REGULAR COUNCIL MEETING

The Regular Council Meeting was held on September 22, 2014 at 7:30 p.m. with Council President Bonar presiding. Council members present were Mr. Anderson, Mr. Dixon, Mr. Perza, Mr. Slavin, Mrs. Williams, Mr. Hare, and Mr. Hutchison. Mr. Lynn was absent.

Council staff members present were Police Chief Bernat, Mrs. Mitchell, Mr. Koenig, Mrs. Townshend, Fire Chief Carey (departed at 7:52 p.m.), City Solicitor Rodriguez, and Mrs. McDowell. Mayor Christiansen was also present.

OPEN FORUM

The Open Forum was held at 7:15 p.m., prior to commencement of the Official Council Meeting. Council President Bonar declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

There was no one present wishing to speak during the Open Forum.

The invocation was given by Bishop Thomas L. Holsey, followed by the Pledge of Allegiance.

AGENDA ADDITIONS/DELETIONS

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

Mr. Hare moved for approval of the consent agenda as presented, seconded by Mr. Dixon and carried by a unanimous roll call vote (Lynn absent).

ADOPTION OF MINUTES - BUDGET WORKSHOP OF MAY 20 AND 21, AND JUNE 2 AND 5, 2014

The Minutes of the Budget Workshop of May 20 and 21, and June 2 and 5, 2014 were unanimously approved by motion of Mr. Hare, seconded by Mr. Dixon and bore the written approval of Mayor Christiansen.

ADOPTION OF MINUTES - BUDGET WORKSHOP OF JUNE 11, 2014

The Minutes of the Budget Workshop of June 11, 2014 were unanimously approved by motion of Mr. Hare, seconded by Mr. Dixon and bore the written approval of Mayor Christiansen.

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF SEPTEMBER 8, 2014

The Minutes of the Regular Council Meeting of September 8, 2014 were unanimously approved by motion of Mr. Hare, seconded by Mr. Dixon and bore the written approval of Mayor Christiansen.

CERTIFICATE OF CONGRATULATIONS - KRAFT FOODS 50TH ANNIVERSARY

By unanimous consent, this item was deferred until a later date.

PROCLAMATION - CYBER SECURITY AWARENESS MONTH

The City Clerk read the following Proclamation into the record:

WHEREAS, we recognize the vital role that technology has in our daily lives and in the future of the City of Dover, whereby today many citizens, schools, libraries, businesses, and other organizations use the Internet for a variety of tasks, including keeping in contact with family and friends, managing personal finances, performing research, enhancing education, and conducting business; and

WHEREAS, critical sectors are increasingly reliant on information systems to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and

WHEREAS, the use of the Internet at the primary and secondary school levels in our city enhances the education of youth by providing them access to online educational and research materials; and at institutions of higher education, the use of information technology is integral to teaching, learning, research, outreach, and service; and

WHEREAS, Internet users and our information infrastructure face increasing threats of malicious cyber-attack, invasion of privacy from spyware and adware, and significant financial and personal privacy loss due to identity theft and fraud; and

WHEREAS, maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role, and awareness of computer security essentials will improve the security of the City of Dover information infrastructure and economy.

NOW, THEREFORE, I, ROBIN R. CHRISTIANSEN, MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby proclaim October 2014 as Cyber Security Awareness Month in the City of Dover and urge all citizens to learn about cyber security and put that knowledge into practice.

On behalf of City Council and the citizens of the City of Dover, Mayor Christiansen presented the proclamation to Mr. Andy Siegel, Information Technologies Director. Mr. Siegel advised members that the City had accomplished much in the last year, including improving high-speed internet and putting into practice new password and acceptable use policies to improve cyber security. He indicated that up-to-date cyber security training would also be provided.

On behalf of the Mayor, Council, and employees of the City, Councilman Hutchison expressed pleasure at seeing Mr. Siegel in attendance. He noted that Mr. Siegel had been through a great deal as a result of a recent collision with a vehicle while bicycling, and many people had been praying for him.

Responding, Mr. Siegel stated, for the record, that he could not be more happy and proud of the people of the City of Dover and its employees. He indicated that when the accident occurred, two (2) City of Dover electric trucks came to his aid immediately, and not simply because he was a City employee. He expressed appreciation for the assistance.

Council President Bonar expressed his personal thanks to Mr. Siegel and the IT Department for technical assistance provided in setting up his new office as Public Advocate with the State of Delaware. He stated that the City's contributions in this regard resulted in savings of approximately $140,000 to Delaware's ratepayers. Mr. Bonar complimented staff's professionalism and thanked Mr. Scott Koenig, City Manager, for facilitating this project.

PROCLAMATION - FIRE PREVENTION WEEK

The City Clerk read the following Proclamation into the record:

WHEREAS, the City of Dover is committed to ensuring the safety and security of all those living in and visiting our City, and fire is a serious public safety concern both locally and nationally; and

WHEREAS, in 2011, fire departments in the United States responded to 370,000 home structure fires, which resulted in 13,910 injuries, 2,520 deaths, and $6.9 billion in damages; and

WHEREAS, almost three of five of reported home fire deaths in 2007 to 2011 resulted from fires in homes with no smoke alarms or no working smoke alarms, and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half. When smoke alarms fail to operate, it is usually because batteries are missing, disconnected or dead; and

WHEREAS, the 2014 Fire Prevention Week theme, "Smoke Alarms Save Lives: Test Yours Every Month" effectively serves to remind us of the importance of testing smoke alarms every month.

NOW, THEREFORE, I, ROBIN R. CHRISTIANSEN, MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby proclaim October 5 – 11, 2014 as Fire Prevention Week in the City of Dover and urge all residents to make sure their smoke alarms are working properly, and to support the many public safety activities and efforts of fire and emergency service personnel.

Mayor Christiansen and Councilman Hutchison, Chair of the Safety Advisory and Transportation Committee, presented the proclamation to Fire Chief Matthew Carey. Mayor Christiansen expressed appreciation for the service that the men and women of Robbins Hose Company perform for the City 365 days per year.

On behalf of Council, staff, and the employees of the City of Dover, Councilman Hutchison stated that Chief Carey and the Fire Department could not be thanked enough for the services provided. He emphasized the importance of fire protection for all.

Chief Carey reminded Council and the citizens that an open house would be held on Saturday, October 4, 2014 to "jump start" Fire Prevention Week and, in conjunction with the Breast Cancer Coalition, free screenings would be offered to the public. He encouraged the public to attend and to check the Dover Fire Department's website and social media page for exact times and dates of events, noting that there would be fire prevention props, tours of the facility, and perhaps rides on fire trucks. Chief Carey indicated that the Department was looking forward to seeing over 3,500 children this year and requested those interested in booking slots for tours to contact the Fire Department as soon as possible. He stated that the Department was trying to contact as many

schools and day care centers as possible to spread word of the importance of fire prevention. Chief Carey reminded everyone to check and replace smoke detector batteries and encouraged those with questions to call the Department on its non-emergency line. He thanked everyone for their support.

On behalf of Council, Council President Bonar expressed thanks to the Fire Department for their service. He reminded all those present that Dover was the only state capital in the United States that continued to have a volunteer fire department, which he stated spoke highly of the men and women of the Dover Fire Department and reflected their dedication, training, and numerous hours of commitment to the community.

PROCLAMATION - HALLOWEEN TRICK-OR-TREAT

The City Clerk read the following Proclamation into the record:

WHEREAS, the children of the City of Dover enjoy the fun and festivities associated with the observance of the Halloween Trick-or-Treat custom of traveling with friends and family going from door to door in their neighborhood, displaying their costumes, and gathering treats; and

WHEREAS, parents are urged to join in the festivities by accompanying their children throughout their journeys in celebrating Halloween Trick-or-Treat; and

WHEREAS, residents are requested to indicate their willingness to welcome children by keeping their porch or exterior lights on and that youngsters call only on homes which are lighted; and

WHEREAS, the Mayor of the City of Dover has deemed it advisable to observe the celebration of Halloween Trick-or-Treat on Friday, October 31, 2014 between the hours of 6:00 p.m. and 8:00 p.m.

NOW, THEREFORE, I, ROBIN R. CHRISTIANSEN, MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby proclaim that the Halloween Trick-or-Treat observance be held on the 31st day of October 2014, between the hours of 6:00 p.m. and 8:00 p.m. in the City of Dover and urge all residents, both young and old, to make this a happy and safe occasion for our children.

Mr. Bonar conveyed his hope that everyone would have a safe and happy Halloween.

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE REPORT - SEPTEMBER 8, 2014

The Parks, Recreation, and Community Enhancement Committee met on September 8, 2014 with Chairman Dixon presiding.

Review of Active Recreation Area Plan - Tall Pines at 1655 and 1665 Kenton Road

Mr. Bill Cook, Planner I, advised members that the proposed project is a multi-family residential development to be known as Tall Pines. A previous Site Development Plan and Parcel Consolidation Plan (S-04-33) for the project were approved by the Planning Commission in December 2004 with Final Site Plan approval in October 2005. Some site improvements commenced, existing buildings were demolished, and foundation work began but subsequently ceased; therefore, the original plan expired.

The proposed project includes a total of 24 dwelling units in two (2) buildings on 2.34 acres, which is a density of approximately 10.2 dwelling units per acre.

Mr. Cook advised members that the plan consisted of three (3) areas south of the site: 1) a walking path surrounding the storm water facility, 2) a lawn game area between the two (2) structures, and 3) an area closer to the intersection of the roads.

Staff recommended approval of the Active Recreation Area Plan with the following recommended changes:

a. Area 1: Relocate horseshoe pits to Area 2 to comply with required setbacks of game/court facilities from adjacent properties (*Zoning Ordinance*, Article 5 §10.15).

b. Area 1: Add grills and a picnic table to Area 1. Provide accessible path to the picnic table. Revise ornamental tree plantings in the area to shade tree plantings.

c. Area 1: The woodchip/mulch walking path should include a defined edging that will prevent encroachment of grass and/or weeds into the path area.

d. Area 2: Relocate a bench from the storm water retention pond Area 1 site to near lawn game area with an accessible path.

e. Area 3: This lawn game area is shown to have a sloping grading near the building. Due to its location and configuration it is not a viable area for active recreation activities.

In addition, to meet the objectives of Article 10 §10 2.2 of the *Zoning Ordinance,* staff recommended additional outdoor bicycle parking to include a minimum of two (2) spaces per building entrance (total eight (8) spaces). Planned improvements on Kenton Road will include bicycle lanes, and potential improvements in neighborhoods south of the project site which are anticipated to improve bicycle connectivity to parks, schools, shopping areas, and nearby recreational amenities, such as the YMCA.

a. The use of "Inverted-U" racks capable of supporting of two (2) bicycles each are recommended, for a total of four (4) which exceeds the code requirement of three (3).

b. Any indoor storage areas capable of secure bicycle storage, within individual units or in common, should be noted.

In response to Mrs. Horsey concerning the buffering on the west side of the recreational use area, Mr. Cook advised members that a buffer of existing trees was provided in this area, noting that the requirements for buffering were related to adjacent properties rather than parking lots.

Responding to Mr. Anderson regarding the addition of grills to the common area, Mr. Cook stated that it was the request of the City's Fire Marshal to provide community grills in the active recreational area to minimize the chances that homeowners might try to use personal grills on their balconies or store propane, which are not permitted per the City's Code.

In response to Mr. Hutchison, Mr. Cook indicated that the hours of use for the active recreational area had not yet been established.

Responding to Mr. Dixon's concerns regarding the community's involvement in the planning process for the active recreation area, Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that the area was meant to be used exclusively by homeowners within the proposed complex and not by the community; therefore, the public was not involved in the planning process. She noted that the project as a whole would be brought before the Planning Commission for a public hearing.

In response to Mr. Caldwell concerning the horseshoe pits in the active recreation area, Mrs. Townshend explained that they were part of the original application in 2004, which was approved. Construction was started and infrastructure was put in place, but the plan then expired. Mrs. Townshend stated that the applicant was simply bringing back the same plan, as originally approved in 2004.

Mr. Caldwell inquired who would be responsible for maintaining the active recreation area. Responding, Mr. Joe Petrosky, Woodbrook Ventures, LLC, stated that the residents and homeowners within the community would develop an association to maintain the area, as originally planned when the project began in 2004. Mr. Petrosky noted that the grills were added to accommodate a requirement and not something that he personally favored.

The Committee recommended approval of the Active Recreation Plan for Tall Pines at 1655 and 1665 Kenton Road with staff's recommended changes.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Lynn absent).

Statistics for Homeownership/Rentals in the City of Dover (*Request of Councilman Hutchison*)

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that, according to the United States Census Bureau, the

homeownership rate in Dover from the period of 2008-2012 was 55.1%. This was an increase over the 2000 Census, when the homeownership rate was documented at 52.3%; however, the methodology for collecting and reporting this data changed between the 2000 and 2010 Census.

