LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on November 9, 2015, at 6:00 p.m. with Chairman Hare presiding. Members present were Mr. Cole, Mr. Sudler (arrived at 6:05 p.m.), Ms. Maucher, and Mr. Shevock. Members of Council present were Mr. Anderson, Mr. Hosfelt (arrived at 6:01 p.m.), Mr. Hutchison, and Mr. Slavin. Mayor Christiansen was also present.

AGENDA ADDITIONS/DELETIONS

Mr. Hare moved for approval of the agenda, seconded by Mr. Cole and unanimously carried.

City of Dover E-Mail Addresses for Council Members

Mr. Anderson stated that Council members had received various requests under the Freedom of Information Act (FOIA) for emails over the past couple of years. He indicated that these emails were not necessarily being archived with the City Clerk's Office or the City government and that this was becoming more of an issue across the country. Mr. Anderson asked if it would be an advantage for members of City Council to have official email accounts on the City's email server for the sake of simplicity and legal protection.

Mayor Christiansen asked if a case had been proved that a City email account was needed, noting that it might be redundant to have two (2) email accounts. Responding, Mr. Anderson stated that the reason for his inquiry was for easier compliance with FOIA requirements.

Responding to Mayor Christiansen as to whether this would also apply to Facebook accounts, Mr. Anderson indicated that it would not. Mr. Anderson stated that official email accounts would be listed on the City's website, which would be the first and most likely place for people to look for contact information for their representatives. He also noted that emails could be archived automatically, as opposed to having to do it manually.

Mr. Hare asked if Mr. Anderson was saying that if a constituent sent an email to his personal account, he would send it to his City account. Responding, Mr. Anderson stated that, currently, if someone sends him an email regarding official City business, he sends a copy of the original email and the response to the City Clerk's Office. In this way, if there is a FOIA request there is no issue because the Clerk's Office has been copied. Mr. Anderson felt that he might inadvertently fail to copy a particular response and that using an official account could lower legal exposure to liability on his part and on the part of the City. He indicated that this was recommended by the National League of Cities and others and wanted to find out from the City Solicitor if this was the best way to go with regard to Delaware law.

In response to Mr. Hare, Mr. Anderson indicated that he had not discussed this with the City Solicitor prior to the meeting.

Mr. Slavin stated that there is a records retention policy that applies to email, noting that the content of a record determines its value and retention. Some emails are transitory in nature and can be deleted after they are read, some are administrative and have a longer specified retention period, and some are policy-based records that have a permanent retention. Mr. Slavin requested that the City Clerk brush up Council's training by pulling retention information from the Delaware Public

Archives website so that members are aware of their responsibilities. He indicated that, with a FOIA request, if records have been destroyed as a matter of the normal course of business they typically do not have to be presented.

Mr. Slavin stated his belief that Mr. Andy Siegel, IT Director, could provide the relevant cost estimates.

Members were informed that prices were obtained for nine (9) Microsoft Office 365 licenses in order to provide members of Council with City e-mail addresses. The quote for Microsoft Core CAL Bridge for Office 365 was $574.38; however, this version had limitations, including the inability to access e-mail from a mobile device. The quote for the full version of Microsoft Office 365 was $4,194.90. Mr. Andy Siegel, IT Director, advised members that he had a few spare licenses, but not enough to add the nine (9) members of Council. He stated that he could see advantages to the suggestion but also financial disadvantages, noting that this item was not included in the budget.

Mr. Anderson noted that this would not have to happen right away.

Mr. Hare questioned if a Council member could pay the $529 fee to have an individual account. Responding, Mr. Siegel stated that he could not speak to how this would work from a financial standpoint, noting that the license would belong to the City and would become part of the City's renewal when the Microsoft Enterprise license is renewed every three (3) years.

Mr. Hare stated that Mr. Rodriguez could be asked to provide information and the City Clerk could research this also.

Mr. Slavin cautioned members that requesting a legal opinion costs the City money and suggested that research not be conducted at a higher hourly rate than could be accomplished by other means.

