LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on June 11, 2012 at 5:30 p.m. with Chairman Lynn presiding. Members present were Mr. Anderson, Mr. Hare, Mr. Rushe, and Mr. Shevock. Members of Council present were Mrs. Russell, Mr. Perza, Mr. Bonar, Mr. Hutchison, and Council President Leary. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

Mr. Lynn requested that Items #1 and #2 be reversed in order of sequence as well as Items #4 and #5.

Mr. Anderson moved for approval of the agenda, as amended, seconded by Mr. Shevock and unanimously carried.

Review and Recommendation - Filling Critical Positions - Library Clerk II - Dover Public Library

Mr. Scott Koenig, City Manager, reviewed a request to fill a Library Clerk II position in the Dover Public Library. He stated that it was anticipated that the individual selected would begin employment on or about August 1, 2012. He reminded members that, as the opening of the new Library approaches, it will be imperative that the City return to the previous staffing level of the Library in order to maintain the current level of service. This position was previously budgeted and has remained unfilled. Although it was not included in the FY12 budget, it has been included in the FY13 budget. He estimated the budgetary impact for wages and benefits at $40,245.

Mr. Anderson moved to recommend approval of the request to fill the position of Library Clerk II, as recommended by staff, seconded by Mr. Shevock and unanimously carried.

Proposed 15% Healthcare Premium Cost Sharing Arrangement - Non-Bargaining Only *(Referred Back to Staff by City Council on May 29, 2012 for Further Evaluation)*

During the Council Committee of the Whole Meeting on May 29, 2012, members considered a proposal submitted by the City Manager for a 15% healthcare premium cost sharing arrangement for non-bargaining employees. After much discussion, the Committee recommended that the proposal be referred back to staff for further evaluation.

Mr. Scott Koenig, City Manager, read a memorandum dated June 7, 2012, from the City Manager to Members of the Legislative, Finance, and Administration Committee regarding Health Insurance Premiums for Non-Bargaining Employees, as follows:

> *During the Council Committee of the Whole meeting on Tuesday, May 29, 2012, a motion was made to refer the issue of a 15% cost sharing contribution for all non-bargaining employees back to the City Manager for further consideration. Attached are eight (8) different cost sharing scenarios as described, as well as, the estimated annualized savings to the City if the scenario were to be implemented for non-bargaining employees:*
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> | *1)* | *HB81* | *$ 44,973* |
> | *2)* | *Premiums Based Upon First State Basic* | *$ 46,547* |
> | *3)* | *Stepped Percentage (10, 15, 18 & 20)* | *$ 58,057* |

4)	*Stepped Percentage (10, 15, 20 & 20)*	*$ 60,170*
5)	*15% Across the Board (City Manager's Preferred Option)*	*$ 66,559*
6)	*Stepped Percentage (12, 15, 18 & 21)*	*$ 66,724*
7)	*Stepped Percentage (10, 15, 20 & 25)*	*$ 66,835*
8)	*Additional 15% to All Current Percentages*	*$ 114,554*

I also held a meeting on Monday, June 4, 2012 with a group of approximately thirteen (13) non-bargaining employees to receive their ideas and feedback on the City Manager's original 15% Across the Board proposal. Several revenue generating proposals were put forth by staff that could be implemented to generate additional revenue for the city. The employees also expressed a number of concerns that I would like the opportunity to relay to the committee during a brief verbal update to the committee on Monday night. I am therefore requesting a few minutes at the podium to further express their concerns to the committee.

Mr. Koenig noted that members had received spreadsheets with details regarding the eight (8) scenarios as well as the "Other Postemployment Benefit GASB 45 Actuarial Valuation," which indicated an unfunded Other Post-Employment Benefit (OPEB) liability for the City of Dover in the amount of $76,393,013, as of June 30, 2012.

Mr. Koenig advised members that the ideas that employees had suggested as revenue-generating proposals related to itinerant merchant licenses, rental and lodging fees, business license fees, open gym fees, downtown banner fees, etc. Several of these fees, such as business licenses, had been brought before City Council in previous years and were not supported. As a result, it was his feeling that staff could not present such revenue ideas to offset the unfunded liability costs. He reiterated that the unfunded liability was a long-term issue that he was attempting to address through the cost sharing proposal and that each employee has a vested interest in ensuring that the benefit will be available in retirement.

Mr. Koenig stated that non-bargaining employees also relayed concerns about representation, since they were not unionized. He explained his difficulty in representing both sides of the issue. He indicated that the non-bargaining employees were concerned that they would become an isolated group in this matter, and that the 15% cost-sharing would be implemented for them and not be carried through to the unions. Mr. Koenig indicated that he could make no guarantees in this regard, since his role was to make proposals rather than to act on them. Although his intent was to bring forward proposals that would achieve the same scenario for union employees, he could not guarantee their approval.

Mr. Koenig stated that concerns were also relayed by employees who were eligible or nearly eligible for retirement that the City was "changing the game" near the end of their careers, and they questioned if implementation of the proposal could be delayed for employees with significant years of service. He explained the difficulty of implementing the proposal "fairly" since others would feel that such a proposal was unfair. In addition, he stated that employees have brought up the possibility of providing a phase-in for the proposal. He noted that when the State proposed HB81,

approximately 18 months prior notice was provided to employees that they would begin to pay for health insurance. Mr. Koenig stated that, because of the timing of the budget and the expiration of union contracts, he was unable to work with that type of horizon and reminded members that the draft budget included a "tag line" for 15% healthcare cost sharing across the board, with a credit of approximately $250,000 to the budget if approved. The credit for non-bargaining employees would only be approximately $66,750. Therefore, he stated that the budget submitted to Council included an assumption that on July 1, 2012, 15% healthcare sharing across the board would be implemented for all four (4) of the employee groups (non-bargaining employees and all three (3) union groups). As previously indicated, he explained he could not disclose the nature of collective bargaining discussions or agreements. He also could not guarantee that all three (3) union contracts would be signed by July 1, 2012.

Mr. Koenig stated that the non-bargaining employees also reminded him and wanted members of Council to be aware that they received no step or Pay-for-Performance increases in FY12 and that the current draft budget for FY13 did not allow for any non-bargaining increases.

At the request of Mrs. Mitchell, Controller/Treasurer, Mr. Koenig advised members that, of the eight (8) scenarios, only two (2) had been studied and analyzed by the City's Actuary - Scenarios #1 (HB81) and #5 - 15% across the board. As such, he stated that these were the only two (2) options that provided certainty regarding the City's long-term liabilities. He noted that, over the past two (2) years, the City had spent approximately $57,000 for the Actuary's work for the Health Benefits Committee to assist in determining which options would benefit the City's long-term liabilities. He reminded members that this was not a one-time budget concern but a long-term issue for the City.

