COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole Meeting was held on October 11, 2016 at 6:00 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson, Mr. Sudler, Mr. Lewis, Mr. Cole, Mr. Hosfelt (arrived at 6:01 p.m.), Mr. Hare, and Mr. Hutchison. Mr. Neil was absent. Mayor Christiansen was also present (departed at 7:43 p.m.). Civilian members present for their Committee meetings were Mr. Shevock and Dr. Stewart (*Legislative, Finance, and Administration*).

LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held with Chairman Hare presiding.

AGENDA ADDITIONS/DELETIONS

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

Request of Fordham & Dominion Brewing Company - Amendment to Appendix B - Zoning, Article 3 - District Regulations, Section 22 - Airport Environs Overlay Zone (AEOZ), Subsection 22.4 - Exemptions, Paragraph (c) - Temporary Uses of the Dover Code/Proposed Agreement Approving 80 Event Hours Over 12 Months

During the Council Committee of the Whole/Safety Advisory and Transportation Committee meeting of July 26, 2016, members were provided an Overview of the Airport Environs Overlay Zone Related to Dover Air Force Base and Fordham Brewery.

During the Council Committee of the Whole/Legislative, Finance, and Administration Committee meeting of October 11, 2016, Mrs. Ann Marie Townshend, Director of Planning and Community Development, referred to the letter from Mr. Ryan Telle, Vice President of Marketing, Fordham and Dominion Brewing Company, dated September 14, 2016, requesting an amendment to the Zoning Ordinance; the Zoning Interpretation & Administrative Policy - Temporary Uses Involving Public Assembly within the Airport Environs Overlay Zone (AEOZ) dated June 2, 2016; and her letter to Mr. Dan Louder dated August 1, 2016 documenting the agreement between the City and Fordham and Dominion Brewery Company that was reached in June 2016. She advised members that Fordham was requesting an amendment to the Zoning Ordinance.

In response to Mr. Sudler's request for the background regarding her position on this matter, Mrs. Townshend explained that the City adopted the Airport Environs Overlay Zone (AEOZ) in 2001 based on the Air Installation Compatible Use Zone (AICUZ) study performed by the Air Force for the Dover Air Force Base (DAFB) space. She stated that this study was based on modeling that the Air Force does to determine a noise contour, which includes areas where noise from air traffic is expected to be higher. Mrs. Townshend informed members that, within these areas, there are certain recommendations for how building construction is dealt with to attenuate the noise, as well as prohibitions on certain uses, such as residential, in the higher noise zones. She indicated that the study also identified the crash zone and two (2) accident potential zones. She stated that a land use compatibility table came from the AICUZ study that included compatible uses within the different

noise zones, the clear zone, and the two (2) accident potential zones, and identified uses that were incompatible. Mrs. Townshend advised that, beginning in 2001, the City adopted these provisions into the Zoning Ordinance and they became part of its land use regulations. She explained that the DAFB updated the AICUZ study in 2010 and the information in the land use tables did not change; however, the noise contour shrank. Mrs. Townshend noted that accident potential zones stayed the same, because these areas off the runways had not changed since the initial adoption of the AEOZ zone in 2001.

Mrs. Townshend advised members that when Fordham and Dominion Brewery Company opened in 2003, they opened as a brewery, which is a manufacturing use, subject to the provisions of the AEOZ. She stated that, over time, their use evolved beyond what is permitted in the accident potential zone with the number of events they were having. Mrs. Townshend noted her belief that this was an honest evolution and Fordham was not attempting to avoid compliance with the Code. She informed members that Fordham was obtaining permits for some, but not all, of the events, and staff learned that more and more events were being held in the industrial area through social media. Mrs. Townshend indicated that the Fire Marshal's Office reached out to Fordham to get a better sense of the events they were holding, told them they needed to get permits for these events, and determined that Fordham was operating beyond the scope of the ordinance. She explained that the Zoning Ordinance allows an exemption for temporary uses of no more than five (5) days in the AEOZ, and staff determined that these days did not have to be consecutive. Mrs. Townshend stated that staff sent an email to Council in this regard. Referring to her letter to Fordham and Dominion Brewing Company dated August 1, 2016, she stated that, based on discussions that were held, she had followed up with this letter that indicated that Council would allow Fordham to hold 40 hours of events in the second half of 2016, based on five (5) eight-hour days, and Fordham was not happy with this.

Referring to the letter from Mr. Telle, dated September 14, 2016, Mrs. Townshend explained that this was a request for a Zoning Text Amendment to expand the five (5) days to 80 hours. She stated that this was something that could not be done administratively or by a simple vote because it relates to a provision of the Zoning Ordinance.

Mr. Sudler questioned how long Fordham had conducted events that exceeded the permitted usage for events, to staff's knowledge. Responding, Mrs. Townshend stated that no special event permits were issued before 2012 and estimated that two (2) to three (3) permits were issued per year between 2012 and 2016 for events like Cheesetoberfest. She advised that there were some rather big events held there, noting that the Police and Fire Departments had such an event. Mrs. Townshend stated that these events did not raise any flags until staff started seeing more and more things on social media, such as monthly release parties. In December 2015, Fordham came to the Planning Commission for an expansion of the Brewery. Mrs. Townshend informed members that during the Development Advisory Committee (DAC) meeting in December, events were specifically discussed, and staff was told that Fordham has two (2) to three (3) events per year and did not want or expect that aspect of their business to grow. She indicated that everyone present agreed that if this was the expected use, this was in compliance with the Zoning Ordinance. Mrs. Townshend noted that the DAFB Community Planner is part of the DAC.

Mrs. Townshend advised that approximately a month later, staff started seeing more events on social media, and she believed this was because social media was becoming more used. She was told that there were events all along, but they were not events that the City authorized. Mrs. Townshend stated that the Brewery was in an industrial zone and, more importantly, in the AEOZ accident potential zone, and, based on the AICUZ study, the Zoning Ordinance limits uses that would have people gathering in large populations in this location.

Mr. Anderson stated that normally special events are thought of as larger events, rather than small tastings where 20 or 30 people happen to stop by. He questioned what legally constitutes an event. Responding, Mrs. Townshend indicated, as stated in her letter to Mr. Louder dated August 1, 2016, that the occupant load of the tasting room would be used to determine the threshold at which something is constituted to need a special event permit. The Fire Marshal's Office measured the tasting room and determined the occupant load to be 33, and staff stated at that point that anything with more than 33 people would need a special event permit. Mrs. Townshend advised that a special event permit is needed not only due to the number of people but also when an event involves a use that is not permitted in a zone, or an event is held in a building for which the use has not been approved. She noted that the industrial area was not designed for public assembly. Responding to Mr. Anderson, she indicated that the limit of 33 would apply to the number of people present at any given time when the tasting room is open, rather than 33 people over the course of an event.

Mr. Lewis questioned if the Planning Department saw anything out of the ordinary when the permits were issued. Responding, Mrs. Townshend stated that when Fordham had events there were tents and food trucks, which was what staff would expect for a special event.

Mr. Lewis asked if social media drove the Planning Department to investigate the Brewery. In response, Mrs. Townshend indicated that social media put this matter in front of staff. She explained that events are typically held when staff is not out on the roads and, since this is not a highly traveled area, it is not an area that staff would typically stumble upon. Mrs. Townshend stated that the predominance of social media made staff aware of a Code violation.

Mr. Lewis questioned if it was common for staff from Mrs. Townshend's department to stop by special events to make sure that everything is okay. Responding, Mrs. Townshend stated that staff is typically not assigned to events unless they are very large. She indicated that staff could be assigned to events if there was overtime available, but staff had not been allocated to this. Mr. Jason Osika, Fire Marshal, stated that the first year that the OktDoverfest was held in downtown Dover and Loockerman Street was closed, staff went out prior to the event to look at it. Mrs. Townshend stated that staff goes out and does pre-inspections.

