UTILITY COMMITTEE

The Utility Committee Meeting was held on October 13, 2014 at 5:15 p.m. with Chairwoman Williams presiding. Members present were Mr. Perza, Mr. Blakeman, and Mr. Snaman. Mr. Slavin was absent. Members of Council present were Mr. Anderson and Mr. Dixon. Mayor Christiansen was also present.

AGENDA ADDITIONS/DELETIONS

Mr. Blakeman moved for approval of the agenda as presented, seconded by Mr. Snaman and unanimously carried.

Dedication of Rights-of-Way and Public Infrastructure - Village of Cannon Mill (Phases I, II, III, and IV)

Staff submitted a request that all public infrastructure improvements related to the Village of Cannon Mill (Phases I, II, III, and IV) be dedicated to the City of Dover for permanent ownership and maintenance. Members reviewed a list of the public improvements associated with each phase of the development, as well as a map showing the general location and configuration of the subject rights-of-way, broken into phases. The total construction value of the public improvements was $2,602,919.

Mr. Scott Koenig, City Manager, indicated that the original developer of the Village of Cannon Mill filed for bankruptcy, which resulted in work stoppage within the subdivision. The final wearing course and punch list items remained to be completed to meet the City of Dover standards and specifications for Public Works construction and had been outstanding for many years. He assured members that the City was prepared to complete the work required, pending rights-of-way and public infrastructure dedication, as well as acceptance of a paving improvements bid by City Council.

Mr. Koenig reminded members that in 2013, staff had submitted a request for the dedication of a portion of the Village of Cannon Mill. It was his recollection that, although the Committee recommended acceptance, when the matter was presented to City Council for approval there were concerns regarding bonding and a failed letter of credit that needed to be addressed. As a result, the dedication was deferred. At this time, he stated that staff was requesting the dedication of the entire subdivision's incomplete infrastructure, explaining that the City had been working with legislators to secure funding from the Community Transportation Fund (CTF). Mr. Koenig informed members that Mr. Tony Ashburn, Ashburn Homes, Inc., and Artisans' Bank had pledged funds, either through a letter of credit or letter of commitment, to complete the infrastructure in portions of the development in Phases III and IV; however, Mr. Koenig stated that the City had not been successful with action related to the original letter of credit with the First National Bank of Wyoming. He stated that the City had submitted a bank draft on the letter of credit and there was related correspondence between the attorneys. He noted that there had been several developers since the original developer, Moore Cannon Mill, and that the City did not secure the correct letters of credit to ensure that the protections would carry forward. As a result, the City was currently in the process of completing approximately $800,000 worth of infrastructure in the Village of Cannon Mill and, in order to obtain funding from the State CTF, the City needs to accept the dedication of the infrastructure and sign agreements to complete the infrastructure.

Mr. Koenig stated that there was currently a gap of approximately $300,000 between what is necessary to complete all infrastructure and the funding available associated with the complete paving and concrete finishing for the development.

Staff recommended acceptance of the dedication of rights-of-way and public infrastructure of the Village of Cannon Mill Subdivision, with the dedication to include all of the referenced public improvements.

Mr. Koenig advised members that during the City Council meeting scheduled for later in the evening, members would consider a request for approval of a construction contract that would allow approximately $824,000 of work to complete the rights-of-way and public infrastructure. He explained that the caveat on the bids was that the City would complete only the work which could be done with the funds the City has available. Rather than utilizing City funds, he stated it may be necessary to delay some of the paving until additional CTF funding becomes available from the State. He noted that approximately $550,000 in non-City funding was available for the project. Since some funding agreements were coming in under budget, he stated that it was the City's intention to move those excess monies, provided the State legislators agree to the project. However, he expressed the need to first accept the dedication of rights-of-way and public infrastructure of the Village of Cannon Mill Subdivision. He advised members that the subdivision was originally proposed to consist of 375 units and 250-275 units had been constructed, explaining that some residents had lived there since 2005, 2006, 2007, etc. He explained the difficulty in providing services (snow removal, street sweeping, etc.) since the roads had not been completed.

