# REGULAR COUNCIL MEETING
# A G E N D A

**APRIL 28, 2014 - 7:30 P.M.**

**THE AGENDA HAS BEEN REVISED TO INCLUDE NEW ITEM #3**

**CITY HALL COUNCIL CHAMBERS**
**15 LOOCKERMAN PLAZA**
**DOVER, DELAWARE**

**OPEN FORUM - 15 MINUTES PRIOR TO OFFICIAL MEETING (7:15 P.M.)**

***The "Open Forum" segment is provided to extend the opportunity to the general public to share their questions, thoughts, comments, concerns, and complaints. Discussion of any item appearing on the agenda as a public hearing is prohibited during the Open Forum as an opportunity will be provided during consideration of that item. Citizen comments are limited to three (3) minutes. Council is prohibited from taking action since they are not in official session; however, they may schedule such items as regular agenda items and act upon them in the future.***

**INVOCATION BY BISHOP THOMAS L. HOLSEY**

**PLEDGE OF ALLEGIANCE LED BY COUNCILMAN DIXON**

**AGENDA ADDITIONS/DELETIONS**

* **CONSENT AGENDA**

***Those items on the Council Agenda which are considered routine and non-controversial shall be marked with an asterisk (*) and will be acted upon by a single roll call vote of the Council. There will be no separate discussion of these items unless a member of Council so requests, in which event the matter shall be removed from the Consent Agenda and considered a separate item.***

* **1. Adoption of Minutes - Regular Council Meeting of April 14, 2014**

**2. Correspondence from Mayor Carleton E. Carey, Sr.**

**3. Proposed Resolution No. 2014-07 - Appointment of Mayor and Council President**

**4. Tribute No. 2014-02 - Millard F. Biddle**

**5. Public Hearings - Violations of the Dangerous Building Ordinance**

**A. Property located at 39 North New Street, Owned by Erin L. Cooper**
*(On April 14, 2014, City Council deferred this matter for two (2) weeks)(Staff recommends: 1. Declaring this building and all accessory structures on this property dangerous; 2. Ordering the property demolished by May 28, 2014 by the owner or equity owner at their own risk; 3. Ordering the Building Inspector to cause the demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4. Ordering the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.)*

**B. Property located at 12 North New Street, Owned by EH Pooled Investments, LP**
*(Staff recommends: 1. Declaring this building and all accessory structures on this property dangerous; 2. Ordering the property repaired or demolished by May 28, 2014 by the owner or equity owner at their own risk; 3. Ordering the Building Inspector to cause the demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4. Ordering the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.)*

**6. Setting of Dates for Special Election**

* **7. Dover Human Relations Commission (DHRC) Report - March 25, 2014**

**A. Introduction of New Members**
*(Commission action not required)*

**B. Election of Commission Chair**
*(Commission elected Mr. Wilson as Chair and Mr. McGiffin as Vice Chair)*

**C. Overview of Commission Purpose, Powers, and Duties**
*(Commission action not required)*

**D. Rescission of By-Laws**
*(Commission rescinded the existing by-laws of the DHRC)*

**E. Scheduling of Future Meeting Dates for 2014**
*(Commission scheduled the quarterly meetings for the fourth Tuesday in July, October, and January (July 22, 2014; October 28, 2014, and January 27, 2015) at 4:30 p.m.)*

* **8. Parks, Recreation, and Community Enhancement Committee Report - April 14, 2014**

**A. Proposed Ordinance #2014-08 - Amending Appendix B - Zoning - Article 3 - District Regulations - Section 10 - Institutional and Office Zone (IO); Section 11 - Neighborhood Commercial Zone (C-1); Section 12 - Limited Commercial Zone (C-1A); Section 13 - Central Commercial Zone (C-2); Section 14 - Limited Central Commercial Zone (C-2A); Section 15 - Service Commercial Zone (C-3); Section 16 - Highway Commercial Zone (C-4); Section 26 - Commercial/Professional Office Development District (C-PO); Article 4 - Zoning Bulk and Parking Regulations; Article 10 - Planning Commission; and Article 12 - Definitions** *(Committee referred the ordinance back to staff to make recommended changes and to clarify language for the Committee's consideration during their meeting of May 12, 2014)*

**B. Update - Recreation Needs Assessment** *(Committee deferred until the next meeting)*

* **9. <u>Utility Committee Report - April 14, 2014</u>**

**A. Proposed Amendments to the Retail Customer Demand Response Program**

*(Committee recommended revising the second paragraph of the Retail Customer Demand Response to include energy efficiency)*

**B. TEA/NAES Report (*February*)**

*(Committee recommended acceptance of the report)*

**C. Garrison Oak Technical Park Project Updates**

*(Committee action not required)*

* **10. Quarterly Revenue Report**

*(Staff recommends acceptance of the report)*

* **11. Semi-Annual Inspection by City Manager - Robbins Hose Company**

*(Staff recommends acceptance of the report)*

**12. Evaluation of Proposals - Wellhead Redevelopment Program Contract**

*(Staff recommends awarding a three (3) year agreement, with the City option of two (2), one (1) year extensions, for the Wellhead Redevelopment Multi-Year Contract to A.C. Schultes of Delaware, Inc. as per the pricing included in the bid submittal)*

**13. Authorization to Extend Recycling Contract - Inland Waste Solutions, LLC (Inland Service Corporation)**

*(Staff recommends granting a three (3) year contract extension to Inland Waste Solutions, Inc. to provide recycling services at the current rate of $1.21 per unit)*

**14. Proposed Resolution No. 2014-05 Opposing House Bill 230 (the " Model Family Financial Protection Act")**

*(Staff recommends adoption of the resolution)*

**15. Letter of Support for Senate Bill 191 - Downtown Development Districts Act**

**16. International Brotherhood of Electrical Workers (IBEW) Labor Contract Tentative Agreement**

**17. <u>Final Reading - Proposed Ordinance #2014-07</u>**

**The First Reading of the proposed ordinance was accomplished during the Council Meeting of April 14, 2014. Copies of all proposed ordinances are available at the entrance of the Council Chambers.**

**A. Creating a new Chapter 52 - Freedom of Information Act Related to Public Records Access and Amending Appendix F - Fees and Fines**

**18. Council Members' Announcements**

/tm

S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Council-Agendas\2014\04-28-2014 Revised 2.wpd

# REGULAR COUNCIL MEETING

The Regular Council Meeting was held on April 14, 2014 at 7:30 p.m. with Council President Bonar presiding. Council members present were Mr. Anderson, Mr. Dixon, Mr. Lynn, Mr. Perza, Mr. Slavin, Mr. Hare, and Mr. Hutchison. Mrs. Williams was absent.

Council staff members present were Police Chief Bernat, Mrs. Mitchell, Mr. Koenig, Fire Chief Carey, Mr. Koenig, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Carey 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 Reverend Theodore Henderson, followed by the Pledge of Allegiance.

## AGENDA ADDITIONS/DELETIONS

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

**Mr. Slavin moved for approval of the Consent Agenda, seconded by Mr. Dixon and carried by a unanimous roll call vote (Williams absent).**

## ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF MARCH 24, 2014

**The Minutes of the Regular Council Meeting of March 24, 2014 were unanimously approved by motion of Mr. Slavin, seconded by Mr. Dixon and bore the written approval of Mayor Carey (Williams absent).**

## PRESENTATION - 2013 MAYOR'S PRAYER BREAKFAST CONTRIBUTIONS

The Annual Prayer Breakfast for Mayor Carleton E. Carey, Sr. was held on October 23, 2013. Each year, the Mayor donates proceeds from the event to organization(s) of his choice.

### People's Place

Mayor Carey presented a check in the amount of $200 to Mr. Del Failing, Executive Director, People's Place, and expressed appreciation for the organization's efforts to aid the homeless in the area.

Mr. Failing expressed thanks to the Mayor, City Council, and residents of Dover for their support.

### The Shepherd Place

Mayor Carey presented a check in the amount of $200 to Ms. Diane Cahall, Director, The Shepherd Place, to aid in their support of the homeless.

Ms. Cahall expressed thanks for the community support extended to The Shepherd Place, stating that the shelter could not function without such assistance. She noted the special challenges experienced during the past winter in regard to the "Code Purple" program, which strived to provide shelter to the homeless during extreme weather conditions.

Mayor Carey recognized Ms. Dina Vendetti, Chair of the Mayor's Prayer Breakfast Committee, for all of her work in organizing the event.

**PROCLAMATION - ARBOR DAY**

The City Clerk read the following Proclamation into the record:

WHEREAS, trees are of vital importance in beautifying our communities, moderating temperatures, producing life-giving oxygen, providing a habitat for wildlife, reducing erosion, and serving as a source of building materials and countless wood products; and

WHEREAS, in 1872, J. Sterling Morton, a Nebraska pioneer, proposed that a special day be set aside for the planting of trees by individuals and civic organizations, resulting in the first celebration of Arbor Day on April 10, 1872, with an estimated one million trees being planted in Nebraska that day; and

WHEREAS, Arbor Day has since become a national event promoted by the National Arbor Day Foundation, whose mission is to inspire people to plant, nurture, and celebrate trees; and

WHEREAS, the City of Dover was named a Tree City USA in 2013 for the twenty-fourth consecutive year by the National Arbor Day Foundation in recognition of the City's outstanding urban forestry program; and

WHEREAS, the City of Dover Planning and Inspections Department's Tree Planting and Preservation Ordinance has caused the planting of thousands of trees in all subdivisions and commercial sites since 1992, and the City has continued to aggressively plant street trees between curbs and sidewalks in almost every available site in the City; and

WHEREAS, the Delaware State champion American Elm on The Green may be the only living witness to Delaware's ratification of the United States Constitution that took place at the Golden Fleece Tavern in 1787, underscoring that planting and caring for trees is a special gift that one generation passes down to the next.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby proclaim April 25th, 2014 as ARBOR DAY in the City of Dover, and urge all citizens to support efforts to care for trees along our streets, in our parks, and in our yards. As the City of Dover plants trees on public property, I urge all citizens to plant trees on their properties to enhance the environment and promote the well-being of present and future generations.

Mayor Carey presented the proclamation to Mr. Mark Nowak, GIS Manager, and expressed appreciation to him and to City staff for their efforts in planting trees and beautifying the City for the benefit of visitors and residents, and noted that the planting of trees improves air quality in the City as well.

Mr. Nowak emphasized that recognition was due to the City's Grounds staff, stating that these individuals deserved all of the credit.

**RESOLUTION NO. 2014-03 PROPOSING APRIL 14 - APRIL 25, 2014 AS SPRING CLEANUP WEEKS**

The City Clerk read Resolution No. 2014-03, proposing April 14 - April 25, 2014 as Spring Cleanup Weeks in the City of Dover, into the record.

**By motion of Mr. Hare, seconded by Mr. Lynn, Resolution No. 2014-03 was unanimously adopted, as follows:**

A RESOLUTION PROPOSING APRIL 14 - APRIL 25, 2014 AS SPRING CLEANUP WEEKS

WHEREAS, we are fortunate to live in a City that is abundantly blessed with natural assets and have a continuing responsibility to preserve our environment by keeping it clean, healthy, and beautiful; and

WHEREAS, the Dover Days Festival, a period set aside to honor the heritage of the City, will be celebrated May 2 - 4, 2014; and

WHEREAS, during this celebration we have the opportunity to demonstrate to ourselves, our neighbors, and our visitors, our commitment to a clean and beautiful city.

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

1. That the weeks of April 14 - 25, 2014 are designated as SPRING CLEANUP WEEKS in the City of Dover.

2. That all organized and individual segments of our population are encouraged to participate in this worthy effort by developing and carrying out innovative cleanup, painting, repair, and restoration projects which will serve to enhance or maintain the beauty of all properties in our community.

3. All Spring Cleanup debris should be placed for pickup along with regular household waste during the weeks of April 14 - 25, 2014 so that our City will exemplify cleanliness and beauty during the Dover Days Festival.

ADOPTED: APRIL14, 2014

**PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 814 MAPLE PARKWAY, OWNED BY FRANK E. JONES AND OTHERS**

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 814 Maple Parkway, owned by Frank E. Jones and others. Mr. Scott Koenig, City Manager, explained that the structure was an in-ground pool with an adjacent, small, wooden pool house. The pool was condemned as an unsafe structure on November 30, 2012 due to the stagnant water and non-operating pool pump. The liner was ripped in several areas and trash was in the pool. The structure is currently filled with stagnant water, has non-operating equipment, has no active utility services, is in a serious state of disrepair, and is a danger to the residents in the surrounding neighborhood.

Mr. Scott Koenig, City Manager, reviewed a presentation depicting the condition of the structure ***(Exhibit #1)***.

Staff recommended that City Council take the following action for property located at 814 Maple Parkway: 1) declare the pool, pool decking, and all accessory pool structures and equipment on this property dangerous; 2) order the property repaired or demolished by May 14, 2014 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of demolition to be charged against the land on which the structures exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Responding to Mr. Perza, Mr. Koenig stated that the proposed demolition would involve only the in-ground pool and pump house, not the residential structure on this property.

Council President Bonar declared the public hearing open and, there being no one present wishing to speak, the public hearing was closed.

**Mr. Slavin moved that the pool, pool decking, and all accessory pool structures and equipment located at 814 Maple Parkway be declared dangerous and to order the property repaired or demolished in accordance with the process recommended by staff. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Williams absent).**

**PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 39 NORTH NEW STREET, OWNED BY ERIN L. COOPER**

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 39 North New Street, owned by Erin L. Cooper.

Mr. Koenig advised members that earlier in the day, shortly before 5:00 p.m., he received a request from the property owner to defer the public hearing because she was unable to attend the meeting this evening. She indicated that she was in the process of securing bids from various contractors to demolish the structure or to re-occupy it as an improved structure.

Mr. Koenig requested that the hearing be deferred to allow the property owner to choose a path forward. He stated that if this were not accomplished before the Council meeting scheduled for April 28, 2014, this item would be placed on the agenda for Council's consideration.

**By unanimous consent, this item was deferred until the Council meeting scheduled for April 28, 2014.**

**PRESENTATION - FIRE DEPARTMENT 2013 ANNUAL REPORT**

Fire Chief Matthew Carey reviewed the Dover Fire Department 2013 Annual Report. He noted that there were 1,045 calls for service in 2013, totaling 9,613 man hours from Fire Department volunteers for a wide variety of incidents including house fires, extricating victims from vehicles, pool rescues, and assisting other agencies. He noted that the majority of calls were false alarms resulting from malfunctioning alarms or malicious pulls of alarms. Chief Carey indicated that were approximately 200 actual fires that required putting a line in service, and that the Fire Department and Police Department work as a team in responding, as the Police Department keeps the crowds back while the Fire Department controls the fire. He described some of the incidents that occurred in the area, including a tornado touchdown in Old Dover, severe weather emergencies, a fire fatality at the Dover Budget Inn, tractor trailer fires, a double fatality vehicle accident, and a residential fire where the roof collapsed while two (2) crew members were inside searching for victims. He noted that a rapid intervention team rescue was performed during this last incident and that one (1) member was still recovering from injuries and the other was "doing okay." He emphasized that a great deal was learned from this incident and measures were taken to get the word out to try to prevent a reoccurrence.

Chief Carey informed members that 12 members were added to the Fire Department ranks, noting that Ms. Nicole Carey, Personnel Director, does an exceptional job promoting the Department and reaching out for volunteers. He noted that more than 4,452 training hours were put in by the Department including burn, foam, water, boat rescue, and vehicle extrication exercises. He indicated that all of the men and women in the Fire Department do an excellent job and that the Department trains to the same standards as career Fire Departments. Chief Carey stated that during the Department's Annual Appreciation Banquet some members were recognized for their exceptional performance, including Mr. Carlton Carey, Jr., who received the Presidents' Award; Mr. Jake Shepherd, who was named Firefighter of the Year; Mr. Brandon Naylor, who was named Fireman of the Year; and the top ten responders, who responded to over 200 of the 1,000 calls received.

Chief Carey advised members that the Department's new RTV Kubota 900 XT was used to put out a vehicle fire at Dover Downs and that this equipment was very helpful in taking a proactive approach at events such as NASCAR races and the Firefly Festival. He noted that the Fire Department had partnered with Active 911 in launching a pre-planning system in the City. Mr. Mark Nowak, GIS Manager, had assisted in providing input to allow crews to access information regarding the location and amount of flow of the City's 1,700 hydrants as well as more than 600 Fire Department connections and Knox-Boxes. Chief Carey stated that iPads with this information were now available on every piece of fire apparatus and in both command vehicles, which he stated would reduce the time required for safe rescue and quick "knock-downs" on fires. He noted that, in

cooperation with the Fire Marshal, a placarding system had been put in place marking locations that crews will not enter, due to fire loads or deteriorating conditions, unless an immediate life threat is known, or unless there is only a small room contents fire. Chief Carey indicated that improvements had been made to the Fire Department's website and the Department was also making use of social media through Facebook. He stated that the Department's four (4) full-time 911 dispatchers had recently been certified in Emergency Fire Dispatch and were tasked with many duties around the fire house, which allowed for volunteers to concentrate on mitigating incidents. Chief Carey informed members that the Fire Department's Pipes and Drums Band had received national awards and was doing an outstanding job and working very hard. In conclusion, he noted that in 2013 the Department said goodbye to Mr. Herb Abbott, their oldest Life Member, who performed 75 years of dedicated service to the Department.

Mr. Anderson thanked the Department for all they do for the community. He inquired regarding the cause of the fire at the Dover Budget Inn and was referred by Chief Carey to contact Mr. Dave Truax, Fire Marshal.

Mr. Hutchison expressed thanks to Chief Carey and to the members of the Fire Department. He stated that he had the opportunity to visit the Department during the previous week and walked away knowing that the City had a first-class fire operation, which he believed was a reflection of the work of Chief Carey, the leadership team, and the many volunteer members.

Mr. Bonar stated that he was no longer active around the fire house due to other obligations; however, he has had the pleasure and honor of working with the volunteers. He encouraged anyone that had an interest in becoming part of the volunteer fire service to stop by to learn about the benefits of serving and expressed his opinion that the Fire Department is "a remarkable organization."

**Mr. Hare moved for acceptance of the Fire Department 2013 Annual Report, seconded by Mr. Hutchison and unanimously carried.**

**SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - MARCH 24, 2014**

The Safety Advisory and Transportation Committee met on March 24, 2014 with Chairman Dixon presiding.

**Dover/Kent County Metropolitan Planning Organization (MPO) Delaware State University (DSU) Pedestrian Counts Summary Report (December 2013)**

Mr. Rich Vetter, Executive Director of the Dover/Kent County Metropolitan Planning Organization (MPO), reviewed the MPO Delaware State University (DSU) Pedestrian Counts Summary Report (December 2013). He explained that, last fall, the MPO and the Delaware Department of Transportation (DelDOT) completed a pedestrian study of the roadways adjacent to the Delaware State University (DSU) Dover Campus. The study corridor included Route 13 between the DSU Commons entrance and College Road, as well as College Road from Route 13 to University Courtyard Apartments at Jason Court. Pedestrian activity within the study corridor

has long been a concern since the university residences are on one (1) side of Route 13 and restaurants and retail centers are on the opposite side. The study examined pedestrian volumes, pedestrian movements, and crosswalk compliance.

Referring to the "Delaware State University Pedestrian Improvements" map, Mr. Vetter reviewed the list of pedestrian crossings and advised members that the figures listed in yellow indicated non-compliance with crosswalk use. He advised members that compliance was relatively good in the campus area near Route 13 and that improvements were planned in this area, including the extension of the existing brick wall, the addition of new sidewalk, and the installation of a post and chain fence and landscaping. He indicated that extension of the sidewalk had been financed through legislative funding and construction would occur in the Spring of 2014. It was hoped that these changes would alleviate some of the pedestrian crossing concerns. Mr. Vetter noted that major crosswalk non-compliance occurs at the College Road and Jason Court crossing going to and from the University Courtyard Apartments. He stated that pedestrians rarely use the marked crosswalk on College Road, although there is existing sidewalk on both sides of the road between the entrance and the bridge. In talking with DelDOT regarding potential solutions, he stated that DelDOT was not in favor of installing any additional mid-block crossings due to the curve in the road; however, other suggestions included enhancing the existing crosswalk, installing an additional crosswalk at the actual entrance to the apartments, and installing additional signage.

Noting that he traveled the roadway daily, Mr. Hutchison expressed concerns with the lack of lighting along College Road, particularly with the amount of pedestrian traffic and the speed of vehicular traffic.

Responding to Mr. Keller regarding whether other possible solutions were available, Mr. Vetter suggested enhancing enforcement, to include the issuance of jaywalking tickets.

Mr. Davis suggested the possibility of reducing the speed limit to 25 mph or 30 mph along College Road between Saulsbury Road and Route 13. He felt that decreasing the speed of vehicles would reduce the chance of a dangerous situation. Responding, Mr. Vetter stated that a reduction in the speed limit could be proposed to DelDOT for their consideration.

At the request of Mr. Vetter and based on the comments made by members of the Committee, Mr. Hutchison suggested that the MPO request that DelDOT consider additional street lighting along College Road and a reduction in the speed limit.

**Transportation Improvement District (TID) - Review of Draft Agreement and District Boundaries**

During their Regular Meeting of November 12, 2013, City Council authorized the City Manager and City Planner to begin negotiations with the Delaware Department

of Transportation (DelDOT) to create a Transportation Improvement District (TID), as recommended by the Committee, noting that any agreement related to the TID would be brought before City Council in draft form prior to execution.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the draft *Agreement Regarding Dover US Route 13/Bay Road Corridor Transportation Improvement District* and a map of proposed district boundaries.

Mrs. Townshend stated that the City had been negotiating the TID Agreement, including the participant boundary and facility boundary, for the past several months. She introduced Mr. William Brockenbrough, County Coordinator, DelDOT Division of Planning, who served as the project leader. Under the terms of the agreement, she stated that the City would provide data to DelDOT for the creation of a Land Use and Transportation Plan (LUTP) and that DelDOT would create the LUTP, which would be the basis of the TID Capital Transportation Plan (TID-CTP). Mrs. Townshend explained that the City would collect a fee from developers for development within the participant boundary. The fee would be based upon a fee schedule that would be adopted as an appendix to the agreement after the completion of the LUTP and would be collected upon issuance of a building permit. The City would keep these funds in an account to be used for the purpose of improvements associated with the TID-CTP. She noted that development projects that do not require Planning Commission approval would be exempt from the requirements of the agreement.

