LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on February 23, 2015, at 6:00 p.m. with Chairman Slavin presiding. Members present were Mr. Anderson, Mr. Hare (arrived at 6:01 p.m.), Mr. Shevock, and Mr. Sudler. Members of Council present were Mr. Dixon and Mr. Hutchison. Mayor Christiansen was also present.

AGENDA ADDITIONS/DELETIONS

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

Replenishment of Uninsured Expenses Related to the Settlement of Dover Police Department Grievances

Mayor Christiansen reminded members that, during their meeting of February 9, 2015, they considered Proposed Ordinance #2015-05 - Fiscal Year 2015 Second Budget Amendment which included a proposed transfer of $300,000 to the Contingency Reserve Fund to replenish the funds expended related to the settlement of Dover Police Department grievances.

Mayor Christiansen questioned why the insurance company rejected the City's claim to cover the cost of the grievances with the police officers. Responding, Mr. Scott Koenig, City Manager, explained that the insurance company decided not to reimburse the City for these expenses because they felt that the City resolved the issue too quickly. The insurance company's preference would have been to go beyond the grievance process to some type of suit and defend the City in accordance with their lawyers.

Responding to Mayor Christiansen, Mr. Koenig stated that Council's decision was advised by the City Solicitor. He stated his recollection that City Council felt that it was imperative to resolve these grievances as quickly as possible and avoid potential lawsuits.

Mayor Christiansen questioned whether it was possible for the City to further appeal to the insurance company if it was decided not to replenish these funds via a budget amendment. In response, Mr. Koenig stated that all of the City's appeals to the insurance company had been exercised and the insurance company's decision was final. He explained that Mr. Glenn Mandalas, Baird Mandalas Brockstedt, LLC, was involved in the discussions with the City's brokers.

Mayor Christiansen questioned the funding sources for replenishing the General Fund. Responding, Mr. Koenig explained that Proposed Ordinance #2015-05 Fiscal Year 2015 Second Budget Amendment indicated that there was approximately $385,000 leftover from FY 2014 and staff recommended replenishing the $300,000 in the Contingency Reserve Fund and transferring $85,000 to the Capital Asset Reserve. However, the Committee recommended amending the ordinance to include the transfer of $300,000 from surplus funds into the Contingency Reserve Fund, and to allocate $60,000 of the remaining $85,000 to the Capital Asset Reserve for the President's Counsel on Public/Private Partnerships and the Future of City Hall, Weyandt Hall, Former Dover Library, and Other City Properties and $25,000 to the Parkland Reserve Fund, to be taken out of the Parkland Reserve Fund at a later date if approved by Council.

Mr. Koenig advised that staff's recommendation was to use FY2014 carryover money to replenish the reserve because the grievances were settled in FY 2014 and the majority of that expense, $250,000, was paid in FY2014. He noted that the final $50,000 payment was paid in FY 2015.

Responding to Mr. Sudler, Mr. Koenig stated that, to his knowledge, this was the first scenario of a grievance of this kind with the Dover Police Department.

Mayor Christiansen questioned what this $330,000, including the $30,000 legal expenses, would equate to in terms of a tax rate increase. In response, Mr. Koenig stated that, as part of the FY 2015 budget presentation, the City recognized $0.01 on the tax rate as approximately $316,000 in General Fund revenue, so $330,000 would represent approximately $0.015.

Mayor Christiansen asked what $330,000, or $0.01 on the tax rate, could be used for, other than paying out legal fees. Responding, Mr. Koenig explained that adding $0.01 to the tax rate would result in an annual increase of $316,000 and this was only a one-time expense. However, he noted that $300,000 was a substantial sum of money for the City's General Fund and could be used to purchase police cars and trash trucks, or to fund road paving programs.

In response to Mayor Christiansen, Mr. Koenig confirmed that it was not possible for the City to recoup these funds.

Mr. Slavin asked, based on an average home value of $150,000 and a tax rate of $0.32, how much a $0.01 tax increase would increase those tax bills and how many homes would have to be billed to raise $300,000.

Civilianization of the Police Accreditation Manager Position

Members were advised that the purpose of the Commission on Accreditation for Law Enforcement Agency, Inc.'s (CALEA's) accreditation program is to improve the delivery of public safety services, primarily by: maintaining a body of standards, developed by public safety practitioners, covering a wide range of up-to-date public safety initiatives; establishing and administering an accreditation process; and recognizing professional excellence. Specifically, CALEA's goals are to:

- Strengthen crime prevention and control capabilities;
- Formalize essential management procedures;
- Establish fair and nondiscriminatory personnel practices;
- Improve service delivery;
- Solidify interagency cooperation and coordination; and
- Increase community and staff confidence in the agency.

The CALEA Accreditation Process is a proven modern management model; once implemented, it presents the Chief Executive Officer (CEO), on a continuing basis, with a blueprint that promotes the efficient use of resources and improves service delivery—regardless of the size, geographic location, or functional responsibilities of the agency.