Mr. Koenig noted the receipt of several letters and other correspondence from various employees which were submitted for consideration ***(Attachment #1)***. He reminded members that, as the City Manager, he represented employees, Council, rate payers, and taxpayers to the best of his ability, and as such, he recommended the 15% across-the-board proposal. Mr. Koenig stated that this recommendation was based on all information provided, including the independent administrative evaluation. He considered this the option that would cause the least harm to the organization. He acknowledged that employees receiving individual healthcare would be the most affected; however, he felt that this was a fair proposal when viewed over the span of an employee's career.

In response to Mr. Shevock, Mrs. Donna Mitchell, Controller/Treasurer, stated that the City follows State guidelines, including the requirement of an affidavit regarding spousal coverage, and the coverage that the City's employees have is predicated on those forms being completed; therefore, any change in coverage as a result of these forms was built into the budget. She was not aware of the savings that this provided, if there were a savings, since this was already included in the budget. Noting that the City pays 75% for dependent coverage and that dependent coverage for State employees is paid 100% by the employee, Mr. Shevock questioned if the City had considered this option. Responding, Mr. Koenig stated that staff had considered this option; however, due to the costs and the employees who would be affected (primarily those below mid-level management), it was determined that some of the City's lower paid employees would not be able to afford this insurance.

Mr. Anderson relayed appreciation for the work staff had conducted on this matter and supported the efforts to contain costs for the City. He questioned if the City should take a position before the provisions of the union contracts were known, explaining his concerns regarding parity and fairness. Responding, Mr. Koenig stated his desire to be fair and estimated that signed contracts with the unions should be obtained by August or September, and possibly sooner. He indicated concern that if the Committee were to recommend approval of staff's recommendation, this matter would be considered by City Council on June 25, 2012, with a possible implementation date of July 1, 2012. This would create an administrative problem for employees wishing to retire. Should members wish to delay implementation until September 1, 2012 for current employees, he felt that this could be handled administratively and would not affect the proposed budget. However, he suggested that there be a caveat included that any new non-bargaining employees hired would be responsible for the 15% cost sharing for healthcare costs.

Responding to Mr. Lynn, Mr. Koenig advised members that in discussions with other managers throughout the State, it appeared that almost every municipality was unique, noting that some were completely non-unionized, others did not offer any post-employment benefits, and others intermingle health insurance with Workman's Compensation insurance. As a result, it was difficult to obtain an "apples to apples" comparison. He advised members that employees who were hired in recent years from the private sector had indicated to him that even if required to pay the 15%, they would still be paying less than they paid previously.

Mr. Koenig noted that the Controller/Treasurer indicated that if HB81 were applied to all City employees and retirees, this would be the best option for the City and would actually reduce healthcare costs for some employees; however, staff has had a difficult time discussing this issue as it pertains to retirees. He reminded members that one of the recommendations of the Health Benefits Committee was for the City not to take action regarding retirees' healthcare.

At the request of Mr. Lynn, Mr. Perza stated that the report of the Salary and Benefits Compensation Comparison Committee, which includes information comparing healthcare and retirement benefits of various jurisdictions, had not yet been released. To his recollection, the comparison included larger towns such as Newark, Wilmington, Middletown, Dover, Harrington, Smyrna, Lewes, etc., as well as the three (3) Delaware counties and the State of Delaware. He confirmed that there was some form of cost sharing across the board; however, this varied by degree depending on the size of the municipality. There was no consistent percentage or unified factor for cost sharing.

In response to Mr. Hutchison, Mr. Koenig confirmed that one year ago, the City's budget reflected a $3.4M shortfall. Over the past year, that deficit had been reduced to approximately $630,000 and there has been a reduction of 12 employees. He advised members that the five (5) year projection for the General Fund budget reflected a $2M deficit in FY14, which must be addressed by adjusting the budget, gaining an increase in economic activity, cutting costs, or a combination of these approaches.

Responding to Mr. Anderson, Mr. Koenig stated that the scenario recommended by staff would have no impact on current retirees. If the recommendation were approved for implementation on July 1, 2012, employees who retired after that date would carry the 15% cost sharing into retirement.

Referring to Scenario #7, Mr. Bonar requested that the City Manager provide more detail and an explanation of the stepped percentages which he stated varied between a financial contribution of $58,057 and $66,835. Mr. Koenig explained that the steps were based on the percentage of contribution; for example, on Spreadsheet #3, an employee with only "employee" coverage would pay 10% of the premium for the plan selected, an employee with "child" coverage would pay 15% of the premium for the plan selected, an employee with "spouse" coverage would pay 18% of the premium for the plan selected, and an employee with "family" coverage would pay 20% of the premium for the plan selected.

Mr. Bonar questioned if an analysis had been performed for a stepped cost sharing based on years of service. Responding, Mr. Koenig stated that such an analysis was not conducted, since he personally had multiple years of service and he did not want his recommendation to be considered self-serving. He advised members that there were 78 non-bargaining employees and, although staff had the data to conduct such an analysis, they would have to bring the information forward at a later time. Although he understood the position of the City Manager, Mr. Bonar indicated that it was the role of staff to present recommendations and it was ultimately Council's decision as to the final action taken on matters. He felt that a stepped cost sharing based on years of service would be more palatable.

In response to Mr. Bonar's suggestion, Mrs. Donna Mitchell, Controller/Treasurer, reminded members that entry-level employees, who are paid at a lower rate, would be hit hardest under such a proposal. Although in most instances higher paid employees have been employed by the City the longest, she noted this was not always the case, such as newly employed department heads.

Mr. Lynn opened the floor for public comment and reminded all that each individual was provided three (3) minutes or less to speak. He requested that individuals refrain from duplicating comments and suggested that, since some individuals would also be speaking later in the evening before City Council, it might be appropriate to select a representative to speak.

Mrs. Patricia Virdin, 70 Peach Blossom Lane, Camden, (Police Department) stated that she had been an employee of the City for over 20 years and read the following statement into the record:

> *My name is Patricia Virdin, I live at 70 Peach Blossom Lane in Camden. I have been an employee of the city for over 20 years and I have the honor of working at the Police Department.*
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> *At a prior council meeting, the city manager made the comment that he felt 92 dollars was not a significant amount. I beg to differ. At the current rate, nearly 6% of my pension will go toward this new expense. And that is at TODAY's rate of 92 dollars per month. We all know that the cost will go up. Combined with the lack of*

pay increases for the past two years, I fully expect this new expense to wipe out more than 10% of my pension. I hardly call that insignificant. As I am coming towards the end of my career, I have had no time to adequately plan for this expense.

