LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on March 9, 2015, at 6:00 p.m. with Chairman Slavin presiding. Members present were Mr. Anderson, Mr. Hare (arrived at 6:16 p.m.), Mr. Shevock, and Mr. Sudler. Members of Council present were Mr. Dixon, Mrs. Williams, and Mr. Hutchison. Mayor Christiansen was also present (arrived at 6:22 p.m.).

AGENDA ADDITIONS/DELETIONS

Mr. Sudler moved for approval of the agenda, seconded by Mr. Shevock and unanimously carried.

Report of Independent Public Accountants on Applying Agreed-Upon Procedures to the City of Dover, Delaware

Mrs. Donna Mitchell, Controller/Treasurer, referenced the joint memorandum from her and Paul Bernat, Police Chief, dated February 26, 2015, regarding Agreed Upon Procedures Engagement - Cash Review. She noted that the memo indicated that steps that had been taken to address some of the items in the Report of Independent Public Accounts on Applying Agreed-Upon Procedures to the City of Dover, Delaware For the Year Ended September 30, 2014 prepared by SB & Company, LLC, the City's auditor. Mrs. Mitchell stated that Chief Bernat was still working on evidence procedures with the new evidence technician.

Mr. William Seymour, SB & Company, LLC, advised members that City management had responded to the report through the memorandum referenced by Mrs. Mitchell and that SB & Company had received the full cooperation of management during the procedures. He stated that this was different from a typical audit, as management had asked them to perform certain procedures in different departments around policies and procedures related to cash receipts and other processes. Mr. Seymour stated that SB & Company, LLC looked at the Parks and Recreation Department as well as the Police Department and a number of results came out of it, including some differences in the evidence room and with parking tickets, all of which management had responded to during the course of the audit. Mr. Seymour stated that auditors are required to maintain skepticism for fraud and did not note any incidences of fraud; however, he indicated that this was not a fraud audit, which would have been different in the scope and procedure.

Mr. Seymour stated that SB & Company, LLC worked with management on some recommendations, one (1) of which was for management to consider the implementation of an internal audit function. This would allow audits to be done periodically by an internal and independent body to review different departments for controls, performance, concerns around budget amendments, or any other areas that may be of concern to Council or management. These audits would be done by someone on the City payroll who would report to different members of Council or the administration. Mr. Seymour advised members that this is a "pretty standard item" that most municipalities have and is a best practice, especially as the City continues to grow and more transparency is being required or sought.

Mr. Anderson asked whether SB & Company, LLC handles performance audits. Responding, Mr. Seymour stated that SB & Company, LLC performs the City's financial statement audit as well as the federally mandated single audit, which is a compliance audit under federal funds; however, SB & Company, LLC does not currently conduct a performance audit.

In response to Mr. Anderson regarding whether SB & Company, LLC performs this function for entities other than the City of Dover, Mr. Seymour indicated that this service is available, but noted that, from a financial statement perspective, SB & Company, LLC must maintain their independence, and the term and nature of a performance audit could result in "robbing Peter to pay Paul." Currently, SB & Company, LLC had not been asked to do this and had only performed agreed upon procedures more focused around policies and procedures.

Mr. Anderson questioned the scope and level of evidence handling procedures. Responding, Mr. Seymour indicated that SB & Company, LLC looked at the policies and procedures in place and performed testing to determine whether or not this was actually what was occurring during the course of the period with the year ending September 30, 2014. It was found that there were some gaps with respect to entry into the evidence room and the potential for wrongdoing to occur, although they did not note any wrongdoing. Mr. Seymour said that they tested what the balances should be in each of the moneybags and counted what was in those bags, and the two (2) amounts did not reconcile. For example, a bag that was supposed to have $100 had $75 in it, but the next bag was supposed to have $75 and had $100 in it. It was their understanding that the count was not being performed by bag but in total. He explained that there were also differences with the sign-out or destruction of various property in the evidence room in regard to whether items were to be auctioned, destroyed, or otherwise returned to the owner. Mr. Seymour said that there were discrepancies in the record-keeping for those items.