By recent City Council votes, the Police Department's authorized strength is 102 officers. Corporal Jeffrey Matthews has announced his intention to retire and began his terminal leave on February 17, 2015. In lieu of filling his position with a new police officer, staff is proposing to civilianize the Accreditation Manager position, which is currently being held by a Patrolwoman First Class, whose annual salary is $62,774. The Police Department has been Nationally Accredited since 2000 and the standards set forth by CALEA are essential in maintaining its professionalism. Chief Bernat has agreed to allow the authorized strength of the department to decrease from 102 to 101 in exchange for civilianizing the Accreditation Manager position at an estimated annual salary of $45,000, which will be a substantial cost savings.

Members were advised that the City Manager and Police Chief have discussed adding additional duties to the position, to include a Crime Analysis function. A job description must be proposed by the Police Department and reviewed by the Human Resources Department to appropriately place the position within the City's pay system. Based on the request of the Police Department, it is likely that the proposed position will be titled Crime Analyst/Accreditation Manager. The job description and pay grade will be finalized after authorization from City Council to civilianize the position.

Staff recommended the civilianization of the current Police Accreditation Manager position and allowing staff to revise the duties of the new position and place in the City's pay scale in accordance with the assigned duties and responsibilities.

Police Chief Paul Bernat stated that the Accreditation Manager's position is very important; however, it does not do any enforcement so it could easily become a civilian position. He informed members that the Police Department went through the reassessment process in December and the assessors suggested the civilianization of the position.

Referring to the Dover Police Department Accreditation Manager Payroll Cost Comparison Summary, Chief Bernat stated that the civilianization would result in an approximate savings of $114,730 over a 5-year period. He explained that the current Accreditation Manager was making $62,774 and the proposed salary base would be in the $45,000 range.

Chief Bernat stated that he had discussed this matter with the City Manager and they agreed that the Crime Analysis/Accreditation Manager could perform the duties of both positions and would benefit the City. Chief Bernat stated that the Police Department is very good at solving crime; however, the Department is not good at predicting or stopping crime, explaining that crime analysis would enable the Department to predict and stop crime before it happens.

Chief Bernat stated that the accreditation process is extremely important and must be maintained. He explained that the recent retirement of Corporal Matthews provided an opportunity to save the City money by civilianizing the accreditation position instead of replacing a police officer. This proposal would reduce the Department to an authorized strength of 101 officers and increase the number of civilians from 34 to 35. Chief Bernat stated that, over a 20 year career, there would be a substantial savings.

Mr. Sudler questioned what the general cost for a Crime Analysis position would be, separate from an Accreditation Manager. Responding, Chief Bernat stated that staff was working with the Human Resources Department to determine the salary ranges. Chief Bernat informed members that grant funding is available for crime analysis positions, software, etc., and they would actively seek these grant funds, which would provide additional savings.

In response to Mr. Hutchison, Chief Bernat confirmed that this position would continue to assist with training.

Responding to Mr. Sudler, Chief Bernat explained that this position is responsible for all of the files, ensures that policies are followed and manages the documentation to prove that the policies are being followed. He stated that the Accreditation Manager shares an office with and assists the Planning and Training Sergeant.

Mr. Hare moved to recommend acceptance of staff's recommendation for the civilianization of the current Police Accreditation Manager position and allowing staff to revise the duties of the new position and place it in the City's pay scale in accordance with the assigned duties and responsibilities. The motion was seconded by Mr. Shevock and unanimously carried.

Proposed Resolutions

Resolution No. 2015-02 Requesting the General Assembly to Amend Article V - Miscellaneous Provisions, Section 53 - Mayor to be the Conservator of the Peace with Companion Ordinance #2015-06 Amending Chapter 62 - Law Enforcement, Article II - Police Department, Section 62-32 - Chief of Police Generally and Section 62-38 - Special Police

Mayor Christiansen, referring to the previous discussion of the Replenishment of Uninsured Expenses Related to the Settlement of Dover Police Department Grievances, expressed his opinion that the selection process for the chief of police needed to be examined to guarantee transparency. He stated that the proposed amendment would establish a committee to advise the mayor on the nomination of the police chief, noting that this process was previously used to hire city managers, planners, etc. Mayor Christiansen expressed his feeling that this process would protect the citizens.

Responding to Mr. Hare, Mayor Christiansen stated that the proposal would not change anything related to the current discussion regarding the form of government. Mayor Christiansen explained that the proposed police chief selection committee mimicked the city manager selection committee which he and Mr. Hare participated in during their previous terms as Council members, and would guarantee transparency and that the right person is selected.

In response to Mr. Hare, Mayor Christiansen explained that the police chief selection committee would select the best nominee for the position, and the mayor would present the nomination to council for approval.

Mr. Hutchison asked that the committee consider deferring Proposed Resolution No. 2015-02 and No. 2015-03 until after the Regular Council Meeting of March 9, 2015.

Mr. Anderson stated that a nominating committee typically provides two (2) or three (3) names and the mayor would pick from those qualified names, similar to the governor and the judicial nominating committee. He stated his understanding that Resolution No. 2015-02 proposed that the selection committee make a recommendation to the mayor; however, the mayor would not be obligated to make a selection from the list recommended by the committee.