Mrs. Townshend stated that, at 55.1%, Dover has a higher homeownership rate than Wilmington, Georgetown, and Seaford, but lower than Newark, Smyrna, and Milford, which places Dover in a median rate of homeownership. She noted that there was definitely room for improvement, recognizing the importance of maintaining or increasing the rate of homeownership, especially in the downtown area. Mrs. Townshend advised members that, according to the Restoring Central Dover Study, the project area (bounded by William Street on the north, Hope Street on the south, State Street on the east, and West Street on the west, and including Lincoln Park) had a homeownership rate of 25% and a rental rate of 75%. Mrs. Townshend stated that a key strategy of revitalizing the central Dover neighborhoods would include increasing the rate of homeownership. In the coming months, the City will be looking for opportunities to build upon existing incentives such as tax incentives, potentially building permit fee reductions, etc., to help make it affordable and desirable for people to own homes in the downtown area.

Responding to Mr. Hutchison, Mrs. Townsend stated that, according to the 2008-2012 American Community Survey, the City of Wilmington's homeownership rate was 47.9%, which was significantly less than the City of Dover's rate. Mr. Hutchison indicated that it was important not only to prevent the rate of homeownership from falling but to work to increase that percentage, particularly in the downtown area, where the current rate of 25% was unacceptable. Mrs. Townshend stated that the two (2) closest municipalities geographically, Smyrna and Milford, had homeownership rates of 66.8% and 60.4% respectively, and this indicated there was room for significant improvement in Dover.

Mr. Hutchison stated that in his mind there are two (2) cities in Delaware: Wilmington and the Capital City of Dover, and shared his opinion that the staff and the community should be educated on homeownership statistics to work together for improvement.

Expressing his appreciation and support of the efforts being made to promote homeownership in the City of Dover, Mr. Anderson also pointed out that some of the difference between rates in Dover and in the cities of Smyrna and Milford may relate to fact that the population of those municipalities nearly doubled, mostly due to the addition of new developments of single-family homes, during the building boom. He felt that their growth may be the result of these increases rather than changes made by these cities. In addition, Mr. Anderson attributed some of Dover's rental rates to the volume of renters in Dover due to the Dover Air Force Base and military families.

Mr. Dixon reiterated the importance of affordable housing so that people can live in Dover.

Mrs. Tracey Harvey, Planner I, advised members that settlement assistance for homeownership had been increased to $20,000 city-wide to help provide affordable housing for those who qualify. In addition, she explained that part of the discussions held regarding the Restoring Downtown Central Dover Initiative had included adding a provision that some settlement assistance money could be used toward rehabilitating the properties purchased in the downtown area.

Ms. Yvonne Hall, 228 North State Street, stated that she is a business owner in the downtown Dover area and also a real estate agent. Ms. Hall noted that the town of Camden was not included in the census, stating their homeownership rate was 70%. Ms. Hall expressed her concern about the percentage of homeownership within the City of Dover and offered to provide assistance wherever needed, stating that, as a real estate agent, she may be able to assist with finding financing programs and other avenues that potential homebuyers could pursue. In response to Ms. Hall, Mrs. Townshend noted that Camden was not included in the figures provided because the U.S. Census Bureau did not provide information for towns whose size and population were much smaller than Dover, such as Camden, Wyoming, Magnolia, etc.

Ms. Paula Kinsey, 224 North State Street, owner of "Tea for Two, inquired if the City had a beautification plan, stating the importance of improving the appearance of properties by keeping trees trimmed and houses and buildings painted. She stated that proper care of properties should be enforced. Ms. Kinsey noted some unsightly things she had observed, such as long weeds at the old Dover Public Library and cigarette butts at the Dover Post Office and new Dover Public Library, and suggested utilizing volunteers to assist with clean up and maintenance, as well as adding flowers and just being neat and clean in general. She encouraged everyone to show and take pride in our City.

Mr. Hutchison assured Ms. Kinsey and everyone present that the City does have a beautification program and that the City's code enforcement officers and inspectors work diligently to maintain the appearance of the City; however, recently some of those resources have had to be reallocated toward new issues the City is facing, such as 350 vacant homes and commercial buildings, which had placed many demands on the Planning Department. However, Mr. Hutchison stated that this would improve as some of the issues are addressed and resolved. In response, Ms. Kinsey said she would be happy to offer her time to work toward the City's efforts.

Mr. Dixon expressed his appreciation of the efforts of all of the departments of the City that work toward resolving these issues, stating that the City would continue to work hard to keep its appearance of the City; however, it costs money to do so.

Mrs. Horsey expressed her appreciation for Ms. Kinsey's comments, stating that part of this Committee's name is "Community Enhancement." She noted that everyone loves the flowers; however, among those flowers are trash, weeds, and cigarette butts. She stated that homeowners are not taking care of the exterior of their homes, this applied to some government-owned buildings as well, and that promoting a clean City means more than just pretty flowers.

Progress Report - Downtown Development District Application

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that Ms. Connie Holland, Executive Director, and Mr. David Edgell, Principal Planner, both from the Office of the State Planning Coordination, were present in the audience to field questions.

Mrs. Townshend referred to her memorandum dated August 29, 2014 regarding Update on Downtown Development District Application and Incentive Ideas, stating that this memo focused specifically on incentives. She said that the City had been working to gather the data required to complete the application, noting that the recommended Downtown Development District Boundary would go before Council later in the evening. Mrs. Townshend explained that 20% of the application scoring was focused on incentives, and that Dover had several incentives, including a real estate transfer tax waiver for first time home buyers, real estate transfer tax waiver for the seller of homes in the downtown Dover area, building permit fee waiver, impact fee waiver, and ten-year abatement of taxes on the value of improvements.

Mrs. Townshend stated that, for the purpose of the Downtown Development District application, the recommended boundary that would be going before Council later this evening was smaller than the current boundary, matching the Downtown Development District target area. The reason for the change was to focus more on development of the downtown area, which would exclude large institutional uses, such as the Bayhealth property. Mrs. Townshend noted that, if approved, the new boundary would be codified and become part of the City's Code.

Mrs. Townshend noted that some of the additional incentives being considered were to waive business license fees for new businesses in the District for a period of three years; provide a 50% rebate for real estate transfer tax upon completion and issuance of a Certificate of Occupancy (CO) for projects that qualify for the incentive; and modify the impact fee waiver to allow it to apply to all eligible projects within the District (currently only applies to multi-story mixed use construction), among other variances involving the impact fees. Mrs. Townshend advised that an additional incentive would be discussed with the Downtown Dover Partnership (DDP) Board at their September 24, 2014 meeting. This would involve having the DDP retain an architect and budget funds to provide up to $5,000 in architectural services for businesses that require small renovations or a code data sheet in order to occupy an existing tenant space, which would ease the process of new tenants bringing in their business.

Mr. Anderson shared his feeling that the proposal was well thought out. He indicated that he was not in favor of shrinking the codified district to match the boundary because it would not be possible to determine how long the State incentives would be in place, and it appeared the incentives were more specific to the State, whereas the district boundary that City set is more advantageous to the City and the entire downtown area. Responding to Mr. Anderson, Mrs. Townshend stated there was no requirement for matching grants under the Downtown Development District Program, however, the State was expecting the City to provide incentives as well.

Mr. Anderson inquired about incentives for vacant buildings and expressed interest in getting those buildings occupied. He indicated that he would like to mirror the National League of Cities' (NLC) participation with banks, so that people can sell tax credits to produce more cash flow.

Mrs. Townshend stated that new market tax credits would be a very positive option for the City of Dover and concurred with Mr. Anderson's suggestion regarding incentives for vacant buildings, so that buildings could be saved rather than demolished.

In response to Mr. Hutchison regarding a screening process for those who apply for incentives, Mrs. Townshend advised members that the State would screen those applicants applying for State incentives and was currently working on guidelines. Regarding the City's incentives, Mrs. Townshend stated that they are included in the Code and that an application must be completed. She reminded members that Council recently approved an amendment to the Code that states that applicants who discontinue paying taxes or utilities can lose their incentives.

Mr. Hutchison expressed his opinion that a specific process should be in place to avoid people going into business and, 90 days or a year later, going out of business, which wastes incentive money. He requested Ms. Holland and Mr. Edgell to explain the processes the State has in place.

Ms. Holland stated that she, Mr. Edgell, and the State Planning Office were very happy to see the State and the Governor working together on the incentive program. Ms. Holland said that the State Planning Office works with 57 municipalities in three (3) counties and shared her feeling that the only way to get past the recession was to start helping towns to get back on their feet. She informed members that she had been working with Governor Markell's chief legal advisor to create a user-friendly application; however, noted that it must be thorough to avoid funding businesses that are not sustainable. Ms. Holland also expressed her appreciation for the upkeep the City performs to make the City look nice and for enforcing standards to ensure the appearance of the City.

Mr. Edgell advised members that there are two (2) processes involved in determining eligibility. The first part is the application prepared by the City, which includes maps, incentives, etc, and is due November 1, 2014. Once submitted, the State Planning Office will meet with the Cabinet Committee of State Planning Issues in December, who will evaluate the applications from the different cities and towns so that the Governor can designate one (1) to (3) districts for the first program year in early 2015. After the districts are designated, the next phase will be managed by the Delaware State Housing Authority (DSHA), since they administer grants as a daily course of business and are developing a process. Mr. Edgell indicated that there would be a reservation system for developers, business owners, or property owners who wish to undertake projects in a designated district. The DSHA will evaluate the proposal and the applicant and, if consistent with the guidelines, the DSHA will grant them a reservation and allocate funding to reimburse the project owner once they obtain their Certificate of Occupancy (CO), with the purpose being to try to ensure the business is solid and sustainable.

Mr. Edgell noted there had been discussions with Kent County about potentially offering some matching grants to pair with the State incentives.

Ms. Holland emphasized the importance of money being allocated to planning, particularly in smaller towns that do not have funding, stating her hope that the designation would not be a one time thing. She and urged members to encourage their legislators to approve this project.

Mr. Anderson questioned, if planning money were awarded, if it would be structured to include staff time, overtime, etc. Responding, Ms. Holland advised that parameters had not been fully identified; however, it was their intent to use the funding efficiently and have it dedicated toward projects.

Mr. Dixon, Chair, Parks, Recreation, and Community Enhancement Committee (PR&CE), deferred to Mrs. Ann Marie Townshend, Director of Planning and Community Development, to brief Council members on this matter. She reminded members that, during the City Council meeting held on September 8, 2014, members endorsed the Downtown Development District (DDD) Boundary Map and explained that the boundaries approved were currently being used to compile information. She stated that the DDD application asks for incentives that the City would be willing to offer for projects within the DDD and staff was working on completing the application, which would be brought forward. Mrs. Townshend expressed her wish to discuss this matter on the Council floor to ensure that the process was transparent and that any concerns would be highlighted sooner rather than later. She indicated that the possibility had been raised of aligning the City's current Downtown Redevelopment Target Area boundary with the DDD boundary, presuming the DDD designation is received. She noted that one (1) Council representative on the PR&CE Committee was not necessarily in favor of this and explained that staff had two (2) related concerns, as follows:

1) The DDD application mentioned incentives that apply only to the designated district. If the City did not plan to decrease the Downtown Redevelopment Target area to match the DDD boundary, a discussion must be held with the State to advise them that the City's district was larger; therefore, the City's incentives would apply to a broader area; and

2) There would be confusion if boundaries for the Downtown Redevelopment Target Area differed from the DDD boundaries. Consistency between the two (2) districts would make it clearer to those seeking and those administering incentives.

Mrs. Townshend explained that the incentives proposed were: 1) a waiver of business license fees for new businesses within the DDD for a period of three (3) years; 2) a 50% rebate of the real estate transfer tax for development projects once they receive a Certificate of Occupancy (CO); 3) changes to the impact fee waivers, which were currently applicable only for multi-story mixed used development but could be changed so that at least a portion would be exempt for all redevelopment in the target area; and 4) for the Downtown Dover Partnership (DDP) to budget funds and retain an architect, who would be selected through a competitive process, to help businesses making very minor modifications. Up to $5,000 in architectural services would be provided for businesses, many of which that would not have any intention of bringing an architect on board but must because of building code requirements. She explained that this matter would be discussed at the DDP Board meeting scheduled for September 24, 2014.

Mrs. Townshend advised members that staff was working very hard to pull together the large amount of information that was required for the application and was confident that staff would meet the schedule.

In response to Mr. Hutchison regarding the screening process that would be used to review applications submitted, Mrs. Townshend explained that applications for State funds would go directly to the State. She noted that Kent County hoped to expand the program and match the State's incentive up to $10,000. Applications for City incentives would be reviewed by the Economic Development Office and herself, and ultimately would be approved by the City Manager, and this review structure would be used for any incentives added to the program.