Mrs. Townshend stated that a LUTP would provide efficiency to the processes, since development would be considered on a regional scale, preventing piecemeal improvements. Most importantly, she stated that a LUTP would allow development to move forward in an area that many wished to see re-developed.

Staff recommended approval of the draft *Agreement Regarding Dover US Route 13/Bay Road Corridor Transportation Improvement District* and the map of the proposed district boundaries, subject to review by the Deputy City Solicitor.

Responding to Mr. Hutchison, Mr. Brockenbrough stated that it was hoped that the study would be completed during the Summer of 2014 and the LUTP would be finalized in the Fall of 2014. Once completed, DelDOT would present the LUTP to City Council for their approval.

The Committee recommended approval of staff's recommendation to approve the draft Agreement Regarding Dover US Route 13/Bay Road Corridor Transportation Improvement District and the map of the proposed district boundaries, subject to review by the Deputy City Solicitor.

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

**Update - Dover High School Construction**

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that a school construction coordination meeting was scheduled for later in the week and that one (1) of the issues to be discussed was the schedule for delivering furniture to the site. It had been determined that a Certificate of Occupancy would not be required for this delivery; however, she stated that the City would ensure that the building was substantially complete and that life safety systems were in place. It was anticipated that a temporary Certificate of Occupancy would be requested later in the Spring. Mrs. Townshend indicated that the requirements for each stage of the project would be discussed so that progress could continue without compromise.

After speaking with Mr. Jim Satterfield, Project Manager with the Delaware Department of Transportation (DelDOT), Mrs. Townshend stated that the sidewalk project on the north side of Route 8 near the school was moving forward. She noted that, of the 11 required temporary and permanent easements, six (6) property owners had signed easements.

Responding to Mr. Keller regarding the status of the east entrance to the school, Mrs. Townshend stated that a pre-construction meeting was held at DelDOT last week and this was discussed. Due to technical issues regarding the entrance design that needed to be revisited, another meeting was scheduled for April 9, 2014. Once these issues are resolved, she stated that improvements would begin on the entrance. Mrs. Townshend noted that authorization was granted for a stormwater outfall pipe to be installed under the right-of-way (roadway) and that construction could begin for that part of the project.

**By consent agenda, Mr. Slavin moved for acceptance of the Safety Advisory and Transportation Committee Report, seconded by Mr. Dixon and carried by a unanimous roll call vote (Williams absent).**

**UTILITY COMMITTEE REPORT - MARCH 24, 2014**

The Utility Committee met on March 24, 2014 with Chairwoman Williams presiding.

**Delaware Mutual Aid and Assistance Agreement for Intrastate Water/Wastewater Agency Response Network (DEWARN)**

Mrs. Sharon Duca, Director of Public Works, advised members that following the events of September 11, 2001, Hurricanes Katrina and Rita in 2005, and the severe flooding in New England and the Midwest in 2007, the need for water and wastewater systems to share resources to overcome disasters became evident. As a result, the Water Sector's professional associations and the U.S. Environmental Protection Agency (EPA) Water Security Division (WSD) had been working to have every state establish intrastate mutual aid and assistance agreements between drinking water and wastewater utilities known as Water/Wastewater Agency Response Networks (WARN).

Mrs. Duca indicated that the Delaware Mutual Aid and Assistance Agreement for Intrastate Water/Wastewater Agency Response Network (DEWARN) had been executed by numerous water and wastewater utilities (public and private) throughout the State. She stated that the City and other jurisdictions already work together and provide assistance to each other during times of need. Mrs. Duca explained that if the City became a member, this would allow the City to receive assistance from other members, should an emergency occur, as well as provide assistance if possible. She stated that emergencies do not need to be catastrophic, such as those that led to the formation of the WARN communities, but can be any incident which requires emergency response. She assured members that the agreement would not mandate any obligation to assist other members in the event of an emergency, explaining that it would simply provide a means for members to assist each other if they are able. Mrs. Duca indicated that participation in this network would be achieved through the Department of Public Works and the City Manager's Office via Public Affairs and Emergency Management. Members were provided an informational brochure regarding DEWARN.

Staff recommended that the City Manager be authorized to execute the DEWARN Agreement.

Responding to Mr. Perza, Mrs. Duca stated that she, along with the City Manager and the Public Affairs and Emergency Management Coordinator, would serve as the City's point of contact. She advised members that in all instances, the City Manager would be made aware of an issue before a final decision would be made on any request. Elaborating, Mr. Scott Koenig, City Manager, stated that although he, as City Manager, would be required to approve requests for personnel and equipment outside of the City, approval would be granted after considering staff's recommendation in this regard. He assured members that if a request were within reason, the City would do whatever possible to provide aid to a local jurisdiction included in the Network.

In response to Mr. Snaman, Mr. Koenig stated that, although there was no written agreement to provide assistance for electrical issues, there has been a long-term understanding that the City's Electric Department will respond whenever assistance is needed. In the past, Mr. Koenig stated that crews had been sent to other states as a part of mutual aid through the American Public Power Association (APPA).

Mrs. Williams questioned what, if anything, the City would do to accommodate requests for providing water to areas where there is no interconnection with the City. Responding, Mrs. Duca felt that, if such a need arose, assistance would extend outside of the Network and come from other sources, such as the National Guard.

Responding to Mr. Hutchison, Mrs. Duca advised members that the municipalities that are already members of DEWARN are Blades, Camden-Wyoming, Lewes, Milford, Milton, Newark, New Castle Municipal Services Commission, Selbyville, and Wilmington. Other members include United Water Delaware, Tidewater Utilities, and Artesian Water Company.

The Committee recommended approval of staff's recommendation to authorize the City Manager to execute the DEWARN Agreement.

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

**By consent agenda, Mr. Slavin moved for acceptance of the Utility Committee Report, seconded by Mr. Dixon and carried by a unanimous roll call vote (Williams absent).**

**LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - MARCH 24, 2014**

The Legislative, Finance, and Administration Committee met on March 24, 2014 with Chairman Lynn presiding.

**Proposed Amendments to the City of Dover Freedom of Information Act (FOIA) Policy and Proposed Ordinance #2014-07 - Creating a new Chapter 52 - Freedom of Information Act Related to Public Records Access and Amending Appendix F - Fees and Fines**

Mrs. Traci McDowell, City Clerk, explained that recent amendments to 29 Del. C. Chapter 100, the State of Delaware Freedom of Information Act (FOIA), had necessitated amendments to the City of Dover's FOIA Policy. She noted that the most significant changes were related to the fee structure and record keeping requirements related to FOIA requests. In addition, Mrs. McDowell stated that municipalities were now required to adopt their FOIA policies by Resolution or Ordinance. Accordingly, staff submitted proposed amendments to the City of Dover Freedom of Information Act Policy, as well as Proposed Ordinance #2014-07, for the Committee's review and consideration.

Staff recommended approval of the proposed amendments to the FOIA policy and adoption of Proposed Ordinance #2014-07.

Responding to Mr. Shevock, Mrs. McDowell stated that the fees were grouped to allow for better organization within the Policy. She noted that the State's fees are less than the City's fees; however, she assured members that the State allows for the City to deviate from those fees as long as they are codified. She stated that Appendix F of the proposed ordinance clearly identifies the fees based on specific FOIA requests. Regarding the ability for individuals to review documents without providing copies, Mrs. McDowell stated that although there is no computer station

set up for individuals to review documents, generally, the City Clerk's Office fulfills the majority of requests by providing a PDF document that is emailed to the requestor or, if it is a large file, they are provided the material on a CD.

Mrs. McDowell advised members that a lot of the City's material, such as Council and Committee minutes, can be accessed through the City's website, which does not require a FOIA request.

The Committee recommended approval of the proposed amendments to the FOIA Policy and adoption of Proposed Ordinance #2014-07.

**By consent agenda, Mr. Slavin moved for approval of the Committee's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Williams absent).** *(The First Reading of Proposed Ordinance #2014-07 will take place during the latter part of the meeting.)*

**Financial Forecast Updates**

Mrs. Donna Mitchell, Controller/Treasurer, reviewed the Revenue Report as of February 28, 2014 and noted that the report included information for both FY 2014 and FY 2015. She noted that those amounts highlighted on the report had not been updated at the time the report was generated.

Mrs. Mitchell stated that, after reviewing the expense budgets, there was a reduction in expenses, primarily due to vacant positions and healthcare savings resulting from the vacancies, which would cover all of the General Fund shortfall.

Referring to the Water/Wastewater Fund, Mrs. Mitchell noted that a reduction in the amount of $651,300 was projected for FY 2014; however, based on figures that were updated after the report was generated, the amount was actually $773,700. She advised members that she was still in the process of reviewing the expense budget and, thus far, there was a savings of approximately $350,000. Mrs. Mitchell expressed her concern with this fund due to the debt covenants, explaining that she would need to continue to work on reviewing the expense budget for possible savings.

Mrs. Mitchell indicated that the Electric Fund reflected a favorable budget for FY 2014, which was due to the increase in the transfer from the Rate Stabilization Reserve from $4M to $7M. She explained that revenues were tracking approximately $2M higher; therefore, $5M would be available to make up for the $5M additional expenses incurred in January. Mrs. Mitchell assured members that the details regarding these changes would be forthcoming in revised budget ordinances. She stated that the FY 2015 budget was showing a revenue reduction of $257,400 compared to the current year.

Responding to Mr. Slavin, Mrs. Mitchell confirmed that the General Fund transfer tax was readjusted downward by $235,000. She stated that the shortfall in the operating budget could be attributed to the transfer tax, as well as other revenue items which were trending downward. For example, the Police Department recently requested that police fines be reduced by $95,000. Mrs. Mitchell indicated that she would have graphs reflecting the revenue trends available for Council to review during the Council Budget Workshop scheduled for March 31, 2014.

No further action was taken.

**By consent agenda, Mr. Slavin moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mr. Dixon and carried by a unanimous roll call vote (Williams absent).**

**MONTHLY REPORTS - FEBRUARY 2014**

**By motion of Mr. Slavin, seconded by Mr. Dixon, the following monthly reports were accepted by consent agenda**:

City Assessor's Report
City Manager's Report
City Planner's Report
Controller/Treasurer's Budget Report
Economic Development Office Report
Fire Chief's Report

**THE GRANDE: PLANNED NEIGHBORHOOD DESIGN - SENIOR CITIZEN HOUSING OPTION CONCEPT PLAN (GENERAL SKETCH PLAN)**

Mr. Scott Koenig, City Manager, advised members that The Grande is located northwest of the intersection of Saulsbury Road and Forrest Avenue. The property consists of 6.7326± acres of land. Currently there are three (3), four (4) story buildings on the site, each with 48 apartment units. It is managed as a 55+ community, although the existing Site Development Plan (S-11-12) does not require that the community be age-restricted.

Mr. Koenig stated that this site had been under construction through various development applications for the last decade. Initially, the senior citizen apartments were planned as part of a Planned Neighborhood Design – Senior Citizen Housing Option (PND-SCHO) known as Fountain View. Mr. Koenig noted that this project had been through several different owners and most recently was transferred to the ownership of Doveview Investors, LLC and was known as The Grande. Doveview Investors, LLC submitted a Site Development Plan (S-11-12) which allowed for completion of the two (2) partially-complete buildings and construction of a third building. This project was not reviewed as a PND-SCHO and, therefore, was not required to be age-restricted.

Mr. Koenig indicated that the three (3) buildings on the site were now complete, and the property owner wished to build a fourth building, as was previously planned and approved under the Conditional Use Site Plan C-06-02, which requires that the applicant restart the application process

for the PND-SCHO. Members were informed that the applicant was seeking approval for the SCHO in accordance with Appendix B - Zoning, Article 3 - District Regulations, Section 24.1(b) of the Dover Code which sets forth a two (2) or three (3) step review and approval process. The first step in this process is submission of a general sketch plan to City Council and City Council shall determine whether or not the proposed project is of such a design and type that warrants further review by the Planning Commission. If City Council determines that further review is warranted, then the PND-SCHO project shall proceed to the second step which is a more detailed Conditional Use Site Plan review and public hearing process before the Planning Commission. A third review step with the Planning Commission may be required depending on the type, physical size, and complexity of the project application.

Mr. Koenig stated that the sketch plan submitted aligned exactly with that which was approved by the Planning Commission as C-06-02. For this proposed plan, there are only two (2) steps required and this submission to City Council represents the first step in the review process.

It was noted that the PND must present a community design that is in accordance with the goals and policies of the Comprehensive Plan. Mr. Koenig advised members that the Comprehensive Plan acknowledged the fact that residents aged 65+ are a rapidly growing segment of the population that will require more specialized services.

Staff recommended that City Council forward the plan to the Planning Commission for review.

**Mr. Hare moved to refer the proposed project known as The Grande: Planned Neighborhood Design - Senior Citizen Housing Option to the Planning Commission for review, as recommended by staff. The motion was seconded by Mr. Dixon and unanimously carried.**

**EVALUATION OF BIDS - GENERATOR MAINTENANCE CONTRACT**

Mr. Scott Koenig, City Manager, advised members that the City of Dover currently had seventeen emergency generators that supply emergency power to critical infrastructure. These facilities include the Electric Administration Building, various sanitary sewer pump stations, the Water Treatment Plant, City of Dover Warehouse, water production wells, and City Hall. He stated that this Generator Maintenance Contract would require the contractor to perform four (4) quarterly preventative maintenance service visits on each generator every year. One (1) of the four (4) visits annually would consist of complete preventative maintenance service at each generator. Mr. Koenig noted that if it is found that a generator is in need of materials that are above the work outlined in the Invitation to Bid, the price for the repair, including all materials and labor, shall be pre-approved by authorized City of Dover personnel, prior to material being ordered. He stated that, historically, the City has spent approximately $3,000 annually on additional repairs beyond the preventative maintenance aspect of the contract. He noted that the City is not obligated to utilize the winning bidder to perform repairs on generators. Any additional work that is required for the generators shall be in accordance with the City's most current Purchasing Policy and Procedures.

Mr. Koenig stated that bids were solicited and advertised according to City Policy by the City's Contract and Procurement Manager under ITB #14-0027PW and bids were received from six (6) contractors. Based on the contract documents, the yearly cost from each contractor was as follows:

| Contractor | Location | Year 1 | Year 2 | Year 3 | Year 4 (City Option) | Year 5 (City Option) |
|---|---|---|---|---|---|---|
| Alban Tractor Co., Inc. | Baltimore, MD | $14,166.00 | $14,591.00 | $15,016.00 | $15,500.00 | $16,000.00 |
| Fidelity Engineering | Sparks, MD | $15,445.00 | $15,445.00 | $15,445.00 | $16,220.00 | $16,220.00 |
| FM Generator | Canton, MA | $12,975.00 | $13,875.00 | $13,875.00 | $13,875.00 | $13,875.00 |
| Power Equipment Co. | Moorestown, NJ | $11,427.00 | $11,427.00 | $11,427.00 | $11,427.00 | $11,427.00 |
| **Roy's Electrical Services, Inc.** | **Cheswold, DE** | **$9,985.00** | **$9,985.00** | **$9,985.00** | **$9,985.00** | **$9,985.00** |
| White Marsh Environmental | Dover, DE | *$31,573.50** $32,550.00 | *$32,628.38** $33,637.50 | *$33,770.37** $34,814.81 | *$34,952.33** $36,033.33 | *$36,175.67** $37,294.50 |

**=White Marsh Environmental claimed Local Vendor Preference, which entitles a 3% reduction on the evaluation of prices, non-italicized costs are the actual bid costs.*

Mr. Koenig advised members that Roy's Electrical Services, Inc. submitted all of the contractor's qualification information.

Mr. Koenig stated that this would be a multi-year contract that would exceed $25,000 and, therefore, required Council approval, even though the expenditure proposed for FY 2014 was less than $25,000.

Staff recommended awarding a three (3) year contract with the option for two (2) one (1) year extensions to Roy's Electric, Inc. as per the bid submitted in response to ITB #14-0027PW.

Noting a large difference in the prices submitted by White Marsh Environmental, Mr. Perza inquired if the bid submitted by White Marsh Environmental included the entire three (3) year term of the contract. Responding, Mr. Koenig stated that he had not asked this question of staff; however, he expressed his understanding that staff had reviewed all bids and White Marsh Environmental fully understood how the bids were structured. He stated that the price listed was their submitted price.

**Mr. Slavin moved to award a three (3) year contract with the option for two (2) one (1) year extensions to Roy's Electric, Inc. as per the bid submitted in response to ITB #14-0027PW, as recommended by staff, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Williams absent).**

**PROPOSED RESOLUTION NO. 2014-04 IN SUPPORT OF A DELAWARE LAND AND WATER CONSERVATION TRUST FUND GRANT APPLICATION FOR SCHUTTE PARK IMPROVEMENTS - PHASE I**

Mr. Scott Koenig, City Manager, informed members that Proposed Resolution No. 2014-04 was required to complete the City's grant application for a Delaware Land and Water Conservation Trust Fund Grant. He stated that this was a "paperwork and accounting issue" to ensure that City Council

was in support of the grant application to offset some of the costs of the Schutte Park improvements. Mr. Koenig stated that staff estimated that the review committee would review the grant applications on approximately May 4, 2014 and the project would proceed shortly thereafter.

Staff recommended adoption of Resolution No. 2014-04 by Council so that the grant package could be completed.

Mr. Slavin stated his understanding that one (1) of the provisions of accepting the funds from the Delaware Land and Water Conservation Trust Fund was that the City would agree to hold this land as parkland in perpetuity and inquired if a permanent easement would be placed on the property. Responding, Mr. Koenig stated that the recreation area comprises all of the frontage of the property and a small portion of the property is related to a Public Works facility. He indicated that the front of the property may already be deed restricted and that he would check on this.

Mr. Perza inquired if the survey work had already been approved and contracted. Mr. Koenig stated that Council had awarded a contract for a survey; however, the authorization had not yet been signed in order to allow the City time to follow the grant application process, so as not to rule out these funds if there were available.

**By motion of Mr. Slavin, seconded by Mr. Hare, Council unanimously adopted Resolution No. 2014-04, as follows:**

A RESOLUTION IN SUPPORT OF A DELAWARE LAND AND WATER CONSERVATION TRUST FUND GRANT APPLICATION FOR SCHUTTE PARK IMPROVEMENTS - PHASE I

WHEREAS, the City of Dover intends to improve the land additions to Schutte Park that are the result of land dedicated by Stover Homes with the development of Nottingham Meadows, as well as the right-of-way associated with the former alignment of Wyoming Mill Road that will be acquired from the State of Delaware; and

WHEREAS, the City intends to request $15,000 from the Delaware Land and Water Conservation Trust Fund (DTF) Grant Program to support completion of an American Land Title Association (ALTA)/American Congress on Surveying and Mapping (ACSM) Land Title Survey and Wetland Services to allow for land planning activities at Schutte Park to support expansion of recreation amenities; and

WHEREAS, the City has allocated $34,700 of City funds for the purposes of this land survey, which will support the planning for the park expansion as well as efficient use of the Public Works Operations Area located at the southeast corner of the park; and

WHEREAS, the City assigns Ann Marie Townshend, Director of Planning and Community Development, to manage the project and coordinate the DTF Program requirements for reporting and reimbursements; and

WHEREAS, the City understands that parkland acquired or improved with DTF funding assistance will remain available to the public for outdoor recreation in perpetuity.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council support the Delaware Land and Water Conservation Trust Fund (DTF) Grant application.

BE IT FURTHER RESOLVED, that the City shall abide by the requirements of the DTF Grant Program for reimbursements and stewardship responsibilities.

ADOPTED: APRIL 14, 2014

**FIRST READING - PROPOSED ORDINANCE #2014-07**

Council President Bonar reminded the public that copies of Proposed Ordinance #2014-07 were available at the entrance of the Council Chamber or could be obtained from the City Clerk's Office. Final action by Council on the proposed ordinance will take place during the Council Meeting of April 28, 2014.

In accordance with Section 1-9 of the Dover Code, Council acknowledged the First Reading of the Proposed Ordinance, as follows:

> #2014-07 CREATING A NEW CHAPTER 52 - FREEDOM OF INFORMATION ACT RELATED TO PUBLIC RECORDS ACCESS AND AMENDING APPENDIX F - FEES AND FINES

**COUNCIL MEMBERS' ANNOUNCEMENTS**

There were no Council Members' announcements.

**Mr. Lynn moved for adjournment, seconded by Mr. Hutchison and unanimously carried.**

Meeting adjourned at 8:10 p.m.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of April 14, 2014, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Council-Minutes\2014\04-14-2014.wpd

*Exhibits*
*Exhibit #1 -Presentation - Violation of Dangerous Building Ordinance - 814 Maple Parkway*

# Violation of Dangerous Building Ordinance 814 Maple Parkway

Planning & Inspections Department

Dover, Delaware

April 14, 2014

# 814 Maple Parkway
# Case History

- Four Code Enforcement cases since 2012
  - Exterior violations (trash and debris)
  - Property has been vacant since October 2012
- Registered as a Vacant Building by JP Morgan Chase Bank February 21, 2013
- Source of Neighbor Complaints
- Property has been broken into and re-secured by staff
- Pool has not been maintained in a clean and sanitary manner. Stagnant water has accumulated
- Condemned by staff due to dangerous pool on November 30, 2012

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

- (5) *Unfit for habitation*
- (9) *General welfare.*
- (12) *Unoccupied Buildings.*

# Pool and Decking




Pump House
03/25/2014 14:45

# Recommended Council Action

- Declare this pool, pool decking, all accessory pool structures and equipment on this property dangerous.
- Order the property repaired or demolished by **May 14, 2014** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

City of Dover

OFFICE OF THE MAYOR

April 25, 2014

Mrs. Traci McDowell
City Clerk
P.O. Box 475
Dover, DE 19903

Dear Mrs. McDowell,

After 22 years of service in city government (five years as a civilian on the Utility Committee, ten years on City Council, and almost seven years as Mayor of the City of Dover) I have decided it is time to retire.