Responding to Mr. Anderson, Mayor Christiansen stated that the intent and purpose of the committee is to choose from the best and most qualified applicants that come before them. He explained that one (1) of the reasons that the Human Resources Director was included in the committee was to guarantee that equal opportunity employment regulations are followed. Mayor Christiansen stated that the committee would make the recommendation and the mayor would present that recommendation to the council for their approval. He noted that there was very little change from the current provision, other than incorporating other individuals into the process, to make sure that the process is pristine and the City is not "saddled" with legalities at a later date.

Referring to the removal of the police chief, Mr. Anderson questioned why a two-thirds vote of council members was recommended rather than a majority vote. In response, Mayor Christiansen explained that he thought the two-thirds vote would guarantee the chief of police the opportunity to be removed by consent of the entire council, not just by popular demand.

Mr. Hare questioned if this proposal would change the requirement for the candidate to be selected from the Police Department. Responding, Mayor Christiansen stated that the candidate would be selected from within the Department. Mr. Slavin stated that this proposed changed was "silent" in that regard.

Mr. Slavin stated his opinion that this matter should be forwarded to Council, either with or without a recommendation, so that everything can be discussed on March 9th.

Mr. Hare moved to recommend forwarding Proposed Resolution No. 2015-02, Requesting the General Assembly to Amend Article V - Miscellaneous Provisions, Section 53 - Mayor to be the Conservator of the Peace with Companion Ordinance #2015-06 Amending Chapter 62 - Law Enforcement, Article II - Police Department, Section 62-32 - Chief of Police Generally and Section 62-38 - Special Police *(Attachment #1)*, to City Council without recommendation so that it can be heard fully at the March 9, 2015 City Council meeting. The motion was seconded by Mr. Sudler and unanimously carried.

Resolution No. 2015-03 Requesting the General Assembly to Amend Article I - Powers of the City, Section 1.05 - Procedure to extend boundaries; and Article II - Mayor and Council, Section 5 - Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications, Section 6 - Municipal election; dates, time, and place of elections, Section 7 - Nomination petitions for candidates for council and mayor, Section 9 - Meetings of mayor and council-Generally, and Section 10 - Meetings of Mayor and Council-Procedure

Mrs. Traci McDowell, City Clerk, reviewed Proposed Resolution No. 2015-03. She informed members that when Charter amendments are proposed, staff likes to include amendments to clean-up language so that all amendments can be considered by the General Assembly at the same time.

Mrs. McDowell stated that the change on Line 9 was a correction that was not picked up by the General Assembly the last time the Charter was amended.

Referring to Lines 19-37, Mrs. McDowell explained that there was a transition period when the length of terms was changed from two (2) to four (4) years and the transitional language can now be removed.

Mrs. McDowell stated that references to councilmen and councilman were changed to reflect gender neutral language. Referring to Line 57, she explained that the spelling of biennially was changed to correct a typographical error.

Mrs. McDowell informed members that Mayor Christiansen suggested that the filing deadline could be the same for mayor and council, since council members who run for mayor do not have to resign their seats; however, that was not the proposed change. She explained that, for example, if Mr. Slavin were to file a petition for mayor at the 4:30 p.m. deadline and ran unopposed, he would automatically win the mayoral seat and his council seat would inevitably be vacant. The proposed amendment would make the filing deadline for mayor the last working day in January and the filing deadline for council the last working day in February, which would provide time for a vacancy to be posted for 20 days and included on the regular election ballot.

Responding to Mr. Slavin, Mrs. McDowell confirmed that this amendment would prevent a special election, explaining that the City is required to post a vacancy notice 20 days in advance of the filing deadline, and this would provide adequate time to meet that requirement and include the vacancy on the regular election ballot.

Mr. Hare expressed his opinion that this proposed change provides too much time and that the filing deadlines should be the same, noting that he does not like that a council member does not have to give up his/her seat to run for another office. He sated that an additional 30 days would "tie everything up." Responding, Mrs. McDowell noted that it would only be approximately two (2) additional weeks.

Mr. Hare stated that he would prefer to maintain the current deadlines or make both deadlines the end of January. Noting that people begin filing before Christmas, it was his feeling that people do not need that much time. In response to Mr. Hare, Mrs. McDowell noted that petitions have previously been filed in October, and explained that the proposed amendment included a start date of the first working day in January.

Responding to Mr. Hare, Mrs. McDowell questioned whether he wanted to reinstate the requirement that members must resign their seat to run for another office. Mr. Anderson stated that he would not want to reinstate that requirement. Mr. Hare stated that he would not want to reinstate the requirement that members must resign their seat to run for another office; however, it was his feeling that the deadlines should be the same.

Mr. Slavin explained that this amendment would avoid having a special election.

Mrs. McDowell reminded members that when Mayor Speed left, Councilman Carey ran for mayor, and there were four (4) elections in one (1) year. This amendment could prevent a similar situation in the future.

Mr. Hare suggested that the mayor's filing deadline be the last Friday in January and council's the first Monday in February. Responding, Mrs. McDowell explained that there would need to be a 20-day difference in order to avoid a special election.

Mr. Hare stated that there was not currently a 20-day difference, and expressed his opinion that the deadlines remain the same and, if necessary, the City can have a special posting without having a special election. Mrs. McDowell explained that State election law requires that a vacancy for a mayoral or council seat be publicly posted for 20 days in advance of the filing deadline; therefore, a special election would be required if there were not 20 days to post the vacancy notice.