Mr. Lewis expressed confusion, stating his understanding that an event had been going on at Fordham and Dominion for years. He indicated that he had not attended but was aware of it. In response, Mrs. Townshend reiterated that, going back to 2012, staff was receiving permit applications for two (2) or three (3) events per year. She did not know at what point events started happening on a monthly or more than monthly basis. Mrs. Townshend stated that this became more apparent through the use of social media, which was doing its job of letting people know what is happening. She believed that the event aspect of the brewery industry had increased and, as more

breweries had come online, breweries had been holding more events. Mrs. Townshend advised that, because staff knew that this was the trend in the industry, when Fordham came in with their application for expansion in December, staff was very clear that the event portion of the business could not grow. She stated that staff was told that it would not grow, and they took Fordham's word for this.

In response to Mr. Hosfelt, Mrs. Townshend confirmed that the five-day limitation was in the original ordinance and still stood.

Responding to Mr. Hosfelt, Mrs. Townshend indicated that Fordham could apply to the Board of Adjustment for a variance if Council did not want to change the ordinance. She explained that the Board of Adjustment meets on the third Wednesday of the month in the morning. Mrs. Townshend believed that Friday, October 14, 2016 was the deadline for the November Board of Adjustment meeting, and the second or third Friday of the month would be the deadline for their December meeting. She confirmed that there was still time for this matter to be placed on the Board of Adjustment agenda for the November meeting. Mrs. Townshend stated that she was aware that Fordham already had an attorney involved because she had spoken to the attorney, and she thought that Fordham would have an attorney come in for a pre-application meeting and put together an application. She recalled that the Code requires four (4) criteria for a variance, as follows: 1) is the use or activity compatible with the zone in which the property lies; 2) is it compatible with the surrounding uses; 3) would it damage the surrounding uses; and 4) is there an exceptional, practical difficulty that would create a hardship for the property if the City did not grant a variance. Mrs. Townshend advised that she had seen skilled attorneys do a very good job on applications like this.

Mr. Hosfelt noted that the Civil Air Patrol was located in this area. In response, Mrs. Townshend stated that a lot of the properties in this area were owned by Kent County and most of them were not in the Overlay Zone. She explained that the path comes off the end of the runway and a lot of areas that one might think intuitively are in the zone are not. Mrs. Townshend indicated that Janes Road in Dover Brook Gardens is not in the zone. She stated that the Air Mobility Command Museum was outside of the clear zone, and the DAFB spent a lot of money to relocate the Museum's entrance, which previously went through the accident potential zone.

Mr. Hosfelt questioned whether there would be time for an ordinance change before the end of the year if Fordham applied for a variance and was not approved. Responding, Mrs. Townshend stated that if Fordham went to the Board of Adjustment in November, it could come back to the Council Committee of the Whole near the end of November, a first reading could be held in December with Planning Commission consideration in January and a final reading before Council in February. She noted that Fordham would be able to hold five (5) events in the interim.

Mr. Shevock questioned if the Air Force would have to approve any changes. Responding, Mrs. Townshend indicated that the DAFB does not approve what the City adopts. She stated that they provide their model to the City and will not comment publicly on specific situations or make any official comments for the record. Mrs. Townshend indicated that the Air Force's official comment is in providing the AICUZ study. She stated that if the City made this change, the Air

Force would not have to approve it but would review it. Mrs. Townshend explained that, based on her interaction with the Air Force on this and other matters in the past, she believed that they would be very neutral as to opposing or supporting it, but would probably point back to the AICUZ study.

Mr. Slavin referred to Mrs. Townshend's comment that one would think intuitively that some of the properties are in the zone but they are not. Responding, Mrs. Townshend stated that there are some areas around the DAFB that, intuitively based on their proximity to the DAFB, one might assume they are in the zone. However, when looking at the flight patterns, the runway, and what has been identified as the accident potential zone, some of the properties that people assume would be more vulnerable are not in the accident potential zones.

Mr. Slavin stated that his conclusion was that it is clear that the zone is not applied evenly or equitably because there are properties that, as Mrs. Townshend had stated, instinctively one would think are in the zone but they are not protected by it. In response, Mrs. Townshend stated that one may think that properties are in the zone because of their proximity to the DAFB. However, the accident potential zones are based off modeling and data that is based on Air Force plane crashes over a number of decades. She explained that modeling and actual crash data are used to develop the accident potential zones. Mrs. Townshend advised that they have a much more scientific method of determining where these zones are than that a property is located near the DAFB, where one would think it would be more vulnerable. Her point was that there are places near the DAFB that are not in the accident potential zone because the modeling does not put them there.

In regard to the AICUZ study, Mr. Slavin stated that he was not comfortable establishing a precedent of the City ceding control over how its land is zoned to a federal study, especially when the agency doing the study would not approve or disapprove of things when asked. He did not believe it was good to establish this precedent when the agency decides to take a silent approach and let the City make up its mind. Mr. Slavin stated that he respected the City's Charter and ordinances; however, he felt that if something is found that is broken, it should be fixed. In regard to economic development, he stated that the subject business was an industry that the City should be inviting and recruiting to build, not turning away or trying to make things more difficult for. For example, Mr. Slavin stated that he attended an event at the Painted Stave in Smyrna on Friday night, which was formerly the old Smyrna Theater. He stated that this building had been a plumbing warehouse for 20 years and was now a public gathering place that holds any number of events during the year. Mr. Slavin advised members that when he asked the town manager of Smyrna how they got a plumbing warehouse to serve this function, she stated that they had made it work. He indicated that he liked the spirit of making it work, noting that there was a willing business, energy, and a desire to make it work rather than hold it up. Mr. Slavin suggested that, rather than holding up what had been said for years, maybe there was a moment to refresh this and take another look. He stated that if the City was going to say that it was business friendly in the community, this is where it would happen, and the City could start to move government aside a bit and let businesses develop and grow. Mr. Slavin indicated that this was discussed the last time that Fordham came before Council. He advised that Fordham's industry is a very fast moving and evolving industry, explaining that when Fordham came in as a bottling factory 10 or 15 years ago, that is what everyone believed it was going to be; however, if they had stayed a bottling factory they would probably not be in business at this time. Mr. Slavin stated that Milton allows and embraces the same activity. He felt the need

to widen the lens a little and, rather than getting frustrated with the fact that something was broken or did not fit, he expressed the need to get to the fix and just make this work.

Mrs. Townshend agreed that when the Code is broken it should be fixed; however, she was unsure that all members of Council agreed that the Code was broken in this regard. She stated that it was absolutely the prerogative of Council to change the Code if they felt that it was broken and needed to be changed, and she offered to do this if instructed to put forth an ordinance that does what was requested. Mrs. Townshend felt the need to let members know that the purpose of what the DAFB had put forward was to protect the public safety around the Base, as well as the longevity and viability of the Base. She stated that she would be remiss if she did not say that members could make this decision and find out in 10 or 20 years that this decision had been made at the expense of the DAFB. Mrs. Townshend stated that she did not want that to happen; however, she explained that the reality was that encroachment is one of the biggest factors that pushes bases out.

Mayor Christiansen asked if the Dover Behavioral Center was in the zone, and Mrs. Townshend responded that it was. She advised that this was discussed with the DAFB when the AICUZ study was done in 2010 when the ordinance was updated, and had also been discussed with them recently. Mrs. Townshend indicated that when the Dover Behavioral Center last expanded approximately five (5) or six (6) years ago, they went to the Board of Adjustment and obtained a variance. She stated her understanding that there was a lot of internal discussion at the DAFB at that time between the Wing Commander, other commanders, engineering which involves community planning, and health personnel, because the DAFB relies on the services of Dover Behavioral Health and it was already located there.