Update - Recreation Needs Assessment

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided members with a flyer, "Public Workshops for City of Dover Residents" advertising three (3) Public Workshops scheduled on September 29, 2014 at Towne Point Elementary School, September 30, 2014 at the Dover Public Library, and October 6, 2014 at Schutte Park. Mrs. Townshend stated that, to date, there had been approximately 100 responses. Receipt of responses was ongoing and additional paper copies were being distributed. Mrs. Townshend advised members that she would provide a copy of the survey to members of Council if asked, and that she planned to keep the survey open until October 15, 2014 to allow for maximum response. Mrs. Townshend stated that the majority of the responses were coming from City residents, so the survey was reaching the target population.

Mr. Hutchison questioned whether staff was receiving updates from recreation programs in surrounding areas. Responding, Mrs. Townshend advised members that the City's Planning Department meets regularly with a group of recreation providers, including the YMCA, Delaware State University, Special Olympics, and Senior Olympics. She indicated that she had also spoken with Kent County's recreation director with regards to setting up a meeting to discuss some of their programs.

In response to Mr. Hutchison regarding whether schools and churches were included in the discussions regarding recreation programs, Mrs. Townshend stated that the Capital School District is invited to meetings held with recreation providers every other month; however, they typically do not attend. She noted that the City does have a reciprocal relationship with the School District whereby both entities allow each other to use facilities and fields without charge for some events. Mrs. Townshend also stated that the Capital School District, along with Holy Cross, the Charter Schools, and St. John's Lutheran School, assist by distributing material on behalf of the City. Mr. Dixon stated that he would like to see information distributed in the high schools as well.

Mr. Anderson asked if the meeting dates and times scheduled for the Public Workshops were "set in stone," and suggested adding a meeting at Westminster Village, which is centrally located. Mrs. Townshend stated that this could be considered.

Responding to Mr. Anderson regarding the status of the Youth Advisory Committee, Mrs. Townshend stated she did not believe that this was an active committee. Mr. Anderson expressed his desire to reactivate the Youth Advisory Committee.

Mr. Dixon encouraged members of local communities to participate in the Recreational Needs Assessment by completing the survey and to contact the City to obtain a survey. He explained that it was desired to obtain as much input as possible to determine the needs for City parks.

Mr. Dixon moved for acceptance of the Parks, Recreation, and Community Enhancement Committee Report, seconded by Mr. Anderson and unanimously carried (Lynn absent).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - SEPTEMBER 8, 2014

The Legislative, Finance, and Administration Committee met on September 8, 2014, with Chairman Slavin presiding.

Due to the absence of some members who were expected to arrive later in the meeting, Mr. Slavin requested that agenda items be reordered, as follows:

1. Purchase of Twelve (12) Additional Security Cameras
2. Civilianization of the Sex Offender Unit
3. Municipalities Continuing Disclosure Cooperation (MCDC) Initiative
4. Review of New Ordinance/Ordinance Amendment Process
5. Proposed Financial Reforms - Property Tax Governance
6. Review of Hiring by Council for Senior Positions
7. Discussion - Responsibilities and Reporting Structure for the Mayor and City Manager and Continuation of Full-Time Status for the Position of Mayor

Purchase of Twelve (12) Additional Security Cameras

Mr. Scott Koenig, City Manager, advised members that Mayor Christiansen and Police Chief Paul Bernat had requested the purchase of an additional twelve (12) security cameras for the downtown area. He stated that this was an unbudgeted expense; however, the Mayor and Chief proposed to purchase the cameras in the same manner that some of the other downtown cameras had been purchased, noting that the total cost of the additional twelve (12) cameras would be $102,585.00.

Mr. Koenig stated that area legislators were interested in supporting this project; however, Community Transportation Funds (CTF) could not be used to directly purchase the cameras. Therefore, staff proposed to transfer $102,585.00 from the FY 2015 Street Program (Project # ST1502) for the proposed purchase. He explained that staff would provide the area legislators with copies of the concrete and paving estimates for various street segments in need of repair throughout the city, and the legislators would be requested to backfill the transfer of funds from the Street Program with an equal amount of CTF funds.

Mr. Koenig stated that the Finance Department would create a project number in the accounting system for the camera purchase and transfer the funds upon approval from City Council, and staff would complete all of the necessary paperwork for the CTF agreement.

Staff recommended authorization to transfer up to $102,585.00 in appropriated funds from the FY 2015 Street Program to a new project to be identified as the Downtown Camera Project Expansion.

Responding to Mr. Anderson regarding whether any projects would be delayed using this approach, Mr. Koenig stated that there was no expectation of delay.

On behalf of himself and Police Chief Paul Bernat, Mayor Christiansen indicated that it was their feeling that the addition of these 12 cameras would assist in providing for the security of neighborhoods throughout the City. He stated that, in the past, cameras had been instrumental in assisting the Dover Police Department in quickly closing cases that might not have been closed otherwise. He indicated that the City was working closely with its State legislative delegation and expressed gratitude for their assistance with this project. Mayor Christiansen requested that the Committee approve the request.

Mr. Shevock questioned if the amount of funds for the 12 cameras was similar to the funds spent previously to purchase cameras and if the same contractor would be used. Responding, Chief Bernat stated that the same type of camera would be purchased as those presently in use, although new cameras would be high-definition, and they would be provided by Advantech, Inc., the previous provider. He indicated that the purchase of 12 additional cameras would allow the City to connect to 24 other cameras that the City would not have to maintain; therefore, this purchase would provide an additional 36 cameras. When added to the 35 existing cameras, there would be a total 71 cameras used in the City. Chief Bernat stated that a workstation (computer set-up) and a 65-inch monitor for viewing all of the cameras would be included with the purchase of the 12 additional cameras.

In response to Mr. Shevock regarding whether the existing cameras could be updated to high-definition, Mr. Ryan Kelly, representative from Advantech, Inc., stated that the City's cameras were covered under existing service maintenance and would be replaced with newer, high-definition cameras when they "go bad" and at some point all of the cameras would be the same.

Mr. Hutchison expressed his hope that all would embrace and support this request, noting that the cameras had been a great addition to the City and the Police Department.

Mr. Slavin stated his understanding that cameras were being used as evidence gathering devices and questioned if the City would move toward devoting employee resources to actively monitor cameras. Responding, Chief Bernat stated that he would like to see this in the future. He advised members that the Department had just become fully staffed, which allowed four (4), three (3) man shifts of dispatchers. He expressed his wish to dedicate one (1) of these individuals to monitoring cameras and to rotate this responsibility. Chief Bernat noted that there was a small kitchen area next to the Department's dispatch room and that eventually he would like to make this a camera monitoring area, noting that this would be "a lot cheaper than putting a police officer on a corner."

Mr. Slavin questioned if a ratio had been developed regarding the amount of manpower resources that would be leveraged when a certain number of cameras were available and suggested that such a strategy be developed. Responding, Chief Bernat stated that he did not have this information available; however, stated that "a picture says a thousand words and a video says a million." He advised members that this was a good program and that murders had been solved using these cameras.

The Committee recommended authorization to transfer up to $102,585.00 in appropriated funds from the FY 2015 Street Program to a new project to be identified as the Downtown Camera Project Expansion, as recommended by staff.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Lynn absent).

Civilianization of the Sex Offender Unit

Police Chief Paul Bernat advised members that the request to hire for these two (2) civilian Sex Offender Registry Enforcement Agent positions was related to a previous request for authorization for the Police Chief and City Manager to sign a Memorandum of Agreement (MOA) with Parkway Academy Central (PAC), an alternative school for youth, and for the Police Department to hire one (1) police officer for the position of School Resource Officer (SRO) for PAC, which was approved by City Council during the Regular Council Meeting of July 28, 2014. He stated that the Police Department signed an MOA with the school's principal in early August that would also generate $60,000 in revenues per school year for the new SRO position.

Chief Bernat stated that this was the second part of the SRO agreement with PAC. He informed members that, in addition to the $60,000 provided by the PAC, the Police Department was planning to make up approximately $25,000 through civilianizing the Sex Offender Unit. Chief Bernat advised members that only retiring officers would be replaced with civilians and no positions would be created. He stated that civilizing the Sex Offender Unit would result in a savings of approximately $45,000 for each position and a five (5) year savings of approximately $239,087.40. He explained that one (1) officer would like to retire as soon as possible and, if this occurred, the Department's total strength would be reduced from 94 officers, for which the Department was temporarily authorized, to 93. If the retired officer were to become a civilian, retraining would not be necessary, and a police officer would be put back on the road.

Mayor Christiansen expressed his hope that members would endorse this strategy, as developed by himself and Chief Bernat. He stated that this would result in a net savings to the Police Department and the City and maintain a police presence on the street. He stated that officers in the Sex Offender Unit would be replaced with competent and qualified civilians, and the Sex Offender Unit would still be supervised by a uniformed police officer.

Mr. Anderson questioned how the position would be advertised, noting the importance of complying with Equal Employment Opportunity rules. Responding, Chief Bernat stated his desire to advertise through an in-house posting, which would make eligibility exclusive to the Police Department and the current City of Dover Fire Marshal, who is a certified police officer. He stated that the City's attorneys in Wilmington had advised that this approach was allowable.

Staff recommended approval of the project as requested.

The Committee recommended approval of the project to civilianize the Sex Offender Unit and authorization to hire two (2) civilian Sex Offender Agent positions, as recommended by staff.

[City Clerk's Office Note: Subsequent to the meeting, members were provided a Memorandum from Chief Paul Bernat, dated September 10, 2014, which provided clarification and additional details regarding this proposed project.]

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Lynn absent).

Municipalities Continuing Disclosure Cooperation (MCDC) Initiative
By unanimous consent, this item was deferred until the latter part of the meeting.

Review of New Ordinance/Ordinance Amendment Process *(Deferred by Committee on August 25, 2014 Due to Time Constraints)*
Mr. Scott Koenig, City Manager, informed members that, during the Regular City Council Meeting of July 28, 2014, a Final Reading was held for Proposed Ordinance #2014-15 Amending Chapter 110 - Utilities, Article III - Water Service, Division 3 - Water Impact Fees, Section 110-207 - Establishment of Equivalent Dwelling Units and Article IV - Sanitary Sewer Service, Division 3 - Wastewater Collection Impact Fees, Section 110-282 - Establishment of Equivalent Dwelling Units. He stated that, during the discussion related to this ordinance, several members of Council expressed frustration that staff amended the ordinance between the initial Utility Committee meeting and the First Reading of the Ordinance. Mr. Koenig advised members that someone affected by the ordinance requested a meeting with him and Council President Bonar to obtain clarification regarding the proposed ordinance. As a result, staff amendments were incorporated into the proposed ordinance, and staff believed that typical procedures were followed. He explained that the original ordinance was generated by staff, and staff did not seek additional sponsorship for the staff amendments from the members of Council who sponsored the ordinance.

Mr. Koenig questioned how this type of situation should be approached in the future. He expressed concern that there would be a significant burden if a requirement were instituted to go back through the approval process for each proposed amendment, noting that there are often amendments at the Council level that do not go to Committee for consideration. He stated that, although there was a substantial change to the wording of the ordinance, there was no change to its original concept or impact.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that typically, if staff recommends a change to an ordinance, this change is called Staff Amendment #1. When City Council acts on the ordinance and amendment, Council has the option to deny the amendment and return to the ordinance as originally proposed; therefore, staff amendments result in no changes without Council approval. She advised members that she and Mrs. Traci McDowell, City Clerk, often perform wordsmithing with amendments, especially with zoning ordinances, and other staff members may point out language that is unclear. Mrs. Townshend expressed concern that staff would not make these clarifications in the future if they were required to go back through the process, resulting in delays and more workload. She could not recall any other instance when this was said to be a problem, noting that these staff amendments are typically explained to Council.

She stated that if staff were precluded from offering amendments, an opportunity might be missed to improve the wording of ordinances and leave future staff and future Councils dealing with "murky language," which staff often encounters with existing ordinances.

Responding to Mr. Hare regarding whether staff reviews ordinances before they are initially brought forward, Mrs. Townshend advised members that staff does initially review ordinances but details can become apparent after additional review.

Mr. Slavin stated that the goal was the best product with the least process whenever possible. He expressed concern, from the public's point of view, that changes might be made between the First and Final Readings of an ordinance. He felt that a process change was not needed but a communication change to provide a way to alert everyone to staff amendments or proposed language clarifications. He proposed that those who bring ordinance amendments forward should communicate to Council when there is a substantive change and the reason for it. Noting the large volume of meeting packets that are provided, he felt it would be better if it were stated in plain English why amendments were made, separate and apart from the ordinance.

Mr. Koenig questioned if it was desired to add narrative in a memo as a cover page or if the synopsis should detail this information. Responding, Mr. Hare suggested notifying members of the changes via email. Mr. Slavin suggested that these changes be flagged to alert members that the proposed changes are "a little out of the ordinary."

Mr. Anderson expressed his opinion that no changes to the ordinance amendment process were necessary; however, he felt that the public should clearly understand that such changes are proposed amendments, not changes to the ordinance. He stated that when this particular ordinance was pulled up, it appeared to be a complete substitute, which he felt caused concern. He suggested at least alerting the sponsor(s) so that they could agree to the changes.

Mr. Slavin stated his belief that staff understood the spirit of the conversation and that no action was necessary.