Mr. Hare stated that if Mr. Slavin were to file for mayor and run unopposed, he would lose his council seat and a vacancy notice could be posted on the first Monday in February for 20 days.

Mrs. McDowell explained that by that time, absentee ballots would be prepared and people would have already voted. She noted that when the requirement to step down was eliminated, the deadlines could have been made the same; however, the proposed filing deadlines could solve a current problem. If members want one (1) filing deadline, between the first working day in January through the last working day in January for all seats, that amendment can be made.

Mr. Hare stated that he would like one (1) filing deadline.

Responding to Mr. Anderson, Mrs. McDowell explained that the proposed amendments beginning at Line 178 would provide clarity regarding the filling of vacancies.

Mr. Anderson questioned if the proposed amendments maintained the council organization and annual meeting. In response, Mrs. McDowell informed members that Mr. Slavin had previously pointed out that there would be no annual meeting since there was no longer an annual election. Referring to Line 117, Mrs. McDowell explained that the phrase "following a regular municipal election" was removed to allow for the annual meeting on the second Monday in May each year.

Mr. Anderson questioned whether council should be organized for two (2) years instead of one (1).

Responding to Mr. Hare, Mrs. McDowell explained that currently the filing deadline for mayor and council are different; therefore, if Mr. Slavin had run unopposed for mayor, there was time for someone else to run for council; however, if no one ran for the vacant seat, a special election would have to be scheduled and it would run concurrent with the regular election.

In response to Mr. Hare, Mrs. McDowell stated that a councilman has never run unopposed for mayor; however, since the requirement to step down was eliminated, there have been many special elections.

Mr. Hare felt that there should be one (1) filing deadline for everyone, noting that there are no special deadlines for the legislature or congress.

Mr. Slavin noted that another potential remedy would be to leave vacant positions vacant until the next election or council could choose to fill a vacancy by appointment. He stated that these potential remedies could be discussed during the review of the form of government.

Mr. Sudler stated his understanding that the best way to offset the need to have a special election, if a council member were to run unopposed for mayor, would be to make the filing deadlines the same for mayor and council. Responding, Mrs. McDowell explained that if the filing deadlines were the same, it would automatically trigger a special election because State law requires the City to post the vacancy for 20 days.

Mr. Hutchison questioned the timetable for submitting the proposed amendments to the General Assembly. In response, Mrs. McDowell stated that after the adoption of the Resolutions, she generally sends everything to the General Assembly within a day or two (2); however, she noted that if Council were to make a lot of changes, it would take more time to revise the documents.

Mr. Hare stated that he did not want to send this proposal to the General Assembly because it was based on a scenario that may never happen. He felt that the mayor or members of council should only be able to run for either mayor or council and, if they run for one (1), they resign the other.

Mr. Anderson informed members that the requirement to step down was previously implemented because there was a mayor who wanted to eliminate competition from council. However, council removed that requirement because it did not make sense to eliminate a pool of some of the most informed people of City government from running for mayor.

Mr. Anderson stated that the current proposal had merit because it would eliminate the need to hold a special election approximately two (2) weeks following the regular election, if someone holding office were to run unopposed for a separate office. He did not like the idea of leaving a seat vacant for years.

Mr. Hare stated that he liked the idea of council filling a vacant term by appointment.

Mrs. McDowell reminded members that this option was previously discussed when Mr. Anderson was being deployed and it was not favored. Responding, Mr. Hare stated that Mr. Anderson's seat was still occupied at that time; if Mr. Anderson had resigned for deployment, then it might have been valid.

Mr. Hare moved to recommend forwarding proposed Resolution No. 2015-03, Requesting the General Assembly to Amend Article I - Powers of the City, Section 1.05 - Procedure to Extend Boundaries; and Article II - Mayor and Council, Section 5 - Council to be Legislative Body; Size; Districts; Terms of Mayor and Councilmen; Qualifications, Section 6 - Municipal Election; Dates, Time, and Place of Elections, Section 7 - Nomination Petitions for Candidates for Council and Mayor, Section 9 - Meetings of Mayor and Council-generally, Section 10 - Meetings of Mayor and

Council-procedure, and Section 13 - Vacancies; Forfeiture of Office; Filling of Vacancies, to City Council without recommendation so that it can be heard fully at the March 9, 2015 City Council meeting. The motion was seconded by Mr. Shevock.

Mr. Anderson suggested deferring this matter for one (1) month, pending the outcome of the discussions regarding the form of government during the City Council meeting of March 9, 2015. He stated that this would allow for all of the Charter changes to be made at the same time.

Mr. Hare noted that Council would discuss all of these matters at the same time on March 9, 2015. Responding, Mr. Anderson stated that the March 9, 2015 Council meeting was going to be long, and he was not as concerned with these technical changes as the form of government.