Mayor Christiansen asked if this discussion had been memorialized and could be reviewed by himself and members of Council. Responding, Mrs. Townshend advised that staff had the variance decision; however, she had not been privy to the meetings. She indicated that it was conveyed to her that there had been a lot of internal discussion about it by the DAFB. When staff updated the AEOZ, in discussions with the DAFB, staff asked what would happen if they changed the threshold in the ordinance. Mrs. Townshend explained that the ordinance states that an existing use that predates the ordinance could expand 10% or 20%, and this threshold was changed to 50%. This meant that the hospital that was there could expand 50% without having to go to the Board of Adjustment. Mrs. Townshend informed members that there had previously been attempts to establish a psychiatric hospital in many locations, and it ultimately was established in the 1990s in that location because nobody wanted it in their back yard. She stated that this was before the zone was put in place, and staff was very cautious and worked very closely with the DAFB so that the expansion happened in a way that would not be considered encroachment on the part of the Base. Mrs. Townshend advised that the City would not allow the psychiatric hospital as a new use or do any of the things that the DAFB indicated they would consider encroachment. Mrs. Townshend advised that she and Mr. Scott Koenig, City Manager, had met with engineering staff at the DAFB several times over the last several months and asked how Dover had fared on encroachment when the Air Force had done the Base Closure and Realignment Commission (BRAC) studies. She stated that she and Mr. Koenig were told that the DAFB had always been able to answer that Dover has no encroachment. Mrs. Townshend stated that she specifically asked about the Dover Behavioral

Health Center, and DAFB personnel stated that this was a pre-existing facility and the expansions were in conformance with what the City worked out with the DAFB for the ordinance.

Mayor Christiansen questioned if this understanding had been memorialized in writing, stating that anytime there is information like this he would like to see it in writing. Responding, Mrs. Townshend advised that when staff met with the DAFB in August, staff stated that the City was trying to understand the issue of encroachment and knew that the DAFB would not go on the record. She explained that staff asked how the DAFB had answered the question in the past and how the hospital affected it.

Mr. Hare felt that if the DAFB had stated that there had been no encroachment, they did not consider what Fordham had been doing for the last four (4) years as encroachment. In response, Mrs. Townshend stated that the DAFB relies on local government partners to enforce the ordinance. She stated her belief that at some point it would have been considered encroachment and that the DAFB did not know, any more than the City knew, the degree of the events that were going on at Fordham.

Responding to Mayor Christiansen, Mrs. Townshend advised that the Zoning Ordinance does not state that a day constitutes eight (8) hours. Mayor Christiansen stated that five (5) 24-hour days would equal 120 hours of permissible events. In response, Mrs. Townshend indicated that this was what Fordham's attorney had proposed in June 2016. She advised that she was not personally comfortable making that administrative determination because she felt it was against the intent of the ordinance. Mrs. Townshend recommended that Fordham go to the Board of Adjustment, either for a variance or for an interpretation.

Mayor Christiansen asked if Mrs. Townshend would grant that the ordinance states five (5) days, which constitutes 24 hours. Responding, Mrs. Townshend stated that the ordinance states five (5) days, and the responsibility for interpretation of the Zoning Ordinance is by Code assigned to the City Planner, and a decision of the City Planner can be appealed to the Board of Adjustment. Mrs. Townshend stated that she had indicated that she would not be comfortable supporting that determination and it could go to the Board of Adjustment.

In response to Mayor Christiansen, Mrs. Townshend stated that the occupancy calculation of 33 made by the Fire Marshal was based on the tasting room. She advised that 33 people could be there any day of the week, and outside events would involve special event permits.

Mayor Christiansen asked if Fordham had changed their management and if the previous management was not obtaining the required permits for events. Responding, Mr. Telle advised that the person responsible for obtaining permits for Fordham was no longer with the company and Mr. Telle was now in charge. He advised that Fordham had filed for proper permits for every event they had held since they first received a letter from Mr. Jason Osika, Fire Marshal.

Mr. Hutchison felt that the question before members was not one to which they could automatically respond yes or no. He expressed deep concerns about making any change that could be received as encroachment, citing the length of time that the DAFB had been in Dover and the Comprehensive

Plan that was in place. Mr. Hutchison noted the first-class partnership the City had and worked to improve with the DAFB, and the Base's 50-year-old relationship with the City of Dover, Kent County, and the State of Delaware. He stated that the DAFB is the City's second-largest employer and the City had been, and must continue to be, very sensitive to the Base. Mr. Hutchison stated that the Comprehensive Plan was put in place to protect Fordham, the citizens, and the DAFB. He did not believe that merely saying yes or no, without getting the facts from both sides, would be fair to anyone.

Mr. Sudler asked which of the four (4) elements that define the criteria for variance acceptance, including activity, compatibility to surrounding usage, damages, or exceptional practical difficulty/hardship to surrounding areas or the DAFB, was the biggest concern for the DAFB. Responding, Mrs. Townshend advised that Fordham had not applied for a variance, so she was unsure.

Mr. Sudler asked if Mrs Townshend thought this would create a hardship. Responding, Mrs. Townshend stated her belief that Fordham could make the case that not being able to have more events would pose a hardship for them. She explained that they would need to make that case at the Board of Adjustment meeting, and that is what they would hire an attorney for. Mrs. Townshend advised that she could not say that the case is made; however, she believed they could make the case. From the perspective of encroachment, she felt that it would be easier to sell the idea that the City was not encroaching if there was a variance rather than a change to the ordinance.

Mr. Hutchison noted that Article 3, Section 22.4 (c) of the City's Zoning Code addresses temporary uses and asked what this means to staff, as far as authority and flexibility, in addressing these kinds of issues. Responding, Mrs. Townshend stated that the temporary uses allows for five (5) days of temporary use, and explained that staff would view this as flexible, temporary, and no more than five (5) days over the course of the year. She indicated that this could go a little beyond what would normally be allowed as a permitted use in the zone. Mrs. Townshend noted that the DAFB had stated that on the days that there are events, the City could notify them so they could alter their flight paths so as not to interfere with these events. She felt that it would not be desired to do this on a routine basis.

In response to Mr. Hutchison, Mrs. Townshend stated that staff was treating the five (5) days specified as five (5) days in a year.

Mr. Anderson asked if the general guidelines of the study mentioned temporary uses or special permits. Responding, Mrs. Townshend stated that this was not in the table but was in the language that the DAFB provided to the City for the ordinance. She explained that it did not specify which temporary events would be acceptable because it was looking at them as not being longstanding. Mrs. Townshend stated that the five (5) days came from the Air Force, noting that the City had adopted language that was provided. Mr. Anderson stated his understanding that this was model legislation from the Air Force, and Mrs. Townshend confirmed that it was.

Mr. Anderson questioned what the Air Force defined as encroachment. Responding, Mrs. Townshend advised that they had not been very forthcoming with this information and this was

part of the challenge. She stated that they had provided the study and staff was able to ask questions, such as whether there had been encroachment, but was not able to get an answer for the question of at what point there would be encroachment. Mrs. Townshend indicated that Virginia Beach had allowed a lot of incompatible uses and the Virginia Naval Air Station almost left. She stated that she was unsure at what point this becomes encroachment and questioned if the City really wanted to find out. Mrs. Townshend noted that part of the challenge was that changing the Code would also open it up for others.

Mr. Sudler questioned, since the Air Force Base was not being very forthcoming, why it was believed that changing the ordinance would be encroachment. Responding, Mrs. Townshend stated that the request before members was to allow 80 hours of events per year. She explained that this would apply not only to the Fordham Brewery property but that another brewery could go in somewhere else and would also be allowed to have 80 hours of events and, based on the length of the events that Fordham had held, this could be upwards of 20 to 25 events in a year. Mrs. Townshend stated that in the Fall of 2015, she received an inquiry about another property in the accident potential zone from someone who was looking to purchase a property and put in a brewery. She stated that she had no more information and the inquirer had not identified themselves. Mrs. Townshend informed members that, knowing where the industry was going, she had advised the inquirer that a brewery was allowed; however, a large public event component would be a problem, and they did not look at the site. She stated that if the ordinance were changed, it would be changed for everyone and there could be more incompatible uses.