Proposed Financial Reforms - Property Tax Governance

During the Committee meeting of June 23, 2014, Mr. Slavin advised members that during the June 11, 2014 Special City Council Meeting - Budget Review he proposed a series of 14 financial reforms to be addressed over the next six (6) to nine (9) months that would assist in shaping the City's Budget for FY 2015/2016. He stated that the proposed reforms were clustered into four (4) separate areas, as follows: 1) public safety; 2) compensation policies; 3) property tax governance; and 4) restrictions on uses of appropriations. He requested that members consider the public safety area first and that staff be requested to review the reforms, develop recommendations, and provide information on any financial gap that may result. He explained that the review would allow members to identify whether there was a need to create policy, ordinances, or Charter changes to implement any changes that may result from those discussions.

Mr. Slavin reviewed the two (2) proposed financial reforms regarding property tax governance, as follows: 9) Council shall not raise the property tax rate more than 9.5% without first holding a referendum on the proposed tax increase. This provision shall not apply in those years when a revenue-neutral adjustment to the tax rate is required because of property revaluation; and 10) Council shall not raise the property tax rate more than 9.5% without two (2) separate votes of a two-thirds majority vote of Council, with the requirement that a municipal election occur between the first and second vote. This provision shall not apply in those years when a revenue-neutral adjustment to the tax rate is required because of property revaluation.

Mr. Slavin stated that the spirit of these reforms was to tighten controls that Council has on itself in regard to budgeting, rather than relying on a "pot of gold that might sit at the end of the rainbow" by solving the City's problems through a dramatic tax increase, which would not be in the best interest of the City or taxpayers. The purpose would be to cap Council's ability to change the tax rate without requiring additional steps. He noted that the proposed financial reforms were meant to be discussion points that could be adopted as policies and that some may involve charter changes. He indicated that the requirement could be for the conditions of both proposed reforms to be met, or one or the other.

Mr. Anderson stated that proposal #9 was his favorite proposed financial reform because he felt it was essential that the people have a say in their government and their taxes, since few things affect them as visibly and directly. He felt that this proposal would allow a nearly 10% tax hike in one (1) year with just a majority vote, without holding a referendum, and that this would allow flexibility. Mr. Anderson indicated that requiring a referendum with any tax increase would unnecessarily handicap Council, who were elected to do a job; however, he agreed with a cap that would guarantee that there would not be a 30% - 50% tax hike in one (1) year, which could send shocks to the economy. He stated this would provide a degree of certainty that would be good for economic development and would be good public policy. Mr. Anderson did not feel that both proposals #9 and #10 were necessary and favored #9. If proposal #9 were not adopted, he felt that #10 might be a possible approach.

Mayor Christiansen expressed his opinion that Proposals #9 and #10 were both viable options to encourage Council to "do the right thing" and that both should be studied very closely. While he believed that most Councils would have a tendency to be responsible to their citizens and taxpayers, he felt it important to have a mechanism in place to protect the taxpayer from unnecessary spending. However, he felt that these two (2) points should never be put in place to remove fiscal responsibility from members of Council.

Mr. Hare indicated that he did not have a problem with proposals #9 and #10, but felt that with any tax increase Council must make sure that the City has its "ducks in a row." He stated that if the City were to continue to dole out large union contracts, hire people for upper management, and then raise taxes, Council would be sending the wrong messages. Mr. Hare felt that if there were a need to raise taxes to make ends meet, then the City must tighten its own belt.

Mr. Slavin stated that these points were brought forward because he believed that Council had a fiduciary responsibility to manage and spend wisely, rather than relying on gimmicks and "kicking the can down the road" for someone else to deal with. He expressed the need to be transparent and, when the opportunity is there, to listen to the voters. He indicated that both items were brought forward because he felt that if there were a sitting Council who wanted to raise taxes beyond 9.5% and did not want to go to referendum, this would take away their ability to do so without having an intervening election.

In regard to proposal #10, Mr. Hare questioned, for example, if Council approved a tax increase beyond the limit by a two-thirds vote in June 2015, if it would be necessary to wait two (2) years to do so because the next regular election would be in 2017. Stating that he was not in opposition to the proposed change, he noted that this would delay the receipt of funds. Responding, Mr. Slavin stated that this proposal was now a recommendation and if it were to become a policy, Council could "opt out" of it. However, if it were included as an ordinance or charter change, Council would be bound by it.

Mr. Hutchison stated that elected officials have the responsibility to serve the City of Dover and that members of Council have tremendous resources in terms of staff and legal advisors to analyze issues and concerns related to raising taxes. He did not like "having hands tied" in this regard and felt that the ultimate decision should rest upon elected officials, and this concept had been honored in years past.

Mr. Scott Koenig, City Manager, expressed his concern that staff had experienced difficulty in getting traction in recent years on any tax increase. He explained that, under current rates, the 9.5% cap would equate to a $0.0321 proposed increase in property tax. For several years, staff had recommended tax increases to stabilize the General Fund, which had been negated in the budget process, either through fee increases, deletions of projects or initiatives, or transfers from the Electric Fund. He stated concern with a hard cap, noting that the budget is typically presented in the May time frame, which would require a "scramble" to bring it to referendum. He indicated that if Council elected to move forward the timing of these initiatives would be important. Mr. Koenig advised

members that a great deal of time is spent developing the budget, and if it should go to referendum, the budget must be marketed, due diligence must be performed from the public's standpoint, and the audience would expand from a Council and Committee body to the general public. This would add a significant burden to staff to advocate for those budgets moving into the challenge of a referendum. If a vote were held before and after the election, this would move the roll-out of the budget into the March time frame to allow Council time to review the budget initially, and then bring the issue before a new Council following the election. In regard to the proposed 9.5% cap, Mr. Koenig stated that this would equate to approximately $0.0321, and it had been shown in multiple budget iterations that the need was greater than this. He reminded members that an increase of $0.0722 was proposed in FY 15, which was not palatable at the Committee or Council level, and indicated that 9.5% was not very high when looking at the City's current tax rate.

The Committee recommended that proposed financial reform #9, Council shall not raise the property tax rate more than 9.5% without first holding a referendum on the proposed tax increase; this provision shall not apply in those years when a revenue-neutral adjustment to the tax rate is required because of property revaluation, be referred to staff for drafting as an ordinance and that an opinion be obtained from the City Solicitor regarding whether it should be prepared as a simple ordinance or a Charter change.

The Committee recommended tabling proposed financial reform #10, Council shall not raise the property tax rate more than 9.5% without two (2) separate votes of a two-thirds majority vote of Council, with the requirement that a municipal election occur between the first and second vote; this provision shall not apply in those years when a revenue-neutral adjustment to the tax rate is required because of property revaluation.

Mr. Slavin reviewed the provisions of proposed financial reforms #9 and #10 related to property tax governance, noting that they were separate but related items. He explained that the Legislative, Finance, and Administration Committee discussed these items at some length and financial reform #10 was tabled by a unanimous vote of the Committee as the intent of the reform was met with the Committee's recommendation of reform #9. Mr. Slavin stated that Mr. Koenig had asked that this item be removed from the consent agenda for additional discussion on the floor. Mr. Slavin stated that he was still very much in favor of this reform and saw it as a critical step in ensuring the City's long-term financial health, while also promoting full transparency.

Mr. Koenig expressed his concern, as indicated at the Committee level, that there had been an ongoing debate about the potential need for a tax increase for the General Fund. The draft budget for FY 2015 included a proposed $0.0722 tax increase to address requests from the prior year from Council regarding infrastructure improvements, as well as general operating expenses. Ultimately, after five (5) or more sessions of debate during the 2015 budget hearings, Council elected to transfer $2M from the Electric Revenue Fund to balance the budget; however, Mr. Koenig reminded members that there was still significant pressure on the General Fund. He cautioned members that if a requirement were added for a public referendum, this would probably push the budget presentation back to February or March, when the numbers would be less solid than in May, when hearings were typically held. He indicated that there would be additional costs and work associated with a public referendum, noting that it would be

necessary to advocate for the budget throughout the City to gain support, and failing to provide this type of presentation across the City would be a disservice to the City. He reminded members that even after the $0.0722 increase was proposed for FY 2015 and was discussed in the newspapers, only a relatively small number of people contacted the City in this regard and general participation was relatively low. From a budgetary standpoint, he stated that adjustments would have to be made to accommodate a referendum, if required. Mr. Koenig was unsure if staff would be prepared for a referendum for FY 2016, and stated that, without a referendum, this proposal would limit staff to bringing forth a budget that would be within the 9.5% prescriptive numbers outlined, which may or may not be a budget that Council would like to consider. He stated his understanding, coming out of the last budget meetings, that Council would like to see several options presented at the budget hearings in May 2015, which staff would begin preparing for very shortly. He stated that a lot of work would need to be done to meet the proposed referendum requirement.

Mr. Anderson questioned if Mr. Koenig would consider it a negative if the City had a tax increase that was greater than 10% if it had the support of the people. Responding, Mr. Koenig stated that he would not consider such an increase to be a negative; however, he explained that 10% would equate to approximately $0.035 on the property tax rate and each penny would raise approximately $315,000. If Council decided to allocate $1M more to the street program next year, that could create the need for a referendum.

In response to Mr. Hutchison regarding the number of tax increases in the City during the last seven (7) years, Mr. Koenig stated his belief that the only tax increases during this period were related to property revaluation.

Mr. Hutchison questioned how many times Council had taken funds from the Electric Fund or Electric Reserve Fund in order to meet the General Fund budget in the last seven (7) years. Responding, Mr. Koenig stated that for FY 15, $2M was transferred from the Electric Fund to balance the budget. For FY 14, staff proposed bringing forward unused revenue from the FY 13 budget to balance the FY 14 budget; however, the trash fee was adjusted to balance the budget. In 2012, the transfer from the Electric Fund was changed from 8% of the total budget to an $8M flat transfer; therefore, there were flat $8M transfers in FY 2014, 2013, and 2012. Prior to that, transfers were based on a percentage of revenue. He indicated that it was his and Mrs. Mitchell's belief that adjustments associated with reassessments were made to the tax rate in FY 2010 and FY 2006.

Mr. Hare stated his opinion that there were not many funds in the City that could stand on their own and that the electric utility was created years ago to keep the property tax low. He indicated that revenues from the electric utility support a lot of funds in the City and "the money goes wherever it needs to go." He stated that he was concerned only with the amount of revenue brought into the City, how much was spent, and how much is in the reserves, regardless of the source. Mr. Hare felt that Council had "tied the City Manager's hands an awful lot." He stated that when Mr. James O'Conner was serving as City Manager, Council told him to do what must be done to bring a budget forward without raising taxes, rates, and fees. For the most part, this was done and, for the most part, Council did not know the details. Mr. Hare stated that Council was not currently allowing Mr. Koenig to do this and suggested that he be asked to provide a budget that had no increases. Mr. Hare felt that Council should not be telling the City Manager what to do because the City Manager "knows what goes on." If Mr. Koenig could not develop such a budget, then Council should get someone who can, although Mr. Hare expressed his belief that Mr. Koenig could accomplish this.

Mr. Slavin reminded members that during the time that Mr. O'Conner served as City Manager, revenue streams were increasing, which assisted in the City Manager's ability to deliver budgets without increases. He indicated that the proposed reforms were intended to be a means for Council to govern itself and not to "handcuff" Mr. Koenig. Mr. Slavin explained that these rules would be set for Council to obey, and if it were desired to raise taxes by $1M or 9.5%, the voters should be consulted. In reference to Mr. Koenig's comments that it would be a disservice to the City not to advocate for the budget when having a referendum, Mr. Slavin felt that the best way to avoid this disservice would be to invite every voter in the City to participate in that decision.

Mr. Perza stated his position that Council representatives had been elected to make decisions on behalf of those in their districts. He felt that Council was capable of deciding whether or not to raise taxes based on the information provided in books, manuals, slides, presentations and budget hearings. When these decisions are formulated, members meet with members of the community and have a sense of what those in their communities want them to do. Mr. Perza felt that extra layers of bureaucracy were being added to micro-manage City management's decisions. He recognized that big decisions would have to be made, but advised members that if Council goes against the will of the people, they would hear about this and ultimately be replaced. Noting that, in terms of tax increases and spending money, he was probably "the cheapest person in this room," Mr. Perza expressed his belief that Council was present to make these decisions and if they could not be trusted to do so, the wrong individuals were seated at Council desks. He did not feel that any members would take the decision to raise taxes lightly since this would have direct consequences on every household in each district. Acknowledging that he did not like tax increases, Mr. Perza stated that, by adding extra layers, proposed reform #9 would open the door to extra administrative oversight and unanticipated cost.