My husband is also a city employee, so this measure hits my family doubly hard. However, if this proposal is implemented on my husband's salary, it will be because the FOP negotiated, voted, and agreed to it. As a non-bargaining employee, I have not been afforded that opportunity. All I have – the only thing I have – is a city handbook that was issued to me upon my hire in 1992. This handbook has 11 chapters that cover both my responsibility to the city and the city's responsibility to me. Clearly stated in Article 9 is the fact that the city will pay 100% of an employee's healthcare and will continue to do so for retirees.

If, as the city manager believes, the handbook is simply a "guideline" and the city is not required to abide by the statements therein, it seems to follow that the employees who are not otherwise governed by a union contract ***cannot be required*** *to adhere to the policies in the handbook. Policies governing such things as absences, use of city equipment, outside employment, personal conduct, disciplinary actions, and so on, would be useless.*

Although morale among employees is at a record low, the non-bargaining employees are united and more organized than I have ever known. I stand with my 77 non-bargaining co-workers to ask that you abide by the city handbook and implement this policy on new hires only. We have honored and abided by the terms of this handbook for our entire careers; we ask that you do the same.

Mr. Dave Truax, 35 Upland Avenue, Dover, (Fire Marshal's Office) stated his frustration that previous action by Council approved additional monies to be given to organizations and for providing cameras downtown, etc., and Council transferred funds to accommodate these expenses; however, never addressed the $630,000 budget deficit. He requested that members consider the possibility of funding the $66,000 that would be acquired by implementing the City Manager's recommendation, in a way similar to what has been done for others. This would provide everyone an additional year to consider and prepare for such a change and to know the results of contract negotiations. He expressed confidence that the City Manager and Council would take the appropriate action. He indicated that he had been an employee for 22 years and stated his hope that there would be no change to his healthcare benefits.

Mr. Paul Bernat, 185 Captain Davis Drive, Camden, (Police Department) read the following statement into the record:

Good evening, my name is Paul Bernat and I reside at 185 Captain Davis Dr., Camden, Delaware. I am the Deputy Chief of Police for the Dover Police Department. I have been a loyal City employee for the past 23 years. I am standing before you this evening asking you not to lessen my health benefits.

I was promoted to the rank of Major in April of 2010. With my promotion I left the FOP Union and became part of the non-bargaining group of the City, which is predominately management. In fiscal year 2012 all of the Unions received raises. The non-bargaining group did not receive a raise and are not receiving raises again this year. The three City Unions are currently in contract negotiations and are in the bargaining process. The Unions will receive "something" in exchange for the 15% healthcare cost sharing.

Last year around this time I contacted the Public Employment Relations Board (PERB) and began the process to join the FOP. I later withdrew my application, after Chief Hosfelt requested I do so. Chief Hosfelt felt confident that the City Council will do the right thing and take care of the non-bargaining employees. Little did I know that ten months later the City Manager would propose in the City budget that the non-bargaining group pay 15% towards their healthcare.

I also need to mention that I attended all of the Salary and Benefits Compensation Comparison Committee meetings and was disappointed when my salary was called out as "above the maximum for the pay grade". I looked into it further and discovered that the pay information that was provided to the committee from the City was the "2008 MAG" study. It is not reasonable to compare 2008 wages to 2012 wages.

In my 23 year career I have never felt as unappreciated as I do now. I feel that Council has the mind set that city employees are merely an expense and do not contribute to the excellent service that is provided to your constituents.

I do understand that the growing trend is to reduce government employees' benefits. However, I believe any lessening of benefits should apply to new hires or take effect in ten years for tenured employees. Currently the City has several employees that are at the 20 year mark and will retire within the next ten years. It is imperative that the City not lose all of the knowledge and expertise from tenured employees. Lessening current employees benefits are causing good employees to retire early. This is causing the City to pay retirement benefits and new employee benefits as well.

In conclusion, I would like to reiterate that the non-bargaining employees did not receive a raise last year, when Union employees did. The proposed 15% healthcare cost share would only save the City a nominal amount but will continue to affect employees in their retirement for the rest of their lives. Thank you for your time and much needed support.

Mrs. Nancy Swaggard, 2629 Farm Lane, Camden Wyoming, (Customer Service Department) stated she was an 18 year employee who had taken a non-bargaining position approximately six (6) years ago. She advised members that when she first took the position, she had five (5) employees and now has two (2), with the same amount of normal work to perform and additional responsibilities

transferred from other departments that have also been shorted employees. She assured members that staff was doing the best they could and that having benefits taken away only hurts. Mrs. Swaggard noted that, taking her salary into consideration and the 15% healthcare costs, her employees would actually be making more money than she would receive as their supervisor. She indicated that there were others in the same situation and relayed concern that this could affect their hard work and will to do a good job. She requested that all non-bargaining employees in attendance stand united and be recognized *(City Clerk's Office Note: There were approximately 18 individuals who stood.)*

Ms. Carolyn Courtney, 24 Lamplighter Lane, Dover (Parks and Recreation Department) advised members that she was born and raised in the City of Dover and had worked for the Parks and Recreation Department for over 11½ years. As a taxpayer, she felt that the City provides excellent services, parks, facilities, flowers, clean streets, etc., and stated that residents are able to put out almost anything for the trash to be picked up by the City. She noted that other jurisdictions do not have such services; however, their residents pay much higher taxes. She relayed no objections to a slight tax increase to continue to pay for the services and noted the benefit of "writing off" taxes on income tax returns. As an employee, Ms. Courtney relayed concerns regarding the lack of pay raises and reminded members that the last time a raise was provided, the City instituted furlough days; therefore, there was no pay raise realized. She noted that members of Council have continued to fund events, festivals, and downtown economic development; however, they are unable to fund the City's obligation to employees as reflected in the Employee Handbook. She explained that employees were hired with the understanding that the Employee Handbook reflected the employee's benefit package. She stated that although she has had opportunities to work in the private sector at a much higher salary since being employed with the City, she declined and remained employed by the City due to the benefit package. She requested that members consider the effect their decision would have on those employees who are and have been dedicated.