Mr. Hare questioned the reason for the proposed change, noting that he does not care if anyone reads the emails that he sends.

Ms. Maucher asked if the concern was related to exposure of personal emails that are not City related and whether personal emails could be searched if a FOIA requestor felt that members had not been forthcoming. Responding, Mr. Anderson stated that personal emails that relate to a FOIA request were currently being handled through an honor code and members search and turn over the emails requested. He indicated that if the matter became the subject of legal action, the emails could be compelled through subpoena and someone else would search them; however, to his knowledge, this had not occurred during his tenure on Council.

In response to Mr. Hare as to whether telling the truth had been a problem, Mr. Anderson indicated that it had not; however, something may be overlooked since no system is perfect, and one (1) mistake could cause fines for the City.

Mr. Shevock noted that emails could be subpoenaed wherever they were located, whether from a personal or City account, and questioned why they would not all be in one (1) place that is backed up and maintained by the City.

Mr. Siegel stated that with the Microsoft Enterprise license, all City email is in the Cloud; however, if something happened to a councilman's personal email account, the City would have no recourse in getting it back.

Mr. Shevock questioned why the City would put itself in a position of having a legal problem or lawsuit and causing the appearance of trying to hide something.

Mr. Hare reiterated that if something serious happened with regard to emails, all accounts, including personal accounts would be subpoenaed. He was not sure that it would be desired to spend money on this proposal, noting that hours would also have to be spent to maintain it.

Mr. Shevock moved to recommend staying with the City of Dover email system as it stands now, seconded by Mr. Cole.

Mr. Cole moved to amend the motion to state that Mrs. McDowell would provide information on records retention, and Mr. Shevock concurred.

Responding to Mrs. McDowell, Mr. Hare indicated that a legal opinion should not be sought on this matter.

The motion to recommend staying with the City of Dover email system as it stands now and for Mrs. McDowell to provide information to members regarding records retention was unanimously carried.

Status of Performance Audit of Civilian Side of City Government *(Deferred During the Meeting of October 26, 2015 Due to Time Constraints)*

During their meeting of July 13, 2015, Council approved the Committee's recommendation that the Staff Strategic Planning Team and members of Council develop ideas by August 1, 2015 and that a workshop be scheduled after August 1, 2015.

During the Legislative, Finance, and Administration meeting of November 9, 2015, Mr. Scott Koenig, City Manager, advised members that a management meeting was held on August 4, 2015 to develop ideas to improve City government and service delivery, and a list of potential new revenue sources, cost saving measures, and other ideas was developed. The City Manager, Controller/Treasurer, and City Clerk then met with the Council President and the Chairmen of the Utility and Legislative, Finance, and Administration Committees on August 21, 2015 to review these ideas. Mr. Koenig reminded members that several of the new revenue sources were currently being proposed for consideration by City Council, while some of the ideas, such as an accommodations tax related to hotel rooms, would require authorizing legislation and could not move forward without help from State legislators. Mr. Koenig advised members that

different discussions had also been ongoing with various State legislators about reviewing revenue streams coming to the City of Dover and potentially backfilling those revenue streams should State revenues decline. He stated that other ideas would relate to FY 2017 budget development, such as utility rate structures, recovery of public safety costs, and potential public safety surcharges, etc. Mr. Koenig explained that these items would be brought forward throughout the year for Council's consideration, noting that new fees and fee adjustments had been considered at the committee level and would be considered by Council later in the evening.

In addition, Mr. Koenig noted that the City conducted a Lean Boot Camp on October 28-29, 2015, and thirty (30) members of staff attended. He stated that updates on this program would be provided as additional ideas and projects are developed. Mr. Koenig informed members that the Lean process was about driving efficiency in the organization, making sure there is value in the processes being used, and removing non-value-added steps, rather than reducing staff. Mr. Koenig stated that he found the 16 hours spent with the Lean consultant to be very enlightening. He stated that he intended to budget additional funds to continue the training to more efficiently apply resources, and this would also be part of the FY 17 budget development. He reminded members that, in the FY 16 budget, Council had authorized a public safety study to be conducted by an outside third party to determine whether current techniques and technology related to emergency and police services were being used efficiently, and this study was currently underway through onsite interviews and review of documents and facilities. Mr. Koenig stated that related written recommendations would be made in the coming months.