Mr. Hare concurred with Mr. Perza, stating that the counsel of former Councilman Francis Weyandt was that if the people had to be asked every time Council wanted to do something, then members should not be there; members should do what feels right and if the people do not like this, they will not re-elect their representatives. Mr. Hare noted that the City had provisions in place to require a referendum, for example, if a certain amount of money were spent. He stated that a referendum was required when the construction of the J. W. Pitts Center was proposed and this referendum failed. Consequently, the proposal was redeveloped in an amount below the required referendum amount and the facility was built without air conditioning. Mr. Hare explained that the City was now spending funds to put air conditioning in this facility. He stated that, like Mr. Perza, he would resist a tax increase; however, he did not believe that a referendum should be required for a tax increase.

Mr. Anderson stated that he favored proposed reform #9 because it made sense economically. He felt that uncertainty was one of the biggest factors against economic development. It was his belief that Dover would become friendlier for jobs and economic development and more attractive for those opening and relocating businesses due to the certainty that any tax increase would happen gradually and would not be larger than 10% in a year. Mr. Anderson explained that this proposal would apply to significant tax increases that demand public input and a public buy-in. Mr. Anderson advised members that, according to the City's current charter, a referendum would not be binding. After holding such a referendum, if Council still felt that the City still needed to raise taxes, this could be done, although he believed that if the results of the referendum were negative, taxes would not be raised. Mr. Anderson stated that this was a good proposal and he was glad to support it.

Mrs. Williams stated that she had strong feelings about both sides of this issue and cited two (2) concerns that she had experienced since being elected: 1) the manner in which the City raises taxes, stating that the City always finds a "ghost excuse," such as an electric rate hike or trash fee, rather than saying directly that more money is needed to run the City; and 2) she expressed disagreement with the construction of the Dover Public Library without a referendum when the public was "screaming" for one. She indicated that the library had been a good thing for the City; however, she also stated that many people thought they had not been given an opportunity to have a say in this. Mrs. Williams indicated that she did not wish to tie Mr. Koenig's hands behind his back, expressing her belief that he was fully competent and capable of doing what he was asked and of bringing forward factors that Council may not have thought of. However, she was unsure that Council would follow its own best judgment unless pushed by the citizens of the City. In the past, she felt that Council had been very manipulative and stated that perhaps the best way to handle this would be with a referendum which would stop all of the "game playing."

Mr. Perza guaranteed the residents of the Second District that they could be very certain that he would not be voting in favor of raising taxes by 20% or more if Council got to that point.

Theoretically, Mr. Hare stated that if a tax increase of 23% were proposed and this was put to a referendum that failed, Council could raise taxes 9.5% but would still be 14% short. He questioned where these funds could be obtained and whether they would be provided by laying off employees, cutting services, or finding the money elsewhere, which would indicate that there was no real need for the 23% increase.

Responding, Mr. Slavin stated that there would be many options, including cutting expenses. He noted that this year Council was faced with a tax increase of more than 20% in the proposed FY 2015 budget and got by with a 0% tax increase.

Mr. Hare stated that if expenses could be cut to save money, Council should be doing this anyway.

Mr. Slavin advised members that the proposed reforms were offered as a package and expressed his opinion that #9 was an important reform that spoke to a very fiscally disciplined and conservative policy that had transparency and accountability attached to it. He stated that he supported and stood by the proposal.

Mr. Hutchison agreed that the City needed to fine tune its operations by putting strong measures in place. He stated that he took a great deal of pride in serving as an elected official and did his homework when it came to knowing the budget and what the needs were, as did other Council members. In reference to the FY 2015 budget, he stated that the City Manager brought forth a proposal, but the elected officials, working with the City Manager, came back with a different plan and did not have to raise taxes. He stated that elected officials work together with the City Manager and Controller/Treasurer to address the issues and concerns facing the citizens. In regard to tax increases, he stated that the track record spoke well for the City, noting that tax increases are not often implemented in Dover and no other city in the State has a similar record in regard to tax increases. However, Mr. Hutchison expressed deep concerns with the notion that the City could continue to take funds from reserves and the Electric Fund. He stated that, at some point, it would be necessary to increase taxes, and he felt that this burden belongs on Council as the elected officials.

Mr. Hare stated that, although he would be willing to try proposed reform #9, he did not want to see it implemented as a permanent measure. He felt that it should include a sunset provision to see how it performs.

Mr. Perza stated appreciation for the efforts of Mr. Slavin and the Committee to develop methods that are fiscally conservative to protect the City's and taxpayers' interests. He reiterated his philosophical position and stated that he was open to suggestions and working with it. Mr. Perza suggested that mechanisms be included to accommodate states of emergency, noting that if Hurricane Katrina or a tornado wiped out half of the City, there would not be time for referendums. He stated that perhaps something could be adopted, such as a super majority vote of Council that a referendum was not required under certain circumstances.

Mr. Anderson stated that Mr. Perza's suggestions could be included when an ordinance is drawn up. He reminded members that the recommendation was to obtain a legal opinion to have an ordinance drawn up, stating his assumption that all of the concerns would be incorporated when the time came. He expressed his belief that it was important to move forward because this proposed financial reform was the one that would make all of the other reforms work, including spending packages and negotiations. Mr. Anderson stated that if union arbitration became necessary, the City would be able to point to an actual limit that could be paid out, which would be in the City's favor.

Council President Bonar stated that, as a legislative body, Council members were elected to do a job and to relate information and respond to constituents. He expressed his belief that the ultimate referendum was the Council member's term of office. He believed that Council could be forced into a position where it might be necessary to raise taxes more than 9.5% without holding a referendum between two (2) elections. These were decisions that Council would be faced with as elected officials. He stated that no one wanted to raise taxes, and the City had the luxury for many years of having reserves to help balance the budget; however, in the future, members would be faced with a distinct possibility of raising taxes more than 9.5%. Mr. Bonar felt that this topic was food for thought and, judging from what others had said, he felt that there was room for compromise. He stated that Council had hired the City Manager and Controller/Treasurer and if they did not bring forward a budget that was balanced enough without causing undue financial pain, it was up to Council to replace them; however, he cautioned members that it would not be possible to "cut our way" into a balanced budget.

Mr. Slavin moved to refer financial reform #9 to staff and legal counsel for drafting as an ordinance, with the provision in the drafting of the ordinance that Council may vacate the provisions in times of unforeseen emergencies, seconded by Mr. Dixon.

Mrs. Williams moved to amend the motion to stipulate that the ordinance be reviewed four (4) years after implementation, seconded by Mr. Slavin and carried by a roll call vote of seven (7) yes (Anderson, Dixon, Perza, Slavin, Williams, Hare, and Bonar), one (1) no (Hutchison), and one (1) absent (Lynn).

The motion to refer financial reform #9 to staff and legal counsel for drafting as an ordinance, with the provision in the drafting of the ordinance that Council may vacate the provisions in times of unforeseen emergencies, with the stipulation that the ordinance be reviewed four (4) years after implementation carried by a roll call vote of six (6) yes (Anderson, Dixon, Slavin, Williams, Hare, and Bonar), two (2) no (Perza and Hutchison), and one (1) absent (Lynn).

Municipalities Continuing Disclosure Cooperation (MCDC) Initiative

By unanimous consent, members agreed to consider Agenda Item #3, Municipalities Continuing Disclosure Cooperation (MCDC) Initiative, which was deferred earlier in the meeting.

Mrs. Donna Mitchell, Controller/Treasurer, stated that in June 2013, when working on the 2013 Water Sewer Revenue Bonds, it came to staff's attention that there was a requirement to file a municipal disclosure based on new Securities and Exchange Commission (SEC) rules and that this had been a requirement since 2010. As part of that bond issue, staff developed and Council approved a Disclosure Policy. Mrs. Mitchell advised members that the SEC had provided a "grandfather period" to allow conformance with disclosure. Since this grandfather period would soon be expiring and staff was working on a new loan, Mrs. Mitchell stated that she wished to bring this to Council's attention. In addition, she stated her desire to provide education on disclosure requirements as this was an annual requirement stated in the Disclosure Policy.

Mrs. Mitchell reviewed a presentation, entitled "Municipalities Continuing Disclosure Cooperation Initiative - Securities and Exchange Commission Rule 15c2-12." She explained that Electronic Municipal Market Access (EMMA) was the repository where the City puts all of its financial information for bondholders, brokers, and dealers, and the Municipal Securities Rulemaking Board (MSRB) is the agency that oversees disclosure and ensures compliance for the SEC. Mrs. Mitchell informed members that she examined the information that City staff provided through EMMA and determined that the City's Comprehensive Annual Financial Reports (CAFRs) were submitted in December 2013, within the allowable time frame stated within the City's Disclosure Policy (275 days after fiscal year end). However, CAFRs prior to 2013 were listed as uncertified, so Mrs. Mitchell contacted EMMA and was told that this was the result of a glitch in their system. Mrs. Mitchell stated that she was able to log into EMMA and correct this problem and these reports were made available.

Referring to Event Notices, Mrs. Mitchell explained that rating changes would include anything that impacts the City's bonds. For example, she stated that the ratings of the companies that insured the City's bonds were downgraded after problems in the market, and the City was supposed to report these downgradings in addition to the City's own downgradings.

Referring to SEC Rule 15c2-2-12 Violations, Mrs. Mitchell reviewed the violations, as follows:

- An issuer fails to accurately report its compliance with the information disclosure requirements of the Rule in the Official Statement of a subsequent securities offering.

- An underwriter distributes a municipal security using an issuer's defective Official Statement because they failed to exercise adequate due diligence and as a result could not form a reasonable basis for believing the truthfulness of the issuer's official statement.

Mrs. Mitchell advised members that penalties can be imposed for non-compliance, that many entities and bond issuers were not in compliance, and that a grandfather date had been established. She indicated that underwriters, such as J. P. Morgan and Merrill Lynch, were paying associated fines because they were unsure what had been done with bonds that they bought for issues. Mrs. Mitchell noted that the deadline for issuers had been extended from September 10, 2014 until December 1, 2014, and this was the case with the City's deadline as well. She stated that the Disclosure Policy previously approved by Council should have been listed through EMMA but was not; however, as previously stated, the City's CAFRs were posted. She noted that the City had received correspondence from Robert W. Baird and Co., Inc., who purchased the City's water/sewer bonds, and from J. P. Morgan, who bought the City's most recent electric bonds, asking if the City was in compliance and stating that they would list the City as non-compliant because its CAFRs were not listed until 2013. Mrs. Mitchell stated that the City's policy was that the CAFR must be posted within 275 days; however, the system only provided options of 120 days or 150 days. When staff loaded the information into the system, 120 days was chosen, which might have made it appear that the City was not in compliance. Mrs. Mitchell stated that she planned to have this corrected, and she felt that having the Disclosure Policy listed would show what the City's policy is.

[City Clerk's Office Note: Subsequent to the meeting, members were advised that Robert W. Baird and Co., LLC had filed with the SEC that the City of Dover is in compliance with continuing disclosure rules since, as of the time of its bond issue in 2013, the City had completed its disclosure requirements and documented previous non-compliance in the City's official statement, Moody's upgrade, and CAFR.]

Mr. Shevock inquired, when insurers were downgraded, whether they were supposed to notify the City or if staff must monitor this. Responding, Mrs. Mitchell stated her opinion that the insurers should notify the City; however, this question was being debated. She advised members that issuers and underwriters had stated that this was public information and questioned why they were being asked to put additional information out, explaining that Fitch Ratings Corporation and Moody's Corporation issue press releases when the City's ratings are changed. She assured members that staff would list all of this information by December 1, 2014.

Mr. Anderson questioned if the City would be completely compliant by December 1, 2014. Responding, Mrs. Mitchell assured members that staff would put all of this information out by this deadline, stating that it might require the expenditure of funds for the assistance of the City's bond financial advisor or bond counsel and that funds budgeted for training would be used to cover this expense.

Responding to Mr. Anderson regarding potential changes in revenue projections in relation to this matter, Mrs. Mitchell stated that she did not anticipate any changes.

Review of Hiring by Council for Senior Positions *(Request of Councilman Hare)*

Mr. Hare stated his opinion that when senior positions with salaries of $75,000 - $80,000 become vacant, these positions should come before Council for review, even if these

positions have been previously approved. He felt that there was a need to evaluate each of these positions and vet them through Council to ensure that nothing changed from the time when the position was approved, and that Council may choose to hold off on filling such positions in the context of making decisions about possible tax increases.

Mr. Anderson expressed his opinion that Mr. Hare had a valid concern; however, reminded members that existing procedures required justifications, cost projections, back-up, budget procedures, and separate review by the Legislative, Finance, and Administration Committee and City Council. He was unsure if it would be advantageous to add an extra layer of oversight, stating that, after Council approval, there must be a point where the City Manager is allowed to perform his job.

Mr. Hare clarified that he was not suggesting that this matter come through the Legislative, Finance, and Administration Committee again but that it be reviewed by Council.

Mr. Slavin noted that sometimes there was a difference between the budgeted salary and the actual salary and questioned if there were a related procedure. Responding, Mr. Koenig stated that he was not aware of any formal requirement and could think of only one (1) or two (2) upper level positions that might prompt such discussion. He indicated that a position may be budgeted for ten months and occupied for only eight (8) months, creating a difference in salary. He stated that it had not been his experience that staff had gone "way out of the ballpark" on any positions. Mr. Koenig stated that there was concern when hiring the Electric Director that the established limits would be exceeded, but staff was able to meet the budget.