I would like to thank all the employees of the City of Dover for all the great work that they do every day. What they do for our citizens is very commendable and they should be recognized for all their hard work.

It has been a pleasure, an honor and privilege to work with the men and women of the Dover Police Department. The Dover Police Department is #1 in the country as far as I am concerned. With all their outstanding work they do to protect the citizens.

One of the greatest awards that they received is the Accreditation with Excellence Award from the Commission on Accreditation for Law Enforcement Agencies (CALEA). This is the highest award that a Police Department can receive. The Dover Police Department is 1 of 35 agencies nationwide to receive this prestigious award.

To all the committee members for the City of Dover, I thank you from the bottom of my heart for all that you have done volunteering to make this city a greater place for our families to live.

To the citizens of Dover, it has been an honor to serve you over my last 22 years and I want to thank you for all the support that I have received over the years.

With this letter, this is my official resignation as Mayor of the City of Dover. My last official day will be Monday, April 28, 2014 at 8:00am.

Sincerely,

Carleton E. Carey Sr.

Carleton E. Carey, Sr.
Mayor

CEC

# DRAFT PROPOSED COUNCIL RESOLUTION NO. 2014-07

**A RESOLUTION APPOINTING THE VICE-MAYOR AS MAYOR UNTIL THE MAYOR'S POSITION IS FILLED**

**WHEREAS**, Mayor Carleton E. Carey, Sr. whose term expires May 11, 2015, submitted his resignation as Mayor of the City of Dover effective April 28, 2014; and

**WHEREAS**, in accordance with Sec. 13 of the Charter, a special election to fill the vacancy is required no sooner than thirty (30) days from the date of vacancy and no later than (60) days after the date of vacancy; and

**WHEREAS**, in accordance with the provisions of Sec. 15 of the Charter, the Mayor's absence will be extended, in which case Council shall pass a resolution appointing the Vice-Mayor as Mayor until the Mayor's position is filled in accordance with Sec. 13, which resolution shall provide that the Vice-Mayor shall have the right to approve council action in accordance with Sec.10 hereof, in which case the Vice-Mayor shall lose his/her vote as Council person until further action is taken by Council.

**NOW THEREFORE IT BE RESOLVED** by Council of the City of Dover and in Council, met:

1. Council President and Vice-Mayor David L. Bonar shall serve as Mayor until the Mayor's position is filled, in accordance with the provisions of Sec. 13 of the Charter, due to the extended absence and resignation of Mayor Carleton E. Carey, Sr. and during this period of time David L. Bonar, acting as Mayor, shall have the right to approve or disapprove Council action in accordance with the provision of Sec. 10 of the Charter, in which case he shall lose his right to vote as Councilperson until further action is taken by Council. Upon the election and installation of a new Mayor, Vice-Mayor David L. Bonar shall return to his position as Vice-Mayor and shall regain his vote as Councilperson.

2. In accordance with Sec. 9 of the Charter, Beverly C. Williams, the senior member of Council, in terms of length of service, shall assume the duties of Council President and is hereby appointed as acting Vice Mayor and Council President.

ADOPTED: *

S:\RESOLUTIONS-PROCLAMATIONS-TRIBUTES\2014\Draft\Resolution No. 2014-07 Resignation of Mayor Carey-Bonar_Mayor-Williams_CP.wpd

| | |
|---|---|
| DAVID L. BONAR<br>MAYOR | BEVERLY C. WILLIAMS<br>COUNCIL PRESIDENT/VICE-MAYOR<br>ACTING |

Actions History:
April 28, 2014 - Scheduled for Introduction at City Council

Draft

# ACTION FORM

| |
|---|
| **PROCEEDING**: City Council |
| **DEPARTMENT OF ORIGIN**: Planning & Inspections **DATE SUBMITTED**: April 23, 2014 |
| **PREPARED BY**: Tim Taraila, Code Enforcement Supervisor; Ann Marie Townshend, AICP, Director of Planning and Community Development |
| **SUBJECT**: 39 N New Street, Dover, Delaware – Violation of Dangerous Building Ordinance |
| **REFERENCE**: Chapter 22, Article XI – Dangerous Buildings, Sec. 22-385 - Hearing before Council and Chapter 22, Article XI - Dangerous Buildings Case # 13-911 & 13-925 |
| **RELATED PROJECT**: N/A |
| **APPROVALS**: N/A |
| **EXHIBITS**: PowerPoint Presentation and File Photos to be presented at the Council meeting. |
| **EXPENDITURE REQUIRED**: Preliminary estimate is $15,000-$20,000.<br>**AMOUNT BUDGETED**: $247,000 Budgeted for all demolitions Citywide in the FY-2014 Budget; As of April 23, 2014, there is $34,399.14 remaining in the line item.<br>**FUNDING SOURCE (Dept./Page in CIP & Budget)**: 110-1600-534-30-33. |
| **TIMETABLE**: As soon as possible. |
| **RECOMMENDED ACTION**:<br>1. Declare this building and all accessory structures on this property dangerous.<br>2. Order the property demolished by **May 28, 2014** by the owner or equity owner at their own risk.<br>3. Order the Building Inspector to cause the demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.<br>4. Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner. |

## BACKGROUND AND ANALYSIS

The property is owned by Erin L. Cooper. The property is a two-story wood-framed single family home. Numerous code violations were found during an housing inspection that occurred on August 14, 2012. None of the code violations have been brought into compliance. On April 9, 2013 a fire occurred within the home causing fire damage and additional code violations. As such, the home was condemned as unfit for human occupancy. Since then, the home has been registered as a vacant building. Currently the structure is still unoccupied, with no active utility services and in a serious state of disrepair.

# ACTION FORM

**PROCEEDING**: City Council

**DEPARTMENT OF ORIGIN**: Planning & Inspections **DATE SUBMITTED**: April 17, 2014

**PREPARED BY**: Tim Taraila, Code Enforcement Supervisor; Ann Marie Townshend, AICP, Director of Planning and Community Development

**SUBJECT**: 12 N New Street, Dover, Delaware – Violation of Dangerous Building Ordinance

**REFERENCE**: Chapter 22, Article XI – Dangerous Buildings, Sec. 22-385 - Hearing before Council and Chapter 22, Article XI - Dangerous Buildings Case # 12-3015 & 13-964

**RELATED PROJECT**: N/A

**APPROVALS**: N/A

**EXHIBITS**: PowerPoint Presentation and File Photos to be presented at the Council meeting.

**EXPENDITURE REQUIRED**: Preliminary estimate is $20,000-$25,000.

**AMOUNT BUDGETED**: $247,000 Budgeted for all demolitions Citywide in the FY-2014 Budget; As of April 17, 2014, there is $56,999.14 remaining in the line item.

**FUNDING SOURCE (Dept./Page in CIP & Budget)**: 110-1600-534-30-33.

**TIMETABLE**: As soon as possible.

**RECOMMENDED ACTION**:

1. Declare this building and all accessory structures on this property dangerous.
2. Order the property to be repaired or demolished by **May 28, 2014** by the owner or equity owner at their own risk.
3. Order the Building Inspector to cause the demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
4. Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

## BACKGROUND AND ANALYSIS

The property is owned by EH Pooled Investments LP. The property is a two-story wood-framed single family home. The structure was registered as a vacant building on November 5th, 2012. On April 12, 2013 a fire occurred within the home causing fire damage and numerous code violations. As such, the home was condemned as unfit for human occupancy and boarded. Currently the structure is still unoccupied, with no active utility services and in a serious state of disrepair.

# M E M O R A N D U M

*TO:* Members of City Council

*FROM:* Traci A. McDowell, City Clerk

*DATE:* April 25, 2014

*SUBJECT:* Special Election - Mayoral Vacancy
(Term to Expire May 11, 2015)



In accordance with Section 13 of the City Charter, a Special Election must be held to fill the vacancy created by the resignation of Mayor Carleton E. Carey, Sr. since the vacancy is in excess of six (6) months in duration. This position is for the Mayor's seat with a term that expires May 11, 2015.

The following dates are submitted for your approval relative to the Special Election:

**Date of Election - Tuesday, June 17, 2014**
The earliest the election can be held is May 29, 2014 and the latest it can be held is June 27, 2014.

**Filing Petitions - April 29, 2014 through May 20, 2014 at 4:30 p.m.**
This time frame allows four (4) weeks for filing of petitions and almost four (4) weeks for campaigning and absentee voting.

**Voter Registration Close - June 3, 2014**
Voter registration (for the Special Election) shall close on June 3, 2014. The State will continue to accept voter registration applications during this time.

**Oath of Office - Special City Council Meeting of June 25, 2014**
June 25, 2014 is the soonest that the Oath of Office can be administered.

The above schedule is only a suggestion for Council consideration, but official action by Council is necessary.

I have contacted the Elk's Lodge and they have tentatively reserved their facility as the polling place for the Special Election. Newspaper notices for the filing petition dates will be prepared so that we can advertise immediately following the Council Meeting (upon Council approval of the dates).

If you have any questions or suggestions regarding the above, please do not hesitate to contact me.

/tm
S:\CAFS\ELECTION RELATED\04-28-2014 Scheduling Special Election Memo to Council.wpd

# DOVER HUMAN RELATIONS COMMISSION

The Dover Human Relations Commission (DHRC) meeting was held on March 25, 2014 at 5:30 p.m. Members present were Mr. Henderson, Ms. Hicks, Mr. McGiffin, Mr. Roach, Mr. Ruane, Ms. Sadusky, Ms. Stewart, and Mr. Wilson. Ms. Smith was absent. Members of Council present were Mr. Dixon and Mr. Lynn.

Mr. Scott Koenig, City Manager, expressed appreciation to members for their willingness to dedicate their time to serving the City of Dover through their participation on the DHRC.

## AGENDA ADDITIONS/DELETIONS

### Introduction of New Members

Mrs. Traci McDowell, City Clerk, requested that members perform self-introductions.

Mrs. Lynne Sadusky stated that she has been a resident of Dover for most of her life (since third grade), works as a substitute teacher, and has spent most of the previous 20 years raising her seven (7) children. She noted that she has served as a volunteer at the James T. Vaughn Correctional Center for close to seven (7) years and in the school system, which has provided her insight regarding the needs of the community.

Mr. Theodore Henderson informed members that he served in the military for 25 years, arriving in Dover in July 1995. He also indicated that he was the current pastor of Dover Christian Church, that he has three (3) grown children and has been married for 37 years.

Ms. Jane Hicks stated that she is a retired coach from Delaware State University and is currently the administrative assistant for men and women's basketball, volleyball, and soccer at the University. She also indicated that she is the former director of a national sports program for disadvantaged and low-income families in the community. She noted that she is a wife, mother of two (2), and has one (1) grandson.

Mr. Kenneth Roach advised members that he has lived in Delaware his entire life, apart from four (4) years away while attending college. He indicated that he has worked with children at the Boys and Girls Club at Simon Circle since the age of 14. When he returned from Bowie State University he obtained a job at Brenford Residential Treatment Center and moved into the field of child protective services with the Division of Family Services, where he served for five (5) years. Mr. Roach stated that he was currently employed at Booker T. Washington Elementary School as a family crisis therapist and volunteers with many organizations, including Delta Sigma Theta Sorority, Inc. He also performs community service for his fraternity, Phi Beta Sigma Fraternity, Inc. He expressed his love for the City of Dover, his community, and for children.

Ms. Courtney Stewart explained that she moved to Dover in 2000 to attend Wesley College, where she obtained Bachelor's and Master's degrees. Following graduation, she began working for the Department of Natural Resources and Environmental Control (DNREC) and held a number of positions within the State of Delaware. She currently works for the General Assembly in the Controller General's Office. She also teaches classes at the Dover Young Men's Christian Association (YMCA) and is active in the YMCA "Girls on the Run" program for girls aged eight (8) to 11, which teaches self-confidence and life lessons while incorporating a running component in the program. She noted that she was also an adjunct instructor for Wilmington University.

Mr. James McGiffin advised members that he formerly served for almost five (5) years as a member of City Council representing the Third District. He stated that he is a lawyer and has worked for the Community Legal Aid Society for most of his career and performed most of that work in Dover. He has worked in Dover since 1987 and lived in the City since 1988.

Mr. Eugene Ruane stated that he grew up in Baltimore and moved to Dover in 1972. He is married and the father of three (3) grown children. He was an employee of the State of Delaware government for approximately 20 years before retiring and then served on City Council for ten years, representing the Second District. He resides in the Crossgates area.

Mr. Cecil Wilson stated that he had lived in Dover since graduating from Delaware State College in 1963 and had been active in the community under the auspices of the National Association for the Advancement of Colored People (NAACP). He is a former teacher, principal, associate principal, and adjunct professor at Wilmington University and Delaware State University. He explained that the NAACP had been responsible for bringing the City into a "more representative" status and he was very proud of this and stated his pleasure at being involved with the DHRC.

On behalf of the Mayor and Council, Mrs. McDowell thanked all members for volunteering to serve. She expressed excitement about the DHRC and its mission.

**Election of Commission Chair**

Mrs. McDowell explained that the Chair of the DHRC would work closely with City Clerk's Office staff to set meeting agendas, monitor follow-up actions, and conduct meetings in an orderly fashion.

Mr. McGiffin stated that he had observed Mr. Wilson for a long period of time and was aware of some of his accomplishments in the City. He expressed his opinion that Mr. Wilson was a very impressive individual with a tremendous set of skills and knowledge.

**Mr. McGiffin moved to nominate Mr. Wilson to serve as Chair, seconded by Mr. Ruane.**

**Mr. Henderson moved that nominations be closed.**

**The motion to elect Mr. Wilson as Chair of the DHRC was unanimously carried.**

**Mr. Henderson moved to nominate Mr. McGiffin to serve as Vice Chair of the DHRC, seconded by Mr. Roach.**

Mr. Henderson expressed his feeling that Mr. McGiffin was very eloquent, wise, and experienced and felt that the diversity provided by having Mr. Wilson and Mr. McGiffin working together would be "human relations personified."

**Mr. Henderson moved to close nominations, seconded by Mrs. Sadusky.**

**The motion to elect Mr. McGiffin as Vice Chair of the DHRC was unanimously carried.**

**Overview of Commission Purpose, Powers, and Duties**

Ms. Denise Devine, Assistant City Clerk, advised members that the City Clerk's Office was excited to work with members to help fulfill the purpose of the Dover Human Relations Commission (DHRC). She reminded members that regulations for the Human Relations Commission are addressed in Chapter 58 - Human Relations, of the Dover Code and reviewed a presentation entitled, "Human Relations Commission - Overview of Commission Purpose, Powers, and Duties - March 25, 2014 ***(Attachment #1)***.

Referring to the powers and duties of the DHRC, Section 58-36 (1) - Recommendations of the Dover Code, Ms. Devine noted that recommendations are essential for the Commission to function. Since the Commission serves as an advisory board to City Council and makes recommendations for action to Council, communication with members of council is imperative. She noted that Section 58-33 (i) - Reports states that the Commission shall report to City Council on a quarterly basis regarding its affairs, and to accomplish this, following each Commission meeting, the meeting minutes would be scheduled for consideration by Council.

With regard to Section 58-36 (4) - Complaints, Ms. Devine noted that the City Clerk's Office maintains a log of all complaints received in order to determine whether each complaint is within the jurisdiction of the Commission, corresponds with the complainant, and ensures that each complaint is resolved. She advised members that any complaints received by a commissioner should be forwarded to the City Clerk's Office.

Referencing Section 58-36 (7) - Other Functions, Ms. Devine indicated that the Commission shall do all other acts and deeds necessary and proper to carry out and effectively accomplish the objections, functions and service contemplated by the provisions of Chapter 58 - Human Relations, Article II. Human Relations Commission. However; the Commission's functions are limited by Section 58-33 (e), which states that the Commission shall not involve itself in activities or functions already assigned by law or decree to other governmental bodies. Ms. Devine cited an example that occurred in 2013 when the DHRC received a complaint alleging unfair housing practices against the Dover Housing Authority and Colonial Investment Public Housing Program. Since this type of complaint falls under the jurisdiction of the Delaware State Human Relations Commission, Delaware Department of Justice Consumer Protection Unit, and the U.S. Department of Housing and Urban Development, the complaint was forwarded to these agencies and the Commission was unable to discuss the matter.

Ms. Devine noted that all meetings shall be held at City Hall and in accordance with the Laws of Delaware regarding the Freedom of Information Act (FOIA) and City of Dover procedures. The Commission will distribute its agendas and minutes through the City Clerk's Office. She stated that the City Clerk's Office would work with the Commission Chair to develop future meeting agendas, but encouraged all members to feel free to contact the Clerk's Office with any recommendations for agenda items. Ms. Devine noted that meeting agendas, packets, and minutes are made available on the City's website, that members would receive an email each time they are posted, and that Human Relations Commissions agendas and packets would also be mailed to members prior to each meeting.

Ms. Devine explained that all proceedings of the Commission must take place in accordance with FOIA and that FOIA's intent is to ensure that all public business is conducted openly and publicly and to ensure transparency; therefore, all meetings of the Commission must be properly publicized. All meeting agendas must be posted on the City's website at least seven (7) days in advance of the meeting unless an emergency meeting is necessary for the immediate preservation of the public peace, health, or safety. She cautioned members that FOIA dictates that all meetings of the Commission are to be held publicly, which means that a quorum of members should not gather unless they are attending a meeting that has been properly publicized. Ms. Devine informed members that FOIA also prohibits "serial meetings," which is when a majority of members develop a collective agreement on an action item through direct personal communication, either by telephone, intermediaries, email, or other technology, etc. She advised members that a public meeting with a quorum in attendance is the only arena for making commission decisions. To help avoid serial meetings, Ms. Devine stated that members would be blind copied on all DHRC email correspondence from the City of Dover. She stressed the importance of complying with all FOIA regulations.

Ms. Devine indicated that, in addition to quarterly reports, the Commission shall provide an annual report of its accomplishments and a summary of its recommendations to the Mayor and City Council and that the annual report is typically presented to City Council during the month of January each year. She suggested that members review Chapter 58 - Human Relations, Article II. Human Relations Commission of the Dover Code and contact the City Clerk's Office with any related questions.

Mr. Wilson requested a copy of the information reviewed by Ms. Devine.

**Recission of By-Laws**

Ms. Denise Devine, Assistant City Clerk, advised members that the Dover Human Relations Commission (DHRC) had been regulated in the past by both its by-laws (adopted on September 6, 2002 and amended December 15, 2004) and Chapter 58 of the Dover Code, which establishes and regulates the purpose, organization, power, and duties, etc. of the Human Relations Commission. She noted that differences between Chapter 58 and the by-laws had led to miscommunication in the past.

Ms. Devine stated that Chapter 58 does not require the creation of by-laws; therefore, in an effort to improve communication and provide one (1) set of regulations, staff recommended rescission of the by-laws.

Ms. Devine explained that if DHRC members wished to incorporate any of the content of the by-laws into the Code, staff could assist in preparing a proposed ordinance for consideration by the Legislative, Finance, and Administration Committee and City Council.

Mr. Wilson suggested that members review the various subcommittees of the DHRC and think about their own expertise when considering committee service.

Mr. Ruane noted that staff suggested "starting all over" by considering how many committees there would be and what their mode of operation would be. He stated that the by-laws had been in place for ten years and suggested that some of the areas may be redundant. He indicated that one (1) suggestion was to rescind the current by-laws, which would provide members the option to create their own by-laws.

Mr. Wilson noted that the members currently serving on the DHRC were serving as district representatives; therefore, he felt that it would be appropriate to start over with new by-laws and also to review the DHRC intake form.

Mr. McGiffin questioned if the DHRC had the authority to create new by-laws if the current by-laws were rescinded. Responding, Mrs. McDowell stated that she did not believe that there would be anything to prohibit creation of new by-laws.

Mr. McGiffin expressed his understanding that the Commission did not have the express authority to create by-laws but that it was implied that the DHRC could create a mode of operating by by-laws. Mrs. McDowell stated that she could obtain a legal opinion on this matter, if members so desired.

Mr. McGiffin stated that he did not wish to rescind the by-laws only to discover the DHRC would be stuck operating strictly by the terms of the Code without the ability to "flesh out" other things that they must do.

Mrs. McDowell stated that she could do obtain an opinion the following day, if members so desired. She stated that she did receive a legal opinion stating that there was nothing prohibiting members from rescinding the existing by-laws. It was her recollection that previous members of the DHRC did not come forward and ask permission to create the current by-laws.

Mr. McGiffin moved to rescind the by-laws of the DHRC, seconded by Mr. Ruane.

Mr. Henderson stated that he felt uncomfortable getting rid of the by-laws as he had not yet read them. He inquired if staff wanted the by-laws rescinded because Chapter 58 provided all the mandate that was needed. Responding, Ms. Devine confirmed that staff's recommendation was to rescind the by-laws since Chapter 58 provided all the mandate that was needed and having two (2) sets of rules had caused confusion in the past. She noted that staff typically referred to the Code and that changes had been made to the by-laws without staff's knowledge. It was staff's desire to ensure that the DHRC, staff, and the public were working with the same set of rules and regulations.

Mr. Henderson inquired about the origin of the by-laws. In response, Mr. Ruane explained that Council established the DHRC by ordinance and, as it evolved over a number of years, the DHRC developed its own by-laws. He felt that by-laws would provide essential guidance for the operation of the organization; however, he stressed the importance of not including anything in the by-laws that would contradict the ordinance. He felt that the idea of starting over would allow the DHRC to develop a set of by-laws that everyone could be happy with, including staff, legal advisors, and City Council. After reading the by-laws, it was his impression that they included very detailed prescriptions on how to do business and he was unsure if the DHRC would continue to operate in

the same way. He referenced the provisions regarding a large number of committees, noting that there were now only nine (9) members versus the previous number of 21, and that they would be meeting quarterly; therefore, he believed that fewer committees would be needed.

Mr. McGiffin stated that, to some degree, the Code functions as by-laws and lays out the kinds of things that by-laws address, although by-laws frequently address additional items. He felt that the existing by-laws went far beyond Code provisions. He felt that the Code provided a basis to begin, and he suggested that if members felt that additional rules were needed at some point, they could be developed at that time. He stated his concurrence with Mr. Ruane that it may be appropriate to "start from scratch."

