare center moved near a residence occupied by multiple sex offenders (Harriet Tubman Safe House). The City of Wilmington police attempted to enforce the prohibition against sex offenders living near a school, which would have forced the sex offenders to move. He noted that the State statute indicates that sex offenders may not reside or work within 500 feet of a school; however, he explained his interpretation that the term "school" does not include daycare centers. The American Civil Liberties Union (ACLU) litigated the Harriet Tubman case and stated they felt that the provisions regarding schools, as indicated in the State statute, do not refer to daycare centers. Mr. Lynn explained that the practical effect of the ACLU's argument is that more protection is afforded to children from five (5) to 18 years of age than children zero (0) to five (5) years of age, although he suggested that this may not have been the General Assembly's intent. As a result, Mr. Lynn felt that the City should address the issue to resolve any problems and protect the safety of the children within the City of Dover.

In researching the matter, Mr. Lynn stated that there is a "routine activity" theory (developed in 1979 by Marcus Felson and Lawrence E. Cohen) which indicates that for crimes to occur, three (3) conditions must exist: 1) the presence of a motivated offender; 2) access to a potential victim; and 3) absence of capable guardians to prevent criminal activity. Applying this to sex offender residence restrictions would suggest that predatory or pedophiliac sex offenders are most likely to commit new assaults against children when they have unrestricted or unmonitored access to them. Thus, living in close proximity to schools or other places known to cater to children might increase opportunities for sex offenders to have contact with children or view children playing, thus reinforcing their already sexually deviant preferences and facilitating child sexual abuse.

Mr. Lynn stated that although there have not been many studies conducted regarding recidivism rates and close proximity to daycare centers and schools, he located a study conducted by Dr. Paul Zandbergen (available at www.paulzandbergen.com), which indicates that evidence was not conclusive that the residential restrictions have any effect on recidivism rates; however, Dr. Zandbergen noted that there were limitations to his study. Specifically, he noted that the sample size was diluted by the inclusion of low-level sex offenders.

Mr. Lynn explained that the State of Delaware and General Assembly determined that it was not desirable to have sex offenders living or working within 500 feet of schools and, as such, this same protection should be provided to children aged zero (0) to five (5) years of age. He noted that the proposed ordinance amendment applies only to Tier II and Tier III sex offenders and only to commercial daycare centers (in-home daycare centers would not be included). He also noted that any sex offenders affected by the amendment would have one (1) year to comply.

Referring to the comments submitted by Mrs. Russell *(see Attachment #2)*, Mr. Lynn stated that if a daycare center were to open next to a sex offender's residence, the sex offender would have one (1) year to relocate, the same timeframe would apply to offenders who currently reside within the specified distance of a daycare center. According to his discussions with Chief Hosfelt, the Police Department would be able to handle enforcement of the proposed ordinance. Mr. Lynn explained that the proposed ordinance does not include home daycare centers because their inclusion would prohibit sex offenders from living almost anywhere in the City of Dover. He assured members that the proposed ordinance does not violate State law.

Chief Hosfelt introduced Cpl. Harvey Jaksch and Cpl. Mickie Price, who serve as the Sex Offenders Unit for the City of Dover Police Department. He explained that the number of sex offenders changes daily and that it is estimated that there are 10 sex offenders in the City that the proposed ordinance would affect currently. He stated that there are 192 Tier II and Tier III sex offenders and a total of 213 sex offenders in the City of Dover. Chief Hosfelt stated that the monitoring practices employed by the City's Sex Offenders Unit far exceed State requirements.

Chief Hosfelt stated that, after researching sample ordinances throughout the nation, staff determined that similar ordinances have included language concerning holidays (such as wearing costumes, distributing candy, etc.). It was staff's opinion that the City's ordinance should include such language as well; therefore, it was incorporated in the proposed ordinance (see *Prohibited Activities for Sexual Offenders*).

Responding to Mr. Hutchison, Mrs. Ann Marie Townshend, Director of Planning and Community Development, clarified that although drafts of the proposed ordinance were submitted to the City Solicitor's Office for review, the final draft has not been reviewed at this time. Mrs. Traci McDowell, City Clerk, indicated that once a recommendation is formulated by the Committee, staff would forward the draft ordinance to the City Solicitor for final review prior to Council action. Mr. Lynn advised members that copies of the proposed ordinance have also been forwarded to the Attorney General's Office for their review and comment.