Mr. Slavin agreed with Mr. Hare's comment that this issue should be considered by Council without undue delay, and he noted that this matter would require a very careful evaluation of the personnel issues that require executive session.

Mr. Koenig stated that he did not share Mr. Hare's concerns, noting that setting the bar at $75,000 would likely interrupt police promotions at the higher level and bring about debate for individual positions.

Mr. Hare stated that he was considering only positions that are new to the City or newly created positions.

Mr. Koenig requested that he be allowed to administer the budget as adopted.

Mr. Slavin moved to recommend that Council review senior positions with salaries of $75,000 - $80,000 when they become vacant, even if these positions have been previously approved. The motion was seconded by Mr. Hare.

Mr. Anderson stated that he was "not sold" on this concept, stating that it may be necessary to hear more on this matter. He felt that the process in place was extensive and was unsure if an additional level of approval was necessary.

The Committee recommended that Council review senior positions with salaries of $75,000 - $80,000 when they become vacant.

Mr. Slavin explained that the idea to provide for Council review of higher-paid positions was posited by Mr. Hare during the Legislative, Finance, and Administration Committee meeting and that the Committee's recommendation on this matter was based on a vote of four (4) yes and one (1) no. Mr. Slavin advised members that Mr. Scott Koenig, City Manager, had requested that this item be removed from the consent agenda for additional discussion, and he deferred to Mr. Hare for further explanation.

Mr. Hare stated his feeling that it had not been determined if the City's current form of government was what was desired; i.e., a full-time mayor, city manager, mayor/council, or other structure. He felt that if the Mayor's position were full-time, mayoral responsibilities should be delineated in writing, and this might mean that some positions, including an Assistant City Manager or other additional or existing positions, might be unnecessary. Mr. Hare stated that he would not be opposed to increasing the Mayor's pay. However, if the Mayor's position would be strictly ceremonial, he believed that it should be a part-time position and other responsibilities should be given to the City Manager and Assistant City Manager, if it were desired to have a city manager form of government. Mr. Hare expressed his belief that adding staff without knowing what type of government the City would have did not make sense, indicating that the structure should be determined first. He stated his opinion that the recommended salary limit that would require Council review could be increased from $75,000 - $80,000 to $100,000.

Mr. Hutchison concurred that it was way past time to look at the organization of the City, noting that under its current structure, the City Manager reports to nine (9) members of Council and works with the Mayor. He stated that formerly the Mayor presided over Council meetings and there were eight (8) members of Council. Mr. Hutchison felt that Council should have nothing to do with the operation of the City but should set policy and that the City Manager should be the chief operating officer and report to the Mayor. He stated that when the 1988 Consent Decree was implemented, the Mayor was removed from the Council Chambers and the position of Council President was instituted. Mr. Hutchison indicated that, under the current structure, the Council President is the most powerful elected official in the City, as this individual controls the Council agenda and appoints all committee chairpersons. He stated that, although the current Council members do what they are supposed to do and have achieved a City government that works, he felt that the City Manager should become the chief operating officer and be allowed to run the budget and be responsible for the City, which would take politics out of consideration. He expressed his opinion that Mr. Hare's point was well taken and said that he looked forward to further discussion on this matter.

Mr. Anderson expressed concern with the proposal to require Council review of senior positions. He stated that after Council has had staff justify the position, evaluated it, put it in the budget, had the Legislative, Finance, and Administration Committee review it, and then conducted budget hearings where the entire Council reviewed and approved it, he did not see the value of requiring the City Manager to come before Council again when hiring, since this matter had already been reviewed five (5) different times.

Mr. Slavin stated that Mr. Hare's suggestion was modeled on federal and state government procedures which require that the senior-level, highest-paid officials in government are appointed with the consent of the legislative body.

Mr. Koenig advised members that the City's charter states clearly that the City of Dover has a council/manager form of government. To his knowledge, at no time in the past had the City Manager come before Council for confirmation when hiring department heads that report to the City Manager and this proposal would be a complete reversal and change from how the City had operated in the past. He reminded members that the Assistant City Manager position had been discussed since December 2013 and had been reviewed in the Council Budget Workshop, budget hearings held in late May and early June, and in the budget approval process. Staff was now in the process of interviewing and would soon make an offer. Mr. Koenig stated that he was confused by the discussion since he had been up front about it when it was first brought up at the Workshop. Council had expressed concern that not enough was getting done from of the City Manager's Office, this position was his requested remedy for the problem, and he had progressed in that direction ever since. Mr. Koenig felt that any distinctions drawn between positions based on salary level, whether $75,000; $80,000; $90,000; or $100,000, would be arbitrary. In his opinion, this proposal was unnecessary.

Mr. Perza and Mrs. Williams expressed concurrence with Mr. Koenig and Mr. Anderson.

Mr. Bonar stated that a job description was needed to delineate the Mayor's responsibilities. In his experience, he felt that the city manager/council form of government had worked well for the City over the last four (4) years. He stated his opinion that there was a time when the Mayor was arguably the most powerful person in the City government and at that time the Mayor had a very powerful personality. Mr. Bonar felt it was up to Council to set a course forward where they wished to go as a body and to determine whether or not it was desired to continue the present system. In regard to Mr. Hutchison's comment that the Council President was the most powerful elected person in the room, he did not concur. He advised members that when he became Council President and appointed committee members, he sought those who could most easily fill those jobs, given their outside responsibilities and knowing their interests in operations of the City. Mr. Bonar felt that this was not a question of power politics but of selecting members with the best knowledge of the area of responsibility for the committee which they chaired, stating that those who are selected as chairs are asked who they feel would serve well as a civilian member, or the Council President may search out that civilian. Mr. Bonar stated that suggesting that the Council President was the most powerful person on Council was not correct, although this individual could become so if desired. He felt that the Council President's job was to allow Council members plenty of opportunity to voice concerns and opinions on the floor and facilitate the discussion among the legislative body to allow for decisions.

In view of the fact that Dover had a city manager/council form of government, Mr. Hare felt that a full-time mayor was not necessary. In reviewing information from the National League of Cities, he indicated that within a range of almost 400 miles from Dover he had yet to find a city with a population under 40,000 with a full-time mayor. Mr. Hare felt that the City was currently operating as a hybrid government and if it were truly a city manager/council form of government, Council should be more responsible. He indicated that the City Manager was accountable for approximately 40% of the City, but when the other 60% has problems, Council goes to the City Manager. Mr. Hare questioned why the City

Manager should be responsible for presenting the budget for the whole City and why the Mayor was not responsible for presenting or held accountable for the Police Department budget. He stated that he did not have a problem with whatever government structure was decided upon but felt that a decision should be made.

Mr. Hutchison stated his feeling that Mr. Bonar was doing a good job as Council President; however, he reiterated his opinion that the most powerful position as an elected official of the City is Council President; however, it is the individual who occupies this position that chooses how to manage it. In regard to the Mayor's position, he stated that the Mayor may put in 40-50 hours per week and attend many Council and committee meetings that members of Council do not attend because they may have full-time jobs and cannot be present. Mr. Hutchison stated that this is why there is a full-time Mayor who can be present. He stated that he was very much in favor of a full-time Mayor who would preside over Council.

Mr. Bonar stated that there is a difference between power and leadership and that the Council President position is supposed to be about leadership.

Having previously occupied the Council President position, Mrs. Williams concurred that power was available in the position, noting that Mr. Bonar and other Council Presidents had chosen not to use this power, to their credit.

Mr. Hare withdrew his request for Council review of senior level positions.

Council took no action on the Committee's recommendation that Council review senior positions with salaries of $75,000 - $80,000 when they become vacant.

Discussion - Responsibilities and Reporting Structure for the Mayor and City Manager and Continuation of Full-Time Status for the Position of Mayor

During the Legislative, Finance, and Administration Committee meeting of August 25, 2014, members deferred this item for further discussion.

Councilman Hutchison stated that he felt it was important to keep in mind that the City currently had a Council/City Manager form of government. He explained that the City previously had a Mayor/Council/City Manager form of government, but the 1988 Consent Decree between the Central Delaware Branch of the National Association for the Advancement of Colored People (NAACP) and the City of Dover changed this and removed the mayor from presiding over council.

Mayor Christiansen explained that, during the mid-1980s, the NAACP and others found that the City government and the election process in the City were not fair and equitable to all citizens. The 1988 Consent Decree established the current form of government, did away with dual voter registration and the election of council members by an at-large voting pool and added a ninth council member. This was agreed upon by the parties involved and evolved to the point where the Mayor was to become the full-time chief executive of the City, with council as a purely legislative body presided over by a council

president. Mayor Christiansen stated that this began the march toward a truly full-time mayor in 1997. He stated that the provisions of the Consent Decree were deemed fair and equitable by all parties involved and led to the structure of the City's government today.

Noting the change in the City's population and its diversity today, Mr. Hutchison questioned if it would be in the City's best interest to go back to the parties involved to examine the Consent Decree and determine if it could be removed.

Mr. Sudler read the following statement into the record:

> *After listening to Mr. Holden's concerns [during the Committee meeting of August 25, 2014] regarding accountability and clear organizational structure for the City's modified Council-City Manager form of government. In addition to reviewing the minutes and dialogue on the history of a full-time or part-time mayor for the City of Dover, it is my recommendation that the committee should support a full-time mayor's position and consider changing our current form of government to a Mayor/Council form of government where the city manager and chief of police would be appointed by the mayor and confirmed by City Council.*
>
> *I believe that a Mayor/Council form of government will provide City Council with the mayor's job description criteria consisting of strategic goals, objectives, and programs to be orchestrated by the chief executive officer - approved and appraised by City Council.*
>
> *In closing, a Mayor/Council form of government will allow City Council the opportunity to focus more on legislative rules and regulations that navigate our community's climate, but also, will enhance the Mayor's understanding of department's Strengths, Weaknesses, Opportunities and Threats [SWOT] that impact the social, demographic and economic development of our great City of Dover.*

Mr. Hare stated that he had no problem with a full-time mayor; however, he felt that Council must decide what the City's form of government would be: a strong Mayor/Council form of government or a city manager form of government, noting that the City was a hybrid right now. He reminded members that a full-time mayor was established through a vote in 1997 and expressed his belief that voters were under the impression that there would be a strong mayor; however, the mayor's duties were economic development, lobbying the legislature, and public relations. Mr. Hare stated that the City now had three (3) economic development people, which he felt was perhaps more than Kent County or all cities combined within the County, and also a public relations person, but was unsure if the City lobbied the legislature anymore. Mr. Hare felt that there should be a job description for the mayor that was aligned with other positions, rather than continuing to add positions that might not be needed. He felt that an assistant city manager would not be needed with a full-time mayor and suggested that perhaps the

mayor should be paid more. It was Mr. Hare's belief that a full-time mayor should do more than "breakfast, lunch, and dinners," and he concurred with Mr. Sudler's recommendation as long as these changes were made.

Mr. Hutchison stated his opinion that the City was where it needed to be at this point. He strongly supported a Mayor/Council/City Manager form of government and indicated that he would like to see the Committee focus in that direction. He felt that the main issue was to review the Consent Decree and that the timing was right.

Expressing his reluctance to appear self-serving, Mayor Christiansen stated his interest in serving the City of Dover and doing the job that needed to be done. He indicated that he had great respect for former Mayor Hutchison and felt that the City needed to continue to move into the future with a full-time mayor. He stated that he believed in a strong mayor who would be in charge of the Police Department as conservator of the peace and expressed his belief that the mayor should be chief executive of the City. Mayor Christiansen indicated that a professional manager was needed, as most cities have, who may be termed as managing director or administrative assistant, and that professional departments of the City should report to that manager, who should report on a daily basis to and work in consort with the mayor. He believed that council, presided over by the council president, should be the legislative body of the City and in charge of City Clerk's Office and an independent Finance Director's Office for checks and balances. Mayor Christiansen felt it very important that the mayor, as chief executive officer, maintain a veto and not participate in the legislative process, in order to protect the City. He felt that the City had "dallied" since 1997 and not given the mayor responsibilities to be judged and held accountable by the public. He stated that the City was very fortunate in its history to have had two (2) full-time mayors such as former Mayors Crawford Carroll and James Hutchison. Mayor Christiansen felt that Council had been remiss in not assigning the mayor's responsibilities and had an opportunity now to do so for the betterment of the City's future.

Mr. Anderson stated that this was a worthy idea; however, cautioned members that radical changes in government should not be made lightly. He stated he would like to see this matter studied, although he felt that previous studies supported Mr. Sudler's proposal. He indicated that he would like to start by seeking a legal opinion, as he was not convinced that a reorganization would necessarily abolish the Consent Decree. He expressed a desire to know how far the City could go with these changes and felt that Mr. Hutchison had raised a very important point. If it were decided to go this route, Mr. Anderson stated that it would be necessary to make sure that certain protections would be in place in regard to the professional staff that the City had taken decades to hire to make sure that council would be involved in the process of appointing a city administrator or managing director and that the current people could not be removed except by cause with council consent. This would be an important check and balance in the system and, if included, he would be open to the idea.