Mr. Roach concurred, noting that the Commission previously had 21 members and that this number had been reduced. He expressed his desire to start the Commission fresh and go in a new direction to fulfill the duty of the Commission. He felt that it would not be appropriate to use the old by-laws.

**On a call for the question, the motion to rescind the existing by-laws of the DHRC was unanimously carried.**

**Scheduling of Future Meeting Dates for 2014**

In regard to the scheduling of future meetings, Mr. Wilson stated that after going through all of the material, he felt that it would be necessary to hold additional meetings between the quarterly meetings to consider reorganizing in order to over forward.

Members discussed their preferences in regard to the schedule for future quarterly meeting dates.

Mrs. McDowell indicated that the Council Chambers was available on Tuesday evenings, and suggested that members consider scheduling the quarterly meetings for July, October, and January, which would provide an opportunity for members to review the DHRC Annual Report in January prior to submission to City Council.

**Mr. McGiffin moved to schedule the quarterly meetings for the fourth Tuesday in July, October, and January (July 22, 2014; October 28, 2014, and January 27, 2015) at 4:30 p.m. The motion was seconded by Mr. Henderson and unanimously carried.**

Mr. Wilson allowed members the opportunity to express additional comments.

Mr. Henderson expressed a desire to attend meetings "with both ears open and [his] mouth shut" and learn as much as he could.

Mr. Roach congratulated Mr. Wilson and Mr. McGiffin upon being elected Chair and Vice Chair, respectively, and expressed appreciation for their taking on these responsibilities.

Ms. Stewart stated that she looked forward to working with the DHRC to help make the City of Dover better.

Mr. McGiffin expressed his feeling that the first job of the Commission was to "figure out what is going on" and indicated that he was looking forward to this.

Mr. Ruane stated that he had made some inquiries in the community since he was contacted to consider serving on the DHRC and got the impression that "we were doing pretty good." He expressed his opinion that Dover had done a good job in promoting diversity and community relations and that he felt optimistic. He indicated that he was curious about each member's feelings about the state of the City in terms of community relations. Mr. Ruane stated that it would be beneficial to get to know one another better across cross-cultural, religious divides and expressed the need to reach out and ask other groups what they thought the DHRC should do. He noted that the DHRC was created in a moment of tension and expressed his belief that the City had moved beyond that time to a moment of opportunity today.

Mr. Wilson concurred with Mr. Ruane's comments. He indicated that the DHRC members should start with their respective Council district representatives, who should be attuned to the needs of all people, and noted that neighborhood watches, neighborhood organizations, and people in general could also provide input. Mr. Wilson stated that once committees were formulated and members decide what they want to give to the commission as commissioners, the DHRC could move forward. He noted that issues connected with race, employment, those who are re-entering society after imprisonment, and the homeless situation were affecting Dover and the entire nation. Mr. Wilson thanked members for electing him Chair.

Councilman Lynn stated that he had been involved in the process of reforming the DHRC and stated his pride in looking around the room and seeing the faces present. He felt that the members were a "fantastic cast of characters" and indicated that he could not wait to see what members will bring to the table.

Councilman Dixon also expressed his excitement and gratitude regarding the service of the new members and asked members to contact him if he could be of any assistance.

**By unanimous consent the meeting adjourned at 6:20 p.m.**

Cecil C. Wilson
Chairman

CCW/TM/js/dd
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Misc-Minutes\HUMAN RELATIONS COMMISSION\2014\03-25-2014 Dover Human Relations Commission.wpd

*Attachment*
*Attachment #1 - Presentation - Human Relations Commission - Overview of Commission Purpose, Powers, and Duties - March 25, 2014*

# HUMAN RELATIONS COMMISSION

OVERVIEW OF COMMISSION PURPOSE, POWERS, AND DUTIES

March 25, 2014

Prepared by:  City Clerk's Office

# PURPOSE

(Section 58-31)

- The city council has deemed it to be in the best interest of the city to establish a human relations commission to include members who are broadly representative of the entire community and who are committed to a philosophy of inclusion, intergroup cooperation, and fair treatment that will effectively help the city meet the following needs:
  - (1) Fairness, respect. Promote and develop an environment of fairness and respect among its citizens;
  - (2) Monitoring. Develop ways to measure and monitor community relations, particularly those that are sources of intergroup conflict;
  - (3) Intergroup relations. Involve all segments of the community in understanding and appreciating the benefits of positive intergroup relations;
  - (4) Issues. Offer a range of programs and services that will help its residents and neighborhoods prevent and resolve issues of human relations; and
  - (5) Intergroup conflict. Develop ways of anticipating, preparing for, and relieving community tensions arising from intergroup conflict.

# POWERS AND DUTIES

(Section 58-36)

- The powers and duties of the human relations commission shall be to:
  - (1) Recommendations. Review city programs, activities, functions and ordinances, and make recommendations to the city council for new, amended or changed programs, functions, activities or ordinances which would support inclusiveness and civility among city residents and enhance communication and understanding among residents of the city;
  - (2) Intergroup conflicts. Inquire into incidents of intergroup conflicts and disputes within the city and take such action as may be designed to alleviate such conflicts and disputes;
  - (3) Intergroup cooperation. Promote and encourage communications between and cooperation of all groups interested in bettering human relations in the city;
  - (4) Complaints. Seek the active assistance of the state human relations commission in the solution of complaints of alleged discrimination which fall within the jurisdiction of the state commission;
  - (5) Research, education, etc. Engage in such research, education and advocacy as, in the judgment of the commission or the city council, may be needed to improve human relations in the city;
  - (6) Programs. Develop and maintain programs that build positive relations among communities and enhance problem-solving skills among residents throughout the city;
  - (7) Other functions. Do all other acts and deeds necessary and proper to carry out and effectively accomplish the objectives, functions and services contemplated by the provisions of this article.

# MEETINGS AND REPORTS

(Section 58-33)

- A majority of the membership of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission. [58-33(b)]

- The commission shall hold at least five meetings per year; one each quarter and one to be determined by the commission. Special meetings may be called by the chairperson or three members of the commission. [58-33(c)]

- All meetings shall be held at City Hall and in accordance with the Laws of Delaware regarding the Freedom of Information Act (FOIA) and City of Dover procedures. The commission will distribute its agendas and minutes through the city clerk's office. [58-33(c)]

- The commission shall report to the city council on a quarterly basis regarding its affairs. An annual report of its accomplishments and a summary of its recommendations shall be provided to the mayor and the city council. [58-33(i)]

# PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE

The Parks, Recreation, and Community Enhancement Committee Meeting was held on April 14, 2014, at 3:30 p.m. with Chairman Dixon presiding. Members present were Mr. Hutchison, Mr. Perza (arrived at 3:34 p.m.), Mr. Caldwell, and Mrs. Horsey.

**AGENDA ADDITIONS/DELETIONS**

Mr. Dixon requested that Item #2 - Update - Recreation Needs Assessment be deferred until the next meeting.

**Councilman Hutchison moved for approval of the agenda, as amended, seconded by Mrs. Horsey and unanimously carried.**

**Proposed Ordinance #2014-08 - Amending Appendix B - Zoning - Article 3 - District Regulations - Section 10 - Institutional and Office Zone (IO); Section 11 - Neighborhood Commercial Zone (C-1); Section 12 - Limited Commercial Zone (C-1A); Section 13 - Central Commercial Zone (C-2); Section 14 - Limited Central Commercial Zone (C-2A); Section 15 - Service Commercial Zone (C-3); Section 16 - Highway Commercial Zone (C-4); Section 26 - Commercial/Professional Office Development District (C-PO); Article 4 - Zoning Bulk and Parking Regulations; Article 10 - Planning Commission; and Article 12 - Definitions**

Mrs. Dawn Melson-Williams, Principal Planner, explained that she was presenting this item in the absence of Mrs. Ann Marie Townshend, Director of Planning and Community Development. She advised members that Mrs. Townshend had been attending meetings with representatives of the business and real estate communities, convened by the Central Delaware Chamber of Commerce (CDCC), since late 2012 to review the commercial, office, and industrial zones in the City in an effort to simplify the zones, create more generalized use categories, provide more flexibility in site design by adjusting bulk standards, and make the zones more business friendly. Mrs. Melson-Williams indicated that, as a result of this effort, Proposed Ordinance #2014-08 reflected proposed changes to Article 3 - District Regulations, Article 4 - Zoning Bulk and Parking Regulations, Article 10- Planning Commission, and Article 12- Definitions of the Zoning Ordinance. Mrs. Melson-Williams explained that Article 3 - District Regulations, provided descriptions of each zoning district and informed members that the proposed amendments would affect eight (8) districts. She noted that Article 10 - Planning Commission, was a procedural section of the Zoning Ordinance dealing with the processes of applications that come under review by the Planning Commission. Mrs. Melson-Williams advised members that the proposed changes to Article 10 would increase the thresholds for projects that require Planning Commission review and that Planning Commission review would be required for building additions of more than 15% of the floor area. She also indicated that additional definitions were proposed for incorporation in Article 12 - Definitions.

Staff recommended adoption of Proposed Ordinance #2014-08.

Mrs. Melson-Williams noted that she had not been involved in the process of drafting the ordinance and, therefore, suggested that the Committee may wish to consider deferring the matter until Mrs. Townshend was available to answer additional questions.

Mr. Hutchison questioned whether the proposed amendments had been completely reviewed by staff. Responding, Mrs. Melson-Williams indicated that Mrs. Townshend had worked on the amendments with the City Clerk's Office and that it was her understanding that the City Solicitor had given the amendments a cursory review. Mrs. Melson-Williams advised members that the CDCC and members of the Kent County Association of Realtors were part of the working group involved in reviewing the Code with Mrs. Townshend and helped create the proposed amendments. Mrs. Melson-Williams explained that she was not in attendance at the meetings of the working group; therefore, she was not certain who was present during those meetings.

In response to Mr. Hutchison regarding the purpose of the proposed changes, Mrs. Melson-Williams advised members that the amendments were designed to make the code easier to understand, clarify items that may have been outdated in terms of language, and include some changes to the processes that were intended to benefit the business and commercial entities in the City in regard to development and redevelopment of properties in downtown Dover and City-wide.

Responding to Mr. Dixon regarding possible effects of the proposed ordinance on liquor stores, Mrs. Melson-Williams stated that if the proposed amendments were adopted, existing businesses would be "grandfathered" and would be permitted to remain even if they did not fit the criteria of the new zoning. However, if such businesses were to cease operations for a period of one (1) year, they could not be re-established if they did not meet the new criteria. In response to Mr. Dixon's concerns regarding drugs and alcohol, particularly liquor stores, in the vicinity of schools and churches, Mrs. Melson-Williams indicated that the Neighborhood Commercial Zone (C-1) prohibits the establishment of liquor stores in these areas.

In response to Mr. Perza regarding the outreach efforts that had been made to inform the community about the proposed ordinance, Mrs. Melson-Williams stated that she was not certain to what extent outreach had been extended to the general business community, but it was her belief that Mrs. Townshend gave a presentation about the amendments to the downtown merchants. Mrs. Melson-Williams also mentioned that information had been distributed by the CDCC and other members of the working group, but was unsure to what degree. She reminded members that in order for the text amendments to be adopted, they would be subject to public hearings before the Planning Commission and City Council and that publication of a legal notice in the newspaper was required, although a direct mailing to property owners was not.

Noting that some of the proposed changes to simplify the code, broaden the requirements for additions, and bring the language up to date appeared to be beneficial, Mr. Perza expressed his opinion that the proposed ordinance needed additional clarification and corrections to the language before bringing it before Council. In reference to public hearings, Mr. Perza expressed his feeling that when changes are made that pertain to residential areas, citizens tend to express more concerns than commercial property owners. He felt that before bringing the ordinance before Council and the public, the language should be easier to understand. As an example, Mr. Perza noted that Article 10 - Planning Commission, Section 2 - Site Development plan approval, Subsection 2.11(a) - Planning Commission Site Plan Review could be improved. Responding, Mrs. Melson-Williams suggested dividing Section 2.11(a) into two (2) statements, one (1) applying to new structures and another to building additions.

Responding to Mr. Perza regarding the process by which the ordinance was developed, Mrs. Melson-Williams advised members that the changes were tracked by City staff as a result of the discussions of the working group, noting that the proposed ordinance was a result of several drafts. She noted that in some cases entire sections were re-written while other sections were only edited.

Mr. Phil McGinnis, McGinnis Commercial Real Estate Company, 555 Loockerman Street, advised members that he was a member of the working group, along with Ms. Judy Diogo, President, CDCC; Mr. Tom Burns, Burns and Ellis Realty; Mr. Conny Malmberg, Young, Malmberg and Howard; Mr. John Paradee, Prickett, Jones and Elliott; Mr. Bob MacLeish, Lighthouse Construction; Mr. Keith Cooker, Landmark Engineering; and Mr. Scott Kidner, CS Kidner Associates. Mr. McGinnis stated that a few other individuals participated as well, which provided a good mix of knowledgeable business people who were familiar with the Code. Mr. McGinnis stated that Mrs. Townshend initiated the meeting process and that the group went through the Code word for word, page by page, working to make the language more current and applicable to the needs of the City in terms of permitted uses and classifying things more generally to remove the need for interpretation. In terms of the building expansion issue, Mr. McGinnis shared his view that the larger employers in Dover who want to expand should not be required to come before the Planning Commission for changes that are minor in comparison to their vast size. He also stated that the proposed amendments were intended to incorporate smart growth concepts into the Zoning Ordinance, such as adding residential uses in some of the commercial districts, especially the neighborhood districts, so that people could live and work in the same general vicinity.

Responding to Mr. Hutchison's inquiry as to whether the properties could be converted from residences to apartments under the proposed changes, Mr. McGinnis stated that the residential districts were not reviewed; therefore, he was not certain whether homes could be converted from single-family residential to multi-family residential under the new ordinance, although he noted that there were a number of other districts where that was permitted. Mr. McGinnis stated that a meeting with the Downtown Dover Partnership (DDP) to discuss the ordinance was discussed but was unsure when that meeting would occur. He explained that the proposed changes were fairly technical and would likely seem transparent to the typical business person; therefore, it did not seem to be a high priority that every business owner attend a meeting to examine the ordinance. Mr. McGinnis advised members that Ms. Diogo had been advertising the proposed changes through the CDCC to make the community aware.

In response to Mr. Perza's concerns regarding the possible perception of smaller business owners that the changes were being made to benefit big businesses, Mr. McGinnis stated that the working group made vigorous efforts to make it easier for people to open up small businesses. He noted that the changes would eliminate the requirement for business owners to wait sixty (60) or ninety (90) days to go through a public hearing for conditional use approval.

Responding to Mr. Perza regarding the process for finalizing the ordinance, Mrs. Melson-Williams advised members that the Committee could exercise its option to refer the item back to staff to make the noted changes, clean up the language and bring it back to the Committee to make a

recommendation to Council, or the Committee could move it forward to Council by way of the Committee Report at the time of the First Reading and cite the suggested changes as part of the recommendation to Council.

**Mr. Perza moved to recommend that Proposed Ordinance #2014-08 be referred back to staff for a final read through to make recommended changes and clarify language, and returned to the Parks, Recreation, and Community Enhancement Committee on May 12, 2014. The motion was seconded by Mrs. Horsey and unanimously carried.**

**Mr. Hutchison moved for adjournment, seconded by Mrs. Horsey and unanimously carried.**

**Meeting adjourned at 4:15 p.m.**

Wallace R. Dixon
Chairman

WRD/MK/js/dd/tm
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Minutes\2014\04-14-2014 PR&CE.wpd

# UTILITY COMMITTEE

The Utility Committee Meeting was held on April 14, 2014 at 5:00 p.m. with Councilman Perza presiding in the absence of Chairwoman Williams. Members present were Mr. Blakeman and Mr. Snaman. Mr. Slavin was absent. Councilman Dixon and Mayor Carey were also present.

**AGENDA ADDITIONS/DELETIONS**

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

**Proposed Amendments to the Retail Customer Demand Response Program**

Mr. Scott Koenig, City Manager, informed members that he was contacted by Mr. Scott Lynch, Energy Services Manager, Delaware Municipal Electric Corporation, Inc. (DEMEC) regarding the City's Demand Response Program (DRP). Mr. Lynch requested the City to clarify whether or not energy efficiency was included in the City's DRP. Mr. Koenig indicated that, in recent months, there had been renewed interest in adding energy efficiency to the DRP, and DEMEC and the City supported this concept. Mr. Koenig stated that Mr. Kirk Betts, Betts & Holt, LLP., the City's power supply attorney, suggested the incorporation of language that makes it clear that energy efficiency is a component of the DRP. Mr. Koenig stated that staff supported this change, as it was believed that this would help in the long-term management of the City's load.

Based on Mr. Betts' opinion, staff recommended that the second paragraph of the portion of the City of Dover Rates & Tariffs that applies to Retail Customer Demand Response be amended to read as follows:

> Dover or its authorized designee may allow a Customer to bid DR into PJM's ancillary services market for energy imbalance, energy efficiency, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services, subject to the same terms and conditions.

Responding to Mr. Perza regarding potential fiscal detriment to the City if the amendment were adopted, Mr. Koenig stated that there would be no direct detriment. He indicated that if less energy were used, the City would sell less energy; however, the intent was for the system to be more efficient, which would be a better use of power in the long run.

In response to Mr. Perza regarding the need for countersignatures if the amendment were approved by Council, Mr. Koenig stated that signatures would not be necessary. He explained that the City would merely change the tariff and send the amended tariff to DEMEC, which would provide clear direction going forward.

**Mr. Blakeman moved to recommend that the second paragraph of the City of Dover Rates & Tariffs - Retail Customer Demand Response be amended, as recommended by staff. The motion was seconded by Mr. Snaman and unanimously carried.**

**TEA/NAES Report *(February)***

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

In reviewing the Executive Summary on Page 1 of the report, Mr. Scott Koenig, City Manager, noted that the graph entitled "Power Supply Costs FY2013-14" tracked power supply costs and reflected that January and February were very expensive months for the City. He noted that the cost for energy alone was $64.95/MWh versus a budgeted energy cost of $49.42 per hour. Mr. Koenig stated that the City had been tracking high, explaining that costs had exceeded the amounts anticipated in the budget and that staff was working diligently to get those items under control going forward. Referring to the Variance Report on Page 10, he noted that the budgeted cost of services for February 2014 was $65.35 per MWh, and the actual cost was $77.84 per MWh. The Year to Date (YTD) Variance Report on Page 12 showed that actual costs for power supply were running approximately $10.5M above anticipated cost. Mr. Koenig advised members that electric revenues were approximately $5M higher to date this fiscal year; therefore, some of this cost is offset. He noted a deficit of approximately $6.7M for the total utilities cost and assured members that staff was working to bring these costs under control.

Mr. Koenig informed members that, from a budgetary standpoint, staff was having to transfer additional funds from the rate stabilization reserve to balance the cost of energy and that this would be reflected in the revised budgets that he and Mrs. Donna Mitchell, Controller/Treasurer, would be bringing forward for consideration. He indicated that staff was hopeful that these costs would become controlled over the next few months. Mr. Koenig stated that it appeared that the high reactive services charges that the City experienced earlier this year were now more in control, but the February overall costs "hit the City hard."

Referring to the Supply Variance on Page 2 of the report, Mr. Blakeman questioned the reason for the large difference between budgeted and actual figures for Solar Energy Cost ($/MWh), noting that there should be no fuel cost associated with solar power. He reminded members that the City had purchased less solar power than was budgeted. Responding, Mr. Koenig stated his belief that The Energy Authority (TEA) had not received a final copy of information related to the solar cost and that updated costs were not included in this forecast. He noted that the contract with LS Power in regard to solar energy was very specific on the escalators going forward; therefore, the only real difference that should be reflected is whether the City sold more or less power than the budgeted amount.

Mrs. Mitchell explained that the annual escalator was not included in the budget for FY14 but would be included in the revised budget.

**Mr. Snaman moved to accept the report, seconded by Mr. Blakeman and unanimously carried.**

**Garrison Oak Technical Park Project Updates**

Mr. Scott Koenig, City Manager, provided the following updates:

City Infrastructure

Mr. Koenig stated that Mr. Jason Lyon, Water/Wastewater Manager, had been working with contractors to line up project starting dates and several coordination meetings had been held. Staff was anticipating earthmoving and stormwater construction to begin within the next few weeks. Mr. Koenig noted that the subaqueous land permits for the crossing of the tax ditch had all been submitted and reviewed and a meeting was scheduled with Becker Morgan Group for April 15, 2014 to review the results, so it was expected that permits would be completed shortly. He stated that obtaining permits was the final component necessary before construction.

Calpine Energy Center

Mr. Koenig stated that the Calpine project was progressing. He explained that there had been an issue regarding the construction road back to the energy block; however, as of April 14, 2014, the final authorization had been signed to allow for Calpine's contractor to maintain this road at their expense with the necessary waivers in place to do so. It was expected that this work would begin shortly. Mr. Koenig noted that the Garrison Energy Center was on track and weekly coordination meetings were being held on Monday mornings to identify any outstanding items. He stated that Delmarva Power and Light (DP&L) was beginning work on clearing the alignment from the Garrison Energy Center back to the 230kV tie; therefore, associated tree cutting and earthwork may have started or would shortly. Mr. Koenig believed that the City had all of the necessary easements for the alignments for the radial line, as well as the lay-down areas and cross-access issues associated with DP&L for the industrial park.

Mr. Koenig advised members that it was believed that the land transfer of Lot 12 to Uzin Utz was very near completion and that construction was anticipated to begin later in April or early in May. He stated that all of the projects were tracking to match up with the dates provided and staff was hopeful and expectant that all infrastructure would be complete by the end of calendar year 2014, with the possible exception of the final coat of paving. He indicated that the operation of the energy block was slated for June of 2015, with testing of the facility to occur in early 2015.

Mr. Blakeman questioned if the transmission line would extend across and up or out of the back side of the plant. Responding, Mr. Koenig stated that it would extend out the back way, south to Lot 6 and then east; it would not come all the way down White Oak Road until past the Harmon Farm.

Dover Sun Park

Mr. Koenig reviewed information regarding the Electric Revenue Fund, FY 14 - White Oak Solar Park Incremental Cost, noting that the fiscal year-to-date (YTD) incremental Sun Park cost was $173,582. He explained that this was the amount of extra money paid by the City for the power coming from the solar block; however, this was necessary to meet the City's renewable energy requirements.