Mr. Hare noted that, as Mrs. Townshend had told the other party, the industry had been changing over the years and asked if this should be reevaluated, questioning whether businesses should be stifled because their industries are changing. He noted that other changes had been made in ordinances, not in the overlay zone but for growth and different things. Mr. Hare felt that this went back to what Fordham's attorney had said regarding the definition of a day, and that 40 hours is five (5) eight-hour days, but when five (5) days is multiplied by 24 hours, it would be 120 hours. He believed that Fordham was asking for 80 hours and may even be willing to accept 60 hours for the year, which would not even be five (5) days. Mr. Hare stated that outdoor events would probably be limited for five (5) months out of the year, from December through March. He agreed with Mr. Hutchison about the need for further information, getting a definition, and determining if five (5) days would be five times 24 hours.

Mrs. Townshend stated that this was the prerogative of Council. She indicated that she was not comfortable administratively determining that factors can be used and multiplied to get something that works. She stated that there were two (2) options, and the first option would be for the matter to go to the Board of Adjustment as a request for a variance or a request for an appeal for a Code interpretation. In this case, the Board of Adjustment would act as a judge, and their determination would be the law until the Code is amended. If the request was for a variance, a variance could be granted that is specific to Fordham's case. Mrs. Townshend advised that the second option would be for Council to change the Code, which was in their purview. She stated her view that this was for members to determine because she had shared her perspective and her background with the AICUZ.

Mr. Slavin stated his understanding that a potential business had already likely been turned aside because of this ordinance and because the explanation was given to them that the zone would not allow the industry that they were bringing in. Responding, Mrs. Townshend confirmed Mr. Slavin's understanding and stated that she had pointed the inquirer to other locations in the City that would allow this use.

Mr. Slavin expressed frustration because when the City was asked to figure out how 80,000 people could camp for three (3) nights in the City, mountains were moved to get it done. He stated that the City annexed and rezoned property and did everything possible to make that happen, and he was proud of the City's efforts. Mr. Slavin stated that he did not understand why there was not the same spirit in regard to a business that had been loyal to the City and the community. He noted that Mrs. Townshend had stated that this matter was Council's prerogative and he agreed.

Mr. Slavin moved to recommend amending Appendix B - Zoning, Article 3 - District Regulations, Section 22 - Airport Environs Overlay Zone (AEOZ), Subsection 22.4 - Exemptions, Paragraph (c) - Temporary Uses of the Dover Code as requested by Fordham and Dominion Brewing Company. The motion was seconded by Mr. Anderson.

Mr. Hutchison felt that this was one of the most important votes that members would make as elected officials of the City. He cautioned members about making the wrong move towards the DAFB and encroachment. Mr. Hutchison stated that no one supports economic growth more than he does, and he believed that Fordham had asked a fair question and members had the responsibility to get the answer. Mr. Hutchison stated that doing something tonight without knowing its impact on the DAFB would be wrong, and that he would not support anything that would send a question mark about encroachment on the DAFB. He hoped that members would take a step back and get the answer before voting to do anything to address this issue.

Mr. Hosfelt shared Mr. Hutchison's concerns. He noted that this matter would seem to be common sense; however, he said that common sense and the federal government do not work together. Mr. Hosfelt stated, to those in the room who may not be familiar with the military and the federal government, that if they want to close the base, they will just do so. He stated his belief that the military and the federal government would not care that the DAFB has the biggest mortuary, that they had just put in a new runway, or how much money they spend, and they would just close the base. Mr. Hosfelt was concerned about giving them any ammunition at all. He stated that the DAFB was one (1) of five (5) finalists that may receive another squadron of new tankers, and that would provide economic development for the City. He noted that a decision was supposed to be made in this regard by December 15th. Mr. Hosfelt stated that he understood that the City was trying to help Fordham out; however, with these thoughts in mind, he was leaning toward protecting and securing the sanctity of the DAFB. He noted that the DAFB does not provide a lot of information. Mr. Hosfelt believed that the City would be better off tabling this matter and letting Fordham apply to the Board of Adjustment for a variance rather than changing the entire ordinance. He questioned what would prevent other businesses from coming up with something else that they want to do that exceeds this if the ordinance were changed.

Mr. Anderson stated that he had seconded the motion because he did not want to see it die and thought it had some validity; however, he felt there were more questions that needed to be researched. He indicated that he would have trouble making this decision without seeing what the DAFB says and the definitions that they had given that the ordinance was based upon. Mr. Anderson noted that the DAFB was extraordinarily important to the City when it comes to economic development; however, he did not believe that small and medium-sized businesses should be handicapped. He felt that a balance could be reached; however, he stated that more information was needed and he would like to see this in the next couple of weeks.

Mr. Sudler stated that he would like to have more information from the DAFB and also not stifle the Fordham Brewery. He noted that he had heard his Council colleagues say in the past that if someone is not present to defend themselves or speak up, than it is obviously not important enough to them. Mr. Sudler stated that he was not saying that this was the case tonight, noting that he did not know how the DAFB operates and what they can and cannot publicly say. Mr. Sudler indicated that he liked the idea of a variance because this would not leave the City open to other entities coming in and taking advantage, as Mrs. Townshend had stated. Mr. Sudler stated that this was a tough decision; however, he was going to support the variance aspect. He recommended that Fordham do a variance so that it would not, at the present moment, affect the ordinance as a whole, and members could get further information and research in regard to how it would affect the City as a whole. Mr. Sudler stated that he did not believe there was enough information to change the ordinance, although he would support an ordinance change if members had enough information.

Dr. Stewart asked if changing the interpretation of the five (5) days from five (5) physical days to five times 24 hours, or 120 hours, would require a Code change or if this would just be a change in interpretation. Responding, Mrs. Townshend stated that this is a power that is given to the Board of Adjustment, not to Council.

Mr. Sudler stated his belief that a legal opinion was required regarding Mrs. Townshend's comment since the City of Dover has a city council-city manager form of government. He felt that City Council runs the City and did not see how the Board of Adjustment would have more power than Council. He felt that changing the interpretation would be a viable option and suggested the Council obtain a legal opinion.

Responding to Mr. Sudler, Mr. Slavin stated that if Council wanted to state the number of hours, they could. He believed that Mrs. Townshend was saying that if members leave it to interpretation, it would go to the Board of Adjustment; however, he explained that Council could interpret it for the City if they choose to do so.

Mr. Hare stated that the interpretation would be what a day is and whether it is eight (8) or 24 hours. Responding, Mr. Lewis stated that he concurred; however, he believed that it would ultimately come back to Council for approval. Mr. Hare stated that if legal counsel said that a day was 24 hours then five (5) days is 120 hours.

Mr. Cole questioned, if the Code was changed, whether it could be changed back if it was found in six (6) months that there was an encroachment issue.

Members were provided an email from Mr. David Bonar, former City Council President, dated October 11, 2016, Subject: Letter to Council, regarding this matter ***(Attachment #1)***.

Mr. Telle stated that he had written the proposal and asked for 80 hours, based upon an agreement that Council President Slavin, Mayor Christiansen, and a few others agreed upon six (6) months ago. He indicated that he was not trying to dissect 24 hours per day but took what was agreed upon for six (6) months and multiplied it by two (2), to get them through 12 months. Mr. Telle advised that Fordham is a small business and does not have marketing budgets to compete with the larger breweries in the country; however, they are the second largest brewery in the State. He indicated that Fordham figured out a few years ago that if they could be creative and let people into their world, it would work. Mr. Telle advised that they received the letter from the City and were not able to figure out how to come to terms with it, noting that this would 100% have a detrimental effect on their company. In regard to the variance option, he explained that he was still paying for the lawyer Fordham used in regard to the six-month negotiation. Mr. Telle stated that they do not have legal counsel on staff and hoped a decision could be reached today based on his proposal. He indicated that some of their events are for two (2) to three (3) hours and sometimes generate 100 or 300 people, and advised that it would be a problem to operate with five (5) events per year. He stated that they are not long and are held for three (3) hours per day, noting that there are not a lot of people. Mr. Telle advised that events are usually held from 5:00 p.m. to 8:00 p.m., so most people come after work, do not show up until 6:00 p.m. or 6:30 p.m., and are there for an hour-and-a-half to two (2) hours. He stated that these events were small when they first started having them, but the brewery evolved and more people started attending. Mr. Telle acknowledged that it was their fault that they were not pulling the proper permits, because they were unaware. When they were running events incorrectly previously, they were under the impression that those types of larger, ticketed events were the events for which permits were needed, and those were the events that were on file. Mr. Telle stated that he did not want to see anyone lose their jobs over this, noting that this was their 9:00 a.m. to 5:00 p.m. He expressed his hope that this could be figured out and taken care of so that they could go back to doing what they know how to do well.