Mr. Dixon stated that he did not agree with Councilman Anderson and Mayor Christiansen. He stated that when Mayor Hutchison was in office, things were taken care of. He felt that it should be strongly recommended to do what needed to be done to make the City strong and more progressive.

Mr. Hare stated that he did not have a problem with what Mayor Christiansen said; however, if there was to be a strong mayor form of government, a strong mayor would be needed and the mayor should preside over council. The mayor could still have veto power and the power to break a tie. He felt that the at-large position would then be the mayor's position and the people would elect a strong mayor. In reference to Mr. Anderson's comments, Mr. Hare felt that nothing would change in terms of personnel; those who report to council would continue to do so. He concurred with Mr. Sudler that the police chief and city manager would be approved through council. The departments that report to the city manager or administrator would still report to him and if he found cause for termination, this would not have to come before council. Staff members that were council appointees would continue to report to council.

Mr. Slavin stated that everyone had brought a lot of energy to the discussion and that the underlying driver for the City's existing form of government was the Consent Decree, which was the City's tacit acknowledgment that there had been ills in the City. There was consent to meet those measures, and as a City, seriousness and sincerity was brought to those efforts and the City committed to nearly 25 years of actions to support the Decree. Mr. Slavin felt that it would be in the City's best interest to open a polite dialogue about the Consent Decree. He stated that a recommendation had been heard from Mr. Sudler that was clear and concise and asked that it be considered for adoption as Option A, noting that there may be additional options, so that a decision could ultimately be reached.

Mr. Hutchison stated that if the City should return to a Mayor/Council/City Manager form of government, whereby the mayor presides over council, his personal opinion was that the mayor should vote on every issue. He indicated that there had been a problem in terms of a clear separation of the mayor from issues. The mayor had only the power of veto, which might be exercised only one (1) to three (3) times per year, or perhaps not at all. Mr. Hutchison felt that the mayor should be actively involved in every discussion and part of the voting process, which would allow the mayor to become more actively involved in day-to-day operations of the City.

Mayor Christiansen voiced his respect for Mr. Hutchison and Mr. Hare. He explained, however, that the mayor sits on council in the Town of Smyrna and presides over council in the City of Milford, and these forms of government are suitable in these municipalities, but not for Dover, which has a population of 36,000 to 38,000. He pointed out that the growth of Dover was anticipated 25 years ago and the City continues to grow. Mr. Christiansen indicated that Mr. Sudler had made a great point and that it was necessary to move forward rather than stepping back into the past. He asked that members not put his face, as the current mayor, into the position but consider what was in the best interest for the future of the City of Dover.

Mr. Sudler concurred with Mr. Hutchison that a strong mayor form of government was needed and that this was the future of the City.

Mr. Anderson stated that when the people are voting, they are not voting on who has the best skills to chair a meeting but on a lot of other factors. He commented that he was aware of no large or medium-sized city where the mayor presides over council and felt there should be a separation of powers and that the mayor should not vote, noting that someone with the ability to vote should not also have veto power. He felt that the current structure, whereby the mayor serves ex officio on committees and makes a number of appointments, gives the mayor an ability to engage early in the process which makes vetoes rare, and that it was important to maintain these provisions. He indicated that if Mr. Sudler were willing to accept a friendly amendment that any proposal would protect the current council-appointed employees with due process, he had no problem with moving this matter forward for further study and legal review, starting with the Consent Decree, to find out what the options were.

Mr. Slavin invited members of the public to comment.

Mr. Bernhard Greenfield, 901 Wilson Drive, stated that he came to Dover in approximately 1960 with the Air Force and retired from the Air Force. He advised members that he had seen what the City's mayors could do, including one (1) who said that things must be done his way and insulted people at meetings, and that a street near Sam's Club was named after this individual. Mr. Greenfield also explained that during a former mayor's service, trees on State Street uprooted the sidewalks, causing people to fall. Mr. Greenfield advised members that he spent 21 years in the Air Force, where there was one (1) command organization; no one on the base could do what was to be done without asking the commander. He felt that if there were a mayor and a city manager, there could be a problem whereby "one (1) hand doesn't know what the other hand is doing." Mr. Greenfield asserted that if there were too many people working in too many places, the work would be fragmented. He stated his opinion that Mayor Christiansen would not "go bullheaded," stating that he was "a fine man" who came down the street to help people when the snow was three (3) to four (4) feet deep, and that he would do the job.

Mr. Sudler moved that his proposal be recommended as Option A, with consideration of Mr. Anderson's amendment as part of the proposal, seconded by Mr. Hare.

For clarification, Mr. Slavin requested Mr. Anderson to summarize the amendment. Responding, Mr. Anderson stated that his recommended amendment was that any positions which currently report to council that are moved to report to the mayor would only be removed for cause and with council approval.

Mr. Slavin stated that this would be considered as Option A which would be considered along with any other options presented.

Mr. Shevock questioned if a review or consensus regarding the Consent Decree between the City and the other parties would be required before moving forward. Responding, Mr. Slavin stated that he was prepared to entertain a second motion to open a dialogue in this regard.

Mr. Hutchison felt that Option A should be examined to see if there were other things that could be added before returning with a final version.

The Committee recommended for future consideration Option A, as follows: a full-time mayor's position, with consideration of changing the City's current form of government to a Mayor/Council form of government, where the city manager and chief of police would be appointed by the mayor and confirmed by City Council, and that any positions which currently report to council that are moved to report to the mayor would only be removed for cause and with council approval.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Lynn absent).

The Committee recommended that the Council President open a dialogue with the parties to the 1988 Consent Decree.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Lynn absent).

Mr. Anderson expressed his opinion that discussion was needed regarding the organization of the City. He indicated that perhaps some functions should be placed under the city manager, reminding members that the City previously had a senior city administrator who dealt primarily with budgets. He suggested the possibility that the individual in this "deputy" position might deal with budgets, Parks and Recreation, or other functions that had been consolidated, which would free finance and other staff to perform their responsibilities. He stated his desire for the Committee to propose that Council hold an Executive Session some time in the future where staff, as those who deal with City issues on a daily basis, could provide their opinions freely and off the record regarding what should be done.

Mayor Christiansen cautioned members that Mr. Anderson's suggestion may not be acceptable under the Freedom of Information Act (FOIA).

Mr. Anderson expressed his opinion that personnel issues and reviews would be exempt; however, indicated that it would be necessary to obtain a legal opinion from the City Solicitor on this matter.

Mr. Sudler concurred with Mr. Anderson that input from administrative staff would be valuable in this regard.

Mr. Slavin moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mrs. Williams.

Responding to Mr. Perza, Mr. Koenig confirmed that he was content with the withdrawal of the request to require Council review for the hiring of senior-level positions.

The motion to accept the Legislative, Finance, and Administration Committee Report was unanimously carried.

FINAL READING - PROPOSED ORDINANCE #2014-21 WITH STAFF AMENDMENT #1 (SA#1)

The First Reading of the ordinance was accomplished during the Council Meeting of September 8, 2014.

Proposed Ordinance #2014-21 with Staff Amendment #1 (SA#1) Amending Chapter 46 - Fire Prevention and Protection, Article I - In General

Mr. Hare moved that the Final Reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Anderson and unanimously carried.

Mrs. Ann Marie Townshend, Director of Planning and Community Enhancement, advised members that this ordinance would set a standard for bollards installed to protect LP and natural gas fixtures from impact, primarily from vehicles. She stated that at the First Reading of Proposed Ordinance #2014-21 on September 8, 2014, Mr. Perza requested that staff provide a definition for bollards. Mrs. Townshend indicated that, in doing so, Mrs. Traci McDowell, City Clerk, determined that definitions were spread throughout Chapter 46, which made the code very difficult to follow; therefore, the staff amendment included a new section 46-0. Definitions, which incorporated all definitions in Chapter 46 for clarity. The remainder of the ordinance would stay the same. Mrs. Townshend stated that the ordinance was sent to Council during the previous week and favorable feedback was received.

Mr. Anderson moved for adoption of Staff Amendment #1, seconded by Mr. Dixon and unanimously carried.

Mr. Slavin moved for adoption of the proposed ordinance, seconded by Mrs. Williams, and by a unanimous roll call vote (Lynn absent), Council adopted Ordinance #2014-21, as follows:

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

That Chapter 46 - Fire Prevention and Protection, Article I - In General, of the Dover Code be amended by inserting a new Section 46-0 - Definitions, to read as follows:

Sec. 46-0. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automatic telephone dialing device and digital alarm communicator system means an alarm system which automatically sends a prerecorded voice message or coded signal over regular telephone lines, by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

Barbecuing—Commercial means the preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the sale to and/or consumption by the general public.

Barbecuing—Recreational means the preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the consumption by a family and/or guests or by the membership of a private organization or church congregation.

Bollard means a solid post that conforms to the dimensions outlined in this section which is constructed of concrete, steel, or other durable material approved by the Fire Marshal, cored into a hard surface that is buried in the ground, designed to protect buildings and utilities by absorbing the impact of a motor vehicle collision.

Code enforcement officer shall mean fire marshals, police officers, and inspectors employed by the city.

Emergency shall mean any situation where the Dover Fire Department or any assisting fire department is called to perform firefighting, rescue, or life saving operations within the limits of the city.

Fine means the assessment of a monetary charge, payable to the city, authorized pursuant to this section, to defray the expenses of responding to a preventable alarm or alarm malfunction.

Fire alarm installation report means a report, in a form approved by the fire marshal, with the following minimum information:

(1) The name, address, business and home telephone number of the owner, lessee, operator, manager or person in possession of the premises wherein the alarm system is installed.
(2) The name, address, and telephone number of a minimum of two persons who can be notified by the Robbins Hose Company in the event of the activation of the alarm system, who shall be capable of responding to the premises within 30 minutes, and who are authorized to enter the premises to ascertain the status thereof.

Fire alarm malfunction means the activation of any alarm, which results in the response of the fire department, caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance.

Fire alarm system means any mechanical, electrical or radio-controlled device which is designed to emit a sound or transmit a signal or message when activated or any such device which emits a sound and transmits a signal or message when activated because of smoke, heat or fire. Without limiting the generality of the foregoing, the term "fire alarm system" shall be deemed to include audible alarms at the

site of the installation of the detection device, proprietor alarms and automatic telephone direct dial devices or digital alarm communicator systems. A single station alarm device shall not be deemed to be an alarm system under this section.

Fire alarm technician means any person who inspects, installs, repairs or performs maintenance on fire alarm systems and is licensed by the state or works under a state licensed alarm contractor.

Fire protection system shall include any electronic or mechanical system designed and installed to detect and alert, suppress, or seal off smoke and fire from the occupants of a building.

Impact protection means any bollards, walls, concrete barriers or other devices, subject to the approval of the fire marshal, used to stop vehicles or equipment in motion.

Impairment means any effective lessening of the equipment to operate as designed, including times of maintenance and annual testing.

Means of egress means the most current edition of the National Fire Prevention Association Life Safety Code shall be used to determine the definition of the term "means of egress."

Open burning means the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

Operative alarm system means an alarm system which the owner of a premises is required to maintain in an operative condition pursuant to statute, law, ordinance, rule or regulation of the state or the city.

Outdoor fireplace means any homemade or commercially produced fireplace, fire pit, or fire ring used for the kindling of wood.

Owner means any person who owns the premises in which an alarm system is installed or the person or persons who lease, operate, occupy or manage the premises.

Premises means any building or structure, or combination of buildings and structures, which serve as dwelling units, single-family or multifamily, or any other area within a building or structure, or combination thereof, which is used for any purpose, other than residential, wherein an alarm system is installed.

Preventable alarm means the activation of any alarm, which results in the response of the fire department, caused by the negligence or intentional misuse of the system by the owner or his/her employees, servants or agents; or any other activation not caused by heat, smoke or fire, exclusive of a "fire alarm malfunction" as defined in this section. An alarm is not considered a preventable alarm if the alarm is activated due to malicious causes beyond the control of the owner.

Serve means hand-delivery, by a representative of either the fire department or police department, to the owner or authorized representative who responded to the premises. In the event the owner or authorized representative fails to respond to the premises within 30 minutes, the term "serve" shall mean placing the form or other matter in the United States mail, addressed to the owner or authorized representative.

Single-station alarm device means an assembly incorporating the detector, control equipment and alarm-sounding device in one unit, operated from a power supply either in the unit, or obtained at the point of installation.

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-1 - Means of Egress, of the Dover Code be amended to read as follows:

Sec. 46-1. *Means of egress*.