Mr. Blakeman inquired if any problems had been expressed by LS Power in regard to the effects of construction at the site on their solar panels, Mr. Koenig stated that a lot of concern had been expressed previously; however, he had not heard anything recently from LS Power. It was his belief that the period had passed when the largest amount of dust was being generated at the site and that LS Power was able to work out compensation for those inconveniences.

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

**Meeting adjourned at 5:14 p.m.**

Adam M. Perza
Acting Chairman

AMP/TM/js/dd
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Minutes\2014\04-14-2014 UTILITY.wpd

**CITY OF DOVER**
**FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014**
**REVENUE REPORT**
**As of March 31, 2014**

| | GENERAL FUND | FY14 BUDGET | FY14 REVISED BUDGET | YTD REVENUES | 75.0% % BUDGET RECEIVED | FY14 PROJ'D | FY15 BUDGET | FY14 PROJ'D COMMENTS | FY13 REVENUES | FY12 REVENUES |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Property Taxes | $ 10,852,300 | $ 10,852,300 | $ 10,776,837 | 99.3% | $ 10,778,300 | $ 10,782,200 | Sr. Citizen exemptions were adjd | $ 10,768,815 | $ 10,765,741 |
| 2 | Payment In Lieu of Taxes | 317,200 | 317,200 | 316,672 | 99.8% | 317,200 | 317,000 | | 357,580 | 284,457 |
| 3 | Transfer from Electric Fund | 8,000,000 | 8,000,000 | 6,000,000 | 75.0% | 8,000,000 | 8,000,000 | | 8,000,000 | 7,876,288 |
| 4 | Intrafund Service Receipts Electric | 3,319,400 | 3,319,400 | 2,298,300 | 69.2% | 3,487,200 | 3,352,700 | | 3,195,818 | 3,105,015 |
| 5 | Transfer from Transfer Tax Fund | 1,315,500 | 1,315,500 | 788,619 | 59.9% | **1,393,000** | 1,100,000 | Large Complex in April $399,000 | 1,107,959 | 1,373,208 |
| 6 | Business Licenses | 1,460,000 | 1,460,000 | 1,442,735 | 98.8% | 1,460,000 | 1,460,000 | Billed in July | 1,462,503 | 1,470,097 |
| 7 | Intrafund Service Receipts Water/Wastewater | 1,134,900 | 1,134,900 | 828,693 | 73.0% | 1,350,000 | 1,241,600 | | 1,046,492 | 894,186 |
| 8 | Sanitation Fees | 2,676,500 | 2,676,500 | 1,947,696 | 72.8% | 2,595,600 | 2,595,600 | Adjusted (-$82,700) per monthly bills | 2,624,877 | 1,903,623 |
| 9 | Permits & Other Licenses | 1,167,500 | 1,167,500 | 1,124,519 | 96.3% | 1,300,500 | 1,214,200 | Projected Increase $133,000 | 1,162,765 | 1,346,769 |
| 10 | Transfer from Municipal Street Aid Fund | 527,400 | 531,100 | 497,955 | 93.8% | 663,900 | 663,900 | Final payment rec'd 4/15/14 | 531,121 | 527,042 |
| 11 | Fines & Police Revenue | 666,000 | 666,000 | 431,943 | 64.9% | 573,900 | 629,300 | Fines reduced (-$92,400) per Dept. | 612,193 | 681,952 |
| 12 | Police Extra Duty Fees | 650,000 | 650,000 | 305,512 | 47.0% | 650,000 | 663,000 | | 703,575 | 600,310 |
| 13 | Transfer from Police Grant Funds | 110,000 | 110,000 | 63,365 | 57.6% | 126,800 | 124,000 | | 113,980 | 600,310 |
| 14 | Court of Chancery Fees | 863,200 | 863,200 | 677,420 | 78.5% | 1,002,200 | 917,700 | Projected Increase $139,000 | 917,700 | 863,220 |
| 15 | Transfer from Water/Wastewater Fund | 500,000 | 500,000 | 375,000 | 75.0% | 500,000 | 500,000 | | 500,000 | 424,508 |
| 16 | Transfer from Civil Traffic Penalties Fund | 600,000 | 600,000 | 184,950 | 30.8% | 368,400 | 500,000 | One month in arrears; Dover PD Est. | 299,828 | 518,638 |
| 17 | Library Revenues & County Reciprocal Pymt | 466,600 | 466,600 | 385,564 | 82.6% | 530,500 | 521,600 | County funds received October | 471,065 | 475,822 |
| 18 | Franchise Fees | 606,200 | 606,200 | 320,128 | 52.8% | 636,000 | 636,000 | Projected increase $29,800 | 618,347 | 568,240 |
| 19 | General Fund Grant Receipts | 623,500 | 623,500 | 277,626 | 44.5% | 623,500 | 668,500 | | 777,987 | 1,010,452 |
| 20 | Recreation Revenue | 133,000 | 133,000 | 94,412 | 71.0% | 148,800 | 148,800 | Projected increase $15,800; | 144,490 | 112,480 |
| 21 | Other Miscellaneous Receipts | 213,800 | 213,800 | 144,851 | 67.8% | 203,600 | 159,300 | | 228,729 | 232,535 |
| 22 | Interest Income | 75,000 | 75,000 | 24,340 | 32.5% | 40,000 | 40,000 | | 93,173 | 53,175 |
| | TOTALS | $ 36,278,000 | $ 36,281,700 | $ 29,307,137 | 80.8% | $36,749,400 | $ 36,235,400 | | $ 35,738,997 | $ 35,688,068 |
| | **Final Budget** | | **$ 3,700** | **FY14 Chg.** | | **$ 471,400** | **$ (42,600)** | | **$ 35,569,000** | **$ 35,016,778** |

**CITY OF DOVER**
**FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014**
**REVENUE REPORT**
**As of March 31, 2014**

| | WATER/WASTEWATER FUND | FY14 BUDGET | FY14 REVISED BUDGET | YTD REVENUES | 75.0% % BUDGET RECEIVED | FY14 PROJ'D | FY15 BUDGET | COMMENTS | FY13 REVENUES | FY12 REVENUES |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Water Fees | $ 4,730,700 | $ 4,730,700 | $ 3,329,139 | 70.4% | $ 4,396,000 | $ 4,430,600 | Consumption trending lower | $ 4,551,840 | $ 4,707,918 |
| 2 | Wastewater Fees | 3,642,700 | 3,642,700 | 2,660,384 | 73.0% | 3,529,000 | 3,532,000 | | 3,564,615 | 3,722,985 |
| 3 | Wastewater Adjustment Fees - County Trtmt | 2,980,300 | 2,980,300 | 2,187,693 | 73.4% | 2,900,000 | 2,902,600 | | 2,926,616 | 3,050,127 |
| 4 | Groundwater Inflow Adjustment | 1,324,600 | 1,324,600 | 982,961 | 74.2% | 1,302,300 | 1,303,500 | | 1,314,033 | 1,290,968 |
| 5 | Water Impact Fees | 357,000 | 357,000 | 233,295 | 65.3% | 262,700 | 472,700 | | 220,362 | 308,700 |
| 6 | Wastewater Impact Fees | 323,000 | 323,000 | 211,222 | 65.4% | 237,900 | 427,900 | | 385,986 | 277,400 |
| 7 | Water Tank Space Leasing | 333,800 | 333,800 | 210,499 | 63.1% | 321,200 | 331,900 | | 300,067 | 313,101 |
| 8 | Interest Income | 23,100 | 23,100 | 7,053 | 30.5% | 10,000 | 23,000 | | 13,507 | 31,889 |
| 9 | Other Miscellaneous Revenues | 82,000 | 82,000 | 54,868 | 66.9% | 64,400 | 156,600 | | 73,312 | 104,634 |
| 10 | Grant Receipts | - | - | - | 0.0% | - | - | | 50,876 | - |
| | TOTALS | $ 13,797,200 | $ 13,797,200 | $ 9,877,114 | 71.6% | $13,023,500 | $ 13,580,800 | | $ 13,401,214 | $ 13,807,722 |
| | **Final Budget** | | **$ -** | **FY14 Chg.** | | **$ (773,700)** | **$ (216,400)** | | **$ 13,822,200** | **$ 13,819,800** |

| | ELECTRIC REVENUE FUND | FY14 BUDGET | FY14 REVISED BUDGET | YTD REVENUES | 75.0% % BUDGET RECEIVED | FY14 PROJ'D | FY15 BUDGET | COMMENTS | FY13 REVENUES | FY12 REVENUES |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Sales to Customers | $ 76,286,700 | $ 76,286,700 | $ 59,217,774 | 77.6% | $ 78,792,300 | $ 78,846,400 | Forecast model updated; | $ 86,887,345 | $ 99,859,602 |
| 2 | Purchased Power Adjustment | - | - | - | 0.0% | - | - | | - | (2,290,989) |
| 3 | Utility Tax | 1,492,200 | 1,492,200 | 958,936 | 64.3% | 1,309,300 | 1,310,200 | | 1,443,852 | 1,944,543 |
| 4 | Transfer from Rate Stabilization Reserve | 4,000,000 | 4,000,000 | 7,000,000 | 175.0% | 7,000,000 | - | Revised due to Jan/Feb weather | 5,400,000 | - |
| 5 | Miscellaneous Revenue | 988,800 | 988,800 | 635,874 | 64.3% | 889,100 | 954,600 | | 2,026,127 | 1,381,300 |
| 6 | Interest Income | 119,400 | 119,400 | 7,052 | 5.9% | 12,000 | 12,000 | | 137,718 | 12,662 |
| 7 | Intrafund Service Fees - Water/Wastewater | 98,500 | 98,500 | 72,295 | 73.4% | 98,500 | - | | 136,413 | 171,646 |
| | TOTALS | $ 82,985,600 | $ 82,985,600 | $ 67,891,931 | 81.8% | $88,101,200 | $ 81,123,200 | | $ 96,031,455 | $ 101,078,764 |
| | **Final Budget** | | **$ -** | **FY14 Chg.** | | **$ 5,115,600** | **$ (1,862,400)** | | **$ 95,971,700** | **$ 99,934,036** |

City of Dover

# Memorandum

**Office of the City Manager**
**PO Box 475**
**Dover, DE 19903**
**Phone: (302) 736-7005**
**Fax: (302) 736-7002**
**E-mail: skoenig@dover.de.us**

---

**To:** Mayor and City Council

**From:** Scott D. Koenig, P.E., City Manager

**Date:** April 17, 2014

**Subject:** Semi Annual Inspection – Robbins Hose Company

---

In accordance with Section 46-43 of the City Code, I performed the required semi-annual inspection of the Dover Fire Department on Thursday, April 17, 2014 with Chief Matthew Carey. This inspection was held at Robbins Hose Station No. 2 at the intersection of Kenton and Walker Roads. The following items were discussed:

1) Asphalt patch in driveway from Walker Road – The old patch to a fiber optic box has settled and needs to be redone. This issue will be assigned to the Public Works Department to address.

2) Large Sink Hole – Along Walker Road with an orange cone over the hole. This issue will be assigned to the Public Works Department to review and address with the appropriate entity.

3) The No Outlet sign in the driveway off of Walker Road needs to be reinstalled and straightened. This issue will be addressed by the Public Works Department.

4) Vehicles are driving off of asphalt from the entrance off of Kenton Road on the south side of the building. Public Works will address the repair of the large tire ruts in this area and the Chief will address this issue with the volunteers. Problem may be related to a harsh winter rather than repeated behavior.

5) The Fire Chief requested that the new concrete ramp be extended into an area approximately 15'x 15' on north side of building. The trucks are having trouble making the turn onto the ramp when using the rear and north side access. Public Works will review the request and prepare a cost estimate so the Fire Department can request funding from area legislators for the cost.

6) The Fire Chief requested that the Grounds Division of the Public Works Department improve the quality of landscaping around Station #2. This request will be reviewed with the Public Works Director and a proposal will be presented to the City Manager for consideration.

7) The Fire Chief has expressed concerns regarding the remaining life of the roof at Station #2. The Public Works Department will evaluate the roof and prepare costs estimates for any identified capital improvements or maintenance necessary to maintain the roof.

8) There are approximately 5 or 6 extra bumper blocks near the northeast corner of building that need to be removed from the property since they are no longer necessary due to the Department using the rear access to the building.

9) The Fire Chief discussed in detail the merits of Engine #2 – 2008 Pierce Puc.

10) The City Manager is requesting that the Fire Chief and Fire Chief's Assistant work with the City Clerk's office to input all of the maintenance records for each piece of equipment into the Fortis system. This will allow the City to have access to the maintenance records for all of the vehicles. This information is necessary to fully evaluate any equipment replacements. This project should be completed within ninety (90) days.

11) The next Semi Annual Inspection has been scheduled for October 8, 2014 at 1:00pm

Currently, there is one (1) Fire Dispatcher position that is vacant. The recruitment process for this position is underway. The Robbins Hose Company continues to provide an outstanding level of service to the City of Dover and the unincorporated areas of the fire district. Please feel free to contact me if you have any questions or concerns.

SDK/yml

cc: Fire Chief Matthew Carey
Donna Mitchell, Controller
Sharon Duca, P.E., Director of Public Works

# ACTION FORM

| | |
|---|---|
| **PROCEEDING**: City Council | **AGENDA ITEM NO.:** |
| **DEPARTMENT OF ORIGIN**: Public Works | **DATE SUBMITTED**: 04/17/2014 |
| **PREPARED BY**: Sharon J. Duca, P.E. – Director of Public Works / City Engineer | |
| **SUBJECT**: Evaluation of Proposals - Wellhead Redevelopment Contract | |
| **REFERENCE**: NA | |
| **RELATED PROJECT**: NA | |
| **APPROVALS**: City Manager, Controller | |
| **EXHIBITS**: Price Proposal | |
| **EXPENDITURE REQUIRED**: NA | **AMOUNT BUDGETED**: $75,000 FY '14 |
| **FUNDING SOURCE (Dept./Page in CIP & Budget)**: Public Works - Water/Wastewater, Wellhead Redevelopment Program, CIP Project Code: WD1401, Account: 417-6800-568.40-31. Historical spending: FY '08 - $99,590; FY '09 - $169,231; FY '10 - $93,168; FY '11 - $59,336; FY '12 - $55,135; FY '13 - $67,675. | |
| **TIMETABLE**: Well inspection and testing to start upon Council approval. Preliminary testing is to be performed each year of the contract. All wells will be tested by FY 2016 and additional work will be performed only upon City authorization on an as needed basis. | |
| **RECOMMENDED ACTION**: Staff recommends awarding a three (3) year agreement, with the City option of two (2), one (1) year extensions, for the Wellhead Redevelopment Multiyear Contract to A.C. Schultes of Delaware, Inc. as per the pricing included in the bid submittal. | |

**BACKGROUND AND ANALYSIS**

The Department of Public Works maintains multiyear contracts with potential contractors to ensure that the bidding rules are adhered to for any contractors that might be hired to perform work for the Department. These contracts are priced as a "time, equipment, and material" contract and may exceed $25,000 annually. This contract will provide for the rehabilitation and repair of twenty (20) production wells in an effort to maintain operations and/or increase the yield of each well as it relates to the permitted allocation. The recommended contractor will perform flow testing of each well and provide a report detailing testing results as well as recommendations. Upon reviewing information provided by the contractor, the City of Dover will plan for and/or schedule further repairs as needed based upon the prices provided.

A Request for Proposal (RFP) was advertised according to the City purchasing policy by the City's Purchasing Agent under RFP #14-0034PW. One (1) contractor submitted a qualified proposal. The proposals were evaluated using the following criteria: demonstrated experience with similar projects including a history of achieving highest and best results among its peers; cost; previous projects in the City of Dover; and availability to perform duties. Staff reviewed the proposal from A.C. Schultes and concluded that the pricing was fair and the proposal was complete. A.C. Schultes of Delaware, Inc included a 10% annual escalation.

A.C. Schultes of Delaware, Inc. submitted all of the contractor's qualification information, which included a list of recently completed projects similar in scope, as well as a financial statement that were all found to be adequate. In conclusion, staff recommends awarding a three (3) year agreement, with the City option of two (2), one (1) year extensions, for the Wellhead Redevelopment Multiyear Contract to A.C. Schultes of Delaware, Inc.

**WELLHEAD REDEVELOPMENT PROGRAM**
**CITY OF DOVER, DELAWARE**

**PROPOSAL FORM**

Date: 3/20/14

Proposal of A.C. SCHULTES OF DE, INC (hereinafter called "PROPOSER"), organized and existing under the laws of the State of Delaware doing business as A CORPORATION *. To the City of Dover (hereinafter called "OWNER").

In compliance with the Invitation to Proposers, PROPOSER hereby proposes to perform all WORK for the Wellhead Redevelopment Program for the City of Dover, RFP No. 14-0034PW, in strict accordance with the SCOPE OF WORK, within the time set forth therein, and at the prices stated below. The PROPOSER has examined and fully understands the scope of work.

The PROPOSER declares that the attached documents therein referred to have been carefully examined and are understood. It is proposed and agreed if the Proposal is accepted to contract with the City of Dover the required work in the manner set forth in the documents.

*Corporation, Partnership, or Individual as applicable.

BIDDER acknowledges receipt of the following ADDENDUM (if applicable):

NONE NONE

The PROPOSER declares that the only person, firm or corporation, or persons, firms or corporations, that has or have any interest in this proposal or in the Contract or Contracts proposed to be taken is or are the undersigned; that this proposal is made without any connection or collusion with any person, firm or corporation, making a proposal for the same work.

The proposer agrees that this proposal shall be good and may not be withdrawn for a period of 90 calendar days after the scheduled closing time for receiving proposals.

Upon receipt of written notice of the acceptance of this proposal, proposer will execute the formal contract attached within 10 days and deliver.

The names and addresses of all members of a firm or the names, addresses, and titles of every officer of a corporation as the case may be, must be given here by the member if the firm or by the officer or agent of the corporation who signs the Proposal.

Respectfully submitted:

| | |
|---|---|
| | A.C. SCHULTES OF DELAWARE, INC. |
| Signature R. MICHAEL COLLISON | Company Name |
| PRESIDENT | P.O. BOX 188/16289 SUSSEX HWY, BRIDGEVILLE, DE 19933 |
| Title | Address |
| 3/20/14 | 52-0736190 |
| Date | Taxpayer ID Number |
| 1989035612 | 302-337-8254 |
| License Number (if applicable) | Telephone No. |

SEAL – (If BID is by a corporation)

If a Partnership, state names and addresses of Partners here:

| | |
|---|---|
| N/A | N/A |
| N/A | N/A |
| N/A | N/A |

**WELLHEAD REDEVELOPMENT PROGRAM**
**RFP NO.:14-0034PW**
**CITY OF DOVER, DELAWARE**

**PROPOSAL FORM**

**ITEM 1: Preliminary Testing** – *price below*

Work as described in the SCOPE OF WORK, Paragraph C.2. As per the SCOPE OF WORK approximately one-third of the wells are to be inspected in each year of the three (3) year contract period.

ITEM 2: Pump and Pump Equipment Removal, Reinstallation, Final Testing and Sterilization – *price below*

- **ITEM 2A** shall consist of pump and pump equipment removal as described in the SCOPE OF WORK, Paragraph D.1.
- **ITEM 2B** shall consist of pump and pump equipment reinstallation, final testing and sterilization as described in the SCOPE OF WORKS, Paragraphs D.4., D.5., and D.6.
- As per the SCOPE OF WORK these services will be performed, only upon City authorization, on a per well basis.

| WELL ID # | ITEM 1 – Price per Well | ITEM 2A – Price per Well | ITEM 2B – Price per Well |
|---|---|---|---|
| 1 | $900.00 | $1,950.00 | $2,200.00 |
| 2 | 900.00 | 1,950.00 | 2,200.00 |
| 3 | 900.00 | 1,950.00 | 2,200.00 |
| 4 | 900.00 | 1,950.00 | 2,200.00 |
| 6 | 900.00 | 1,950.00 | 2,200.00 |
| 7 | 900.00 | 1,950.00 | 2,200.00 |
| 8R | 900.00 | 1,950.00 | 2,200.00 |
| 9 | 900.00 | 1,950.00 | 2,200.00 |
| 10 | 900.00 | 1,950.00 | 2,200.00 |
| 11 | 900.00 | 1,950.00 | 2,200.00 |
| 12R | 900.00 | 1,950.00 | 2,200.00 |
| 13R | 900.00 | 1,950.00 | 2,200.00 |
| 14 | 900.00 | 1,950.00 | 2,200.00 |
| 15 | 900.00 | 1,950.00 | 2,200.00 |
| PW1A | 900.00 | 1,950.00 | 2,200.00 |

| | | | |
|---|---|---|---|
| PW2 | $900.00 | $1,950.00 | $2,200.00 |
| PW4B | 900.00 | 1,950.00 | 2,200.00 |
| PW5 | 900.00 | 1,950.00 | 2,200.00 |
| PW6A | 900.00 | 1,950.00 | 2,200.00 |
| PW8A | 900.00 | 1,950.00 | 2,200.00 |

**ITEM 3: Camera Inspection of Well Casing and Screen** – *price below*

Work as described in the SCOPE OF WORK, Paragraph D.2. As per the SCOPE OF WORK these services will be performed, only upon City authorization, on a per well basis.

- **ITEM 3A** shall consist of all labor, materials, tools, equipment and services necessary to perform a camera inspection as noted above for a well up to sixty (60) feet. Please note that this price shall be held for each of the six (6) shallow wells regardless of deviations that may be incurred.

**ITEM 3A Base Price per Well** $ 1,100.00

- **ITEM 3B** shall consist of the additional cost per foot for insertion depths of the camera over sixty (60) feet. Please note that this price shall be utilized for the fourteen (14) deep wells only.

**ITEM 3B Additional Price per Foot** $ 0.00

**ITEM 4: Pump / Motor Examination** – *price below*

Work as described in the SCOPE OF WORK, Paragraph D.3. As per the SCOPE OF WORK these services will be performed, only upon City authorization, on a per well basis.