Representative Sean Lynn, 31st District, 224 Columbia Avenue, felt that Councilmen Hutchison and Hosfelt had raised legitimate points and stated that it was not desired to put the City in the position of jeopardizing one (1) of the biggest economic development drivers to the City. Representative Lynn advised that sacred cows such as Kraft Foods, Dover Downs, DAFB, and Bayhealth are the tent poles of the local economy. He felt that this must be balanced against a larger perception that Dover is not really out for business. Representative Lynn stated that this was a perception but not a reality, and noted that this was not a slight to Mrs. Townshend. He believed that the City was losing to its neighboring cities and that Smyrna and Milford were succeeding in ways that Dover was not, which was unfortunate. Representative Lynn referred to the Painted Stave Brewery mentioned by Mr. Slavin, stating that this was not the only business that was growing in the town of Smyrna. He felt that it was a shame that, for whatever reason, other cities were more successful in getting new businesses and entrepreneurship than Dover. Representative Lynn felt the balancing test related to whether the DAFB would legitimately be in jeopardy if this were done, and secondly, how to work to change the perception about Dover being friendly for business and open and receptive to an ordinance change. He did not necessarily think that a variance would be the right way to go, noting that it would put an onus on the business. Representative Lynn indicated that the

business owner had stated that he was still paying off the lawyer who did the previous legal work for him, and seeking a variance would mean more time and money for a small entrepreneurship. He did not believe that this would send the correct message to the rest of the community that Dover is really open for business but would say that the City is more attached to a draconian ordinance than to making things easy for local business. He questioned how to make things easy but not sacrifice or jeopardize the DAFB, which he felt was a valid point. Representative Lynn felt that the easiest solution would be to pass the motion tonight. He noted that members would return in two (2) weeks to discuss this matter as whole during a City Council meeting. Representative Lynn advised that this would allow two (2) weeks to bring the DAFB back into the equation and see whether they genuinely believe that this would be an encroachment issue and get a finite answer for that. He felt that if this was not determined in two (2) weeks, perhaps it could be tabled for another two (2) weeks until a reasonable response is received from the DAFB. Representative Lynn stated that this approach would not cost a small business money to hire an expensive land use lawyer.

Representative Lynn noted that Mrs. Townshend had stated that the DAFB did not believe that existing uses are encroachments. He indicated that Dover Behavioral Health was in the zone, as well as the Dover Post and a number of other businesses which have high density. Representative Lynn stated that he was unsure that Fordham, as currently being operated, was an encroachment issue; however, he noted that if the ordinance was changed, it would still be in Council's purview to change the ordinance back the way it was if density or encroachment started to become an issue. He felt that the City would not want to be like Robins Air Force Base in Georgia, which was buying up mobile homes around the base to deal with encroachment issues. Representative Lynn stated that if members started to see that this was becoming a problem, they could change the ordinance, which he felt would be simpler than requiring an entity to go through an expensive variance process, which could ultimately lead to litigation. He did not think this was the solution and believed it would send the wrong message to the business community. Representative Lynn felt that Council was there to be leaders and send a message to the business community of their desire to work with them, but also send a message to the DAFB that states that they are number one and that the City cares about them the most.

Mr. Hare, referring to Representative Lynn's comments regarding Kraft Foods, Dover Downs, and the DAFB, noted that he had been involved with some of these and the City does go through hoops to help them, possibly because they are large entities with economic impact. He did not believe that they should be treated differently from any other business. Mr. Hare stated that he agreed with Representative Lynn and believed that this could be worked out through getting a definition of whether a day was 24 hours. He felt that the City sometimes learns from its mistakes and sometimes does not. Mr. Hare noted that, years ago, Wal-Mart wanted to put their transportation center in the technical park and the City said no because it was a technical park. He stated that Wal-Mart went to Smyrna and had been thriving there for years, while the City was still sitting out there with a lot of vacant lots.

Mr. Sudler stated that he respected the wisdom of Representative Lynn, who was a former Councilman for the City. He noted that he had also heard the comments from Fordham about financial hardship. Mr. Sudler questioned if members had the ability to change any decision that they made as Council members, and this was confirmed by Mr. Slavin. Mr. Sudler stated that he

wanted to send a message that the City was out for business. He noted that he respected DAFB and the thoughts of Mr. Hutchison and Mr. Hosfelt; however, Mr. Sudler felt that members should move forward since they could change their decision in two (2) weeks if this was not where they wanted to be. He stated his support for Council President Slavin's motion.

Mr. Hosfelt asked Mayor Christiansen if he could call the Wing Commander and get his thoughts. Responding, Mayor Christiansen indicated that he would discuss this at 8:00 a.m. on the following day and would take Councilman Hare with him as well.

Ms. Kate Gleeson, EXP Realty, 144 Kings Highway, stated that she would be sad if Fordham did not have more events. She advised members that she had been very excited to co-host a recent event at the Brewery for the Delaware Veterans Trust Fund and had a blast. Ms. Gleeson indicated that they were hoping to get on the calendar to do this again next year and she was planning to contact Fordham soon to see if they could be one (1) of the few events that Fordham could hold. Ms. Gleeson indicated that 144 people attended this three-hour event, they made over $4,000, and Fordham makes very good beer. She stated that this type of event makes people want to go there and she would be upset if this could not go forward somehow. Ms. Gleeson stated that she is a veteran and understands DAFB. She noted that she appreciated the comments made and asked Fordham to allow her to hold the next event.

Mr. Shevock questioned if this matter should be tabled until after the Mayor speaks with the Wing Commander. Responding, Mr. Lewis stated that a motion was on the floor. Mr. Anderson indicated that a motion to table would take precedence. Mr. Slavin stated that the import of the conversation was that the Committee could go ahead and pass this, and by the time it gets to Council, this conversation would have been held with DAFB. He noted that there was not a need to further delay this matter just to have a conversation.

Mr. Shevock asked if Fordham would apply for a variance in case something happened so that they would not lose anything. Responding, Mr. Telle stated that he did not anticipate doing this. He indicated that he had already spoken to a few of his colleagues and did not think they were willing to invest money in legal counsel, so this was not necessary.

Mr. Shevock stated that he was simply looking to save Fordham time. He indicated that this matter was not on the calendar for November and Fordham could lose a quarter of the year. In response, Mr. Telle indicated his understanding.

Mr. Shevock asked if, during this period, there was a chance of moving these events to an off-site location. Responding, Mr. Telle advised that events would be moved to different locations if the 80 hours for 12 months was settled on. He explained that, over the last few years, Fordham had done 80 hours and created a community following for this. Mr. Telle advised that more than 80 hours of events would be held throughout the year, but he was hoping that 80 hours could be done on the premises of the Brewery. He stated that additional events needed to support their marketing efforts would be done off-site.

The motion to recommend amending Appendix B - Zoning, Article 3 - District Regulations, Section 22 - Airport Environs Overlay Zone (AEOZ), Subsection 22.4 - Exemptions, Paragraph (c) - Temporary Uses of the Dover Code as requested by Fordham and Dominion Brewing Company was carried by a roll call vote of seven (7) yes (Anderson, Sudler, Lewis, Cole, Hare, Slavin, and Stewart), three (3) no (Hosfelt, Hutchison, and Shevock), and one (1) absent (Neil).