Mr. Koenig advised members that the above items were underway at the staff level and would continue to move forward to Council over the next few months.

Mr. Anderson asked if Mr. Koenig foresaw these efforts as providing information regarding the possible restructuring of City government that had been discussed for many years and if there would also be short-term benefits. Responding, Mr. Koenig stated that the Lean process was to reaffirm that Dover is one (1) city that is working toward a common goal and to determine how to share information so that roadblocks are not created between departments. He noted that staff from one (1) department may sometimes not be aware how their decisions may create an additional workload and burdens for other departments. For example, downsizing the number of meter readers several years ago created problems in having to backfill positions from elsewhere and resulted in work that was incomplete, which caused unintended consequences in the organization. Mr. Koenig expressed the need to know how decisions are impacting the overall organization and whether those decisions are maintaining the overall goals.

In response to Mayor Christiansen regarding the cost of the Lean Boot Camp training, Mr. Koenig estimated the cost at $6,000 to $8,000 for 30 people.

Mayor Christiansen asked whether the training addressed the issues of individual departments' missions, structure, current budget, and staffing. Responding, Mr. Koenig stated that it did not address those items, but considered how Lean concepts are applied, the basic principles, and how to get people hooked on the idea of continuous improvement. It also showed the things that can be done initially to start thinking about how to make improvements while other operations are going on.

Mayor Christiansen noted that approximately $100,000 had been spent for the public safety study to review police, fire, and EMS services to check mission, structure, budget, and staffing, and to provide eventual recommendations, and he had thought it might be good if the City had people in the community do this for all City departments. He did not feel that the Lean initiative was in the same vein as the study that the City paid $100,000 for.

Mayor Christiansen expressed his feeling that the Ad Hoc Financial and Operational Advisory Committee came off as an adverse group to the City, whose initial intention seemed to be bringing out a giant ax and cutting everything in sight. Mayor Christiansen felt there was a possibility for some people, possibly former Council members, business people, and general citizens, to review the mission of each City department, including the structure, budget, and staffing from an outside view. While he felt that the Lean initiative would provide internal insight, he expressed a desire to have a look from the outside, noting that there could never be too many answers.

Mr. Koenig felt that the type of the review suggested by Mayor Christiansen would be viewed as hostile by the organization. He noted that the Ad Hoc Financial and Operational Advisory Committee, while it had good intentions, ruffled a lot of feathers in the organization and statements were made at the committee level that could not be influenced or controlled. Mr. Koenig advised members that any such committee would be public, subject to the Freedom of Information Act (FOIA), and would have to post meetings. He stated that the members of those types of committees must be very careful when they start talking about the names, qualifications, and actions of City employees.

Mayor Christiansen expressed his opinion that this committee would not be conducted on a hostile basis but would have the ultimate goal of improving the organization. He noted that some departments were understaffed and the goal would not be to cut but to help the City.

Mr. Koenig stated that there may be people that would argue for additional or expansion of services or activities; however, there were budget constraints. He felt that marrying up those two (2) initiatives would be a challenge.

Mayor Christiansen questioned if a committee of well-intended, non-hostile citizens would be as effective as a committee of people from outside Dover coming to review the Dover's police, fire and EMS services. He reiterated that his intent was not to ruffle feathers but to make sure that all departments have the proper structure, guidance and staffing to do the job, and he believed that a committee of well-intended citizens with no ax to grind could perform this mission.