**ITEM 4 Price per Well** $ 350.00

**ITEM 5: Hourly Labor Rates** – price below

These rates shall be utilized by the PROPOSER in the developing of a cost estimate, final price or the like for any additional work authorized by the City.

| JOB TITLE | ITEM 5 – Hourly Rate |
|---|---|
| Project Manager | $ .00 |
| Field Engineer | .00 |
| Drilling Engineer | .00 |
| Drilling Foreman / Supervisor | 195.00 |
| Well Driller | 195.00 |
| Well Driller Assistant / Helper | 125.00 |

| | |
|---|---|
| Pump Installer | $195.00 |
| Electro-Mechanical Technician | 95.00 |
| Pump Mechanic | 95.00 |
| Motor Mechanic | 95.00 |

**ITEM 6: Annual Escalator**

The escalator percentages provided below shall be applied to each of the five items above in the year noted.

**ITEM 6A 2015 Annual Escalator** 10 **%**

**ITEM 6B 2016 Annual Escalator** 10 **%**

**ITEM 6C 2017 Annual Escalator** 10 **%**

**ITEM 6D 2018 Annual Escalator** 10 **%**

**CHECK THE APPROPRIATE BOXES:**

| | Yes | No |
|---|---|---|
| Local Vendor Preference, Rule 1: Vendor located within the city limits of the City of Dover. | | X |
| Local Vendor Preference, Rule 2: Vendor located within Kent County, Delaware (applicable only if no vendor qualifies under rule 1) | | X |
| Local Vendor Preference, Rule 3: Vendor located within the State of Delaware (applicable only if no vendor qualifies under rules 1 & 2) | X | |
| Minority Vendor Preference, with authoritative proof of qualification | | X |
| Proposer has attached proper information to satisfy the Statement of Qualification, Section IFP IV. | X | |
| Proposer has attached proper information to satisfy the Selection Criteria, Section IFP VI. | X | |
| Insurance Requirements, as outlined in Instructions to Proposers, section III | X | |

A.C. SCHULTES OF DELAWARE, INC.
Contractor's Name

PRESIDENT — 3/20/14

Signature — Title — Date

R. MICHAEL COLLISON

END OF SECTION

# ACTION FORM

| | |
|---|---|
| **PROCEEDING**: City Council | **AGENDA ITEM NO.:** |
| **DEPARTMENT OF ORIGIN**: Public Works – Sanitation | **DATE SUBMITTED**: 4/17/14 |
| **PREPARED BY**: Sharon J. Duca, P.E., Public Works Director / City Engineer | |
| **SUBJECT**: Authorization to Extend Recycling Contract – Inland Waste Solutions, LLC (Inland Service Corporation) | |
| **REFERENCE**: N/A | |
| **RELATED PROJECT**: N/A | |
| **APPROVALS**: City Manager, Controller | |
| **EXHIBITS**: Contract Agreement Between The City of Dover and Inland Service Corporation (effective August 1, 2010 through July 31, 2013)<br>Contract Agreement Between The City of Dover and Inland Waste Solutions (effective August 1, 2013 through July 31, 2014)<br>Agreement Extension Offer Letter from Inland Waste Solutions, LLC dated March 25, 2014 | |
| **EXPENDITURE REQUIRED**: As Needed | **AMOUNT BUDGETED**: $ 272,400 in FY 14 |
| **FUNDING SOURCE (Dept/Page in CIP & Budget)**: Funding is provided within the operations budget. FY 14 budget includes $272,400 in the Contractual Services account for Sanitation (110-1800-555.30-31). | |
| **TIMETABLE**: Upon Council approval, contract to be executed effective August 1, 2014 through July 31, 2017. | |
| **RECOMMENDED ACTION**: Staff recommends granting a three (3) year contract extension to Inland Waste Solutions, Inc. to provide recycling services at the current rate of $1.21 per unit. | |

## BACKGROUND AND ANALYSIS

The City of Dover currently utilizes Inland Waste Solutions, LLC (Inland Service Corporation) as our recycling service provider to complement our in house menu of sanitation services. Overall the company has provided quality service over the past four (4) years with particular improvement due to management and operational changes over the past year in particular. It is our understanding that the provider is willing to extend current prices for the next three (3) years as they were recently awarded the sanitation services contract with Kent County. As such, staff recommends granting a three (3) year contract extension to Inland Waste Solutions, Inc. to provide recycling services at the current rate of $1.21 per unit.

# CONTRACT AGREEMENT
# BETWEEN
# THE CITY OF DOVER AND
# INLAND SERVICE CORPORATION

This contract agreement is made and entered into this 26th day of July, 2010 by and between Inland Service Corporation (Inland) and the City of Dover, Delaware (City) in accordance with the following:

1. **PRICE:** The City agrees to pay to Inland per residential/commercial unit per pick-up on a monthly basis for the collection of curbside recycling as follows:

   | | |
   |---|---|
   | August 1, 2010 to July 31, 2011: | $1.18 |
   | August 1, 2011 to July 31, 2012: | $1.19 |
   | August 1, 2012 to July 31, 2013: | $1.21 |

   The City shall notify Inland by the third (3rd) Friday of each month of pick-up additions and/or deletions for the following month. The contract may be extended up to 2-additional years subject to terms and conditions mutually agreed upon between Inland and the City.

2. **PAYMENT:** Inland shall submit a monthly invoice to the Public Service Manager's office for the previous month. The City shall make payment to Inland as stated above within 15 days of receipt by the City.

3. **SCHEDULE:** Inland agrees to collection of recyclables within the City of Dover on an every other week basis in areas to be determined through mutual agreement. The City may amend the agreement to add additional weekly pickups at the pickup fee per location established through negotiation under this agreement.

4. **TERMINATION:** The Contract Agreement shall remain in place for a period of three (3) years from August 1, 2010 to July 31, 2013. Inland shall have the right to terminate this Contract Agreement without liability annually upon the anniversary date with ninety (90) days written notice. The City shall have the right at any time, to terminate this Contract Agreement without liability to the City upon ninety (90) days written notice.

5. **MATERIAL:** Inland agrees to collect newspapers, junk mail with magazines, aluminum and steel cans, narrow neck plastic bottles, clear, green and brown glass and corrugated cardboard. In the event, Inland or the City adds types of materials which it will recycle, such addition shall be considered and deemed an amendment to this Agreement.

6. **TRANSPORTATION:** Inland shall provide all equipment and service for collection of curbside recycling from all participating residents within the City of Dover limits. All recyclables shall be delivered to the designated DSWA facility in accordance with the contract between the City of Dover and the DSWA.

7. **INSURANCE:** Inland shall provide a copy of an acceptable insurance certificate to the City of Dover for our records prior to the commencement of the contract.

8. **ITEMS NOT SPECIFICALLY IDENTIFIED:** All issues and items not specifically outlined in this agreement or the original proposal shall be negotiated and added to this agreement through amendments.

**WITNESS:**

Janet R Ingram

**INLAND SERVICE CORPORATION**

BY: _____

TITLE: PRESIDENT

DATE: 15 July 2010

**WITNESS:**

Yvonne Taylor

**CITY OF DOVER, DELAWARE**

BY: _____

TITLE: City Manager

DATE: 26 July 2016

**CONTRACT AGREEMENT**

BETWEEN

**THE CITY OF DOVER**

AND

**INLAND WASTE SOLUTIONS**

This contract extension is made and entered into the 3RD day of July, 2013 by and between Inland Waste Solutions (Inland) and the City of Dover, Delaware (City) in accordance with the following:

1. **PRICE:** The City agrees to pay Inland per residential/commercial unit per pick-up on a monthly basis for the collection of curbside recycling as follows:

   August 1, 2013 to July 31 2014: $1.21

   The City shall notify Inland by the third (3rd) Friday of each month of pick-up additions and/or deletions for the following month. The contract may be extended one (1) additional year subject to terms and conditions mutually agreed upon between Inland and the City.

2. **PAYMENT:** Inland shall submit a monthly invoice to the Public Works Director's office for the previous month. The City shall make payment to Inland as stated above within 15 days of receipt by the City.

3. **SCHEDULE:** Inland agrees to collection of recyclables within the City of Dover on an every other week basis in areas determined through mutual agreement during the previous contract. The City may amend the agreement to add additional weekly pickups at the fee per location established through negotiation under this agreement.

4. **TERMINATION:** The Contract Agreement shall remain in place for a period from August 1, 2013 to July 31, 2014. Inland shall have the right to terminate this Contract Agreement without liability to the City upon ninety (90) days written notice.

5. **MATERIAL:** Inland agrees to collect newspapers, junk mail with magazines, aluminum and steel cans, narrow neck plastic bottles, clear, green and brown glass and corrugated cardboard. In the event that Inland or the City adds types of materials which it will recycle, such addition shall be considered and deemed an amendment to this Agreement.

6. **TRANSPORTATION:** Inland shall provide all equipment and services for collection of curbside recycling from all participating residents within the City of Dover limits. All recyclables shall be delivered to the designated DSWA facility in accordance with the contract between the City and the DSWA.

7. **INSURANCE:** Inland shall provide a copy of an acceptable insurance certificate to the City of Dover for our records prior to the commencement of the contract extension.

8. **ITEMS NOT SPECIFICALLY IDENTIFIED:** All issues and items not specifically outlined in this agreement or the original proposal shall be negotiated and added to this agreement through amendments.

**WITNESS:**

**INLAND WASTE SOLUTIONS**

BY: Jerry D Church

TITLE: REGIONAL MANAGER

DATE: 7/3/2013

**WITNESS:**

**CITY OF DOVER, DELAWARE**

BY: Scott D. Koenig

TITLE: City Manager

DATE: 7.2.13

**Inland Waste Solutions, LLC**
14101 Highway 290 West, Building 600
Austin, Texas 78737
Office: (512) 858-4558
fax: (512) 858-4559

**SOLID WASTE AND RECYCLING SOLUTIONS** **www.inlandwaste.com**

March 25, 2014

Mr. Scott Koenig
City Manager
City of Dover
City Hall - 15 Loockerman Plaza
Dover, DE 19903

Dear Mr. Koenig:

I would like to sincerely thank you and your staff for the support and assistance that you have provided Inland Waste Solutions over the past four years. The supportive and cooperative relationship that we have built is the main reason the City of Dover's Recycling Collection Program is such a success.

The City has built a top-notched program that is customer-focused, cost-effective and environmentally-responsible that utilizes the industry's latest technologies. Inland is very proud that we have contributed to it.

As our current term nears its end, we would like to offer the City with an option of avoiding the uncertainty of the procurement process and extending our agreement. Should the City of Dover agree to extend our contract for an additional three year term, Inland Waste Solutions, LLC would be willing to continue our current service at the current rates.

We firmly believe that our services constitute an excellent value. In surveying the rates of neighboring communities, Inland offers the citizens of Dover with a high level of service at a very competitive price.

Thank you again for your support. I look forward to discussing this with you at your earliest convenience.

Sincerely,

Monty Davison
President and CFO

City of Dover

MAYOR AND COUNCIL

# COUNCIL RESOLUTION NO. 2014-05

**A RESOLUTION OPPOSING HOUSE BILL 230, WHICH WOULD AMEND TITLE 6 OF THE DELAWARE CODE BY INSERTING CHAPTER 24D - FAMILY FINANCIAL PROTECTION ACT**

**WHEREAS**, on January 23, 2014, House Bill 230, referred to by title as the "Model Family Financial Protection Act," was introduced in the Delaware House of Representatives and assigned to the House Economic Development/Banking/Insurance/Commerce Committee for review and recommendation; and

**WHEREAS**, this broadly-written and complex legislation may be intended to achieve valid and worthy goals of protecting consumers from unreasonable and wanton acts by creditors and collection agencies that result in financial burdens and hardships; however, certain provisions of House Bill 230, as written, may disrupt and/or prevent legitimate, reasonable, and well established debt collection processes; and

**WHEREAS**, Delaware Code, Title 9, Chapter 87, Subchapter II, in conjunction with the Charter of the City of Dover, establishes a monition method of sale to reasonably and equitably collect delinquent property taxes owed to the City of Dover, upon which the City Government depends to cover significant costs associated with the provision of general government services; and

**WHEREAS**, the Mayor and Council of the City of Dover believe that House Bill 230, if enacted as written, may threaten, disrupt, or otherwise prevent the City Government from pursuing the collection of monies owed to the City of Dover.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the City of Dover stand in opposition to House Bill 230 as introduced.

**BE IT FURTHER RESOLVED** that the Mayor and Council of the City of Dover respectfully request that any further consideration of House Bill 230 by the General Assembly include an Amendment that would have the effect of exempting municipal governments from any effects of the legislation.

ADOPTED: APRIL 28, 2014

S:\RESOLUTIONS-PROCLAMATIONS-TRIBUTES\2014\Draft\Resolution No. 2014-05 Opposing House Bill 230-Pepper - Revised 4-25-14 (SIGNATURE).wpd

DAVID L. BONAR
MAYOR

BEVERLY C. WILLIAMS
COUNCIL PRESIDENT/VICE-MAYOR
ACTING

Actions History:
April 28, 2014 - Introduced at City Council

# City of Dover

**MAYOR AND COUNCIL**

April 28, 2014

Members of the General Assembly
PO Box 1401
Dover, DE 19903

Dear Members of the General Assembly:

I am writing to extend the City of Dover's support for SB 191, Governor Markell's proposed legislation to create a program for Downtown Development Districts. Like many other cities and towns in Delaware, Dover has worked hard to revitalize our downtown. Success in downtown revitalization requires investment on behalf of both the private and public sectors. Many of the buildings that make up the historic fabric of Dover's downtown have withstood years of neglect. Costly improvements are often necessary to make these buildings viable for new businesses or residents. The use of public dollars to match a portion of the private investment necessary to renovate or rebuild areas, as proposed in SB 191, provides an opportunity to leverage the investments to make a broad impact across the community. Tying the public investment to an adopted community plan ensures that State dollars support a vision for the downtown that has been vetted and supported by the community.

Due to the years of effort we have spent revitalizing downtown Dover, Delaware's Capital City is well positioned to apply for the Downtown Development District designation. The Transit Center Neighborhood Plan, Restoring Central Dover Plan, and the recent improvements to North Street demonstrate Dover's commitment to working with partners to meet the challenges of downtown redevelopment. Achieving a Downtown Development District designation would add a powerful tool to help bring our vision for a thriving downtown to reality.

The Dover City Council and Mayor encourage you to support this legislation that has the potential to transform downtowns throughout Delaware, including the Capital City.

Sincerely,

DAVID L. BONAR
MAYOR

BEVERLY C. WILLIAMS
COUNCIL PRESIDENT/VICE-MAYOR
ACTING

/DLB/tam
S:\Correspondence\Council Meeting\2014\04-28-2014 Letter of Support - Downtown Development Districts.wpd

cc: City Council

**FINAL READING**

**CITY OF DOVER PROPOSED ORDINANCE #2014-07**

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

That the City of Dover Code of Ordinances be amended by striking *Chapters 51-53 Reserved* and inserting *Chapter 51-Reserved and Chapter 53-Reserved.*

**BE IT FURTHER ORDAINED:**

That the Dover Code of Ordinances be amended by creating a new Chapter 52 - Freedom of Information Act Related to Public Records Access, to read as follows:

**Chapter 52 - Freedom of Information Act Related to Public Records Access**

**Sec. 52-1. Definitions**

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

*City* means the City of Dover.

*FOIA* means 29 Del. C. Chapter 100, the State of Delaware Freedom of Information Act.

*FOIA Coordinator* means the City Clerk for the City of Dover or his/her designee.

*FOIA request* or *Request* means a request to inspect or copy public records pursuant to 29 Del. C. §10003.

*Public record* means information of any kind that is owned, made, used, retained, received, produced, composed, drafted, or otherwise compiled or collected by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded, or reproduced, except those records deemed not public under 29 Del. C. §10002(l).

**Sec. 52-2. Adoption of Policy Related to Public Records Access.**

The City Council shall adopt, implement, and promulgate a Freedom of Information Act (FOIA) policy for addressing requests for public records. Except as otherwise provided in this chapter, the City of Dover FOIA policy shall be consistent with the Delaware Freedom of Information Act, Title 29, Chapter 100 of the Delaware Code. A copy of the City's policy shall be maintained in the office of the city clerk.

**Sec. 52-3. Fees for Responding to FOIA Requests.**

Fee assessment and payment procedures related to FOIA requests shall be as provided for in Appendix F - Fees and Fines.

Draft

**BE IT FURTHER ORDAINED:**

That Appendix F - Fees and Fines, be amended by inserting the text indicated in bold, blue, italics, as follows:

| | | | |
|---|---|---|---|
| ***Chapter 52 - Freedom of Information Act Related to Public Records Access*** | | | |
| ***Sec. 52-3 - Fees for Responding to FOIA Requests.*** | | | |
| ***Administrative Fees*** | | ***First 30 minutes of staff time*** | ***No charge*** |
| | | ***Staff time in excess of 30 minutes*** | ***Hourly salary plus overhead rate of the lowest paid staff member capable of performing the service. Billed in 15-minute increments.*** |
| ***Production Fees*** | ***Photocopies*** | ***Fees for printing the first 10 standard-sized black and white or the first 5 color copies (single sided)*** | ***Waived*** |
| | | ***Standard-sized (8.5" by 11", 8.5" by 14", or 11" by 17") black and white copies*** | ***$0.25 per sheet (each side)*** |
| | | ***Standard-sized (8.5" by 11", 8.5" by 14", or 11" by 17") color copies*** | ***$0.50 per sheet (each side)*** |
| | | ***Oversized copies (larger than 11" by 17")*** | ***$30.00 per sheet (each side)*** |
| | ***Electronically generated records*** | ***Files provided via PDF (via email)*** | ***No charge*** |
| | | ***CD or DVD (including case)*** | ***$2.00*** |
| | | ***Other Electronic Storage Costs*** | ***Material cost to generate records*** |

Draft

| | |
|---|---|
| ***Other Costs*** | ***Other costs associated with filling the request, such as postage, are the responsibility of the requestor. If the City does not have the resources or equipment to duplicate requested records, the City, at its discretion, may arrange to have records duplicated by an outside contractor. In this instance, the requestor will be liable for payment of these costs.*** |
| ***Fee Waivers*** | ***The FOIA Coordinator or designee shall have the authority to determine if a fee for a FOIA request shall be waived and the following criteria shall be used to render such a decision:***<br>***1) The public record is already available in duplicate form (extra copies).***<br>***2) The request for public record is made by an individual who is entitled to information under the FOIA and who submits an affidavit, provided by the City upon request, which shall state that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigence. A person shall be considered indigent if that person's income level is at or below the federal poverty level, as established by the Bureau of the Census.***<br>***3) No written request will be required or charges levied for requests to review specific documents which are required by ordinance to be made available to the public by the City Clerk.*** |
| ***Payment*** | ***Payment of fees related to FOIA requests will be due prior to any related service being performed. Full payment of all final costs incurred must be received prior to the retrieval and release of information.*** |

ADOPTED: *

**Ssynopsis**

The Delaware Freedom of Information Act (FOIA) states that all public bodies shall implement and promulgate a policy for addressing requests made under FOIA and that fees charged in responding to requests for public records must adhere to those set forth in the Delaware FOIA, unless otherwise set forth in the Delaware Code or any applicable code of a municipal public body. The proposed ordinance would mandate that the City adopt a FOIA policy and would codify the fees charged by the City in relation to FOIA requests.

(Sponsors: Hare, McDowell)

Actions History
April 28, 2014 - Scheduled for Final Reading/Adoption at City Council
April 14, 2014 - First Reading at City Council
March 24, 2014 - Considered at the Legislative, Finance, and Administration Committee



Draft

# *CITY OF DOVER*
# *FREEDOM OF INFORMATION ACT POLICY - PUBLIC RECORDS ACCESS*

## SECTION 1 - PURPOSE

The purpose of this policy is to prescribe procedures relating to the inspection and copying of public records retained by the City of Dover ***("the City")*** pursuant to 29 Del. C. Chapter 100, the State of Delaware Freedom of Information Act ***(FOIA)***. It is the City's goal in establishing this policy to maximize the amount of information available to the public, establish a reasonable fee structure for providing public records, and to streamline procedures used to disseminate this information. 29 Del. C. §10003 reads as follows:

> *"(a) All public records shall be open to inspection and copying* ~~***by any citizen of the State***~~ *during regular business hours by the custodian of the records for the appropriate public body. Reasonable access to and reasonable facilities for copying of these records shall not be denied to any citizen.* ~~**If the record is in active use or in storage and, therefore, not available at the time a citizen requests access, the custodian shall so inform the citizen and make an appointment for said citizen to examine such records as expediently as they may be made available. Any reasonable expense involved in the copying of such records shall be levied as a charge on the citizen requesting such copy; (b) It shall be the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records."**~~ ***(b) All state agencies and public bodies shall implement and promulgate a policy for addressing requests made under the Freedom of Information Act."***

This policy applies to the City in dealing with requests from the public for information as set forth in the FOIA. It does not apply to the City in its normal course of business with Federal, State, or local agencies, nor to private parties with whom the City is conducting business, provided the public records are germane to the business being conducted.

It is the intent of the City that public business be performed in an open and public manner so that the citizens shall ~~**be advised of**~~ ***have the opportunity to observe*** the performance of ***public*** officials and ***to monitor*** ~~**their**~~ ***the decisions that are made by such officials in formulating and executing public policy, and so that citizens have easy access to public records in order that the society remain free and democratic***. ~~**In accordance with FOIA, the public has the right to "reasonable access" to public records. The Act provides that it is the responsibility of the public body to establish rules and regulations regarding access to public records as well as fees charged for copying of such records.**~~ It is the policy of the City that all employees shall comply with FOIA and all requests for information shall be processed in the manner prescribed below.

## SECTION 2 - DEFINITIONS

*"City"* - the City of Dover.

*"Department"* - a department of the City of Dover.

*"Exempt"* - information determined by the ~~**Records Manager**~~ ***FOIA Coordinator*** and/or City Solicitor to constitute a record that shall not be deemed public in accordance with 29 Del. C. 10002~~**(d)**~~***(l)***.

*"FOIA"* - 29 Del. C. Chapter 100, the State of Delaware Freedom of Information Act.

*"~~Records Manager~~ FOIA Coordinator"* - the City Clerk for the City of Dover (~~*Section 2-118(b) of the Dover Code)*~~ or his/her designee.