The meeting recessed at 7:13 p.m. and reconvened at 7:20 p.m.

Disposal of Excess Property - 45 South State Street - Former Dover Public Library

Mr. Scott Koenig, City Manager, advised members that the City of Dover had received several unsolicited inquiries about the availability of the property located at 45 South State Street, the location of the old Dover Public Library. He stated that these inquires had been reviewed on a case-by-case basis; however, the property had never been advertised for sale. Mr. Koenig advised that the most recent appraisal indicated that the 0.8587 acre property, including the building and associated land and parking, had an estimated market value of $1.62M.

Based on recent discussions, Mr. Koenig requested that Council deem this property as excess property and authorize the City Manager to dispose of the subject property using the Procedure for Sale and Disposition of Real Property, Standard Method of Disposition, Section 4-d-6, whereby the City obtains the services of a licensed real estate agent to broker a potential sale. He advised that staff was currently reviewing an advertised request for proposals for commercial real estate services. Mr. Koenig stated that the preferred real estate firm, once approved by City Council, could be used to market the property and seek potential buyers.

Staff recommended the following: 1) the properties known as 45 South State Street be declared excess property; and 2) authorize the City Manager to solicit offers for the properties using a commercial real estate firm. Any and all final offers for the properties must be approved by City Council.

Mr. Koenig advised that if Council receives an offer and elects not to sell the property, or at some point wishes to take the property off the market, this would be within Council's purview.

Responding to Mr. Lewis, Mr. Koenig reviewed the Building Plans - Proposed Property Lines for Transfer, and explained that the request included the old Dover Public Library building; the area labeled as Area 4, which is a sidewalk area formerly known as Budd Street; and Area 2, which included the Carriage House and approximately 30 parking spaces behind the old Dover Public Library. He explained that it did not include Weyandt Hall or anything south of the land. In response to Mr. Lewis, Mr. Koenig stated that the City did not have a master plan for the property.

Mr. Lewis expressed the desire to find out the big picture in terms of the future. He questioned if the City might be better off selling the whole lot and what the pros and cons of the sale were. Responding, Mr. Koenig stated that the pros of the recommended action would be that it would put the advertisement of this property in the public purview through a third-party real estate firm that would be motivated to get the City the highest price possible in the real property market. He

indicated that the down side of this discussion was that the City does not have a long-term answer for what to do in regard to either a new City Hall or renovations to existing buildings. Mr. Koenig advised that, although a facilities master plan was done in approximately 2006, this predated the library's move to its new location, and there was not a master plan for all facilities. He advised that the City had received inquiries about this property that Council had reviewed in recent months, and he thought there was still interest from the State of Delaware in the long term because they had a vested interest in downtown. Mr. Koenig explained that each of these discussions was very difficult to manage because Council had never given any direction to put the property up for sale. He advised that discussions dating back to 2009 about developing a potential financing plan for the new Dover Public Library anticipated the sale of the subject property to the State of Delaware for State offices; however, to Mr. Koenig's knowledge and the record, it was never declared as excess property or offered for sale on the market.

Mr. Lewis asked, as City administrator, if Mr. Koenig felt that the land should be sold as a whole rather than in pieces. Responding, Mr. Koenig stated that he believed that there was a market for the land in pieces; however, he explained that it would depend on Council's overall impression regarding a new facility and how quickly they planned to move forward. He stated that the State had a very specific interest in the property that included all four (4) areas of land reflected in the plans. Mr. Koenig noted that the request he was making tonight did not include the parking in front of the former library, because releasing the parking in front of the library adjacent to 5 East Reed Street would probably detract from the property located at 5 East Reed Street by reducing the amount of available parking. He believed that it would be appropriate to put this property on the market as excess property at this point.

Mr. Lewis asked if it was common practice for those who make offers for individual pieces of land to submit low offers because they are not getting the entire piece of land. Responding, Mr. Koenig stated that some would argue that every property offer that he had received over the last few years had been a low offer. He felt that staff had not received what he would call an over the market value for any of the properties placed on the market. Mr. Koenig advised that when properties are sold through bid or a bid selection through the City's purchasing agent, the numbers have typically been low for residential property. He stated that a lot downtown may sell for $15,000, and an unsolicited bid was recently approved for two (2) pieces of property totaling $26,000. Mr. Koenig indicated that the City was not getting market value for the properties being put up for excess property, noting that a lot of them were in depressed areas and related to the demolition of structures, or were strategic purchases because the City was trying to resolve a community problem. He stated that none of these properties had a value of $1.62M through a third-party appraisal. Mr. Koenig advised members that, in his opinion, the current property was different than the other properties that he had brought forth to Council in recent months.

Responding to Mr. Slavin, Mr. Koenig agreed that the copy of the Procedure for Sale and Disposition of Real Property was difficult to read and stated that he would be happy to have it executed as a current document.

Mr. Slavin believed that when a property is disposed of by the State of Delaware, after it has been passed through other government entities that may want the property and reaches the point of sale,

only an offer within 5% of the appraised value can be accepted. He asked if such a structure was in place in the City. In response, Mr. Koenig stated that this had not been the City's standard, noting that some properties had been more than 5% below their tax appraised value, especially property acquired through demolition that was not appraised by a third party.

Mr. Slavin suggested that a discussion be held and perhaps something be passed that would provide guidance sometime between listing the properties and entertaining the first offers. He indicated that this would prevent lowball offers from coming in and having to be screened, by establishing that the City would only accept offers within a certain range of the appraised value.

Mr. Anderson expressed his concern that there are different ways of finding value to the City and the community that are not necessarily a dollar amount. He indicated that there had been offers on this particular property from Wesley College and the MLK Jr. Education Center that would enhance the quality of life, the development of the City, and the community. Mr. Anderson felt that the City should make sure to entertain all offers and look at them from a holistic point of view. He noted that this view would consider such factors as the City's Comprehensive Plan and economic development strategy, as well as partnerships, for example, expanding the college security footprint and expanding the ability to have organizations like the Police Athletic League (PAL). Mr. Anderson stated that if the City spent money to build its own buildings, these things could cost millions; however, the City could save money by having partnerships with these types of organizations. He believed that the building should be declared excess and marketed so that it is not just politically connected but so that everyone has the chance to make an offer. Mr. Anderson did not want to exclude anyone's offer and believed they should all be reviewed.

Mr. Slavin stated that his comments were directed at a fee simple sale at the marketed price. Referring to the Procedure for Sale and Disposition of Real Property, Section 5 - Exceptions to Standard Method of Disposition, he noted that Exception D allows Council to donate land and buildings to a not-for-profit organization.

Mr. Lewis advised that he would like to see a master plan before voting on something like this, noting that it could not be known if this land would be needed in the future for a new City Hall or other City buildings.

Mr. Hare stated that this matter was vetted a few weeks ago and members had talked about putting it out there to see what would happen. He stated that someone might offer $2M for the property, plan to employ 75 people, and redo the whole building and expressed a desire to find out.

Mr. Lewis reiterated that he would like to have a master plan. Responding, Mr. Hare noted that this was why Council would be holding a retreat in November.

Mr. Shevock moved to recommend that the properties known as 45 South State Street be declared excess property, the City Manager be authorized to solicit offers for the properties using a commercial real estate firm, and that any and all final offers for the properties must be approved by City Council, as recommended by staff. The motion was seconded by Mr. Hutchison and carried, with Mr. Lewis voting no.

Incentive Program for City Employees Opting Not to Be Covered by the City's Health Care Plan

This item was deferred by the Committee Chair.