Mr. Paul Cookson, 233 Hibiscus Terrace, Magnolia, (Police Department) read the following statement into the record:

> *My name is Paul Cookson. I reside at 233 Hibiscus Terrace, in Magnolia. I have been a loyal and dedicated employee, working in the Police Department, for over 20 years.*
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> *My employment with the City had a unique start, and I feel that I had a part in starting something meaningful. In 1991, while finishing my Bachelors Degree in Law Enforcement Administration at Western Illinois University, I was required to complete an internship with an agency of my choice for a full semester. I contacted several police departments here in Delaware to see if they would take me. One of those agencies was Dover PD. The chief at the time, Chief Hutchison, explained to me that Dover had never received any prior intern requests. Nevertheless, I must have done something right since he offered to work with me. I don't know if Chief Hutchison knew at the time that I had contacted several other agencies: Rehoboth Beach PD, and the Department of Natural Resources. Both of those agencies had*

offered me a paid internship in an enforcement officer capacity. Dover's internship was offered with no pay; only for the experience. In considering the possibility that my internship could lead to future employment, I took into consideration the organizations and what they had to offer. The paid positions would most likely lead to permanent police officer positions. However, I saw a good thing with Dover and its excellent benefits and that is what I chose.

My 16 weeks of experience working with the various units paid off, as I was hired the following year in the communications center. The rest is history. Dover still takes on interns to this day.

My point here is not about my internship, only that I had a choice of where to conduct it. The benefits offered by prospective future employment played a big part in my decision. When I picked Dover I felt that I made the right choice and would be working for an organization I could trust, and retire securely with the benefits outlined for me. I am sure there are many similar stories from those behind me that will not have the chance to be heard tonight.

Every employee regardless of position is an important part of this organization. Your non-bargaining employees, from middle-management right up to department heads, are what hold everything together. They are your longest serving and most experienced employees. They are your foundation. If they cannot trust their employer, that foundation is undermined. When a foundation is not sound, neither is what is above it. You MUST honor what was offered to your employees when they came on board, and stop putting the burden of financial woes on their shoulders. If you do not, you will be setting a precedence that will surely be weighed by your future foundation.

Ms. Diane Glenn, 218 Northdown Drive, Dover, (Police Department) noted that at a recent Council meeting, members approved, with little to no resistence, an amended budget that included transferring $600,000 from the Electric Department's Reserve to offset the deficit. She was excited that money was found at a time when employees were advised that cuts and extreme measures would need to be taken. All the while, she thought the $600,000 eliminated the need for a healthcare cost share with non-bargaining employees. Although these funds did not offset the $66,000 necessary to eliminate the need for a healthcare cost share, the necessary funds were found for the continuation of two (2) City festivals for the next fiscal year. At this point, she felt that members of Council must feel that these two (2) festivals are more important to them than the non-bargaining employees. She felt that Council had the opportunity to transfer the necessary $66,000 but chose to fund the festivals only. Mrs. Glenn indicated her understanding for the need to "tighten the purse strings" and forego a pay raise and have furlough days; however, the healthcare cost share would result in a decrease in salary. She advised members that she is a single mother and moved to Dover 19 years ago to take the job with the City and has no family in the area. She explained that the benefits offered by the City lured her to make the move. She requested that City Council and the City Manager work together to develop a proposal that would not include an attempt to "balance the budget on the backs of the employees."

Ms. Christina Kober, 343 Orchard Grove Drive, Camden, (Police Department) advised members that she has been a loyal and dedicated employee for 23 years and would be eligible for retirement in only two (2) years. She reminded members that non-bargaining employees did not receive a pay increase last year or this year. She stated that non-bargaining employees have no rights to negotiate benefits, which were promised during employment and into retirement. It was her understanding that the Employee Handbook, approved by City Council, was equivalent to a contract. She trusted and hoped that members of Council would honor those written agreements. She felt it was clear and evident that the financial impact for non-bargaining employees was a genuine hardship and a severe blow to employee morale that may not be reversible. Ms. Kober requested that members honor the written promise (or agreement), as stated in the Employee Handbook, that the City would pay 100% of each full-time, regular employee's individual coverage and eliminate healthcare premium cost sharing for non-bargaining employees.

Ms. Robin Adkins, 27 Waterwheel Circle, (Police Department) indicated that she had been employed with the City of Dover Police Department for almost 13 years. In addition to the issues previously discussed, she stated her concern that non-bargaining employees do not have the ability to negotiate for any benefit changes, salaries, etc. She reminded members that bargaining employees receive step increases as well as promotions and that there are no step increases or automatic increases built into the non-bargaining employees' pay scale. She indicated that there was no set schedule after retirement; therefore, as healthcare costs increase, the retirement pay for retired non-bargaining employees would continue to decrease. Ms. Adkins advised members that one (1) of the main reasons for selecting the City's employment was the benefit package. She encouraged members to consider the concerns relayed in making their decision regarding this matter.

Mr. Anderson felt that it was essential for members of Council to be provided with information regarding long-term healthcare costs; however, he noted that it was necessary for immediate action to be taken at this time. He explained that Scenario #2 would provide the employee the choice to maintain a 100% premium for basic coverage and if additional coverage were desired, the employee could pay more. This would address the concerns of those who could not afford cost sharing and, at the same time, save the City a substantial amount of money.

Mr. Anderson moved to recommend approval of employee cost sharing of health insurance premiums for non-bargaining employees based upon Scenario #2 - Premiums Based Upon First State Basic, to be effective July 1, 2012, seconded by Mr. Hare and carried, with Mr. Lynn voting no.

Mr. Bonar advised members and those in attendance that he departed the meeting during the public comment period to make some telephone calls regarding healthcare premiums. Based on these three (3) calls, he discovered that monthly premiums for health insurance ranged from a $96 contribution to a $274 contribution. He noted that the $274 monthly contribution in the private sector also included a $10,000 deductible on health insurance premiums. He suggested that this information provided an indication of how the City compared to the private sector.

Proposed Ordinance #2012-10 - Amending Chapter 1 - General Provisions, Section 1-13 - Denial of Permits or Approvals for Failure to Comply with Requirements for Payment, Actions, or Filings (Clean Hands) with CA-#1 through #4 ***(Referred to Committee by City Council on May 14, 2012; Deferred by Council Committee of the Whole on May 29, 2012)***
During the Annual Council Meeting of May 14, 2012, members referred CA-#1 through CA-#4 to Proposed Ordinance #2012-10 to the Legislative, Finance, and Administration Committee for their review and recommendation. During the Council Committee of the Whole Meeting of May 29, 2012, consideration of Proposed Ordinance #2012-10 amending Chapter 1 - General Provisions, Section 1-13 - Denial of Permits or Approvals for Failure to Comply with Requirements for Payment, Actions, or Filings (Clean Hands) was deferred due to time constraints.

Mr. Anderson stated that, after speaking with Mrs. Ann Marie Townshend, Director of Planning and Community Development, regarding CA-#1, he no longer wished to make these changes at this time and provided an overview, including a narrative, of CA-#2 through CA-#4, as follows:

CA-#2 - The proposed language would ensure that the inclusion of owners and/or members of corporations would apply to owners of a one-half or greater interest in the said corporation. It would ensure that members of non-profit boards and other minority owners in corporations would not be denied services or permits due to the delinquencies of that corporation.