Responding to Mayor Christiansen, Mr. Koenig stated that Council could select a committee if they would like to. He explained that the hiring of a professional, third party to conduct the public safety study was to benchmark against national standards and hopefully get ideas from other communities under the same pressures that Dover has. He felt that local talent did not have the same breadth of experience as a consulting firm that is dedicated to public safety management across the nation. Mr. Koenig stated that there are local experts at certain things; however, the question was how to manage those experts and their personalities, opinions, and statements, noting that the dialogue and dynamics of such committee meetings are not easy to control, and ad hoc committees had experienced difficulty keeping the objectives clear in the past.

In response to Mr. Hare regarding the frequency of employee evaluations, Mr. Koenig stated that evaluations are supposed to be completed annually and it was his belief that most evaluations were done annually.

Responding to Mr. Hare, Mr. Koenig stated that he was unsure which employees were not being evaluated and would have to get a list. Mr. Hare stated that he would like to see who was not being evaluated. Mr. Koenig stated that he had not given his department heads written evaluations in the last year. Mr. Hare asked if Mr. Koenig felt that this was something that should be done so that Mr. Koenig and Council could get an idea of how the employees were performing. Responding, Mr. Koenig stated he felt it fair that there should be something in writing; however, he indicated that employees are evaluated every day. He noted that Council had not always stuck to annual evaluations. Mr. Koenig indicated that he understood the value of evaluations as an assessment tool, but he stated that evaluation of performance is a daily occurrence and not once per year.

Mayor Christiansen questioned if it would be abrasive to anyone if a disinterested third party, not affiliated with the City, performed a review based on mission, structure, budgeting, and staffing, and made a recommendation, not as an official committee of the Mayor or the Council, but as interested citizens. He noted that people from the Chamber of Commerce had worked on and reviewed the City's budget. Mayor Christiansen did not feel that such a group would be subject to FOIA if they did not meet on City property, and he stated that it would be ensured that these were people who were looking at the operation of the City with good intent.

Mr. Hosfelt questioned if this would be similar to the Ad Hoc Financial and Operational Advisory Committee. Responding, Mayor Christiansen stated that the Ad Hoc Financial and Operational Advisory Committee was an official committee of City Council, and the alternative he suggested would not be connected with City and the review would be done for the love of the City. He indicated that he would insist that the first department to be reviewed would be the Economic Development Office, which he is in charge of.

Mr. Slavin expressed his appreciation for the efforts related to the ongoing process of continuous improvement. He stated his impression that there was a heavy load coming up in the six (6) weeks after the holidays, with the preparation for a much earlier budget cycle. Mr. Slavin explained that key decisions would come much earlier in the budget process, and there were potential cuts from the State to be dealt with. He stated the need to be careful in balancing workload and felt that there was a bit of fatigue related to the conversation regarding structuring and restructuring City government. Mr. Slavin stated that if a group, such as the Chamber of Commerce, wanted to put an independent study group together, there was nothing pro or con that the City could do. However, he wanted to be sure that this was not the result of a suggestion coming from the City to circumvent FOIA. Mr. Slavin cautioned that once a committee is created, that committee has to play by rules that make it very difficult to have candid conversations, and he did not want employees to feel threatened. He felt that the Ad Hoc Financial and Operational Advisory Committee had good intentions, but it became very much a threat to employees, who felt the Committee was meeting to slash jobs and go after certain positions, and he indicated that he would not want to see something like that.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that she had managed the Planning Department for approximately 10 years and they had struggled over the course of many years with employee morale based on comments made in Council Chambers or by committees set up by Council. She expressed serious concerns, as a manager who constantly works to build up staff but also hold them accountable, about an outside group coming in and telling staff how to do their jobs better. Mrs. Townshend advised members that municipal government is very complex and is not a business, noting that most businesses do not deal with four (4) bargaining units or have to make decisions in a very open environment where closed door discussions cannot be held. She noted that many people question why things cannot be done in a way that would seem to make more sense, noting that department managers ask the same things about other departments until they spend a day in those departments and see how those processes work. Mrs. Townshend expressed concern about bringing in people who may have little or no experience in municipal management, and who may have the best of intentions but do not understand the legal and other constraints of government. She felt this would degrade morale and start infighting among departments, finger pointing, and defensiveness. Mrs. Townshend felt that every time discussions like this come up, it is like a kick in the stomach to the staff that come in and work hard every day, whether senior management, mid-level management, or the employees out on the road doing the work.