Initiate the Process Whereby the Review of the Mayor and Council Salaries Shall Be Conducted by the Compensation Commission

Mr. Slavin stated that all appointments but one (1) had been made to the Compensation Commission, and he had the name of someone who had agreed to serve and was waiting for vetting by the individual's employer. Mr. Slavin believed that he would hear back by the time this matter comes before Council. Mr. Slavin thought that if members passed a motion stating that they would initiate the process, the Commission would be ready to go in two (2) weeks.

Members were provided a handout, entitled "Salaries of Mayors and Elected Government Officials - October 2016." *(City Clerk's Office Note: Subsequent to the meeting, this handout was revised to reflect updated information received regarding the salary of the Mayor of Wilmington* ***(Attachment #2)****.)*

Mr. Sudler moved to recommend initiating the process whereby the review of the Mayor and Council salaries shall be conducted by the Compensation Commission. The motion was seconded by Mr. Lewis and unanimously carried.

Determination of Requirements in Addition to Being Economic or Business Oriented and Term Length for the Newly Added Minority Voting Members of the Economic Development Committee

During the Regular City Council meeting of September 26, 2016, members approved the Economic Development Committee's recommendation to add two (2) minority voting members who are economic development or business oriented to the Economic Development Committee, with qualifications and selection to be determined by Council and adopted Resolution No. 2016-11, amending Resolution No. 2016-09 Formally Establishing the Economic Development Committee.

Mayor Christiansen stated that it had been the intention to appoint two (2) minority voting members to the Economic Development Committee, and this had now been sanctioned by Council. He reminded members that this Committee was established by Council during the FY 2017 budget process. Mayor Christiansen stated that they wished these minority members to have economic or business-oriented qualifications and be approved by the members of the City Council. He advised that it was recommended that the term length for members of the Committee be in accordance with the Council year, which runs from May to May. Mayor Christiansen stated that this would provide the opportunity to appoint those persons nominated. He indicated that it was recommended that applicants fill out a form of interest, along with a resume of qualifications, to be brought to the Legislative, Finance, and Administration Committee for review, and that nominees be subject to the approval of Council. He also noted that applicants would fall under the Clean Hands Ordinance that all members of Council and committees are subject to.

Mr. Anderson expressed his support for this but questioned why the recommended appointment process was different from other committees. He stated that applicants typically go through the

process and are selected by the Council President, and nominations are taken to Council. He questioned why these applicants would go through a committee.

Mayor Christiansen stated his feeling, which he thought reflected the feeling of the Committee, that the process should be pristine, with no disrespect to the Council President. He felt that this would allow the opportunity for the entire body politic, which had made the individual appointments to the Committee as it stands, to follow through. Mayor Christiansen stated that this would provide a maintenance of standards in continuing that process.

Mr. Sudler asked if Mr. Slavin had any concerns in regard to the process being different. Responding, Mr. Slavin expressed his opinion that all of the processes should line up and stated that he was worried about asking the Committee to vet the people that they would be appointing. He stated that this does not occur for a reason and had some concerns about it.

Mayor Christiansen stated that this was not locked in stone and could be handled at the pleasure of Council.

Mr. Sudler moved to recommend using the standard Council President appointment process to appoint the two (2) minority members of the Economic Development Committee, seconded by Mr. Slavin.

Mr. Slavin stated his understanding that the intent of the motion was to recommend that the nominations for the appointment of minority members to the Economic Development Committee be made by the Council President; that the full Council vote on them; that the terms be for one (1) year, from May to May; and that the initial appointments be for a partial year from now through May. Responding, Mr. Sudler agreed that this was correct.

The motion to recommend that the nominations for the appointments of minority members to the Economic Development Committee be made by the Council President; that the full Council vote on them; that the terms be for one (1) year, from May to May; and that the initial appointments be for a partial year from now through May was unanimously carried.

Discussion of Duties and Assignments of City Personnel (Deferred during the meeting of September 27, 2016)
This item was deferred by the Committee Chair.

Onboarding for New Committee Members/Councilman Lewis' Recommendation #5
During the Council Committee of the Whole/Legislative, Finance, and Administration Committee meeting of September 27, 2016, members considered Designing and Expanding Recruitment for City Committees, Commissions, and Boards and reviewed "Proposed Recommendations for Advancing a more effective Recruitment Process for City Commissions, Committees and Boards," as submitted by Councilman Lewis. The Committee recommended adoption of "Proposed Recommendations for Advancing a more effective Recruitment Process for City Commissions, Committees and Boards" points #1 - #4; deferred consideration of point #5, related to the requirement of training for board, committee, and commission appointees, until the next meeting of the Council Committee of the

Whole/Legislative, Finance, and Administration Committee; and recommended that the City Clerk's Office and the Human Resources Director come back with an explanation of the onboarding process for new appointees. The Committee's recommendations were approved by City Council during their meeting of October 10, 2016.

Mr. Lewis stated his belief that it was imperative to provide basic, initial training for new members of City boards, committees, or commissions. He informed members that he had prior experience serving on many boards where he had not been given any initial training and had to rely on fellow board members, which he felt was unfair because he took up their time asking questions. Mr. Lewis noted that his suggestion would not affect current board members but would be for new oncoming members. He indicated that he was open to suggestions on how to do this training and whether City staff would be used or an outside agency, such as the Delaware League of Local Governments (DLLG). Mr. Lewis advised that he had done some research, and the DLLG offered training for the Board of Adjustment and planning that costs $50. He was unsure what kind of training was offered for other committees, although he indicated that the Human Relations Commission offers training through the State.

Mr. Cole stated that he receives training in his job and that City staff had been sent to training and brought back ideas. He indicated that Mrs. Ann Marie Townshend, Director of Planning and Community Development, had recently attended training that addressed developing a pilot program that would look at committees, boards, and new council members and suggested having Mrs. Townshend speak to this.

Mr. Lewis stated that he had been in contact with Mrs. Townshend, and she had sent him some information from the DLLG. He noted that the DLLG offers training for the Board of Adjustment and Planning Commission which is similar to 101 or introductory training. Mr. Lewis indicated that he was not suggesting that members take multiple courses or classes but one (1) course as an introduction, noting that some people have never served on boards before.

Mr. Hare noted that members were provided an email from Mr. David Bonar, former City Council President, dated October 11, 2016, Subject: Letter to Council (Attachment #1), and read the portion of the email addressing filling committee vacancies into the record.

Mrs. Townshend informed members that she had spoken to Mr. Cole about a management training program that she is enrolled in through the International City/County Management Association (ICMA). She explained that the training utilizes a book called *The Essentials of Council-Manager Relations,* and a good portion of the book is devoted to onboarding. Mrs. Townshend advised that the training requires a final project and she had been brainstorming what her final project would be, noting that the guidelines stated that it must be something out of a participant's normal area of responsibility. She stated that she had thought about the idea of developing an onboarding program, working with existing staff and other resources. Mrs. Townshend indicated that this would involve researching what other localities do for boards, commissions, and committees, as well as elected officials, and then having a canned, ready-to-go onboarding process. She noted that it makes sense for members of groups such as the Planning Commission and Board of Adjustment to go to those classes; however, in some cases training might involve using the City's own staff, finding videos

online, or bringing in someone from ICMA to do training. Mrs. Townshend stated that she would be glad to conduct research, put together a program framework, and work with staff and Council, because she has to do a project anyway.

Mr. Shevock requested that Mr. Lewis explain a statement that he put in the newspaper, and expressed his belief that the statement should have been made in the Chamber rather than in the newspaper. He noted that Mr. Lewis had done this several times. Mr. Shevock asked who Mr. Lewis felt was not qualified to be on a City committee. He noted that he felt that Mr. Lewis' statement was a smack to anyone who is serving on the committees. Mr. Shevock advised that Mr. Lewis had stated that just qualified people should be appointed, and questioned who was not qualified to be on the committees in the City. Responding, Mr. Lewis stated that he had not indicated that current board members were not qualified. Mr. Shevock felt that this was not what the statement had said, and indicated that he took offense to it. He advised that when Mr. Lewis publishes this in the paper, people read it.