Mrs. Townshend stated that a map depicting the commercial daycare centers within the City was available. Chief Hosfelt stated that there are currently 35 commercial daycare centers and 63 in-home daycare centers.

Mr. Lynn moved to recommend adoption of Proposed Ordinance #2012-08 - Chapter 70 - Offenses and Miscellaneous Provisions, seconded by Mr. Davis and unanimously carried.

Update - Dover High School Construction

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that during their previous meeting there was much discussion regarding the new Dover High School's east entrance (which lines up with Heatherfield East), which had been planned as a signalized intersection with a pedestrian crossing. She reminded members that the most recent comments received from the Delaware Department of Transportation (DelDOT) were extremely adamant that their traffic section opposes a signal in this location. She stated that the City Manager sent a letter to Secretary Bhatt, as directed, to relay support for the signalization of the east entrance intersection and a pedestrian crossing. Staff received a response from Secretary Bhatt indicating that the letter was received and forwarded to appropriate staff. If a positive response is not received, she anticipated the need for the City to seek assistance from legislators.

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison, DelDOT, stated that he spoke with the Director of Traffic regarding this matter and advised members that the Capital School District had conducted a traffic study for a signal at the west entrance, where the warrants were met. He advised members that in order for a signal to be installed, the intersection must meet warrants and that the installation of signals involves liability issues.

In response to Mr. Lynn, Mrs. Townshend stated that a signal was proposed for the east entrance on the plan documents that were submitted and approved by the Planning Commission. She assured members that DelDOT was included in development meetings with the developer for the Dover High School project.

Responding to Mr. Hutchison, Mr. Laing stated that the DelDOT Director of Traffic has recommended that the Capital School District request another study. He stated that it is not unusual for a development site plan that is submitted to a municipality or other governmental organization to include a traffic signal; however, that does not commit DelDOT to install the signal, since a study would not have been completed to determine whether or not a signal is warranted.

Mr. Hutchison requested that staff reach out to all involved parties in an attempt to resolve this matter and that the City submit a request for a study.

Mr. Davis moved for adjournment, seconded by Mr. Lynn and unanimously carried.

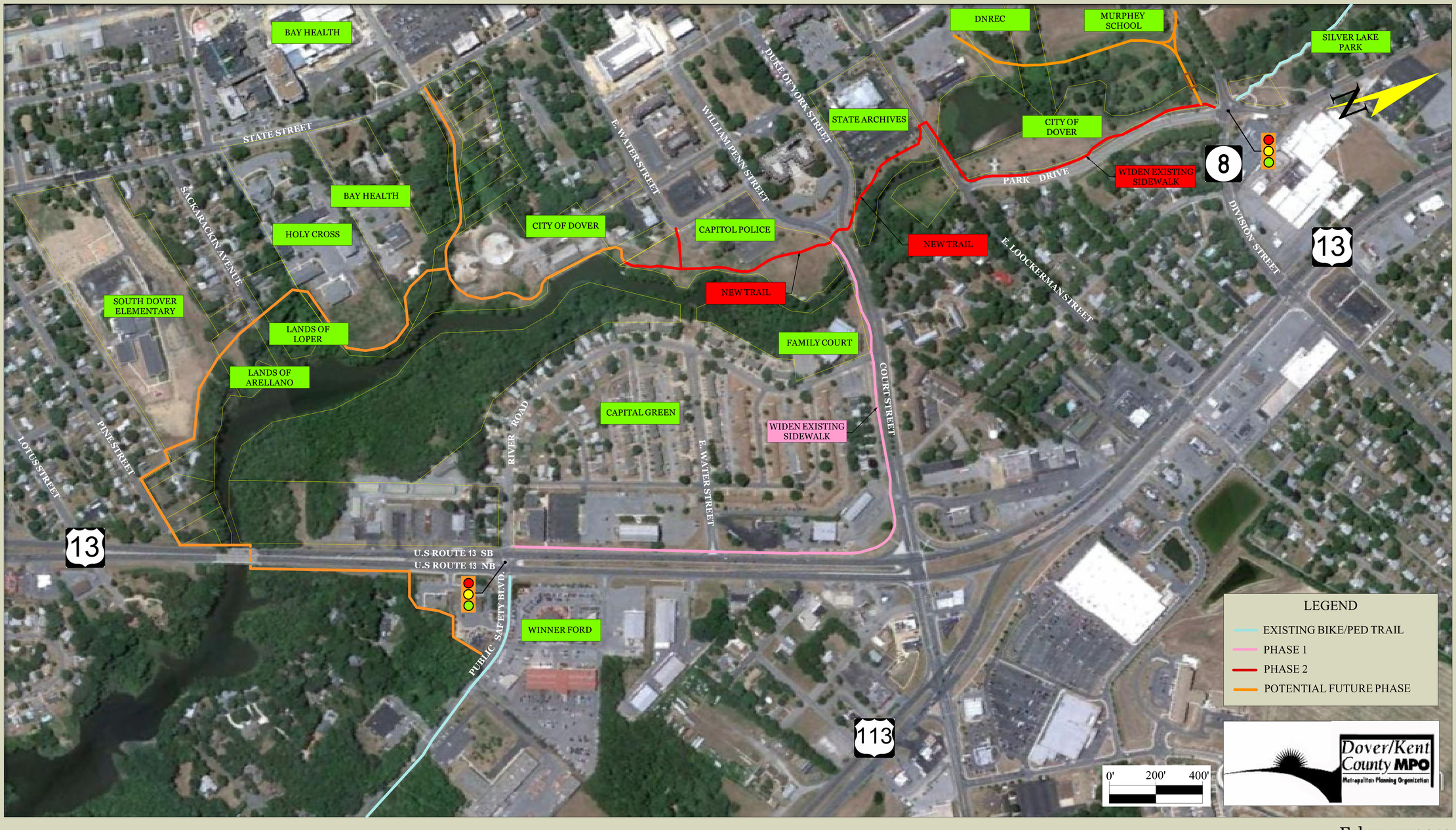
Meeting Adjourned at 6:04 P.M.