In regard to the Lean Boot Camp training, Mrs. Townshend stated that during the session, staff learned and had meaningful discussions about working together within the organization to evaluate processes, take out steps that do not add value to the process or the customer, and come up with a more efficient and customer-friendly organization. Attendees left each day excited to start working together, across departments, to implement these concepts. Mrs. Townshend expressed concern about starting more things rather than letting the Lean process, which staff was fully engaged in, run its course. She felt that anything getting in the way of that process would be counterproductive.

Responding to Ms. Maucher, Mrs. Townshend stated that 30 of the approximately 360 members of staff attended the training and all departments had representatives, with some departments having up to four (4) staff members present. She noted that most of the attendees were from management, but not all.

In response to Mr. Sudler, Mr. Koenig stated that a mixture of unionized and non-unionized employees were present.

Mr. Hare stated that he did not disagree with Mrs. Townshend or Mr. Koenig. Having experience in business and dealing with unions, and having done consulting, he did not see the need to bring someone in to evaluate employees; however, he felt that Council should make sure managers were accountable, were not overworked, and were not trying to do too much with too little. Mr. Hare stated this could not be done until management was informing Council about the evaluation of their own departments.

Mr. Sudler stated that evaluating employees may provide the City protection from future lawsuits. He noted that without evaluations, employees who are terminated might say they were not given an opportunity to improve or that they did not know they were having an issue in a certain area.

Mr. Koenig stated that no departments had indicated to him that they had too many people and too little to do in the last two (2) years; they all indicated that they were overworked and had more to do than could be accomplished. He understood the context of wanting to get more out of things but noted that the City was also faced with cutting budgets. Mr. Koenig felt that there was debate and difficulty making decisions on things that appeared straightforward. He noted that an independent, third-party review of public safety had been requested; however, 10 new police offices were then hired due to the submission of a page-and-a-half memo without any data to back up the request. Mr. Koenig felt that data probably could have backed up the request; however, it was not analyzed and a decision was made to move forward since members were backed up against the wall publicly because of a major issue going on in the City. Mr. Koenig advised members that the public safety study would tell whether or not the hiring of those officers was a good decision.

Mr. Koenig stated that it was frustrating to hear that there were experts out there that could tell the City how to save millions or hundreds of thousands of dollars, noting that the doors are open to those who want to come and have those discussions or make observations; however, he cautioned that there are real people involved. For example, he noted that the City had quietly gotten out of the custodial business, but accomplished this through attrition. It was known through calculations that the City would save money by outsourcing or privatizing those services, but the City waited because of the human factor. Mr. Koenig advised members that all these decisions would involve employees, and, traditionally, the public had not been very kind to local government services. He stated that ideas cannot just be thrown into the public arena without debate and cannot be pulled back once out there.

Mr. Cole concurred, stating that in his line of work, education, there can be fatigue and there is always someone with a new plan or idea. He questioned why members could not let the new Lean Boot Camp process play out and review it after implementation.

Mayor Christiansen stated that his proposal was not presented from an adversarial point of view; rather, his intention was to make sure that there were enough people to do the work that is thrown at staff on a day-to-day basis and is not getting done.

In regard to the police officers that were hired, Mayor Christiansen asked that members look around at what had happened over the course of the year in the City and stated that related recommendations that were made by one (1) of the City's current councilmen, while formerly serving as Chief of Police, were ignored by Council. He indicated that this became a crisis and was still a crisis today.