The motion to recommend forwarding proposed Resolution No. 2015-03, Requesting the General Assembly to Amend Article I - Powers of the City, Section 1.05 - Procedure to Extend Boundaries; and Article II - Mayor and Council, Section 5 - Council to be Legislative Body; Size; Districts; Terms of Mayor and Councilmen; Qualifications, Section 6 - Municipal Election; Dates, Time, and Place of Elections, Section 7 - Nomination Petitions for Candidates for Council and Mayor, Section 9 - Meetings of Mayor and Council-generally, Section 10 - Meetings of Mayor and Council-procedure, and Section 13 - Vacancies; Forfeiture of Office; Filling of Vacancies *(Attachment #2)*, to City Council without recommendation so that it can be heard fully at the March 9, 2015 City Council meeting was carried by a vote of four (4) yes (Hare, Slavin, Shevock, and Sudler) and one (1) no (Anderson).

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

Meeting adjourned at 6:40 p.m.

Timothy A. Slavin
Chairman

TAS/TM/dd
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Minutes\2015\02-23-2015 LF&A.wpd

Attachments
Attachment #1 - Proposed Resolution No. 2015-02 with Companion Ordinance #2015-06
Attachment #2 - Proposed Resolution No. 2015-03

City of Dover

MAYOR AND COUNCIL

DRAFT PROPOSED COUNCIL RESOLUTION NO. 2015-02

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the Mayor and Council have determined that the Charter of the City of Dover should be amended to establish a police chief selection committee comprised of the mayor, council president, chair of the safety advisory and transportation committee, city manager, and the human resources director. Therefore, the Mayor and Council of the City of Dover respectfully request the General Assembly of the State of Delaware to amend Article V - Miscellaneous Provisions, Section 53 - Police; Mayor to be conservator of peace, of its Charter, which amendments, if adopted by the General Assembly, would be as follows:

ARTICLE V. MISCELLANEOUS PROVISIONS

Sec. 53. Police; mayor to be conservator of peace.

There shall be a city police force, the number thereof and their salaries shall be determined by the council, but they shall be chosen and appointed by the mayor. The mayor is hereby vested with all the powers of a conservator of the peace within the city limits. **A police chief selection committee comprised of the mayor, council president, chair of the safety advisory and transportation committee, city manager, and human resources director shall advise the mayor on the nomination of the police chief.** The mayor shall ~~appoint~~ **nominate** a chief of police**, whose appointment shall be effective upon confirmation by the city council. The chief of police shall be** subject to removal at any time by the mayor**, with the affirmative vote of two-thirds of the members elected to the city council,** in accordance with applicable laws. The members of the police force shall be subject to ~~his/her~~ **the** direction and orders **of the chief of police** delivered through the proper chain of command and in accordance with applicable laws and ordinances. They shall preserve peace and order, and compel obedience within the city limits to the ordinances of the city and the laws of the state. They shall have such other duties as the ~~council and the mayor~~ **mayor and the city council** shall prescribe by ordinance.

Each member of the police force shall be vested with all the power and authority within the city limits and within one mile outside of said limits, (and, in the case of the pursuit of an offender, without limit) of a constable of Kent County.

ADOPTED: *

S:\RESOLUTIONS-PROCLAMATIONS-TRIBUTES\CHARTER AMENDMENT RESOLUTIONS\2015\RESOLUTION NO. 2015-02 Sec. 53 - Mayor to be the Conservator of Peace\Resolution No. 2015-02 Proposing the Establishment of a Police Chief Selection Committee.wpd

ROBIN R. CHRISTIANSEN MAYOR	DAVID L. BONAR COUNCIL PRESIDENT

Actions History:
February 23, 2015 - Scheduled for Introduction at Legislative, Finance, and Administration Committee

Draft

CITY OF DOVER PROPOSED ORDINANCE #2015-06

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

That Chapter 62 - Law Enforcement, Article II - Police Department, Section 62-32 - Chief of police generally, and Section 62-38 - Special police, be amended by deleting the text indicated in bold, red strikeout and inserting the bold, blue text, as follows:

ARTICLE II. - POLICE DEPARTMENT

Sec. 62-31. - Generally.

(a) *Established*. There shall be a city police department, which shall preserve peace and order and, within the city limits, compel obedience to all city ordinances and the law.

(b) *Officers*. The city council shall, upon adoption of the annual budget, designate the number and salaries of the individual police officers who shall comprise the police department. The mayor shall choose and appoint the police officers.

Sec. 62-32. - Chief of police generally.

(a) *Designation*. ~~**One of the regular members of the police department shall be designated by the mayor to serve as chief of police.**~~ **A police chief selection committee comprised of the mayor, council president, chair of the safety advisory and transportation committee, city manager, and human resources director shall advise the mayor on the nomination of the police chief. The mayor shall nominate a chief of police, whose appointment shall be effective upon confirmation by the city council. The chief of police shall be subject to removal at any time by the mayor, with the affirmative vote of two-thirds of the members elected to the city council, in accordance with applicable laws.**

(b) *Functions*. The chief of police shall have the authority to supervise and direct the police department and, pursuant to such authority, he shall promulgate police department rules and regulations, three copies of which are on file at the police department.

(c) *Reports*. The chief of police shall submit monthly reports to the city council giving the number of arrests and other pertinent information required by the city council.

Sec. 62-33. - Oath of police officers.

Every police officer, before entering upon his duties, shall be sworn by the mayor to perform his duties faithfully.

Sec. 62-34. - Enforcement of laws and ordinances.

It shall be the duty of each police officer to diligently inquire into the observance of the laws and ordinances within the city and, in case of a breach, to cause the offender to be legally proceeded against.