James L. Hutchison
Chairman

JLH/TM/jg/js/dd
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Attachments
Attachment #1 - Map Depicting the Proposed Bicycle/Pedestrian Improvements
Attachment #2 - Comments of Mrs. Russell, dated February 29, 2012

City Of Dover
Proposed Bicycle/Pedestrian Improvements



February 2012

ATTACHMENT #1
SA&T Committee Meeting of February 29, 2012

February 29, 2012

I am unable to attend tonight's Safety Advisory and Transportation Committee meeting; however, I would like to express my opinion regarding Agenda Item #4A, Proposed Ordinance #2012-06 Creating a New Chapter 59 - Juvenile Curfew, and Agenda Item #4B, Proposed Ordinance #2012-08 Amending Chapter 70 - Offenses and Miscellaneous Provisions.

4A. Proposed Ordinance #2012-06 Creating a New Chapter 59 - Juvenile Curfew

I do not support this Proposed Ordinance. I believe that this ordinance would place an undue burden on the parents of the children who violate it. Many parents work jobs or hours that make it difficult for them to monitor their children all the time. Additionally, I believe that every child should be treated consistently and that this ordinance allows for each case to be handled at the discretion of the police officer. I am also concerned because I believe that this Proposed Ordinance will negatively impact residents in the 4th District.

I would like staff to provide answers to the following questions:

- Does the State have a curfew law?
- If the State does not have a curfew law, then why is it necessary for the City to develop a curfew law?
- What are the consequences if the parent is unable to pay the fines?

4B. Proposed Ordinance #2012-08 Amending Chapter 70 - Offenses and Miscellaneous Provisions

I do not agree with this Proposed Ordinance. I personally believe that those individuals who are required to register with the State as sex offenders have paid their debt to society and should not be continuously punished for their crime. In regard to youth who are convicted sex offenders, I believe that the labeling of these individuals prevents them from obtaining employment and increases the chance that they will develop drug and alcohol problems. If sex offenders register with the State, follow all established rules and regulations, and pay their taxes, I believe that is enough. It is my opinion that this Proposed Ordinance will negatively impact many residents in the 4th District.

In addition, I am not sure that this type of legislation will solve the problem, because there are so many exceptions to the rules. For example, I previously spoke with the Chief of Police regarding a registered sex offender living across the street from Booker T. Washington Elementary School and next to a home daycare center, and he informed me that sex offenders are classified according to different levels. He explained that this particular offender was not prohibited from communication with young children because the nature of his original offense did not involve youth.

I would like staff to provide answers to the following questions:

- What if a registered offender has signed a lease and established residency, and then a daycare center opens?
- How will the City enforce this ordinance for those sex offenders who are now in violation?
- Will the Police Department be able to handle the enforcement of this ordinance?
- Why does this not address home daycare centers?
- Are we in violation of the State laws pertaining to this matter?

Respectfully,

Sophia R. Russell, Fourth District Representative