SPECIAL COUNCIL MEETING

A Special Council Meeting was held on September 29, 2011 at 6:38 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Dr. McGlumphy, Mr. Lynn, Mrs. Williams, Mr. Hare, and Mr. Hutchison. Mr. Bonar and Mrs. Russell were absent.

Council staff members present were Police Chief Hosfelt, Mr. Koenig, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

Mrs. Williams moved for approval of the agenda as presented, seconded by Mr. Hutchison and unanimously carried.

PROPOSED EMERGENCY ORDINANCE - #2011-24

In accordance with Section 1-9(b) - Emergency Ordinances, of the Dover Code, members were provided Proposed Ordinance #2011-24, amending Chapter 26 - Businesses, Article I - In General, by adding a new Section 26-1 - Sale of Dangerous Substances, which would ban the sale of "bath salts" within the City of Dover.

Police Chief Hosfelt read the following statement into the record:

> "There is growing abuse of a variety of synthetic compounds that produce stimulant effects when ingested. These synthetic stimulants, which are based on a variety of known compounds, such as "MDPV" (methylenedioxypyrovalerone) are sold under the guise of "bath salts" in retail outlets and over the Internet. In addition to their psychoactive effects, they also have potentially harmful side effects when ingested. These products are not approved by the FDA [Food and Drug Administration] for human consumption and are not currently in any schedule under the Controlled Substance Act. In fact, these synthetic stimulants are "designer drugs" that are manufactured and distributed in an attempt to circumvent the Controlled Substance Act.
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> The manufacturers and retailers who make and sell these products do not fully disclose all of the product ingredients and never disclose the active and potentially harmful ingredient(s). These products are sold at a variety of retail outlets, in head shops, and over the Internet from both domestic and international sources.
>
> These substances currently have no known medical use. They cause effects similar to those caused by other stimulants such as methamphetamine, MDMA (ecstasy), and cocaine. What is known about these chemicals is disconcerting. Recent reports, from my officers and those throughout the region, describe overdoses from ingestion of "bath salt" products which resulted in emergency room visits, hospitalizations, and severe psychotic episodes, some of which have led to violent outbursts, self inflicted wounds, and, suicidal attempts. Abusers of "bath salt" products have reported that they experienced many adverse effects such as chest pain, increased blood pressure, increased heart rate, seizures, and stroke. Behavioral and mental effects include panic attacks, anxiety, hallucinations, extreme paranoia, psychosis, aggressive or

> violent behavior (such as self-mutilation, suicide attempts, and homicidal activity), insomnia, anorexia and depression. Users of "bath salt" products self administer the drugs by snorting the powder, smoking it, or injecting themselves intravenously.
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> Based on statistics provided to me through medical sources at Bayhealth I know this much about our local epidemic. During the time frame of January through the first two weeks of September, there have been 396 cases involving bath salts at the Emergency Department. During January they treated 12 cases and the number grew exponentially each month. Of this number 272 are male and 124 are female. The average length of stay in the emergency room is between 6-8 hours, which obviously ties up both police and medical staff. Of these 396 patients, 137 were either admitted to the hospital or to a psychiatric facility for long term care.
>
> What is being done both nationally and on the state level? As of September 7, 2011, possessing and selling these chemicals or the products that contain them are both illegal in the United States for at least 1 year while the DEA [Drug Enforcement Administration] and the US Department of Health and Human Services mull over whether the substances should be permanently controlled. Within our state, several lawmakers and representatives from law enforcement, the medical field and the Governor's Office met this past Tuesday (September 27, 2011) to discuss pending legislation and what actions could be taken by state and local officials to add these substances to the list of Schedule 1 drugs, which will give law enforcement the authority to enforce laws restricting its possession and use."

Chief Hosfelt stated that, since the writing of his statement, the Governor's Office issued a press release indicating that, once approved, a Commission would meet to put "bath salts" on the Controlled Substance Act List of Schedule I Drugs. The Secretary of State would then sign an Emergency Executive Order which would grant arrest authority and enforcement powers to law enforcement personnel. For informational purposes, Chief Hosfelt provided members with samples of "bath salts."

In response to Mrs. Williams, Chief Hosfelt indicated that the use of "bath salts" started in the early 2000s in Europe's club scene and subsequently made its way to the United States. He noted that the largest sales are over the Internet and the problem was not just in Dover or Kent County; it was statewide and across the United States. Chief Hosfelt stated that the effects of these substances have been horrific. As an example, he stated that, in August 2011, the Dover Police responded to a domestic dispute in a West Dover development where a husband had assaulted his wife. By the time the police arrived, the husband was nude, standing in the middle of an intersection, and slitting his wrist. Upon the arrival of police, he begged the officers to shoot him. Chief Hosfelt assured members that the police were able to control the situation and that the individual was taken into custody.

Responding to Mr. Hare, Chief Hosfelt explained that the "bath salts" being discussed were only marketed as such, and are not the bath salts typically purchased in local stores.

Mr. Hutchison relayed appreciation for the Police Chief's quick response to this matter and noted that, although an effort will be made to address this issue throughout the State, these "bath salts" will still be available elsewhere. Concurring, Police Chief Hosfelt advised members that the Federal Government has issued a ban; however, the DEA could not realistically visit all individual "mom and pop" shops in the country. With local governments being given authority by the Federal and State governments, police departments will be able to enforce these laws on a local and state level.

In response to Mr. Anderson, Police Chief Hosfelt stated that, since he was not sure of the State's response to this emergency matter, and knowing that there were shops within City limits selling "bath salts," he felt that this matter should be presented to members immediately to stop these sales in the City. He stated that, although a fine would be imposed with the passage of the Proposed Ordinance, the goal was to revoke the business licenses of shops selling the substances.