***"FOIA request" or "request" - a request to inspect or copy public records pursuant to 29 Del. C. §10003.***

***"FOIA Request Form" - the City of Dover FOIA Request Form or the form promulgated by the State of Delaware Office of the Attorney General upon which requests for public records may be made.***

***"Public record" - information of any kind that is owned, made, used, retained, received, produced, composed, drafted, or otherwise compiled or collected by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded, or reproduced, except those records deemed not public under 29 Del. C. §10002(l).***

*"**Requesting party**/requestor"* - any individual, organization, or business that submits a request for information under the Delaware Freedom of Information Act.

## SECTION 3 - AVAILABILITY OF RECORDS

3.1) Access

(A) ***The City will provide reasonable assistance to the public in identifying and locating public records to which they are entitled access.***

~~(A)~~ ***(B)*** The City will provide reasonable access and facilities for reviewing public records during regular business hours ***and for copying of records by City staff.***

~~(B)~~ ***(C)*** The City shall make all requested records available for review by requestor unless such records or portions of records are determined by the ~~Records Manager~~ ***FOIA Coordinator and/or City Solicitor*** to be exempt pursuant to 29 Del. C. §10002~~(d)~~***(l)***.

***(D) If all or any portion of a FOIA request seeks records controlled by the City but not within its possession, or if the request cannot otherwise be fulfilled by the City with reasonable effort from the records it possesses, the City shall promptly request that the relevant custodian provide the noncustodial records to the public body.***

***(E)*** If a requesting party wants to review original materials, a staff member shall be assigned to monitor the review to ~~insure~~ ***ensure*** that the integrity of all materials is maintained. A monitor may be required at other times at the discretion of the ~~Records Manager~~ ***FOIA Coordinator*** or designee. [Moved from former policy Section 4]

***(F)*** In providing access to public records, the ~~Records Manager~~ ***FOIA Coordinator*** may take necessary and reasonable action to protect the City's public records and to prevent excessive and unreasonable interference with the discharge of the City's functions. This policy does not require the City to make a compilation, summary, or report of information***, or otherwise create a document that did not previously exist***. [Moved from former policy Section 5.2]

3.2) City Records Review

***(A) The FOIA Coordinator will serve as the point of contact for FOIA requests and coordinate the City's responses. The FOIA Coordinator may designate other employees to perform specific duties and functions hereunder. The FOIA Coordinator will be identified on the City's website. All FOIA requests received by any City department will be immediately directed to the FOIA Coordinator. The FOIA Coordinator, working in cooperation with other employees and representatives, shall make every reasonable effort to assist the requesting party in identifying the records being sought, and to assist the City in locating and providing the requested records. The FOIA Coordinator will also work to foster cooperation between the City and the requesting party.***

~~**(B) Upon request, the City will provide a log of records which may have been deemed non-public. The log will include the following information:**~~

~~**(1) The document's author;**~~
~~**(2) The addressee;**~~
~~**(3) The date of the document;**~~
~~**(4) The title of the document or a brief explanation of the document's contents; and**~~
~~**(5) The statutory exemption.**~~

***(B) The FOIA Coordinator will maintain a tracking document for all FOIA requests. For each FOIA request, the document shall include the requesting party's contact information, the date the request was received; the City's response deadline; the date of the City's response (including the reasons for any extension); the names, contact information, and dates of correspondence with individuals contacted in connection with requests; the dates of review by the City; the names of individuals who conducted such reviews; whether the documents were made available (and, if not, the reasons for denial in whole or in part); the amount of administrative and/or production fees assessed; and the date of final disposition.***

~~**(C) The types of records deemed non-public are as contained in 29 Del. C. §10002(d) (see Section 6).**~~

***(C) All FOIA requests will be evaluated by the FOIA Coordinator to determine, in consultation with the City Solicitor if necessary, whether the records requested are considered to be public records as defined in 29 Del C. §10002(l).*** Prior to disclosure, records will be reviewed to ~~**insure**~~ ***ensure*** that those records or portions of records deemed non-public are removed ***pursuant to 29 Del. C. §10002 or any other applicable provision of law. In reviewing the records, all documents shall be considered public records unless subject to one (1) of the exceptions set forth in 29 Del. C. §10002(l) or any other applicable provision of law.***

(D) City brochures, pamphlets, informational bulletins, and other such information are not subject to this policy.

## SECTION 4 - REQUESTS FOR PUBLIC RECORDS

***4.1) Method of Request***

***(A) The City shall develop and maintain a web portal for receiving FOIA requests through the internet. The portal shall utilize the City of Dover FOIA Request Form, which shall be based on the standard request form promulgated by the State of Delaware Office of the Attorney General, and copies of the FOIA request form may be obtained from the City of Dover website.***

***(B) Requests for access to records shall be made in writing and may be presented in person, by e-mail, by fax, or online. FOIA requests may be submitted using the City of Dover FOIA Request Form or the form promulgated by the State of Delaware Office of the Attorney General; however, any FOIA request that otherwise conforms with the policy hereunder shall not be denied solely because the request is not on the City's or State of Delaware Attorney General's promulgated form.***

***(C)*** Requests for access to records shall adequately describe the record sought in sufficient detail to enable the City to locate the record with reasonable effort. ~~**The City shall make every reasonable effort to assist the requestor in identifying the record being sought. Any department that receives a request for a "public record(s)" shall ascertain from the requesting party the specific materials requested.**~~ [Replaced by new policy Section 3.2(A)] ***The requesting party shall be as specific as possible when requesting records. The City may request that the requesting party provide additional information known to the requesting party, such as the type of records, dates, parties to correspondence, and subject matter of the requested records.***

~~**If a department is not sure that a requested item is a "public record", the request for documentation should be forwarded to the Records Manager for in consultation with the City Solicitor in determining if the requested documents are a "public record" and fall under the jurisdiction of the FOIA.**~~ [Replaced by new policy Section 3.2(C)]

~~**If a requesting party wants to review original materials, a staff member shall be assigned to monitor the review to insure that the integrity of all materials is maintained. A monitor may be required at other times at the discretion of the Records Manager or designee.**~~ [Moved to new policy Section 3.1(E)]

~~**4.1) Types of Access Allowed/Requests for Records**~~ [All of this section previously stated.]

~~**(A) Records shall be open to public inspection and copying.**~~
~~**(B) Must be provided during regular business hours**~~.
~~**(C) Reasonable access to records cannot be denied.**~~
~~**(D) Reasonable facilities for copying cannot be denied.**~~
~~**(E) If the requested record is not in active use and in storage, then an appointment should be made for access.**~~

4.2) Response to Requests

(A) The City shall ~~make every reasonable effort to respond to a request within ten (10) business days~~ *respond to FOIA requests as soon as possible, but in any event within 15 business days after the receipt, either by providing access to the requested records, denying access for the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived. If access cannot be provided within 15 business days, the City shall cite one (1) of the reasons why more time is needed and provide a good faith estimate of how much additional time is required to fulfill the request*.

(B) If the City denies a request in whole or in part, the ~~City shall indicate to the requestor the reasons for the denial~~ *City's response shall indicate the reasons for the denial. The City shall not be required to provide an index, or any other compilation, as to each record or part of a record denied. If a FOIA request is denied, the requestor may seek recourse in accordance with 29 Del. C. §10005.*

~~4.3) Appeals~~ [Replaced by new policy Section 4.2(B)]

~~(A) Denied requests may be appealed by submitting to the City Council a written appeal that specifically indicates "appeal of FOIA request" and identifies the reason or reasons for reversal of the denial; or~~

~~(B) The requestor may file suit in accordance with 29 Del.C.~~

## SECTION 5 - FEES FOR ~~COPYING AND RESEARCH~~ *RESPONDING TO FOIA REQUESTS*

~~The fees to be charged for complying with a request under the FOIA shall not exceed any one or more of the following items, as applicable:~~

*Fee assessment and payment procedures related to FOIA requests shall be as follows:*

~~*5.1)* Duplicating/Copying Fees~~
~~The following are duplicating/copying charges:~~

~~(A) Standard Sized, Black and White Copies~~
~~Cost for duplication or publication, including labor, for standard sized, black and white public records~~ shall be ~~$0.15 per page, for 8.5" x 11", 8.5" x 14", and 11" x 17" sized paper.~~

~~(B) GIS Fee Structure~~
~~The charge for producing digital data layers, custom digital data layers, previously created paper maps, and custom paper maps shall be in accordance with the GIS Fee Structure attached herewith designated as Exhibit 1.~~

~~(C) Computer/Electronically Generated~~

~~Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: cassette tapes, video tapes, computer disks costs) and administrative costs. Actual costs shall be assessed for copying computer generated records and providing other materials such as video tapes, computer disks, etc. Also, see GIS Fee Structure in accordance with Section 5, Subsection 5.1, Paragraph (B) (Exhibit 1).~~

~~(1) In the event that requests for records maintained in an electronic format can be electronically provided to the requestor, only the administrative charges in preparing the electronic records will be charged.~~

~~(D) The City reserves the right to refuse to make copies for requestors who have an oustanding balance for copy charges owed to the City.~~ [Addressed in new policy Section 5.5(A)]

~~(E) The City shall have discretion based on circumstances involved to make decisions regarding copying.~~ [Moved to new policy Section 5.1(B)]

***5.1) Production Fees***

***(A) Production fees for providing public records shall be assessed in accordance with Appendix F - Fees and Fines, Chapter 52. Freedom of Information Act Related to Public Records Access.***

~~(E)~~*(B)* The City shall have discretion based on circumstances involved to make decisions regarding copying.

*(C)* If the City does not have the resources or equipment to duplicate requested records, the City, at its discretion, may arrange to have records duplicated by an outside contractor. In this instance, the requestor will be liable for payment of these costs. [Moved from former policy Section 5.2(B)]

~~(B)~~*(D)* Other Costs

Any other actual costs associated with fulfilling a request for information, such as postage, shall be at the expense of the requestor.

5.2) Administrative Fees

~~The following are administrative fees for providing public records:~~

~~(A) Actual Labor Costs~~

~~In calculating the cost of labor incurred, the City may not charge more than the hourly wage of the lowest paid City employee capable of retrieving the information necessary to comply with the request. Labor charges will be billed to the requestor per quarter hour. Labor charges will be in addition to any duplicating/copying charges. Charges for actual labor costs include:~~

~~(1) Staff time associated with processing FOIA requests;~~
~~(2) Locating and reviewing files;~~

~~(3) Monitoring file reviews;~~
~~(4) Generating computer records (electronic or print-outs); and~~
~~(5) Any other time rendered by the employee in researching, examining, developing, duplicating, reviewing, and separating exempt from non-exempt information that has been requested.~~

***(A) Administrative fees for providing public records shall be assessed in accordance with Appendix F - Fees and Fines, Chapter 52. Freedom of Information Act Related to Public Records Access.***

***(B) Administrative fees shall be levied for requests requiring more than 30 minutes of staff time to process and will be billed to the requesting party per quarter hour. These charges will be incurred for all staff time expended in excess of 30 minutes at the current hourly pay grade plus overhead rate (prorated for quarter hour increments) of the lowest-paid employee capable of performing the service. Administrative fees will be in addition to any other charges for production.***

***(C) Charges for administrative fees may include staff time associated with processing FOIA requests, including, without limitation, identifying records, monitoring file reviews, and generating computer records (electronic or print-outs).***

***(D) Administrative fees shall not include any cost associated with the City's legal review or determining whether any portion of the requested records is exempt from FOIA.***

***(E) When multiple FOIA requests are submitted by or on behalf of the requesting party in an effort to avoid incurring administrative charges, the City may, at its discretion, aggregate staff time for all such requests when computing fees.***

***(F) The City will make every effort to ensure that administrative fees are minimized and will only assess such charges as shall be reasonably required to process FOIA requests. The City shall minimize the use of non-administrative personnel in processing FOIA requests to the extent possible.***

~~(B) Other Costs~~
~~Any other actual costs associated with fulfilling a request for information, such as postage, shall be at the expense of the requestor.~~ [Moved to new policy Section 5.1(D)]

~~If the City does not have the resources or equipment to duplicate requested records, the City, at its discretion, may arrange to have records duplicated by an outside contractor. In this instance, the requestor will be liable for payment of these costs.~~ [Moved to new policy Section 5.1(C)]

***5.3) Estimate***
~~The requester shall be provided an estimate of the costs involved to fulfill their request for information.~~ ***Prior to fulfilling any request that would require a requesting party to incur production***

***and/or administrative fees, the public body will provide a written cost estimate of such fees to the requesting party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel, or modify the request. After receipt of payment by the City, the information requested will be retrieved and released to the requestor.*** ~~**In providing access to public records, the Records Manager may take necessary and reasonable action to protect the City's public records and to prevent excessive and unreasonable interference with the discharge of the City's functions. This policy does not require the City to make a compilation, summary or report of information.**~~ [Moved to new policy Section 3.1(F)]

***5.4)*** Waiver of Fees

The ~~**Records Manager**~~ ***FOIA Coordinator*** or designee shall have the authority to determine if a fee for a FOIA request shall be waived and the following criteria shall be used to render such a decision:

(A) The public record is already available in duplicate form (extra copies);

(B) The request for public record is made by an individual who is entitled to information under the FOIA and who submits an affidavit, provided by the City ***upon request***, which shall state that the individual is then receiving public assistance or, if not receiving public assistance, stating facts showing inability to pay the cost because of indigence. A person shall be considered indigent if that person's income level is at or below the federal poverty level, as established by the Bureau of the Census.

(C) Fees ~~**of $1.00 or less**~~ ***for printing the first 10 standard-sized black and white or the first five (5) standard-sized color single-sided copies*** shall be waived.

No written request will be required or charges levied for requests to review specific documents which are required by ordinance to be made available to the public by the City Clerk.

***5.5)*** Payment

~~**(A)**~~ Payment ~~**for copies and/or administrative charges will be due at at the time copies are released to the requestor.**~~ ***of fees related to FOIA requests will be due prior to any related service being performed. Full payment of all final costs incurred must be received prior to the retrieval and release of information.*** ~~**The City reserves the right to refuse to make copies for requestors who have outstanding balances.**~~

~~**(B) The City may require pre-payment of copying production and administrative charges prior to mailing copies of requested records.**~~

~~**(C) A good faith deposit must be provided in advance for those requests for which the fees are estimated to be over $50.00. The deposit shall not exceed one-half (½) of the total estimated fee.**~~

~~**(D) The fee must be received before copies are delivered or before searching and reviewing commences, if a deposit is required.**~~

## ~~SECTION 6 - EXEMPT RECORDS~~

~~**Those records that are deemed non-public are as contained in 29 Del.C. §10002(d).**~~

**AMENDED BY COUNCIL ON**
**AMENDED BY COUNCIL ON NOVEMBER 28, 2005.**
**ADOPTED BY COUNCIL ON JANUARY 13, 2003.**

/js
S:\CLERK'S OFFICE POLICIES AND PROCEDURES\FOIA\FOIA Policy - Revised 03-19-2014.wpd

# TITLE 29

# State Government

## General Regulations for State Agencies

## CHAPTER 100. FREEDOM OF INFORMATION ACT

### § 10001 Declaration of policy.

It is vital in a democratic society that public business be performed in an open and public manner so that our citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy; and further, it is vital that citizens have easy access to public records in order that the society remain free and democratic. Toward these ends, and to further the accountability of government to the citizens of this State, this chapter is adopted, and shall be construed.

60 Del. Laws, c. 641, § 1; 65 Del. Laws, c. 191, § 1.;

### § 10002 Definitions.

(a) "Agenda" shall include but is not limited to a general statement of the major issues expected to be discussed at a public meeting, as well as a statement of intent to hold an executive session and the specific ground or grounds therefor under § 10004(b) of this title.

(b) "Caucus" means members of the House of Representatives or Senate, of the same political party, who assemble to discuss matters of public business.

(c) "FOIA" means the Freedom of Information Act [this chapter].

(d) "FOIA coordinator" shall mean the person designated by the Cabinet Secretary, school district superintendent, or local government head to receive and process FOIA requests.

(e) "FOIA request" or "request" means a request to inspect or copy public records pursuant to § 10003 of this title.

(f) "FOIA Request Form" means the form promulgated by the Office of the Attorney General upon which requests for public records may be made.

(g) "Meeting" means the formal or informal gathering of a quorum of the members of any public body for the purpose of discussing or taking action on public business either in person or by video-conferencing.

(h) "Public body" means, unless specifically excluded, any regulatory, administrative, advisory, executive, appointive or legislative body of the State, or of any political subdivision of the State, including, but not limited to, any board, bureau, commission, department, agency, committee, ad hoc committee, special committee, temporary committee, advisory board and committee, subcommittee, legislative committee, association, group, panel, council or any other entity or body established by an act of the General Assembly of the State, or established by any body established by the General Assembly of the State, or appointed by any body or public official of the State or otherwise empowered by any state governmental entity, which:

(1) Is supported in whole or in part by any public funds; or

(2) Expends or disburses any public funds, including grants, gifts or other similar disbursals and distributions; or

(3) Is impliedly or specifically charged by any other public official, body, or agency to advise or to make reports, investigations or recommendations.

"Public body" shall not include any caucus of the House of Representatives or Senate of the State. "Public body" shall include any authority created under Chapter 14 of Title 16.

(i) "Public body," "public record" and "meeting" shall not include activities of the University of Delaware and Delaware State University, except that the Board of Trustees of the University and the Board of Trustees of the University shall be "public bodies," and University and University documents relating to the expenditure of public funds shall be "public records," and each meeting of the full Board of Trustees of either institution shall be a "meeting."

(j) "Public business" means any matter over which the public body has supervision, control, jurisdiction or advisory power.

(k) "Public funds" are those funds derived from the State or any political subdivision of the State.

(l) "Public record" is information of any kind, owned, made, used, retained, received, produced, composed, drafted or otherwise compiled or collected, by any public body, relating in any way to public business, or in any way of public interest, or in any way related to public purposes, regardless of the physical form or characteristic by which such information is stored, recorded or reproduced. For purposes of this chapter, the following records shall not be deemed public:

(1) Any personnel, medical or pupil file, the disclosure of which would constitute an invasion of personal privacy, under this legislation or under any State or federal law as it relates to personal privacy;

(2) Trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature;

(3) Investigatory files compiled for civil or criminal law-enforcement purposes including pending investigative files, pretrial and presentence investigations and child custody and adoption files where there is no criminal complaint at issue;

(4) Criminal files and criminal records, the disclosure of which would constitute an invasion of personal privacy. Any person may, upon proof of identity, obtain a copy of the person's personal criminal record. All other criminal records and files are closed to public scrutiny. Agencies holding such criminal records may delete any information, before release, which would disclose the names of witnesses, intelligence personnel and aids or any other information of a privileged and confidential nature;

(5) Intelligence files compiled for law-enforcement purposes, the disclosure of which could constitute an endangerment to the local, state or national welfare and security;

(6) Any records specifically exempted from public disclosure by statute or common law;

(7) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor;

(8) Any records involving labor negotiations or collective bargaining;

(9) Any records pertaining to pending or potential litigation which are not records of any court;

(10) Subject to § 10004(f) of this title with respect to release of minutes of executive sessions, any record of discussions held in executive session pursuant to § 10004(b) and (c) of this title;

(11) Any records which disclose the identity or address of any person holding a permit to carry a concealed deadly weapon; provided, however, all records relating to such permits shall be available to all bona fide law-enforcement officers;

(12) Any records of a public library which contain the identity of a user and the books, documents, films, recordings or other property of the library which a patron has used;

(13) Any records in the possession of the Department of Correction where disclosure is sought by an inmate in the Department's custody;

(14) Investigative files compiled or maintained by the Violent Crimes Compensation Board;

(15) Any photographs, video recordings or audio recordings of a postmortem examination in the possession of the office of the Chief Medical Examiner;

(16) Emails received or sent by members of the Delaware General Assembly or their staff;

(17)a. The following records, which, if copied or inspected, could jeopardize the security of any structure owned by the State or any of its political subdivisions, or could facilitate the planning of a terrorist attack, or could endanger the life or physical safety of an individual:

1. Response procedures or plans prepared to prevent or respond to emergency situations, the disclosure of which would reveal vulnerability assessments, specific tactics, specific emergency procedures or specific security procedures.

2. Building plans, blueprints, schematic drawings, diagrams, operational manuals or other records of mass transit facilities, bridges, tunnels, emergency response facilities or structures, buildings where hazardous materials are used or stored, arenas, stadiums, waste and water systems, electric transmission lines and substations, high-pressure natural gas pipelines and compressor stations, and telecommunications networks facilities and switching equipment, the disclosure of which would reveal the building's or structure's internal layout, specific location, life, safety and support systems, structural elements, surveillance techniques, alarm or security systems or technologies, operational and transportation plans or protocols, or personnel deployments. Records that disclose the substances being used or stored on a given piece of property are public records; however, records which disclose the specific location on that property of the substances being used or stored may be disclosed only if the chief administrative officer of the agency from which the record is requested determines that disclosure will not jeopardize the security of any structure owned by the State or any of its political subdivisions, or will not facilitate the planning of a terrorist attack, or will not endanger the life or physical safety of an individual.

3. Records of any building or structure operated by the State or any of its political subdivisions, the disclosure of which would reveal the building's or structure's life, safety and support systems, surveillance techniques, alarm or security systems or technologies, operational and evacuation plans or protocols, or personnel deployments.

4. Records prepared to prevent or respond to emergency situations identifying or describing the name, location, pharmaceutical cache, contents, capacity, equipment, physical features or capabilities of individual medical facilities, storage facilities, or laboratories established, maintained or regulated by the State or any of its political subdivisions.

5. Those portions of records assembled, prepared or maintained to prevent, mitigate or respond to criminal acts, the public disclosure of which would have a substantial likelihood of threatening public safety. The only items that are protected from disclosure by this paragraph are:

A. Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments or to the response or deployment plans; and

B. Records not subject to public disclosure under federal law that are shared by federal or international agencies and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for criminal acts against United States citizens or targets.