Mr. Anderson asked whether it was possible that someone just did not follow through or claim items that were said to be auctioned, so they were still in the Department's possession. Mr. Seymour indicated that this could potentially be true; however, SB & Company, LLC tries to represent just what the facts are. For example, he stated that an Ipod was found in an auction bin but was believed to have been destroyed and the report said it was gone. Human error occurs and there is a host of reasons why it could be there, but the auditors do not get into the speculation of why, only what happened. Mr. Seymour indicated that these items are designed to help to define where there are potential issues, to allow management to continue to refine and improve processes to, hopefully, avoid bad things from occurring in the future.

Mr. Anderson asked whether the auditors were finding that things were actually missing or some things were just not where they should have been or funds not properly allocated. Mr. Seymour indicated that he could not say whether or not things were missing because they did a sample of transactions, not a 100% audit, so inferring that there was nothing missing would be going beyond the scope of what was done. He stated that what they found was that there were opportunities for that to occur. For example, he explained that if someone put $1,000 in the evidence room and someone stole $1,000 from the evidence room, the auditors would not know this from the scope of procedures done. They were only able to identify the possibility for this to occur because the controls were not operating in full effective during the course of the procedures performed.

Mr. Sudler inquired if SB & Company, LLC provides additional services that could help the City do a better job with the audit process, in addition to fact finding. Responding, Mr. Seymour stated that, as auditors, they cannot be placed in management's decisions; however, any level of internal controls is inherently a cost/benefit analysis. He indicated that the City could have great internal and

redundant controls and go bankrupt or, conversely, no controls, which would save money but might result in the City being "robbed blind" and, again, the City could go bankrupt. Mr. Seymour stated that SB & Company, LLC can provide recommendations, but ultimately the decisions rest with management. He felt that having an internal audit position in place would strike a happy medium, since an internal auditor would not need to have the same level of independence because they would report directly to the City. They would be an employee of the City who is there every day to understand the balance that the City is trying to meet and then design procedures to determine whether or not each of the departments is carrying out their responsibilities to those levels.

Noting that the Dover Police Department is nationally accredited, Mr. Hutchison inquired if the accreditation program addresses any of the concerns or issues that referred to by Mr. Seymour. In response, Mr. Seymour stated that the auditors were made aware of the different levels of accreditation that the Dover Police Department had received; however, were not part of the process to determine what was looked at as part of the accreditation to be able to relate that to the work that was performed or not performed. Mr. Seymour noted that this is a prestigious award, it was "great" that the Police Department obtains it and that SB & Company, LLC would recommend that they continue to pursue it; however, he would be unable to correlate what the auditors did to the accreditors because he did not know what they specifically looked at.

Mrs. Williams asked why SB & Company, LLC was called in, and questioned if this had happened before. Responding, Mr. Seymour stated that as part of their financial statement audit and single audit, SB & Company, LLC had different levels of findings from a compliance standpoint for certain grants. His understanding was that before SB & Company, LLC was selected as the City's auditor, other audit reports performed had different levels of concerns with different departments. Mr. Seymour indicated that he would let management speak to that. It was his belief that there was not a "red flag" or specific item in those cases, rather the intent was to go through and peel back the layer one (1) additional step further and say whether or not the different departments have policies and procedures in place and, if so, were they following those policies.

In response to Mrs. Williams, Mrs. Mitchell stated that the review was asked for due to concerns from old problems and was a culmination of the A-133 audit the past couple of years, federal forfeiture funds, and confiscated monies. She stated that what it brought to light was that there is not a review of what is happening in other departments. Since staff there are all not accountants or finance people and "we do not have any oversight in those other departments," the agreed upon procedure was requested to have Mr. Seymour come in and look at how the departments are handling their cash and cash management procedures and practices. In this way, she stated, "we can reach out and try to help them get problems corrected", if there are any problems.

Mrs. Williams asked if Mrs. Mitchell would prefer to have a joint venture between the Finance and Police Departments to come up with practices with a staff member as an in-house auditor or to go out and have a performance or detailed audit done specifically for this purpose. Responding, Mrs. Mitchell said that she did not want to go out and have a detailed audit done, but was planning to discuss with the City Manager an action plan that could be brought back before the Committee to either have an internal audit function or find some way to bridge this through other means.