Mr. Anderson moved to recommend adoption of CA-#2, seconded by Mr. Lynn.

Mr. Perza questioned how the City would be able to determine owners of a one-half or greater interest since LLC's and corporations are private entities and the percentages of ownership would not be known. Responding, Mrs. Townshend explained that it was staff's intent that if a corporation applied for a permit or site plan, a disclosure form would be required listing the owners above the specified threshold as of the date of application.

In response to Mr. Hare, Mrs. Townshend confirmed that homeowners wishing to rent properties were required to obtain a permit; however, owners of commercial buildings were not required to obtain a permit to rent to another business or entity.

The motion recommending adoption of CA-#2 to proposed Ordinance #2012-10 ***(Attachment #2)*** **was unanimously carried.**

CA-#3 - The proposed language would allow for persons to serve on city committees, commissions, or boards, even if they are responsible for delinquencies or code violations; however, it requires that the city clerk inform the city council president of such delinquencies or violations and that an executive session of council be held to discuss such delinquencies or violations.

Mr. Anderson moved to recommend adoption of CA-#3 to proposed Ordinance #2012-10 *(Attachment #3)*, seconded by Mr. Hare and unanimously carried.

CA-#4 - The proposed language would add an appeal to city council for applicants aggrieved by the decision of the city manager.

Mr. Anderson moved to recommend adoption of CA-#4 to proposed Ordinance #2012-10 *(Attachment #4)*, seconded by Mr. Hare and carried, with Mr. Lynn voting no.

Mr. Anderson moved to recommend adoption of proposed Ordinance #2012-10, as amended to include CA#2, CA#3, and CA#4, seconded by Mr. Hare and unanimously carried.

Proposed Ordinance #2012-17 - Amending Chapter 26 - Businesses, Article I - In General, Section 26-1 - Sale of Dangerous Substances

Members reviewed proposed Ordinance #2012-17 - Chapter 26 - Businesses, Article I - In General, Section 26-1 - Sale of Dangerous Substances. Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that the proposed ordinance was developed in response to the chemical industry moving faster than staff's ability to present code amendments. As a result, she stated that the proposed ordinance would amend the City Code regarding sale of Bath Salts to refer to Delaware Code, Title 16, Chapter 47, as it relates to Schedule 1 Controlled Substances, rather than listing the prohibited substances by name. It would also amend the penalties to declare any businesses that sells such substances a public nuisance and refers to license revocation through summary action.

Mr. Lynn commended staff for taking immediate action to address the epidemic occurring with bath salts.

Mr. Hare moved to recommend adoption of proposed Ordinance #2012-17, seconded by Mr. Shevock.

Mr. Anderson relayed concern that the proposed ordinance could affect potential legislation dealing with medicinal marijuana, the use of which he felt would be appropriate.

The motion recommending adoption of proposed Ordinance #2012-17 *(Attachment #5)* was carried, with Mr. Anderson voting no.

Elimination of Pay for Performance

Mr. Hutchison questioned if the Pay for Performance policy identified the value of each and every job and a recommendation for entry-level, midpoint, and maximum salary for every employee. Responding, Mr. Scott Koenig, City Manager, stated that the Pay for Performance policy currently includes a salary table that states a minimum, midpoint, and maximum. This was the salary scale that was in place for Fiscal Year 2008. He stated that there is a scale that considers every position in the City, puts it on a grade, and provides a pay "band." This was the table that was presented to the Salary and Benefits Committee.

Mr. Hutchison questioned how the salaries for certain employees could become inconsistent with the policy. Mr. Koenig explained his understanding that, under the previous City Manager, the annual budget included a section called Pay for Performance, which included a matrix that provided a score. In addition, there was a page that included the existing salary scale and a proposed salary scale. For several years, he stated that City Council adopted the matrix but never adopted the new salary scale (which included a cost of living increase for the entire scale). He explained that this was the reason several positions that were identified in the Salary and Benefits Committee were beyond the scale, because the scale itself did not move forward as the raises were earned.

Based on this information, Mr. Hutchison noted the need for fairness and the need to identify each employee's value and to develop a salary scale. He suggested that staff consider the use of bonuses rather than salary increases. He felt that Council, along with the help of the City Manager, must "get a handle" on this matter for the future.

In addition to concurring with Mr. Hutchison, Mr. Anderson relayed concern that there were employees who received raises based upon factors that had very little to do with the core performance of their jobs. He noted that job descriptions did not match the actual job responsibilities and the Pay for Performance system seemed to slide based on the favor of the evaluator more than job performance. As such, he felt that the City should rework the Pay for Performance system. He indicated that he was not opposed to the concept of pay for performance, but that the current system was irrevocably broken, should be discarded, and a totally new system developed.

Mr. Hutchison requested, if members decide to move forward with the development of a new system, that this be accomplished by City staff (a management team).

Mrs. Russell advised members that she served as a president and chief shop steward for over 25 years and had never believed in pay for performance, feeling that it generates unfairness.

Mr. Anderson moved to recommend that the current Pay for Performance system to be eliminated effective July 1, 2012, seconded by Mr. Hare.

Mr. Shevock relayed concern with eliminating a system if there were no system to replace it, explaining that this could potentially cause chaos for the City Manager.

Mr. Hutchison requested that the motion be amended to request the City Manager to develop a recommendation and allow for the Pay for Performance System to remain in place until such time as a new system is in place.

Mr. Anderson moved to recommend that the Pay for Performance be eliminated effective upon the approval of a new system brought forth by the City Manager and staff, seconded by Mr. Hare.

Mr. Bonar suggested that the City Manager be provided a specific date, such as August 1, 2012, as a set date to submit a recommendation in order to ensure a timely response, and that members of Council be included in the discussion with the City Manager, as well as the Human Resources staff.

Disagreeing, Mrs. Russell requested that staff be provided ample time to develop a recommendation due to the importance of the issue and its effect on employee salaries, noting that this would not affect the current budget.

The motion recommending that the Pay for Performance be eliminated effective upon the approval of a new system to be brought forth by the City Manager and staff was carried, with Mr. Lynn voting no.

Reduced Rates for All-Electric Homes in December, January, and February *(Requested by Ted George During Open Forum at City Council)*
Due to time constraints, this item was deferred until the next meeting.

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

Meeting Adjourned at 7:08 P.M.