Responding to Mr. Perza, Mr. Koenig stated that the total value of all infrastructure was $2.6M; however, the only financial risk the City would have if funding were not received from the State would be the costs of paving the roadways, in the amount of $825,000. He explained that the City had received commitment letters from the legislators and letters of credit totaling $540,000; therefore, the maximum exposure for the City would be $285,000. However, he stated that the City would only complete the work for which the City had obtained funding and then return to legislators to request additional funds during their next funding of CTF projects. Although legislators are provided CTF funds on July 1st of each year, they do not always use all available funding. Mr. Koenig noted that Representative Darryl Scott had committed a large portion of the required funding, in the amount of $250,000, for this project; Senator Brian Bushweller had committed up to $65,000; and Senator Colin Bonini had committed approximately $5,000. Mr. Koenig stated that there may be additional funding available as a result of other agreements coming in under budget between the current time and when the work is actually completed.

In response to Mrs. Williams' question regarding why the letter of credit was not secured, Mr. Koenig explained that typical letters of credit are "evergreen", renewing automatically unless returned by the City. In this instance, the original developer, Moore Cannon Mill, obtained a one (1) year letter of credit from the First National Bank of Wyoming which was very specific in the funding language that it would only be active for one (1) year. In addition, Mr. Koenig stated that Moore Cannon Mill sold the development to another LLC that was associated with the Robino Corporation. As a result, the City did not check the expiration date of the letter of credit since they typically automatically renew until given back. Therefore, although the City had the original letter of credit, it had an expiration date, and no additional letter of credit was provided for the project.

Responding to additional questions of Mrs. Williams, Mr. Koenig stated that the new developer had made promises to complete the infrastructure and request the dedication by the City. However, when the economy declined, there were three (3) developments (Village of Westover, Nottingham Meadows, and Village of Cannon Mill) whose developers claimed bankruptcy. The Village of Cannon Mill was the only development for which the City was not provided protective documentation. He stated that the letter of credit provided to the City was issued by the First National Bank of Wyoming and was unfamiliar to staff, explaining that all other letters of credit were received from Wilmington Trust and had a very specific format that is familiar to staff. Mr. Koenig stated that, as a result, staff made an error in this regard and he took full responsibility for this oversight. He stated that the developers who currently hold property in the development, Artisans' Bank and Mr. Ashburn, had committed funds to pave the roadway in front of their properties and that approximately $95,000 of the $540,000 related to these properties.

Mr. Koenig stated that if the City were unable to obtain the $825,000 necessary to complete the projects and had only $540,000, it would leave approximately one quarter of the paving work incomplete until additional funds could be obtained. He advised members that the extension of Tribbett Street was currently under construction in association with the construction of Leander Lakes Apartments and that there had been several complaints and concerns regarding that connection opening, which was a condition of the Planning Commission approval of the construction of the new Dover High School. He noted that the legislators had quietly questioned if the opening of this interconnection was best and he explained that any change would require approval from the Planning Commission. Mr. Koenig stated that, although there had been concerns with the possibility of a lot of "cut through" traffic in the Village of Cannon Mill, there had been no test done to make this determination.

Mrs. Williams suggested, if the City does not obtain the necessary funds to complete Phase IV of the development, that the service road be closed to traffic until all roadways have been completed. Responding, Mr. Koenig felt that this was a matter that could be discussed in the future.

Mr. Perza moved to recommend approval of staff's recommendation for the acceptance of the dedication of rights-of-way and public infrastructure for the Village of Cannon Mill, to include all of the referenced public improvements, and contingent upon the City obtaining third-party matching funds, as described by staff, being lines of credit and grants from the Community Transportation Fund; there being the understanding that if it becomes necessary at some point in the future, City Council can remove the contingency. The motion was seconded by Mr. Blakeman and unanimously carried. *(City Clerk's Office Note: Due to time constraints, this item was placed on the Council agenda for the meeting being held later in the evening.)*

Tudor Pump Station - Acceptance and Dedication of Infrastructure

Mr. Scott Koenig, City Manager, reminded members that the Tudor Industrial Park was constructed during the 1990s. Since that time, all City Managers (including James O'Connor, Anthony DePrima and Scott Koenig) were willing to present the associated private wastewater pump station to City Council for dedication as long as minimum upgrades were made by the owner to meet current City of Dover requirements. Mr. Koenig informed members that the owner completed the upgrade requirements to the subject station, which provides wastewater service for multiple buildings within and immediately adjacent to the Tudor Industrial Park.

Mr. Koenig advised members that the current station was not compatible with the City of Dover's Wastewater System Supervisory Control and Data Acquisition (SCADA) system, which notifies the City's 24/7 Systems Operations Center when problems with a station arise. Instead, he explained, this pump station had a beacon light which flashes when there is a problem with the station. If the light is on, anyone from the neighboring communities can contact the Systems Operations Center and report the situation. This same protocol exists at another pump station located on Maureen Place in the Wild Meadows development. He stated that an easement had been drafted, as well as a good faith agreement with the property owners to contact the City if they observe the beacon light flashing.