Responding to Mrs. Williams regarding how longstanding the problems were, Mrs. Mitchell stated her belief that they had been present since 2010 or 2011. In response to Mrs. Williams as to whether five (5) years was a long time to know there were problems without a solution, Mrs. Mitchell indicated that as problems were discovered they were fixed, and then something else would come up. She indicated that each time A-133 audit is done and something comes up, staff addresses it at that time. Mrs. Mitchell stated that this was the first time she had sat down with Mr. Seymour and he had made recommendations on how to move forward with an internal audit function.

Mr. Anderson thanked Chief Bernat for his cooperation in dealing with these long-term issues. He stated that most of the items brought forward had already been addressed, but the area of the evidence room and the like were still under study. He asked if there had been any progress since the time the meeting packet was distributed. Responding, Chief Bernat stated that this would be a tedious project, noting that the Police Department had many other things going on, and the evidence technician was new, so they were letting him get acclimated to his new position and would then head up with the new evidence procedures.

Mr. Anderson asked if procedures that existed already but had not been followed would be part of the training. In response, Chief Bernat stated that the things that Mr. Seymour was saying were unbeknownst to him. Chief Bernat indicated that he found out later, through investigation, that the evidence technician at the time was taking money out of various envelopes and dumping it in a pile; then he would count it up and it would be off; however, the total amount did match, or came very close, so it was not that bad. Chief Bernat stated that another example was the Ipod under discussion. He indicated that he was not saying that it was done correctly, because it clearly was not and should have said "ready for auction" or something to that effect. Chief Bernat said that they were working on this. He stated that every six (6) months or annually the Department receives a list of everything that each officer has put into evidence with the case number and all the information. Each officer goes through this and runs it by the case number. If the case is adjudicated, they contact the Attorney General's Office and request to destroy, meaning it is intended to do away with the property. Chief Bernat said that they would not want to say "request to auction," since this would not sound "as kosher" as a request to destroy. He explained that items that have value are auctioned and those that do not have value are destroyed, and some officers may have 50 items, while others may have 300. When the officers sign-off on that list, there is one (1) signature; however, Chief Bernat stated that it was his understanding that Mr. Seymour wanted two (2) signatures. Chief Bernat informed members that the evidence technician would have the power to go through the items and decide what needs to go.

Mr. Seymour stated that two (2) levels of signatures were proposed. He noted that the report that Chief Bernat mentioned is a secondary control that would indicate, "Here's everything that is left over for the year. Now we need to go and look at these items individually." Mr. Seymour explained that they would be relying on different levels of memory. He noted that if someone took a watch and there were 500 things listed on the report, chances were that it might not be remembered that a watch should have been destroyed and was now missing. For this reason, it was recommended that when evidence is removed, there should be a dual control review. He explained that, as mentioned earlier, the City ultimately makes the decision on what level of risk and controls is desired. The job of

SB & Company, LLC is to say "If I were going to break this, this is how I would break this." With a single signature, staff would rely on one (1) person; however, with dual signatures, in order to beat the system, there would have to be collusion.

Mr. Shevock indicated that it sounded as though the Department did have procedures in place and it was his understanding that Mr. Seymour was suggesting enhanced procedures. Responding, Mr. Seymour explained that the Department did not have specific procedures for cash handling in some areas but they had now been developed. He stated that no audit work had been performed on the new procedures. Mr. Seymour informed members that there were other areas where the Department did have procedures in place, and SB & Company, LLC advised management of risks in the current way that they were being operated. He noted that in some instances what was occurring exceeded procedure, and recommended that this be documented so staff can take credit for it. However, in other cases they determined that the procedure, as written, would not capture all errors or possibilities, or may not be operated in the manner that it was designed. Mr. Seymour stated that they found that there were opportunities for improvement in both cases.

Mr. Sudler moved to recommend acceptance of the report, seconded by Mr. Anderson and unanimously carried.

Mr. Shevock moved for adjournment, seconded by Mr. Anderson and unanimously carried.

Meeting adjourned at 6:26 p.m.

Timothy A. Slavin
Chairman

TAS/TM/js/dd
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Minutes\2015\03-09-2015 LF&A.wpd