Draft

Sec. 62-35. - Authority to preserve order at fires.

The police department shall have the authority, upon an alarm of fire, to report to the scene of a fire to preserve order and render any assistance to the fire department that may be practical.

Sec. 62-36. - Disciplinary authority of chief of police.

(a) *Generally*. The chief of police shall have final disciplinary authority and responsibility within the police department, subject to appeals to the mayor, and shall promulgate and carry out such disciplinary procedures as may be needed within his command. The chief of police shall, where cause exists, have the authority to suspend from duty an employee for a period of time not to exceed 30 days, to reduce employees in rank or pay grade, to place employees on probation and to suspend such sanctions as the need arises, or to dismiss an employee from service.

(b) *Appeal*. Any employee so disciplined has the right to appeal, on the record, to the mayor.

(c) *Subpoenas*. The chief of police, with approval from the mayor, shall, for the limited purpose of compelling the appearance of witnesses before the professional standards board of the city police department, sitting for the purpose of affording due process to members of the city police department in disciplinary matters, have the power to issue subpoenas for that purpose.

Sec. 62-37. - Mayor to advise council of personnel changes.

The mayor shall advise the city council of any change in the personnel of the police department at the next regular city council meeting following the change.

~~**Sec. 62-38. - Special police.**~~

~~**(a) *Appointment.* Whenever, in the opinion of the mayor, an emergency exists, he shall have the power to appoint one or more special police officers, with all the powers and authority of regular police officers, during the period of the emergency.**~~

~~**(b) *Term.* The special police officers shall not serve for a term of more than 30 days without the approval of the city council.**~~

Sec. 62-~~39~~ 38. - Sale of property.

(a) *Authorized*. The chief of police shall have the authority to hold a sale of personal property held by the police department for a period in excess of one year, which said personal property shall be unclaimed evidence, lost and found articles, confiscated articles and any other items of personal property which have come into the hands of the members of the police department and have been held for a period of one year, if the owner or owners of the same shall be unknown or said property has been unclaimed.

Draft

(b) *Auction*. The chief of police shall cause to be sold the said property at a public auction and shall advertise by publishing notice of said sale in one issue of a newspaper circulated in the city at least ten days before the date of the sale, which said notice shall merely state that a sale of unclaimed personal property shall be held by the police department, giving the date, time and place of said sale without specifying any of the items to be sold. The proceeds of said sale shall be retained by the police department to be used solely for pensions of the police department.

Secs. 62-~~40~~ 39 - 62-70. - Reserved.

ADOPTED: *

S:\ORDINANCES\2015\DRAFT\Ordinance #2015-06 Amending Ch 62 - Law Enforcement, Art II - Police Department, Sec 62-32 - Chief of police generally .wpd

SYNOPSIS

The amendment reflects the charter amendment that established a committee to advise the mayor on the nomination of the police chief. It also removes the requirement that the police chief be selected from among one of the regular members of the police department and removes the appointment of special police.

(SPONSORS: LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE)

Actions History

02/23/2015 - Scheduled for Introduction at Legislative, Finance, and Administration Committee

Draft

City of Dover

MAYOR AND COUNCIL

DRAFT PROPOSED COUNCIL RESOLUTION NO. 2015-03

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That the Mayor and Council have determined that the Charter of the City of Dover should be amended to make corrections/include gender neutral language, remove outdated language, set a time frame for accepting nominating petitions, extend the filing deadline for council nominations, and revise the parameters for filling a vacancy, which amendments, if adopted by the General Assembly, would be as follows:

Section 1.05. Procedure to extend boundaries, (2)(b) - For the annexation election, the polls shall open at 11:00 a.m. ~~to~~ and remain open until each eligible voter has cast their vote or until 8:00 p.m., whichever occurs first.

Sec. 5. Council to be legislative body; size; districts; terms of mayor and councilmen; qualifications.

The council shall be the legislative body of the city and composed of nine (9) members nominated and elected as herein provided.

The city shall be divided into four (4) election districts, the boundaries of which shall be established by council so that they are nearly equal in population based on the latest federal decennial census information. The district boundaries established for municipal elections shall be used for the next regular municipal election and shall continue in effect until the next succeeding federal decennial census is made available for use by municipalities in the State of Delaware.

~~**At the regular municipal election held in April of 2012, the mayor shall be elected at-large. The term of mayor elected at the April 2012 regular municipal election shall be for a period of three years, commencing on the second Monday in May following his/her election and continuing for a term of three years until the second Monday in May 2015, or until his/her successor has been duly elected and qualified.**~~

~~**Thereafter, c**~~Commencing with the regular municipal election to be held in April of 2015, the term of mayor shall be for a period of four years commencing on the second Monday in May following his/her election and continuing for a term of four years until the second Monday in May, or until his/her successor has been duly elected and qualified.