Sean M. Lynn
Chairman

SML/jg/js/dd
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Attachments to Original and File Copy
Attachment #1 - Letters and Other Correspondence from Various Employees
Attachment #2 - CA-#2 to proposed Ordinance #2012-10
Attachment #3 - CA-#3 to proposed Ordinance #2012-10
Attachment #4 - CA-#4 to proposed Ordinance #2012-10
Attachment #5 - Proposed Ordinance #2012-17

Rebecca M. Rollison
3153 Mahan Corner Road
Marydel, DE 19964
(302) 492-8074

June 11, 2012

Members of the LF&A Committee and City Council:

Hello, my name is Rebecca Rollison, and although I cannot make it to the meeting this evening to speak regarding the proposed 15% employee cost for healthcare, I would like to express my feelings on the matter.

I began my career with the City of Dover in January of 2008 with a starting salary of approximately $25,500 per year; this was about a $15K decrease in pay from my previous employer.

My husband and I discussed it and decided that although we would have to make some sacrifices, it would be worth it, because even though the salary was low, the healthcare benefits made up for it in the long run.

I accepted the position agreeing to the terms of the salary, but also with the belief that as long as I worked with the City and into my retirement, I would have 100% paid healthcare, this was a huge benefit for me.

Now, just four years later, I am being asked to pay 15% of my healthcare costs. To some of the department heads, $100 might not seem like much, to me it is huge, and seems like a broken promise. Right now 15% equals about $100 a month, what happens if healthcare prices increase, how much will it be then?

When the bargaining employees give up something, they receive something in return during their negotiations, the non bargaining just have to give it up.

The employees were asked to submit cost savings ideas, which we did, and to my knowledge, most of them were shot down without much thought.

Throughout all of the budget issues, the City Employees have come to work every day, remained loyal and have tried our best to provide the Citizens of the City of Dover with an outstanding level of service, while struggling to keep up morale, for this, we are penalized, it just doesn't seem fair.

I understand that the LF&A Committee and City Council have difficult decisions to make; I just ask that you really consider other options before trying to balance the budget on the backs of the employees.

Thank you.

Rebecca M. Rollison

Christina Kober
June 11, 2012
Legislative, Finance and Administrative Committee

My name is Christina Kober and I reside at 343 Orchard Grove Drive in Camden, Delaware. Good evening. Thank you for allowing me this opportunity to speak regarding health insurance cost sharing for non-bargaining employees. I am a part of a group of the non-bargaining employees.

I chose to take this opportunity to speak in hopes that you will listen and value my opinion. Non-bargaining employees received no pay increase last year **and** no pay increase again this year. As non-bargaining employees, we do not have the right to negotiate our benefits; benefits that were promised to us during our employment and into our retirement. It is my understanding that the city handbook, which was approved by City Council, is equivalent to a contract. I have to trust and hope that the elected officials here tonight will honor those written agreements.

I think it clear and evident that the financial impact for non-bargaining employees is a genuine hardship and severe blow to our morale that may not be reversible. **I urge you to do the right thing: honor the written promise as stated in the city handbook (the city pays 100% of each full-time regular employee's individual coverage) and eliminate health insurance cost sharing for non-bargaining employees.**

Thank you for your time and consideration in this important matter.

My name is Suzanne Foraker. I reside at 155 Oak Hill School Road, Townsend, DE. I would like to thank the City of Dover Council Members for affording me the opportunity to speak to you regarding the proposal that has been recommended to increase the cost-share of the non-bargaining City of Dover employees' health insurance by 15% effective July, 2012.

I work within the City of Dover Police Department as an Administrative Assistant. My employment began in September, 2011, just 9 short months ago. I have reviewed the Pay Per Performance matrix that is available on the intranet which reflects the salary ranges for every position within the city and includes the following categories: "Below Market Range", "At Market Range" and "Above Market Range". If you approve the 15% increase to the non-bargaining employees' health insurance premiums, this will place me in the "Below Market Range" category. I am not even on the radar. I would like to say that, for me, this is very demoralizing and makes me feel as though I am not a valued employee within the City of Dover. This most certainly was not what I expected when I agreed to partner with the City of Dover.

I know that the non-bargaining group of employees are reasonable people who bring a wealth of knowledge, experience and dedication to the table.

The other bargaining units within the city enjoy negotiating rights that afford them the opportunity for equitable representation. I think that it is reasonable to suggest that since there were no salary increases offered last year, nor will there be any this year, that the 15% increase to our health insurance be removed from the budget and other cost-saving alternatives be considered.

In conclusion, I respectfully request that you seriously consider these reasonable suggestions and/or solutions that the members of the non-bargaining pool have made. We have represented ourselves in a fair and equitable manor and would appreciate the same careful attention and consideration that is afforded to the other bargaining units with the City of Dover.

Thank you.

Comments for Legislative & Finance Committee and City Council

Carolyn Courtney
24 Lamp Lighter Lane
Dover, DE 19904

Regarding: Proposed healthcare changes for non-bargaining employees

Thank you, esteemed members of Council for serving your time for the citizens of Dover. As a native to Dover and 12 year City employee, I truly appreciate all the city has available to and for their residents.

As a taxpayer, while I cannot say I really want my taxes raised, I would certainly understand a slight increase if it meant keeping our services and offerings to the community. At the end of the year, I can write-off a 100 bucks more in taxes, I wouldn't necessarily like it, but I understand the need to pay for services provided. If I want these services to continue, then I have to pay for them. Keeping the level of services and offerings depends on keeping valued and dedicated workers, too.

As an employee, WOW! I was brought into the city workforce knowing it was a great place to live & work. My salary wasn't and still isn't what I could make in the private sector. However, the benefit package that I was hired with made the investment of my time and dedication well worth it.

Like the tide, I've seen folks come & go in the workforce for a variety of reasons. Only recently, has that been mainly due to morale and feelings of being unappreciated & devalued. The last year in which I did receive a pay raise, I also had to take days off ***without pay*** *so basically it was the same* ***as no pay raise****. Since then I've had no raise at all and have faced potentially serious changes to my benefit package which has kept me here this long. These stressors are really wearing on me.*

This Council has decided to correct budgetary & liability funding mistakes of the past on the backs of today's workforce. Rather than seek and apply additional revenue sources. Examples recently discussed in a meeting with Mr. Koenig included suggestions such as slight tax increase, increase permit fees for roadside & temporary vendors, non-city resident gym user fees, and there were more. Clearly these are only examples of what is out there for keeping our city a place where people want to live & work. Yet, Council has rejected these suggestions and continues to do so.

Funding the Economic Development Office, Downtown Dover Partnership, events & festivals is ok for the Council to do, yet taking care of the workforce - the backbone of the city is too much. I do not understand this logic and I am not alone.

So, while I don't like it, I can face another year without a pay raise. Please, don't slap us in the face and balance the budget with our paychecks. We did not create these problems. We cannot afford the 15% as proposed for benefits with the continual lack of raises that have been provided to the no- bargaining workers.