Proposed Change to Committee Meeting Format (Hutchison)

Councilman Hutchison proposed changing the format of the standing Council committee meetings to a Committee of the Whole format, in an effort to be more efficient and effective, to allow greater opportunity for interaction and networking among elected officials and the civilian committee members, and to enhance the decision-making process by involving all members of City Council in discussions at the committee level. Mr. Hutchison explained that the Committee of the Whole, which would include all members of City Council and the civilian members of the Parks, Recreation, and Community Enhancement; Safety Advisory and Transportation; Utility; and Legislative,

Finance, and Administration committees, would be chaired by the Council President and the civilian members would participate only in their committee's discussions. The Committee of the Whole format would enable members to give detailed consideration to agenda items in a committee setting. The results of votes taken would not be final decisions but would have the status of recommendations, which City Council would consider further and vote on at its regular meeting, either as a discussion item or on Consent Agenda. Mr. Hutchison indicated that the Council President would preside over the Committee of the Whole and each of the chairpersons of the four (4) standing committees would chair those committees.

Mr. Hutchison recommended that Staff be directed to prepare the necessary ordinance, that the Committee of the Whole begin meeting on Tuesday, January 12, 2016, and that the Committee of the Whole meet on Tuesday evenings following the Regular Council meetings, beginning at 6:00 p.m.

Mr. Hare noted that, under this format, there would be no opportunity to bring an item from committee to Council quickly and questioned if there could be an exception if something had to be fast tracked by having a special meeting. Responding, Ms. Traci McDowell, City Clerk, stated that special meetings could be scheduled with seven (7) days advance notice.

Mr. Hutchison stated that having Committee of the Whole meetings on Tuesday evenings at 6:00 p.m. or 6:30 p.m. would allow Council and civilian members who have jobs to attend and open the door for better lines for communication.

Mr. Slavin noted that this would effectively double the number of nights that Council would be committed to. In addition, he questioned how a Committee of the Whole would be organized with citizen members, stating that the committee would then become nine (9) members of Council plus two (2) citizen members and a quorum would become six (6). Mr. Slavin inquired if the citizen members would be expected to be present through all of the meetings, noting that the length of each meeting was unknown and these members would not know when their respective items would be considered and may have a long wait time.

Responding to Mr. Slavin, Mr. Hutchison stated that committee members are paid, and he felt that they should be there at the start of the meeting with Council members. It was his opinion that everyone must be able to work together if City of Dover business was to be done.

Mr. Slavin questioned what problem was trying to be solved, noting his awareness that the solution was modeled after Kent County Levy Court, which was a different organization that does not have citizen members and meets as a Committee of the Whole because only commissioners serve on committees.

Mr. Hutchison felt it important to have all nine (9) members of Council address and work on issues. He stated that most of the items that go from committee to Council are on Consent Agenda. He noted that matters involving millions of dollars are discussed at committee meetings and felt it important to get the interaction of all members so that everyone has a good working knowledge.

Mr. Slavin did not disagree with the idea of having as many people discussing matters as possible; however, he noted that Council members can attend committee meetings, pull items off the Consent Agenda, and read the minutes and backup material. He was not convinced that the issue was that members were not participating.

Mr. Hare noted that sometimes members pull items off the Consent Agenda at a Council meeting and ask questions that committee members had already spent time discussing.

Mr. Slavin stated that he was unsure what the effect would be on public participation if all meetings were moved to a specific evening time versus earlier in the afternoon, noting that many people work shifts. He was unsure if the net effect would be to alienate those who work evenings.

Mr. Cole felt that the proposal was well intended but that the whole picture should be looked at before moving forward. He concurred with Mr. Slavin regarding the need to ensure that a solution to a problem was being looked for.

Mr. Hare indicated that he did not think it was a bad idea but was not prepared to say that it should be done. He stated that this could be tried for two (2) or three (3) meetings and then discussed again.

Mr. Hare moved to recommend commencing the Committee of the Whole meeting format during the first meetings in January and try it for a few months, and if members decide to adopt the format as one (1) of the protocols for the next Council year, that this be done during the annual meeting, seconded by Mr. Sudler and unanimously carried.

By unanimous consent, the meeting adjourned at 7:07 p.m.

William F. Hare
Chairman

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