~~**At the regular municipal election held in April of 2012, four councilmen shall be elected by district voting from each of the districts of the city. The term of the councilmen elected at the April 2012 regular municipal election shall be for three years, commencing on the second Monday in May following their election and continuing for a term of three years until the second Monday in May 2015, or until their successors have been duly elected and qualified.**~~

Draft

~~**At the regular municipal election held in April of 2013, five councilmen shall be elected, four by district voting being from the districts and one at-large. The term of the councilmen elected at the April 2013 regular municipal election shall be for a period of four years, commencing on the second Monday in May following their election and continuing for a period of four years until the second Monday in May, or until their successors have been duly elected and qualified.**~~

~~**Thereafter, c**~~**C**ommencing with the regular municipal election to be held in April of 2013, the terms of the council~~**men**~~ **members** shall be for a period of four years, commencing on the second Monday in May following their election and continuing for a term of four years until the second Monday in May, or until their successors have been duly elected and qualified. The mayor and at-large council~~**man**~~ **member** shall be elected at alternating biennial regular municipal elections.

In order to be eligible to be elected as mayor or as a member of council, the person must as of the date of the election be:

(1) A citizen of the United States and of the State of Delaware;
(2) A resident of the city and having continuously resided therein or in an area annexed to the city during the two (2) years immediately preceding the day of the election;
(3) A resident of the election district from which they are seeking election, unless they are seeking election as an at-large council~~**man**~~ **member** or mayor;
(4) Eighteen (18) years of age or older; and
(5) Nominated therefore, as hereinafter provided.

Holding Other Office. Except where authorized by law, no council members shall hold any other elected public office, city office, or city employment during the term for which the member was elected to the council. No former council members shall hold any compensated appointive office or employment with the city until one year after the expiration of the term for which the member was elected to the council, unless granted a waiver by the Board of Ethics (Ethics Commission).

Section 6. Municipal election; dates, time, and place of elections.

Regular municipal elections shall be held ~~**biennally**~~ **biennially** on the third Tuesday in April. All other municipal elections that may be held shall be known as special municipal elections. At each such municipal election, the polls shall be opened at 7:00 a.m. and closed at 8:00 p.m. The council may designate the places of election and make all necessary rules and regulations not inconsistent with this Charter or with other laws of the State of Delaware for the conduct of elections, for the prevention of fraud in elections, and for the recount of ballots in case of doubt or fraud. At alternating biennial regular municipal elections held on the third Tuesday in April, five council~~**men**~~ **members** shall be elected for a term of four years, four of whom shall be elected by district voting from each of the districts as designated by council and one of whom shall be elected by at large voting by all voters of the city, as provided in section 5 of this Charter. At the next biennial regular municipal election held on the third Tuesday in April, four council~~**men**~~ **members** shall be elected by district voting from each of the districts as designated by council for a term of four years, and a mayor shall be elected by the voters of the city for a term of four years, as provided in section 5 of this Charter.

Draft

Sec. 7. Nominati~~on~~ng petitions for candidates for council and mayor.

The mode of nomination of candidates for the council and for mayor shall be by petition, signed by not less than ten (10) nor more than twenty-five (25) electors of the city, filed with the clerk of council. **In the years when a mayor is to be elected, nominating petitions for candidates for mayor shall be accepted no sooner than the first working day of January and no later than the last working day of January** on or before 4:30 p.m. ~~on the second Friday of February biennially~~ **Nominating petitions** for candidates for council **shall be accepted no sooner than the first working day of January and no later than the last working day of February biennially** on or before 4:30 p.m. ~~on the last working day in January biennally for candidates for mayor in the years when a mayor is to be elected. Should the second Friday of February fall on a legal holiday, the filing date shall be 4:30 p.m. on the next working day thereafter which is not a legal holiday.~~

Whenever a petition nominating a person for the office of mayor or council~~man~~ **member** shall have been filed as above prescribed, the name of such person shall be printed on the ballot for the regular biennial municipal election as a candidate for the office for which they were nominated, provided they possess the qualifications prescribed by this Charter for a candidate for such office.

No nominating petition shall designate more than one person to be voted for as a member of council or as mayor. The signers of a nominating petition for a member of the council must be electors of the city residing in the city election district in which the nominee resides; but the signers to the nominating petition for the mayor and for the at-large council~~man~~ **member** may be city electors residing in the city at-large.

There must be attached to each nominating petition an affidavit of the circulator thereof, stating the number of signers and that each signature appended thereto was made in their presence, and is the genuine signature of the person whose name it purports to be, and that all of said signers are entitled to vote at the regular municipal election referred to; and, in the case of a petition nominating a candidate for council~~man~~ running from a particular district and to be elected by district voting, that the circulator of the petition verily believes that each signer of said petition is a resident of the same city election district in which the nominee resides.

With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nominating petition shall be substantially as follows:

We, the undersigned, electors of The City of Dover, hereby nominate _____, who resides in the _____ City District of the said City of Dover, for the office of Council~~man~~ (or for the office of Mayor as the case may be) to be voted for at the regular municipal election to be held in the said City, on the _____ day of _____ in the year _____; and we individually certify that we are qualified to vote for a candidate for the office named, and that we have not signed any other nominating petition for that office, and that our places of residences are truly stated after our signatures.