Memorandum

To: Scott Koenig/City Council Members

From: Diane Metsch

Date: 6/4/2012

Re: Health Care Increase

I have worked for the City of Dover for 23 years in the Inspections and Planning Department. During my tenure in this Department through the years, I have witnessed many opportunities to increase fees and gain capital income for the City of Dover only to meet those incentive ideas with criticism and a block wall from City Council. This department is asked to put forward every three (3) years increased revenue fees and every three (3) years the vote is to not increase these fees.

I moved into the City of Dover to reduce the cost of my electric, water, and trash collection home costs. When I moved, it was an economical savings for me of over half of what I was paying living in the county. As economic times have hit the City of Dover very hard over the last past three years, I have had no pay increase and now you want to increase property taxes by three (3) percent and my trash service by nearly 52% from $11.97 to roughly $18.00.

Mr. Koenig and City Council members these may not be excessive increases for you or any salaried management position that makes triple what I make; however, with the increase of my health insurance of $92.00 a month, this is a devastating increase for me as a single parent not to mention the tax increase and trash increase fees. You would be asking me as a City resident to make even more of a devastating decrease in my monthly pay where I now barely make it from payday to payday as it stands.

As I previously stated, I have several ideas where revenue could be increased in the Inspections Licensing and Permitting Department. If you plan on making an increase in taxes and trash services, I feel that we should also be looking at other areas as well where revenue could be increases to not only decrease; however, eliminate part of the shortfall for this budget year; however, for many outfall years as well to come.

So I ask Mr. Koenig and City Council members why continue to attack the City employee's benefits and retirement packages when there are other sources that could be looked at? Moral for the City of Dover employees is at the lowest I have seen it during my tenure of employment. You are only forcing out the dedicated, experienced work force that makes this City what it is and trains those under our wings for the future to come. I understand that forcing out your experienced higher paid positions and replacing them with a new employee benefits the City with regards to not having to pay what you do for a seasoned veteran employee; however, what you lose in return is irreplaceable dedication, experience and knowledge of helping make the City function as well as it does.

With this being said I will now proceed with my suggestions for increased revenue.

ITINERANT MERCHANT LICENSES

The City of Dover issues Itinerant Merchant Licenses for race operations during the June and September races. We license each vendor per location at a rate of $41.50. This is by far the lowest fee paid for vendor licensing for the entire NASCAR circuit race tracks. A comparison of tracks was conducted in previous years and the lowest paid was $100 in Richmond, VA. The rest of the track circuit ranges from $500 to $2,500; however, those tracks are set-up different where vending is located on race track property in a gate scenario and the fee is paid directly to track management. The current fee of $41.50 was raised in 2010 from $40.00 to $41.50.

Current

We take in an average of 200 licenses per race: 200 x $41.50 = $8,300

Raised Fees

200 x $60 = $12,000
200 x $75 = $15,000
200 x $100 = $20,000

RENTAL/LODGING AND PUBLIC OCCUPANCY PERMITS

This program was created in 2000 and has had no fee increase to date in the twelve (12) years since its creation. The purpose of collecting these fees is to offset daily Annual Housing Inspections that are conducted monthly by City Code Enforcement Staff. Generally, if Code Enforcement Staff does a housing inspection, they will have to go back a second time to re-inspect housing code infractions noted during the first inspection.

Current

The office currently collects between $346,000 and $352,000.

Raised Fees

1% Increase = $3,460/$3,520
2% Increase = $6,921/7,040
3% Increase = $10,382/10,560

BUSINESS LICENSES

These fees were increased as recent as 2010 at a rate of 3%; however, they are one of the departments largest resources.

Current

The fees for Business License are a range of different fees based on the category. Last year $1,483,866 was collected for business license fees.

Raised Fees

Raise the base fee of all categories by 1%. If based on the above amount, this would net increased revenue of $14,838, at 2% an increase of $29,677 and at 3% an increase of 44,515.

If we continue to ignore fee increases for services rendered through other departments that generate large amounts of revenue, we will continue to have a larger and larger deficit in the operating budget for many future years to come.

CITY OF DOVER
COUNCIL AMENDMENT #2
TO ORDINANCE #2012-10

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

That Ordinance 2012-10 be amended by striking lines 23-31 in their entirety and inserting in lieu thereof the following:

Eligibility to receive city utilities or services. **No person, artificial entity, or owner of a one-half or greater interest in that artificial entity shall be eligible to receive any city services, utilities, permits, licenses, or approvals if that person, artificial entity, or owner of a one-half or greater interest in that artificial entity owes outstanding payments to the city; or if that person, artificial entity, or the owner of a one-half or greater interest in that artificial entity is responsible for documented violations of the Dover Code of Ordinances that have remained unresolved for more than 45 days. If the party, artificial entity, or owner of a one-half or greater interest in that artificial entity requesting city approval is current on some but not all obligations owed to the city, the request shall be denied until such time as the person, artificial entity, or owner of a one-half or greater interest in that artificial entity is current and in compliance with all city obligations.**

BE IT FURTHER ORDAINED:

That Ordinance 2012-10 be amended by removing the words "corporation of which they are principal" on line 53 and replacing them with "artificial entity of which they own one-half or more interest."

ADOPTED: *

SYNOPSIS

The proposed language would ensure that the inclusion of owners and/or members of corporations would apply to owners of a one-half or greater interest in the said corporation. It would ensure that members of non-profit boards and other minority owners in corporations would not be denied services or permits due to the delinquencies of that corporation.

Councilman Anderson's (author) Narrative:

Amendment 2 is important for several reasons. The synopsis says its intention well. The proposal as written would make anyone who serves on a non-profit board or is an officer or minority stockholder of a corporation liable for its debt to the city even though that person has no legal authority to compel the payment or may not have even known about the delinquency. It violates the sacred nature of a corporation or LLC that separates personal affairs and liabilities for the entities affairs and liabilities. Even worse by my reading of the original, an individual's liability could affect the non-profit or corporation when the rest of the members have no responsibility or even knowledge of the issue. It is exactly the wrong way to go. This amendment addresses these issues.

I will give two real world examples. One was the Schwartz Center. It fell behind on its electric bills to the tone 16K 6 years ago. Imagine how hard it would be to hire a new executive director or get capable people to stay on the board if their personal permits or business services would be in jeopardy. In that case the city forgave the bill and new leadership turned it around. Another was the Academy of Dover. The former management firm left it in tough straits. The state audit was deplorable. The state was slow on its payments and the electric was unpaid for a two or three months. When the new board took over 5 years ago, we discovered the problem and took care of it. The school is now a superior school with great financials. If the new leadership had to look over its shoulder and wonder if their businesses or homes would be affected, the school would not exist and hundreds of children would not have benefitted from a superior education and a couple of dozen well paying jobs would be gone.