Police Chief Hosfelt introduced Ms. Amber Roos, 5611 Mud Mill Road, Camden-Wyoming. He explained that Ms. Roos has a 19-year-old son who has been using "bath salts" for approximately 4-5 months, and Chief Hosfelt felt it was appropriate for those attending to be aware of the devastating effects this has had on Ms. Roos, her family, and her son.

Ms. Roos advised members that her son is a very hard worker who worked diligently to graduate from high school. He had held one (1) or two (2) jobs, which he lost due to the use of "bath salts." She stated that users of these substances cannot rationalize, function, or complete a sentence; they are violent and have extreme strength. Ms. Roos explained that her son became unresponsive and the Emergency Medical Technicians (EMTs) were called. It took both of the EMTs to utilize all their strength to wrestle her son in order to take him to the hospital. Once he became coherent at the hospital, he was permitted to sign himself out against medical advice. Having served as an EMT for seven (7) years, she explained that she has worked hard to save the lives of strangers and she requested members to do the same by helping to save her son.

Police Chief Hosfelt noted that the "bath salts" purchased by Ms. Roos' son were purchased from some of the retail establishments in the City.

Mr. Hare moved for adoption of Ordinance #2011-24, amending Article I, Chapter 26 by inserting a new Section 26-1 - Sale of Dangerous Substances, seconded by Mrs. Williams.

Council President Leary noted that two (2) members of Council who were not able to attend this meeting had requested that statements be read into the record, as follows:

> Councilwoman Russell
> "I am unable to attend tonight's Special Council Meeting; however, I would like to express my opinion regarding Proposed Emergency Ordinance #2011-24. I am in agreement with the proposal to ban the sale of "bath salts" within the City of Dover.
>
> Sophia R. Russell
> Fourth District Representative"

Councilman Bonar
"I am sorry I can't be there with you this evening, to help decide on this proposed ordinance. My employment schedule requires me to conduct a public comment session this evening in Georgetown on a case that's pending before the Delaware Public Service Commission.

Under ordinary circumstances this Ordinance could be handled through a Committee process, but the dangers of selling "bath salts" and similar designer drugs, calls for immediate action as provided under an emergency provision in City Code. The explosiveness of complaints involving these substances makes it urgent Council take action now, and I applaud my colleagues for meeting to discuss it.

We recently lost a police officer in New Castle County. His murder was allegedly committed by a man suspected of having been under the influence of illegal substances like those contained in "bath salts." A Dover Police officer was confronted, within the past few days, with a situation that may have involved the use of these chemicals. The result of that confrontation, while potentially disastrous, was that a suspect was taken into custody, without a police officer or someone else being seriously injured or killed. We have evidence that these compounds are being sold over the counter at several retail establishments in Dover. This must stop.

I urge my colleagues to vote to ban the dangerous substances listed in Ordinance 2011-24 within the City of Dover.

Sincerely,

David Bonar
Councilman 3rd District"

Responding to Mr. Hare, Police Chief Hosfelt stated that, based on tomorrow's anticipated actions by the State, the City would be able to institute the same penalties for those selling "bath salts" as those selling heroin. Mr. Hare suggested that any businesses caught selling these substances should have their licenses permanently revoked.

In response to Mrs. Williams, Police Chief Hosfelt assured members that there will be penalties for selling "bath salts," whether through a business or "on the streets" and they will be treated as any other Schedule 1 Substance.

On a call for the question by Mrs. Williams, the motion for adoption of the proposed ordinance, amending Article I, Chapter 26 by inserting a new Section 26-1 - Sale of Dangerous Substances, was carried by a unanimous roll call vote (Mrs. Russell and Mr. Bonar absent), and Council adopted Emergency Ordinance #2011-24, as follows:

WHEREAS, the use of "bath salts," a powerful designer drug made of up to three (3) stimulants, makes users agitated, delusional, paranoid, and violent; and

WHEREAS, the use of "bath salts" is sending abusers to emergency rooms in Delaware and across the United States in startling numbers; and

WHEREAS, Bayhealth Medical Center officials have reported that its emergency rooms treat an average of one (1) person per day for adverse reactions to "bath salts"; and

WHEREAS, the 57 poison control centers in the United States received 303 calls in 2010 and more than 4,720 calls in the first eight (8) months of 2011 relating to the use of "bath salts"; and

WHEREAS, the Mayor and City Council of the City of Dover believe that the abuse of "bath salts" has reached epidemic proportions and presents a public health and public safety emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 26 - Businesses, Article I - In General, of the Code of the City of Dover, be amended by inserting a new Section 26-1. Sale of dangerous substances, as follows:

Sec. 26-1. Sale of dangerous substances.

1. It shall be unlawful to sell or offer to sell any material, compound, mixture, or preparation which contains any quantity of the following substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

   (a) Methylone

   (b) MDPV

   (c) Methylenedioxypyrovalerone

   (d) Methylmethcathinone

   (e) Mephedrone

   (f) Methoxymethcathinone

   (g) Fluromethcathinone

2. Penalties - Violations of this section shall be subject to fines in accordance with Appendix F - Fees and Fines, Sec. 1-17 and revocation of business license under the provisions of Chapter 26 - Businesses, Article II - Licenses, Sec. 26-59 and Sec. 26-63.

3. The provisions of this section may be enforced by any City inspector or officer of the Police Department.

ADOPTED: SEPTEMBER 29, 2011

Mayor Carey relayed appreciation to Council President Leary and Police Chief Hosfelt for bringing this matter forward, and for the action taken by City Council.

Mrs. Williams moved for adjournment, seconded by Mr. Hutchison and unanimously carried.

Meeting Adjourned at 7:01 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Special Meeting of September 29, 2011, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

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