6. Nothing in this subsection shall be deemed to prohibit the disclosure of information necessary to comply with the requirements of Chapter 8 of Title 26, the Underground Utility Damage Prevention and Safety Act.

b. Nothing in this paragraph shall interfere with the right of any committee of the General Assembly to hear information in the committee at the request of the committee chair or, if appropriate, to hear information in an executive session of the committee, or to subpoena information pursuant to § 705 of this title;

(18)a. Any military service discharge document or documents, a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States, or any document that purports to represent a notice of separation from or service in any armed forces of the United States including but not limited to the United States Department of Defense, DD Form 214, of a veteran of the armed forces of the United States, which has been heretofore recorded at a county recorder of deeds. Such document or documents may only be disclosed in accordance with the provisions of paragraph (g)(17)b. of this section.

b. *Access to authorized persons.* — The following persons are permitted to view or reproduce recorded military service discharge documents:

1. The veteran subject of the discharge;

2. The spouse or child of a veteran, with consent of the veteran;

3. If the veteran is deceased, a survivor or heir of the veteran who may be eligible to claim any type of benefit by virtue of the veteran's service in the military;

4. A person with a signed and notarized authorization from the veteran;

5. A county, state or federal officer assisting the veteran or veteran's family with a veteran's benefit application;

6. Anyone authorized by an order from a Delaware court, to view or copy the document; or

7. Government agencies, including courts, that have an interest in assisting the veteran subject to the military service discharge record or in assisting the beneficiaries of the deceased veteran subject to the military service discharge record in obtaining a benefit.

c. Any document referenced in paragraph (l)(18)a. of this section shall be deemed a public record upon the passage of 70 years from the date of the subject veteran's separation or discharge from service; or

(19) Any communications between a member of the General Assembly and that General Assembly member's constituent, or communications by a member of the General Assembly on behalf of that General Assembly member's constituent, or communications between members of the General Assembly.

(m) "Requesting party" shall mean the person filing the FOIA request.

(n) "Video-conferencing" means any system permitting interaction among all participants in 2 or more noticed public locations in compliance with § 10006 of this title.

60 Del. Laws, c. 641, § 1; 61 Del. Laws, c. 55, § 1; 63 Del. Laws, c. 424, § 1; 64 Del. Laws, c. 113, § 1; 65 Del. Laws, c. 191, §§ 2-6; 66 Del. Laws, c. 143, § 1; 67 Del. Laws, c. 281, § 194; 69 Del. Laws, c. 67, § 2; 69 Del. Laws, c. 250, § 2; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 260, §§ 1, 2, 3; 73 Del. Laws, c. 354, § 1; 75 Del. Laws, c. 235, §§ 3-5; 77 Del. Laws, c. 38, §§ 1-5, 8; 77 Del. Laws, c. 211, §§ 1, 2; 78 Del. Laws, c. 12, § 1; 78 Del. Laws, c. 382, § 1.;

**§ 10003 Examination and copying of public records.**

(a) All public records shall be open to inspection and copying during regular business hours by the custodian of the records for the appropriate public body. Reasonable access to and reasonable facilities for copying of these records shall not be denied to any citizen.

(b) All state agencies and public bodies shall implement and promulgate a policy for addressing requests made under the Freedom of Information Act.

(c) All state agencies and public bodies shall develop a web portal for receiving FOIA requests through the internet. Such portals shall utilize the standard request form promulgated by the Attorney General.

(d) All state agencies and public bodies are to provide reasonable assistance to the public in identifying and locating public records to which they are entitled access, and all records held by the agency are "public records" to which the public should have access unless they fall within the scope of enumerated exceptions in § 10002 of this title.

(e)(1) *Form of request.* — All FOIA requests shall be made in writing to the public body in person, by e-mail, by fax, or online in accordance with the provisions hereunder. FOIA requests may be submitted using the FOIA Request Form promulgated by the Office of the Attorney General provided, however, that any FOIA request that otherwise conforms with the policy hereunder shall not be denied solely because the request is not on the promulgated form. Copies of the FOIA request form may be obtained from the website of any state agency, school district, or other public body.

(2) All requests shall adequately describe the records sought in sufficient detail to enable the public body to locate such records with reasonable effort. The requesting party shall be as specific as possible when requesting records. To assist the public body in locating the requested records, the public body may request that the requesting party provide additional information known to the requesting party, such as the types of records, dates, parties to correspondence, and subject matter of the requested records.

(f) *FOIA coordinator.* —

(1) Each public body shall designate a FOIA coordinator who shall serve as the point of contact for FOIA requests and coordinate the public body's responses thereto. The FOIA coordinator shall be identified on the public body's website. The FOIA coordinator may designate other employees to perform specific duties and functions hereunder.

(2) The FOIA coordinator and/or his or her designee, working in cooperation with other employees and representatives, shall make every reasonable effort to assist the requesting party in identifying the records being sought, and to assist the public body in locating and providing the requested records. The FOIA coordinator and/or his or her designee will also work to foster cooperation between the public body and the requesting party.

(3) In addition to the foregoing responsibilities, the FOIA coordinator shall maintain a document tracking all FOIA requests. For each FOIA request, the document shall include, at a minimum, the requesting party's contact information, the date the public body received the request, the public body's response deadline, the date of the public body's response (including the reasons for any extension), the names, contact information and dates of correspondence with individuals contacted in connection with requests, the dates of review by the public body, the names of individuals who conducted such reviews, whether documents were made available, the amount of copying and/or administrative fees assessed, and the date of final disposition.

(g) *Response to requests. —*

(1) The public body shall respond to a FOIA request as soon as possible, but in any event within 15 business days after the receipt thereof, either by providing access to the requested records, denying access to the records or parts of them, or by advising that additional time is needed because the request is for voluminous records, requires legal advice, or a record is in storage or archived. If access cannot be provided within 15 business days, the public body shall cite 1 of the reasons hereunder why more time is needed and provide a good-faith estimate of how much additional time is required to fulfill the request.

(2) If the public body denies a request in whole or in part, the public body's response shall indicate the reasons for the denial. The public body shall not be required to provide an index, or any other compilation, as to each record or part of a record denied.

(h) *Requests for e-mail. —*

(1) Requests for e-mail records shall be fulfilled by the public body from its own records, if doing so can be accomplished by the public body with reasonable effort. If the public body determines that it cannot fulfill all or any portion of such request, the public body shall promptly request that its information and technology personnel or custodians provide the e-mail records to the public body.

(2) Before requesting the information and technology personnel or custodians to provide e-mail records, the public body shall provide an itemized written cost estimate to the requesting party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel, or modify the request.

(i) *Requests for other noncustodial records.* —

(1) If all or any portion of a FOIA request seeks records controlled by the public body but are not within its possession or cannot otherwise be fulfilled by the public body with reasonable effort from the records it possesses, then the public body shall promptly request that the relevant custodian provide the noncustodial records to the public body.

(2) Before requesting any noncustodial records, the public body shall provide an itemized written cost estimate to the requesting party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel, or modify the request.

(j) *Review by public body.* — Prior to disclosure, records may be reviewed by the public body to ensure that those records or portions of records deemed nonpublic may be removed pursuant to § 10002 of this title or any other applicable provision of law. In reviewing the records, all documents shall be considered public records unless subject to 1 of the exceptions set forth in § 10002 of this title or any other applicable provision of law.

(k) *Hours of review.* — The public body shall provide reasonable access for reviewing public records during regular business hours.

(l) *Fees.* — Unless otherwise set forth in the Delaware Code or any applicable code of a county or municipal public body, the following fees shall apply:

(1) *Photocopying fees.* — In instances in which paper records are provided to the requesting party, photocopying fees shall be as follows:

*Standard-sized, black and white copies:* The first 20 pages of standard-sized, black and white copies material shall be provided free of charge. The charge for copying standard sized, black and white public records for copies over and above 20 shall be $0.10 per sheet ($0.20 for a double-sided sheet). This charge applies to copies on the following standard paper sizes: 8.5" x 11", 8.5" x 14", and 11" x 17".

*Oversized copies/printouts:* The charge for copying oversized public records shall be as follows: 18" x 22", $2.00 per sheet; 24" x 36", $3.00 per sheet; documents larger than 24" x 36", $1.00 per square foot.

*Color copies/printouts:* An additional charge of $1.00 per sheet will be assessed for all color copies or printouts for standard-sized copies (8.5" x 11", 8.5" x 14", and 11" x 17") and $1.50 per sheet for larger copies.

(2) *Administrative fees.* — Administrative fees shall be levied for requests requiring more than 1 hour of staff time to process. Charges for administrative fees may include staff time associated with processing FOIA requests, including, without limitation:

identifying records; monitoring file reviews; and generating computer records (electronic or print-outs). Administrative fees shall not include any cost associated with the public body's legal review of whether any portion of the requested records is exempt from FOIA. The public body shall make every effort to ensure that administrative fees are minimized, and may only assess such charges as shall be reasonable required to process FOIA requests. In connection therewith, the public body shall minimize the use of nonadministrative personnel in processing FOIA requests, to the extent possible.

Prior to fulfilling any request that would require a requesting party to incur administrative fees, the public body shall provide an itemized written cost estimate of such fees to the requesting party, listing all charges expected to be incurred in retrieving such records. Upon receipt of the estimate, the requesting party may decide whether to proceed with, cancel, or modify the request.

Administrative fees will be billed to the requesting party per quarter hour. These charges will be billed at the current hourly pay grade (prorated for quarter hour increments) of the lowest-paid employee capable of performing the service. Administrative fees will be in addition to any other charges incurred under this section for copying fees.

When multiple FOIA requests are submitted by or on behalf of the requesting party in an effort to avoid incurring administrative charges, the public body may in its discretion aggregate staff time for all such requests when computing fees hereunder. Notwithstanding the foregoing, any Freedom of Information Act policy adopted by a public body pursuant to subsection (b) of this section hereunder may include provisions for the waiver of some or all of the above administrative fees; provided that such waiver shall apply equally to a particular class of persons (i.e., nonprofit organizations).

(3) *Microfilm and/or microfiche printouts.* — The first 20 pages of standard-sized, black and white material copied from microfilm and/or microfiche shall be provided free of charge. The charge for microfilm and/or microfiche printouts over and above 20 shall be $0.15 per sheet.

(4) *Electronically generated records.* — Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including but not limited to DVD, CD, or other electronic storage costs) and administrative costs.

(5) *Payment.* — The public body may require all or any portion of the fees due hereunder to be paid prior to any service being performed pursuant to this section.

60 Del. Laws, c. 641, § 1; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 10, § 1; 78 Del. Laws, c. 202, § 1; 78 Del. Laws, c. 382, § 1.;

**§ 10004 Open meetings.**

(a) Every meeting of all public bodies shall be open to the public except those closed pursuant to subsections (b), (c), (d) and (h) of this section.

(b) A public body may call for an executive session closed to the public pursuant to

subsections (c) and (e) of this section, but only for the following purposes:

(1) Discussion of an individual citizen's qualifications to hold a job or pursue training unless the citizen requests that such a meeting be open. This provision shall not apply to the discussion by a licensing board or commission which is subject to the provisions of § 8735 of this title, of an individual citizen's qualifications to pursue any profession or occupation for which a license must be issued by the public body in accordance with Delaware law;

(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements;

(3) Activities of any law-enforcement agency in its efforts to collect information leading to criminal apprehension;

(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body;

(5) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor;

(6) Discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion may disclose the contents of such documents;

(7) The hearing of student disciplinary cases unless the student requests a public hearing;

(8) The hearing of employee disciplinary or dismissal cases unless the employee requests a public hearing;

(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed, unless the employee or student requests that such a meeting be open.

(c) A public body may hold an executive session closed to the public upon affirmative vote of a majority of members present at a meeting of the public body. The vote on the question of holding an executive session shall take place at a meeting of the public body which shall be open to the public, and the results of the vote shall be made public and shall be recorded in the minutes. The purpose of such executive sessions shall be set forth in the agenda and shall be limited to the purposes listed in subsection (b) of this section. Executive sessions may be held only for the discussion of public business, and all voting on public business must take place at a public meeting and the results of the vote made public.

(d) This section shall not prohibit the removal of any person from a public meeting who is willfully and seriously disruptive of the conduct of such meeting.

(e)(1) This subsection concerning notice of meetings shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety, or to the General Assembly.

(2) All public bodies shall give public notice of their regular meetings and of their intent to hold an executive session closed to the public, at least 7 days in advance thereof. The notice shall include the agenda, if such has been determined at the time, and the dates, times and places of such meetings, including whether such meeting will be conducted by video-conferencing; however, the agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

(3) All public bodies shall give public notice of the type set forth in paragraph (e)(2) of this section of any special or rescheduled meeting as soon as reasonably possible, but in any event no later than 24 hours before such meeting. A special or rescheduled meeting shall be defined as one to be held less than 7 days after the scheduling decision is made. The public notice of a special or rescheduled meeting shall include an explanation as to why the notice required by paragraph (e)(2) of this section could not be given.

(4) Public notice required by this subsection shall include, but not be limited to, conspicuous posting of said notice at the principal office of the public body holding the meeting, or if no such office exists at the place where meetings of the public body are regularly held, and making a reasonable number of such notices available. In addition, for all noncounty and nonmunicipal public bodies, public notice required by this subsection shall include, but not be limited to, electronic posting on a designated State of Delaware website, approved by the Registrar of Regulations by May 1, 2013, which shall be accessible to the public. In addition, all public bodies in the executive branch of state government that are subject to the provisions of this chapter shall electronically post said notice to the designated State of Delaware website approved by the Secretary of State.

(5) When the agenda is not available as of the time of the initial posting of the public notice it shall be added to the notice at least 6 hours in advance of said meeting, and the reasons for the delay in posting shall be briefly set forth on the agenda.

(f) Each public body shall maintain minutes of all meetings, including executive sessions, conducted pursuant to this section, and shall make such minutes available for public inspection and copying as a public record. Such minutes shall include a record of those members present and a record, by individual members (except where the public body is a town assembly where all citizens are entitled to vote), of each vote taken and action agreed upon. Such minutes or portions thereof, and any public records pertaining to executive sessions conducted pursuant to this section, may be withheld from public disclosure so long as public disclosure would defeat the lawful purpose for the executive session, but no longer. All public bodies in the executive branch of state government that are subject to the provisions of this chapter shall electronically post final approved minutes of open public meetings to the designated State of Delaware website approved by the Secretary of State within 5 working days of final approval of said minutes.

(g) Every regularly scheduled meeting of a public body shall be held within the geographic jurisdiction of that public body. All such other meetings shall be held as follows:

(1) A public body serving any political subdivision of the State, including, but not limited to, any city, town or school district, shall hold all such other meetings within its jurisdiction or the county in which its principal office is located, unless it is school board training that has been approved by the Secretary of Education as beneficial to school board development activities.

(2) For the purposes of this subsection, a "regularly scheduled meeting" shall mean any meeting of a public body held on a periodic basis.

(3) The provisions of this subsection, insofar as they are not practicable, shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety, or to a meeting held by a public body outside of its jurisdiction which is necessary for the immediate preservation of the public financial welfare.

(h) This section shall not apply to the proceedings of:

(1) Grand juries;

(2) Petit juries;

(3) Special juries;

(4) The deliberations of any court;

(5) The Board of Pardons and Parole;

(6) Public bodies having only 1 member;

(7) Public bodies within the legislative branch of the state government other than the House of Representatives, the Senate, the Joint Finance Committee, the Joint Committee on Capital Improvement, the Joint Sunset Committee, Legislative Council, committees, excluding ethics committees, specifically enumerated and created by Resolution of the House of Representatives and/or Senate or task forces specifically enumerated and created by Resolution of the House of Representatives and/or Senate;

(8)a. The Victims' Compensation Assistance Program Appeals Board may close any meeting to the public where:

1. The claim to be considered derives from any sexual offense within the definitions of a crime in § 9002 of Title 11.

2. The claim to be considered derives from any offense by or against a child, as defined in this section, unless such child has been deemed amenable to the jurisdiction of a criminal court as to the matter before the Board.

3. The claim to be considered derives from any matter not yet adjudicated.

4. The claim to be considered involves a "victim" who is a "child" as those terms are defined in Chapter 90 of Title 11.

b. The Board shall produce a complete record of any proceedings closed to the public which record may be denied to anyone seeking access for good cause shown; and

(9) The deliberations of the following agencies for any case decision governed by the Administrative Procedures Act in Chapter 101 of this title:

a. State Human Relations Commission;

b. Industrial Accident Board;

c. Tax Appeals Board; and

d. Victims' Compensation Assistance Program Appeals Board.

(i) In an enforcement action pursuant to § 10005 of this title, a citizen or the Attorney General, as the case may be, may seek the forfeiture of all or part of the compensation of members of a board, commission or other public body for any closed meeting which such board, commission or other public body closed knowing that such action violated this chapter. Such forfeiture may only be ordered by the Court if the Court makes a specific finding that the board, commission or public body had no good faith basis to believe that the meeting could be closed. It shall be an absolute defense that an individual never voted in favor of the closed meeting. If the board, commission or public body also met validity for other purposes on the same day as the meeting which violated the act, such valid action shall be considered by the Court in determining the extent of any forfeiture award.

60 Del. Laws, c. 641, § 1; 63 Del. Laws, c. 269, § 1; 65 Del. Laws, c. 191, §§ 7-12; 66 Del. Laws, c. 419, § 1; 67 Del. Laws, c. 367, §§ 1, 2; 71 Del. Laws, c. 38, § 1; 71 Del. Laws, c. 117, § 1; 71 Del. Laws, c. 191, § 1; 71 Del. Laws, c. 193, § 1; 72 Del. Laws, c. 459, § 1; 72 Del. Laws, c. 460, § 18; 75 Del. Laws, c. 178, §§ 1, 2; 77 Del. Laws, c. 38, §§ 6, 7; 77 Del. Laws, c. 211, § 3; 78 Del. Laws, c. 288, § 5; 79 Del. Laws, c. 125, § 4.;

**§ 10005 Enforcement.**

(a) Any action taken at a meeting in violation of this chapter may be voidable by the Court of Chancery. Any citizen may challenge the validity under this chapter of any action of a public body by filing suit within 60 days of the citizen's learning of such action but in no event later than 6 months after the date of the action.

(b) Any citizen denied access to public records as provided in this chapter may bring suit within 60 days of such denial. Venue in such cases where access to public records is denied shall be placed in a court of competent jurisdiction for the county or city in which the public body ordinarily meets or in which the plaintiff resides. Notwithstanding the foregoing, a person denied access to public records by an administrative office or officer, a department head, commission, or instrumentality of state government which the Attorney General is obliged to represent pursuant to § 2504 of this title must within 60 days of denial, present a petition and all supporting documentation to the Chief Deputy as described in subsection (e) of this section. Thereafter, the petitioner or public body the Attorney General is otherwise obligated to represent may appeal an adverse decision on the record to the Superior Court within 60 days of the Attorney General's decision.

(c) In any action brought under this section, the burden of proof shall be on the custodian of records to justify the denial of access to records, and shall be on the public body to justify a decision to meet in executive session or any failure to comply with this chapter.

(d) Remedies permitted by this section include an injunction, a declaratory judgment, writ of mandamus and/or other appropriate relief. The court may award attorney fees and costs to a successful plaintiff of any action brought under this section. The court may award attorney fees and costs to a successful defendant, but only if the court finds that the action was frivolous or was brought solely for the purpose of harassment.

(e) Any citizen may petition the Attorney General to determine whether a violation of this chapter has occurred or is about to occur. The petition shall set forth briefly the nature of the alleged violation. Upon receiving a petition, the Attorney General shall promptly determine whether the petition is against an administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obliged to represent pursuant to § 2504 of this title. Every petition against an administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obliged to represent pursuant to § 2504 of this title shall be referred to the Chief Deputy Attorney General who shall, within 20 days of receiving the petition, render a written determination to the petitioner and the public body involved declaring whether a violation has occurred or is about to occur. If the Chief Deputy finds that a violation of this chapter has occurred or is about to occur, the Attorney General shall not represent the public body in any appeal filed pursuant to this chapter for such violation if the public body the Attorney General is otherwise obligated to represent fails to comply with the Chief Deputy's determination. Regardless of the finding of the Chief Deputy, the petitioner or the public body may appeal the matter on the record to Superior Court. In every other case, the Attorney General shall, within 10 days, notify in writing the custodian of records or public body involved. Within 20 days of receiving the petition, the Attorney General shall make a written determination of whether a violation has occurred or is about to occur, and shall provide the citizen and any custodian of records or public body involved with a copy of the determination. If the Attorney General finds that a violation of this chapter has occurred or is about occur, the citizen may: (1) File suit as set forth in this chapter; or (2) request in writing that the Attorney General file suit on the citizen's behalf. If such request is made, the Attorney General may file suit, and shall within 15 days notify the citizen of the decision to file suit, unless the custodian of records or public body has agreed to comply with this chapter. The citizen shall have the absolute right to file suit regardless of the determination of the Attorney General, and may move to intervene as a party in any suit filed by the Attorney General.

(f) An administrative office or officer, agency, department, board, commission or instrumentality of state government which the Attorney General is obligated to represent pursuant to § 2504 of this title shall not require the approval of the Attorney General pursuant to § 2507 of this title to address claims of violation under this chapter.

60 Del. Laws, c. 641, § 1; 65 Del. Laws, c. 191, § 13; 66 Del. Laws, c. 354, §§ 1, 2; 77 Del. Laws, c. 400, §§ 1-3.;

**§ 10006 Video-conferencing participation in open meetings.**

Unless otherwise prohibited by law, any public body subject to the provisions of this chapter, except for any public body in which members are elected by the public to serve on the public body, may conduct a meeting by means of video-conferencing, provided each attending member's participation occurs at a noticed public location where members of the public may also attend the meeting. The participation of a member of such public body by video-conferencing in compliance with this section shall be deemed attendance for all purposes, including purposes of establishing a quorum. When video conferencing is used, at least 1 of the noticed public locations shall be within the geographic jurisdiction of that public body. Meetings may otherwise be noticed for multiple public locations within the state where video-conferencing is available. During meetings where video-conferencing is used, each member must be identified, all participants shall be able to communicate with each other at the same time, and members of the public attending at the noticed public location or locations of the meeting must be able to hear and view the communication among all members of the public body participating by video-conference. Video-conferencing participation is not permitted when a verbatim transcript of the meeting may be required by law, except for public hearings on proposed rules and regulations, or where the chair or presiding officer determines that physical attendance is required at a single location.

77 Del. Laws, c. 211, § 4.;