Name _____
Street ~~and Number~~ **address** _____ (Space for Signatures)

STATE OF DELAWARE
KENT COUNTY
SS.
_____ being duly sworn (or affirmed) deposes and says that they were the circulator of the foregoing petition paper containing ___ signatures, and that the signatures appended thereto were made in

Draft

his/her presence, and are the signatures of the persons whose names they purport to be, and that they verily believe~~s~~ the residence of each signer thereof to be truly stated, and that all of said signers are entitled to vote at the regular municipal election referred to in said paper; and, in case the petition is nominating a candidate for council~~man~~ to be elected from a specific district by district voting, that each signer of said petition is a resident of the same city election district in which the nominee resides.

(Signed) _____

Subscribed and sworn to (or affirmed) before me this _____ day of _____

_____Justice of the Peace (or Notary Public)

Sec. 9. Meetings of mayor and council--Generally.

At 7:30 p.m. on the second Monday in May ~~following a regular municipal election~~, the mayor and council shall meet at the usual place for holding council meetings and ~~the~~ newly elected officers shall assume the duties of office, being first duly sworn or affirmed to perform their duties with fidelity. Such meeting shall be called or known as the annual meeting. Thereafter, the council shall hold regular meetings at such times as may be prescribed by ordinance, but not less frequently than once each month. Special meetings may be called and held as prescribed by ordinance. All meetings of the council shall be open to the public except scheduled executive sessions.

At the annual meeting held on the second Monday in May, the members of council shall elect one of their members to serve as council president, such term to be in effect until the next regularly scheduled annual meeting or until a successor is elected. The council president shall serve as vice-mayor. Council president shall preside over regular and special council meetings.

The mayor shall preside over the annual meeting and quarterly town meetings, and at the annual meeting present a state of the city message and offer mayoral appointments for council confirmation. The mayor, upon recommendation from the council president, will present council appointments for council approval.

In the event of absence of the council president, then the senior member of council in terms of **continuous or total** length of service as a council~~man~~**member** shall assume the duties of the council president and shall be designated council president acting. In the event that two (2) or more members of council have the same seniority in terms of length of service as a council~~man~~**member**, then the members of council shall vote and elect one of those as council president acting. Council president acting shall fulfill all of the duties and responsibilities of council president during his/her period of unavailability or absence.

Sec. 10. Meetings of Mayor and Council--Procedure.

Five (5) of the members elected to the council shall constitute a quorum to do business, but a less number may adjourn from time to time and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

No ordinance, resolution, motion or order shall be valid unless it shall have (1) the affirmative vote of a majority of the members elected to the council, and (2) the written approval of the mayor, or the vice-mayor in those cases where the vice-mayor is authorized to act as mayor as provided in section 15 hereof, provided that in the absence of such approval by the mayor, or the vice-mayor as the case may be, the council may, after not less than seven (7) days nor more than thirty-five (35) days after the prior vote, pass or adopt the said ordinance, resolution, motion or order which did not receive the approval of the mayor, or the vice-mayor, by the

Draft

affirmative vote of two-thirds of the members elected to council.

Whenever the council shall adopt an ordinance, resolution, motion or order, it shall be the duty of the mayor, or the vice-mayor, to signify his/her approval or disapproval thereof in writing to the clerk of the council within seven (7) days thereafter. The clerk of the council shall forthwith notify the members of the council of such approval or disapproval.

Motions to adjourn meetings of council and orders to compel the attendance of absent members shall not require the approval of the mayor or vice-mayor.

A council~~man~~ **member** shall abstain from voting on a matter that he/she feels would involve the consideration of his/her own official conduct, on a matter in which he/she has a financial interest, in a matter in which he has a conflict of interest or in accordance with a policy adopted by council.

The yeas and nays shall be taken upon the passage of every ordinance and resolution and entered together with the text of the ordinance or resolution upon the journal of the proceedings of the council. The journal shall be deemed conclusive evidence of the facts stated therein except in the case of fraud.

The city council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and
(2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk.

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 13. Vacancies; Forfeiture of Office; Filling of Vacancies

(a) Vacancies. The office of a council member shall become vacant upon the member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A council member shall forfeit that office if the council member:

(1) Fails to meet the residency requirements,
(2) Violates any express prohibition of this charter,
(3) Is convicted of a crime involving moral turpitude, or
(4) Fails to attend three consecutive regular meetings of the council without being excused by the council.

In the case of any such vacancy or of any vacancy created by death, resignation or otherwise for which said vacancy shall be less than six months in duration **from the next regular or special election**, the ~~**office shall remain vacant**~~ **vacancy shall be filled at the next regular or special election**. If such vacancy should be in excess of six months in duration **from the next regular or special election**, a special election shall be held to

Draft

fill such vacancy, this special election to be held no sooner than 30 days from the date of the vacancy, but said special election to be held no later than 60 days after the date of the vacancy. If council fails to call for a special Election, the special Election shall be called by the Election Board.

*

ADOPTED: *

S:\RESOLUTIONS-PROCLAMATIONS-TRIBUTES\CHARTER AMENDMENT RESOLUTIONS\2015\RESOLUTION NO. 2015-03 Proposed Charter Amendments\Resolution No. 2015-03 Proposed Charter Amendments.wpd

ROBIN R. CHRISTIANSEN	DAVID L. BONAR
MAYOR	COUNCIL PRESIDENT

Actions History:
February 23, 2015 - Scheduled for Introduction at the Legislative, Finance, and Administration Committee meeting

Draft