Mr. Koenig indicated that the estimated value of the pump station was $43,000 and it would become a part of the City's inventory upon its acceptance and dedication.

Staff recommended that City Council accept the dedication of the Tudor Pump Station to allow the City of Dover Department of Public Works to take on all operation and maintenance responsibilities in an effort to protect and maintain the safety, health, and welfare of the public in this area. However, Mr. Koenig stated that the City of Dover would not accept responsibility of the gravity wastewater system internal to the site, as that infrastructure would remain the responsibility of the property owner.

Responding to Mr. Perza, Mr. Koenig assured members that the City had conducted an inspection of the pump station and found it to be adequate for dedication.

Mr. Perza moved to recommend the acceptance and dedication of the Tudor Pump Station to allow the City of Dover Department of Public Works to take on all operation and maintenance responsibilities (excluding the gravity wastewater system internal to the site, as that infrastructure will remain the responsibility of the property owner) in an effort to protect and maintain the safety, health, and welfare of the public in this area, as recommended by staff, seconded by Mr. Blakeman and unanimously carried.

TEA/NAES Report *(July and August)*

The TEA/NAES Monthly Reports for July and August 2014 were provided to members to enable them to monitor electric sales and revenues received, which will provide a better understanding of any fluctuations that occur and allow the opportunity to make improvements if deemed necessary.

Mr. Scott Koenig, City Manager, referred to Page 12 of the August report, and noted that it provided a year-to-date summary. Thus far, he stated that the City was $1M positive for operations. He explained that the load had been lower since it had been a cool year, resulting in lower costs as well as lower revenues. During the summer, there were several opportunities for Units 1, 2, and 3 to run; therefore, the generation revenues were higher than budgeted. As a result of the cool weather this year, he stressed the importance of monitoring revenues, explaining that although the City's expenses were reduced, a certain amount of revenues is necessary to maintain percentages and budgets.

Referring to Pages 8 and 9 of the August Report, Mr. Blakeman noted the City wrote off $13,825 of Solar Renewable Energy Credits (SREC) by retiring them and that there is only one (1) viable market located in Philadelphia. He questioned if it was required for the credits to be sold at the

current rate or if they could be sold at a discount. Responding, Mr. Koenig indicated that, although he did not know the answer to that specific question, the City was acting on the advice of both The Energy Authority (TEA) and Mr. Harry Maloney, City of Dover Electric Director.

Responding to Mr. Anderson, Mr. Koenig stated that although the City had generated more electricity than planned, there had not been any associated increase in maintenance costs; however, it had been necessary to buy fuel oil. Mr. Koenig explained that as a result of the previous severe winter, PJM had issued new requirements and the City had to increase the fuel oil levels at McKee Run, at a cost of approximately $750,000, to meet reserve requirements for running on fuel oil. He stated that staff had concerns and, after discussions with TEA, the offer price of Units 1, 2, and 3 had been changed earlier in the year with the intent they would run more often, with the assurance that this would not cause higher maintenance costs. Mr. Koenig advised members that this had held true to date and the City was still anticipating the retirement of Units 1 and 2. He noted that staff was very conscious of those units running due to potential concerns of any expenses that would result from unplanned required maintenance, or taking the risk of not doing the maintenance. He stated that these issues are discussed monthly at the staff level and include discussions with TEA.

Mr. Koenig reminded members that a decision was made to take Units 1 and 2 out in Power Year 2018, which would result in 34 megawatts of capacity that must be replaced, and it had not yet been determined how this would occur. The power purchase agreement being discussed with Calpine, if it comes to fruition as intended, could replace the 34 megawatts and provide additional capacity. He advised members that other options were being evaluated, such as building some type of combustion turbine that would replace that power or potentially partnering with the Delaware Municipal Electric Corporation (DEMEC) or others to build generation.

Mr. Blakeman requested that an asterisk be placed next to those items on the PJM invoice that make up the PJM credit or that these items be somehow highlighted, noting that he was having difficulty determining this.

By unanimous consent, members recommended acceptance of the TEA/NAES Monthly Reports for July and August 2014.

Mr. Snaman moved for adjournment, seconded by Mr. Blakeman and unanimously carried.

Meeting adjourned at 5:53 p.m.

Beverly C. Williams
Chairwoman

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