(a) *Obstructions*. The means of egress for an occupancy shall be kept continuously free of all obstructions or impediments to full instant use in case of fire or emergency.
(b) *Exit doors*. All required exit doors shall be unlocked and under the control of the occupants within the building or area. This subsection is to include fenced-in outdoor events.
(c) *Duty of owner, manager*. It shall be the responsibility of the owner, manager, principal or any other person responsible for the day-to-day operations of the occupancy to ensure that exits are unobstructed and unlocked prior to the opening of the occupancy to the general public.
(d) *Merchandise in exits*. In mercantile occupancies, merchandise is prohibited from being displayed in any required exit access, exit, or exit discharge. Merchandise may be displayed in the exit access, exit, or exit discharge of mercantile occupancies that have submitted a written plan for the display of such merchandise and the plan has been reviewed and approved by the fire marshal's office.
(e) *Penalties*. If any exit access, exit, or exit discharge, with the exception of a locked exit door, is found to be in violation of this section, a summons shall be issued as provided for in Appendix F—Fees and Fines. Any required exit door found to be locked against egress shall be in violation of this section and a summons shall be issued for each locked exit as provided for in Appendix F—Fees and Fines.

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-3 - Impairment of Fire Protection Equipment, of the Dover Code be amended to read as follows:

Sec. 46-3. *Impairment of fire protection equipment.*

(a) *Prohibited.* It shall be a violation of this chapter for any owner, renter, lessor, or contractor, after having been notified, in writing, by the fire marshal or code enforcement officer of any impairment to fire protection equipment, including but not limited to fire hydrants, fire alarm systems, sprinkler systems, commercial cooking ventilation and fire suppression systems, standpipes, and smoke removal or pressurization systems, to allow it to remain impaired for any time beyond that allowed by the fire marshal for repair.
(b) *Impairment of fire protection systems.* All fire protection systems, devices, units, and service equipment shall be maintained in an operational condition at all times, and it shall be unlawful for any person owning, controlling, or otherwise having charge of any fire

protection system to willfully or knowingly tamper with or impair the system from operating as designed without proper approval. An approval form may be obtained from the fire marshal's office. Approvals will not be required for temporary impairments caused by periodic testing and inspection. Any impairment which will render the system non-operational or out of service for more than eight hours for testing and inspection purposes must be approved prior to the start of work.

(c) *Notification required.* The owner, tenant, or contractor shall notify the Robbins Hose Company of any impaired fire protection equipment, and shall renotify the Robbins Hose Company when the fire protection equipment has been restored to normal service. Certification from the repairing contractor shall be required to verify that the system has been fixed and is functioning as designed.

(d) *Fire watch required.* When any impairment would cause a sprinkler system not to operate or a fire alarm system not to detect and signal a fire, and if the building is to remain occupied, a fire watch shall be established in that building or that portion of a building affected. It shall be the responsibility of the owner or tenant to set up the fire watch. The fire watch shall consist of an hourly check of the building or portion of the building affected, and a log kept, there stating the date, time of the checks, and who was making the checks. This log shall be accessible for immediate inspection by the fire chief, fire marshal, or code enforcement officer.

(e) *Authority of fire marshal.* The fire marshal or his/her designee is authorized to close any such building or property where fire protection equipment is found to be impaired or non-operational to ensure the life safety of the occupants.

(f) *Fines.* Any owner, occupant, contractor or body corporate found to be in violation of this section shall be issued a summons as provided for in Appendix F—Fees and Fines.

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-4 - Impact Protection of Natural Gas and LP Gas Devices, of the Dover Code be amended to read as follows:

Sec. 46-4. Impact protection of natural gas and LP gas devices.

All natural gas and LP gas installations shall be installed per adopted NFPA and International codes, with the following amendments:

(a) *When required*. The installation of natural gas and LP gas meters, regulators, valves, and LP gas bottles shall be protected from impact damage by impact protection. Natural gas and LP gas meters, regulators, and valves located inside structures shall have impact protection, except when located in separate protected utility rooms. The Fire Marshal and/or Chief Building Inspector shall reserve the right to apply this section whenever it is deemed necessary to provide impact protection to address a life or fire hazard.

(b) *Dimensions of Bollards*. Bollards shall be a minimum of 6 inch diameter filled with concrete. The bollard shall be set into the ground at a depth of at least 36 inches (3ft) embedded in concrete at a minimum of 18 inches surrounding the bollard. The bollards must be a least 48 inches (4ft) in height above the finish grade elevation. Any deviation of the stated requirements must be approved by the Fire Marshal and/or Chief Building

Inspector. The above dimensions shall serve as the requirement for installation; however the Fire Marshal and/or Chief Building Inspector shall have the authority to require more stringent dimensions to fit the needs of devices warranting impact protection.

(c) *Color of Bollards.* Bollards should be of the following colors; yellow, amber or orange. All colors shall be of fluorescent or have a reflective coating. Any deviation of the stated requirements must be approved by the Fire Marshal and/Chief Building Inspector.

(d) *Responsibility*. It shall be the responsibility of the property owner and/or contractor for the new installation to ensure that natural gas and LP gas meters, regulators, and valves are protected in accordance with these regulations.

(e) *Compliance period*. All new construction projects shall comply with the provisions of this section. All existing multiple dwellings, schools, nursing homes, hospitals, and day care centers shall be protected in accordance with this section. All other existing structures shall be protected when deemed a life or fire hazard by the fire marshal.

(f) *Exemptions*. Single-family homes, including townhouses, duplexes, and manufactured housing, except where natural gas and LP gas devices are located directly in front of head-in parking spaces and driveways, and where the fire marshal deems that impact protection is not necessary, shall be exempt from this section.

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-5 - Open Burning, of the Dover Code be amended to read as follows:

Sec. 46-5. Open burning.

(a) *Permit required*. Open burning of structures, brush, or bonfires shall not be permitted without a permit obtained from the fire marshal.

(b) *Fire dimensions*. Open burning, when permitted, shall be kindled in such a manner as not to be a danger to other campers, recreational vehicles, tents, or structures and shall not be of a size greater than 18 inches by 18 inches by 18 inches. Height of the fire shall be measured from the ground or from the bottom of the inside of the container being used to kindle the fire. Open burning shall not be kindled directly on the ground unless contained in a fire ring.

(c) *Fire clearances and time restrictions*. Outdoor fireplaces shall have 36 inches clearance from all combustibles when in use. Portable fireplaces, fire pits, or fire rings shall be extinguished in a residential area between the hours of 12:00 midnight and 8:00 a.m.

(d) *Commercial barbecuing*. Commercial barbecuing shall be permitted under the following conditions:

(1) The location has been approved by city licensing and inspections and the fire marshal and an outdoor public gathering permit has been obtained.

(2) One fire extinguisher of not less than five pounds ABC is to be located within ten feet of the cooking area. Cooking area and cooking fuels shall be secured from public access.
(3) Approval from the board of public health has been obtained.
(4) The operator shall make all reasonable attempts to avoid causing a nuisance to nearby property owners with smoke, fumes, or sparks.
(5) All compressed flammable gas containers used for cooking shall be secured in such a way as to prevent them from being knocked, tipped, or blown over.

Any commercial barbecuing operations which are a continual nuisance because of smoke, fumes, or sparks shall be terminated by the code official or fire marshal and the outdoor public gathering permit revoked until such time as the director of licensing and inspections is satisfied that the problem has been corrected.

Barbecuing of any kind shall not be kindled within 200 feet of any fuel pump or storage tank fill. Cooking grease shall not be disposed of by placing it directly on the ground or in storm water drains.

(e) *Prohibited*.

(1) *Multifamily residential dwelling units*. In apartment buildings, condominiums, or any other multifamily residential dwelling of three or more units by any other name, the storage of propane tanks inside units or on balconies is prohibited. Recreational barbecuing shall be prohibited on any balcony or under any overhanging portion or within 15 feet of any structure, except that the use of electrical ranges or electrical grills shall be permitted. The use of outdoor fireplaces on balconies is prohibited.
(2) *Unattended burning*. It shall be prohibited for open burning, commercial barbecuing, and outdoor fireplaces to be unattended at any time. In the event that any open burning, commercial barbecuing, or outdoor fireplaces are found to be unattended, the fire marshal, code official, fire officer, or police shall order the open burning extinguished.

(f) *Fines*. Any owner, occupant, contractor, or body corporate found to be in violation of this section shall be issued a summons as provided for in Appendix F—Fees and Fines.

(g) *Authority of the fire marshal*. The fire marshal is authorized to impose a ban on open burning if weather conditions do not safely permit open burning. The fire marshal or fire officer shall order any fire extinguished that is deemed unsafe or not in compliance with this section of the Dover Code.

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-7 - Preventable and malfunctioning alarms to the fire company, of the Dover Code be amended to read as follows:

Sec. 46-7. Preventable and malfunctioning alarms to the fire company.

(a) *Responsibility for malfunctioning and preventable alarms, owner response, and corrective action*.

(1) *Generally*. The responsibility for a preventable or malfunctioning alarm shall be that of the owner of the premises in which the fire alarm system is installed. A response to a preventable or malfunctioning alarm shall result when any fire marshal or member of the fire department shall be dispatched to the premises where the alarm has been activated or learns of the activation of the alarm system, by any means whatsoever, and responds thereto by traveling to that premises. After responding to a malfunctioning or preventable alarm, the responding official shall notify the owner or his/her authorized representative and such person shall thereupon travel to the premises to ascertain the status thereof. Should the person notified fail to appear at said premises within 30 minutes after being notified to do so, the fire marshal may issue the owner of the premises a fine as provided for in Appendix F—Fees and Fines. The official or member of the fire department who responded to said premises shall notify the fire marshal's office.

(2) *Malfunction*. In the event of a fire alarm deemed by the responding official to be the result of a fire alarm malfunction, the owner will be served a notice of violation form, indicating that the activation was deemed to be the result of a fire alarm malfunction, and requiring the owner to provide documentation that the fire alarm component that caused the fire alarm malfunction has been corrected, to the satisfaction of the fire marshal, and that the fire alarm system in question has actually been examined by a fire alarm technician and that a bona fide attempt has been made to identify and correct any defect of design, installation or operation of the fire alarm system which was identifiable as the cause of the fire alarm malfunction. Failure to return documentation of service/repair within the period of time stated on the notice of violation, which is satisfactory to the fire marshal, will result in assessment against the owner of a fine for the fire alarm malfunction as provided for in Appendix F—Fees and Fines.

(b) *Fine charges; multiple fire alarm malfunctions or preventable alarms*.

(1) *Amount of fine*. A fine may be assessed for the third and subsequent malfunctioning or preventable alarms at the same premises responded to by the fire department within the prior 12-month period. Thereafter, the fines, as provided for in Appendix F—Fees and Fines, shall be paid by the owner for each preventable or malfunctioning fire alarm responded to by the fire department at the same premises during a 12-month period beginning with the date of the first alarm.

(2) *Panel reset*. Once a preventable alarm or fire alarm malfunction has been responded to by the fire department, it shall be unlawful for the alarm panel to be reset by any person until the authorization of the fire department has been obtained. A fine as provided for in Appendix F—Fees and Fines may be assessed to the owner of a premises where the fire alarm has been reset before the fire department or assisting fire department arrives.

(3) *Insufficient alarms*. When any premises are protected by a fire alarm system that, in the opinion of the fire marshal or his/her deputy(ies), will not safely alarm the

occupants of a fire, the fire marshal or his/her deputy(ies) may close said building, or a portion of said building, to human occupancy until the problem with the fire alarm is corrected and a written report from a licensed fire alarm company is submitted to the fire marshal.

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-8 - Maintaining a known violation or hazard, of the Dover Code be amended to read as follows:

Sec. 46-8. Maintaining a known violation or hazard.

(a) *Known violation or hazard*. Any person is guilty of maintaining a known violation or hazard if:
   (1) After having been informed in writing by a code enforcement officer of a violation of the fire code, property maintenance code, a city ordinance, or state law existing on property he or she owns or occupies, he or she fails to correct the said violation;
   (2) He or she prevents a fire protection system from functioning as designed;
   (3) He or she knows that a fire protection system will not function as designed and takes no action to repair the fire protection system;
   (4) He or she interferes with any occupant's egress from a building;
   (5) He or she knows of an obstruction that would interfere with any occupant's egress form a building and takes no action to remove the obstruction;
   (6) He or she engages in any act, written or verbal, within city limits that obstructs, delays, hinders or interferes with the operations of the fire department during an emergency.

(b) Penalties.
   (1) Any fines issued for violation of this section shall be issued as provided for in Appendix F—Fees and Fines.
   (2) Occupancies that continue to maintain a known violation or hazard may be closed by the code enforcement officer until such time as all violations and hazards have been corrected.

ADOPTED: SEPTEMBER 22, 2014

COUNCIL MEMBERS' ANNOUNCEMENTS

At Councilman Lynn's request, Mr. Slavin extended Mr. Lynn's apologies for not being present as he was attending a funeral.

Mr. Bonar wished Mrs. Williams a very Happy Birthday.

Mr. Hare moved for adjournment, seconded by Mr. Dixon and unanimously carried.

Meeting adjourned at 8:52 p.m.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of September 22, 2014, are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

/TM
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