Please support Amendment 2. It is vital for the social and economic well being of the city. Thank you.

Draft

CITY OF DOVER
COUNCIL AMENDMENT #3
TO ORDINANCE #2012-10

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

That Ordinance 2012-10 be amended by striking lines 51-57 in their entirety and replacing them with the following:

Appointment to committee, commission, or board. **Prior to any person being appointed to a city committee, commission, or board, the city clerk will determine if there are outstanding payments due to the city in their name or the name of any artificial entity in which they own one-half or more interest; or if they are responsible for outstanding, documented violations of the Dover Code of Ordinances that have been unresolved for more than 45 days. If it is determined that such delinquency or violation exists, this shall be reported to the council president and an executive session shall be scheduled to discuss the nature of the delinquency prior to appointment. If an appointed member of a city committee, commission, or board is determined to have such a delinquency or outstanding violation during their appointment, the city clerk shall report such delinquency or violation to the council president and an executive session shall be scheduled to discuss the violation or delinquency. City council may reject an appointment or remove an appointee from a city committee, commission, or board due to such delinquency or violation.**

ADOPTED: *

SYNOPSIS

The proposed language would allow for persons to serve on city committees, commissions, or boards, even if they are responsible for delinquencies or code violations; however, it requires that the city clerk inform the city council president of such delinquencies or violations and that an executive session of council be held to discuss such delinquencies or violations.

Councilman Anderson's (author) Narrative:

I call this the let's not be hypocrites amendment. I believe there is a minor problem with a couple of committee members who are sitting on committees and judging others who themselves are chronic offenders of delinquent tax liabilities. Council should have the right to discuss the situation with them and evaluate whether it or not it affects their performance in private as we would an employee. Currently, we are not even informed. Amendment 3 addresses this problem without giving away the prerogatives of Council or the Mayor to find qualified people for slots they cannot fill. The change as originally proposed gives an inflexible sledgehammer which could deprive us of volunteers who we sincerely need.

If a person gets an assessment for a sidewalk, and does not happen to have $1500 sitting around just waiting to give to the city, does that mean they should be kicked off of a city committee like some kind of felon? I say no. Would a city employee in that situation be fired? Would a Council person be impeached and removed? Would the Mayor be tossed out of office? No, so why should we single out committee persons? I do not like laws which apply to some people and not others. I believe we should have more information when we bring people on and if a problem arises, we should have the tools to open a dialog and reassess our relationship if necessary. We do not need to make a blind, inflexible standard where we humiliate people who volunteered to help us.

Please support amendment 3.

CITY OF DOVER
COUNCIL AMENDMENT #4
TO ORDINANCE #2012-10

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

That Ordinance 2012-10 be amended by striking lines 76-82 in their entirety and replacing them with the following:

(f) ***Appeal of denial of utilities, services or approvals.***

(1) ***Appeal to city manager.*** **Any applicant, person, corporation, or other entity or any owner or member of that corporation or other entity requesting such city services, utilities, permits, licenses, or approvals who receives the aforesaid written denial may appeal that denial to the city manager within 20 calendar days of such denial. The city manager, or his/her designee, shall thereafter hold a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.**

(2) ***Appeal to city council.*** **An applicant aggrieved by the decision of the city manager regarding his/her appeal may appeal such decision to city council within 20 calendar days of such decision. City council shall schedule a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.**

ADOPTED: *

SYNOPSIS

The proposed language would add an appeal to city council for applicants aggrieved by the decision of the city manager.

Councilman Anderson's (author) Narrative:

I wanted more flexibility for the staff to address issues and supported an appeal to the city manager. I believe this will relieve council of the burden of taking every case deemed unfair by a constituent. Many incidents can be resolved at the staff level. I think my desire was misinterpreted to want to exclude council from the process. I absolutely oppose that. I apologize to our City Planner who has done a marvelous job for my previous lapse in communication. We have settled on this amendment drafted by Mr. Pepper. I think it is sound and recognizes that the People have a right to appeal to their City Council as the court of last resort when they feel they are being wronged. No elected body should shirk its responsibilities to the public or give away its prerogatives to those who do not have that awesome responsibility of being selected by the people to do their business.

I zealously guard the prerogatives of City Council because I honestly believe that a representative republic cannot be run solely by a bureaucracy. We were elected to be that policy branch and to exercise oversight not just generally, but in individual cases where we believe the law is wrongfully applied through the appeals process. Amendment 4 is the most important of the 4 that I am presenting tonight. It goes to our form of government. I respectfully request the support of each of my fellow councilpersons.

CITY OF DOVER PROPOSED ORDINANCE #2012-17

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

That Chapter 26 - Businesses, Article I - In General, Section 26-1 - Sale of Dangerous Substances be amended by deleting the text indicated bold, red, strikethrough and inserting the text indicated in bold, underline, as follows:

Sec. 26-1. - Sale of dangerous substances.

(a) It shall be unlawful to sell or offer to sell any material, compound, mixture, or preparation which contains any quantity of **any substance categorized as Schedule I in accordance with 16 Del.C. ch. 47.** ~~**the following substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:**~~

~~**(1) Methylone;**~~
~~**(2) MDPV;**~~
~~**(3) Methylenedioxypyrovalerone;**~~
~~**(4) Methylmethcathinone;**~~
~~**(5) Mephedrone;**~~
~~**(6) Methoxymethcathinone;**~~
~~**(7) Fluromethcathinone;**~~

(b) *Penalties*. Violations of this section shall be subject to fines in accordance with Appendix F—Fees and Fines, section 1-17 and revocation of business license under the provisions of Chapter 26—Businesses, Article II—Licenses, section~~**s 26-59 and 26-63**~~ **26-64.**

(c) *Enforcement.* **Any business that sells or offers for sale any of the prohibited items shall be considered a public nuisance.** The provisions of this section may be enforced by any city inspector or officer of the police department~~.~~ **after any substance found for sale at a business tests positive for a Schedule 1 controlled substance in a field test performed by the Police Department.**

ADOPTED: *

S:\ORDINANCES\2012\Draft\2012-17 - Ch 26 - Businesses, Art I - In General, Sec 26-1 - Sale of Dangerous Substances.wpd

SYNOPSIS

The proposed ordinance would more closely align the City code with the State Uniform Controlled Substances Act as it relates to the sale of Schedule I controlled substances, including but not limited to bath salts.

(SPONSORS: LYNN, STAFF)

Actions History

06/11/2012 - Introduced at Legislative, Finance, and Administration Committee Meeting

Draft