In response to Mr. Shevock, Mr. Lewis advised that he made the statement because he thought that the boards should not be politicized. He felt that there was a need for a better recruitment process and to put qualified people on the boards. Mr. Lewis did not believe that members of Council should just appoint "Joe Schmoe" to a board or committee because they are a friend.

Mr. Shevock questioned if Mr. Lewis felt that committee members were "Joe Schmoes," stating that this is what Mr. Lewis had said in the newspaper. Responding, Mr. Lewis indicated that he had not stated this, and that Mr. Shevock was misinterpreting. Mr. Shevock indicated that a lot of people that he had talked to misinterpreted Mr. Lewis' remarks and there may be a mass exodus from the committees because of Mr. Lewis' statement. Mr. Shevock expressed his hope that there were a lot of qualified people out there. In response, Mr. Lewis indicated that this was why the recruitment process was being changed.

Mr. Hare indicated that he understood both sides, but noted that it was incumbent upon Council members to find qualified people, rather than telling someone to find qualified people. He advised that he was told that because someone did not like the process, they were not going to find people to serve. Mr. Hare stated that when Council members were elected, they were just unqualified people and knew what was expected of them. He suggested that perhaps members should look at what is expected of them and should be doing it.

Mr. Anderson stated that part of the job of a member of Council is to communicate with the public about his or her decisions. He strongly believed that if Council's discussion is limited to Council Chambers, they are not doing their jobs, because most of the public is not in Council Chambers. Mr. Anderson indicated that this is why members hold town hall meetings, write letters to the editor, and speak with the press when they ask questions. He felt that this is fundamentally Council's job; otherwise, they cannot get the right input back from the public.

Mr. Anderson felt that people would benefit from making more training available. He indicated that he was not typically in favor of mandating things; however, he believed it would be a bad decision to not take advantage of local training that would be set up in Dover for $50. Mr. Anderson believed

that training would allow people a different perspective so that they can have more of an independent, informed judgment. He thought that training for these boards should be encouraged and would allow for more diversity, experience, and perspective, and people with various backgrounds and professional understandings would feel that they could serve on the Board of Adjustment or Planning Commission without being experts in those fields. Mr. Anderson felt that these individuals would know they have support for the proper understanding and he supported Mr. Lewis' proposal.

Mr. Cole felt that there was no rush regarding point #5, noting that Mrs. Townshend was required to address this for her training, and this was outside of her job scope. He suggested tabling this matter and coming back to it in 60 or 90 days, or when Mrs. Townshend's research is done to see what it produces.

Mr. Hare informed members that in the 1990s when people were appointed to an entity such as the Planning Commission, they would have a 45-minute meeting with the Planner and review what happens and is expected in a meeting. He indicated that an individual appointed to the Utility Committee would meet with the Utility Director and an individual appointed to the Safety Committee would meet with the Police Chief to review the basics and to receive a little indoctrination, and this was handled similarly for the Legislative and Parks and Recreation Committees. Mr. Hare noted that this was done before individuals were confirmed by Council, and if they did not feel comfortable, they would decline the appointment. Mr. Hare stated that he agreed with Mr. Cole's suggestion.

Mr. Lewis moved to table this matter to allow Mrs. Townshend to conduct research and come back to Council at a future date with her findings. The motion was seconded by Mr. Cole and unanimously carried.

Proposed Ordinance #2016-21 Amending Chapter 2 - Administration, Chapter 22 - Buildings and Building Regulations, and Chapter 46 - Fire Prevention and Protection by Removing the Annual Appointment of the City Clerk, Building Inspector, and Fire Marshal (Sponsors: Hutchison, Neil, and Anderson)
This item was deferred by the Committee Chair.

Proposed Ordinance #2016-22 Amending Chapter 54 - Health and Sanitation, Article I - In General, Section 54-4 - Smoking Regulations and Appendix F - Fees and Fines
This item was deferred by the Committee Chair.

Proposed Charter Amendments - Removal of Annual Appointment Requirement for the City Assessor, Controller/Treasurer, City Solicitor, and Deputy City Solicitor; Gender Language Amendments; Administrative Amendments; and Typographical Corrections
This item was deferred by the Committee Chair.

Mr. Shevock moved for adjournment of the Legislative, Finance, and Administration Committee meeting. The motion was seconded by Mr. Hosfelt and unanimously carried.

Meeting adjourned at 7:57 p.m.

By unanimous consent, the Council Committee of the Whole meeting adjourned at 7:57 p.m.

Timothy A. Slavin
Council President

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Attachments
Attachment #1 - Email from Mr. David Bonar, former City Council President, dated October 11, 2016, Subject: Letter to Council
Attachment #2 - Salaries of Mayors and Elected Government Officials - October 2016, as revised October 17, 2016

Stein, Jody

From: DL Bonar <dlbassociates@gmail.com>
Sent: Tuesday, October 11, 2016 3:50 PM
To: McDowell, Traci; Stein, Jody
Subject: letter to council

It has come to my attention that there are a couple of issues being decided that concern me deeply, as a former Council member, President of Council and Interim Mayor and one who deeply believes in our city.
First, the application of Fordham Brewery to hold 80 hours of public events during 2017 at their property along Horsepond Road.
This issue was raised and addressed with only limited fanfare earlier, when it was determined to give them authority to hold 40 hours of events at the location between June and the end of calendar year 2016. This was granted and alleviated a need for greater discussion.
Now, since no counter offer for 2017 has been forwarded by the City of Dover, Fordham wishes to hold 80 hours of events in all of 2017.
To me, this seems a reasonable number of hours and I hope that members of Council see their way clear to grant this request without further delay or action. If you decide to disapprove it, you should be prepared to publicly justify your decision and back that decision up with facts, not just hypotheticals.

The second item of concern involves finding persons to fill vacancies on the various committees that so aptly serve our citizens. I commend Council for taking a look at this issue, but I fear you may be killing a gnat with a sledgehammer.
The quote in the Delaware State News by one member of Council of "This will make sure we don't just appoint anybody and that we just appoint qualified people," concerns me deeply. I would remind Council that before each is elected and sworn in to office, you are "just anybody" too. We have a difficult enough time in finding persons willing to take their time to serve on these committees, particularly when they learn how much of their time and effort it requires. The men and women serving as members of the community on these committees take time away from their families considering it an honor and civic duty. To make them "apply" to serve or to require those already serving to "reapply" is not only time consuming, but an insult to their willingness to serve. Council already has the responsibility to review applicants and approve or deny them in some cases. The Mayor has the responsibility of appointing committee persons as does the Council President.
Creating obstacles to community service does nothing but create an impediment in finding people willing to serve our city without running for office. I'd remind you that these positions, in all cases, make Council, the Mayor look like true public servants and our residents feel we are open to community input rather than hampering it.

--
David Bonar
218 N State Street
Dover, DE 19904
302-677-0847
302-242-2351(cell)

Salaries of Mayors and Elected Government Officials
October 2016
(revised)

Jurisdiction	Mayor Salary	Elected Official Salary	Comments About Form of Government
Annapolis, MD	$98,000 per year	Aldermen $13,500 per year	Mayor-Council - Mayor chairs meetings and serves as chief executive
Dover	$45,000 per year	Council President $8,652 per year, Council Members $7,416 per year	Council-Manager form of government
Kent County	-	Commissioners $30,806 per year	Levy Court - County Government
Middletown	$300 per month ($3,600 per year)	Council (including Vice Mayor) $200 per month ($2,400 per year)	Mayor-Council - Mayor serves part-time and Mayor's vote is a tie-breaker
Newark	$8,400 per year	Council $7,000 per year	Council-Manager - six (6) Council members and Mayor, each of whom have one (1) vote
Wilmington	Currently $115,276; budget authorizes up to $121,486	Council President $34,950/year (will increase in 2017 to $35,650), Council $27,650 per year (will increase in 2017 to $28,205)	Mayor-Council - Mayor is chief executive and administrative officer

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