COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole Meeting was held on January 10, 2017 at 6:01 p.m., with Council President Slavin presiding (departed at 6:13 p.m.). Members of Council present were Mr. Anderson, Mr. Sudler, Mr. Neil, Mr. Cole, Mr. Hare, and Mr. Hutchison. Mr. Lewis and Mr. Hosfelt were absent. Mayor Christiansen was also absent. Civilian members present for their Committee meetings were Mr. Caldwell and Mrs. Horsey (*Parks, Recreation, and Community Enhancement*), Ms. Arndt and Mr. Blakeman (*Utility*), and Mr. Shevock and Dr. Stewart (*Legislative, Finance, and Administration*).

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE

The Parks, Recreation, and Community Enhancement Committee meeting was held with Chairman Sudler presiding.

AGENDA ADDITIONS/DELETIONS

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

Proposed Ordinance #2017-01 Amending Chapter 70 - Offenses and Miscellaneous Provisions and Appendix F - Fees and Fines (Disorderly Premises)

During the Regular City Council Meeting of September 26, 2016, members approved the recommendation of the Council Committee of the Whole/Parks, Recreation, and Community Enhancement Committee to request that staff create a disorderly premises ordinance for consideration by the Committee within 60 days.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that they had asked her to work with the Police Department to adapt New Castle County's Disorderly Premises Ordinance to Dover. She indicated that staff had done this, and Proposed Ordinance #2017-01 had been reviewed by Mr. William Pepper, Deputy City Solicitor, the Police Chief, and the Deputy Police Chief. Mrs. Townshend explained that the Proposed Ordinance addressed the issue of disturbing activities and how they are dealt with for tenant-occupied, rather than owner-occupied premises. She stated that notice would be served and there would be applicable fines, noting that if there were three (3) violations within a 12-month period, the Police Department would notify the Department of Planning and Inspections, who would begin a Provisional Order, which is the first step toward revocation of a business license. Mrs. Townshend stated that fines listed on the second page of the Proposed Ordinance would be included in the fine section of the code and were not embedded in the ordinance itself. She stated that the ordinance included information that members reviewed previously, with the language adapted for Dover. Mrs. Townshend advised that the ordinance would be enforced by the Police Department, who would turn issues over to the Planning Department if there was a need to take action on a business license.

Mr. Anderson questioned the scope of the ordinance. He noted that Mrs. Townshend had referred to business licenses and asked if the ordinance also applied to rental houses. In response,

Mrs. Townshend indicated that the Proposed Ordinance would apply to any premises, so it could apply to both businesses and rental properties. She stated that staff had considered that the Safe Communities Ordinance would apply to rental homes.

Mr. Anderson asked if the Proposed Ordinance would include residential and commercial properties, and Mrs. Townshend stated that it would, noting that there was a different mechanism in the Safe Communities Ordinance for suspension of rental permits already in existence. She stated that staff could add rental suspension into the Proposed Ordinance so that there would be one (1) more enforcement mechanism in this component as well.

Mr. Anderson stated that it could also be made clear that violations of the Disorderly Premises Ordinance would trigger the Safe Communities ordinance. He stated his concern was that the ordinance looked like it would apply to rental properties; however, he did not see a triggering mechanism in the ordinance.

Mrs. Townshend advised that staff was looking at the Disorderly Premises and the Safe Communities Ordinances being parallel, noting that there is the same notification process within the Safe Communities Ordinance. She explained that Proposed Ordinance #2017-01 would fill the gap by addressing business uses, noting that the City cannot shut down an owner-occupied property by revoking the license; however, the Police Department could issue fines that could become substantial. Mr. Anderson noted that a $1,000 fine was included.

Mr. Hutchison stated his understanding that if a renter was creating a problem, the renter would be cited rather than the owner. Responding, Mrs. Townshend stated that the Police Department would issue the fines; therefore, they would determine who the fines are issued to. She expressed her assumption that the Police Department would show up at the premises and issue fines to the occupant.

Mr. Hutchison stated that he liked what he read in the Proposed Ordinance; however, he wanted to make sure that the renter of the property would be held responsible rather than the owner. Responding, Mrs. Townshend advised that in the Safe Communities Ordinance, there is notification to the landlord before it gets to that point. She explained that staff had not had to suspend a rental permit under the Safe Communities Ordinance yet, but there had been a number of cases where there had been notification to a landlord who had no idea that something bad was going on, and the landlord stepped in at that point.

Mr. Hare advised that in his district there had been an issue with a house with a lot of trash and noise, with 10 - 15 people living in the house where there was only supposed to be four (4). He stated that the landlord was advised and was not upset but had asked the City to suspend their rental license and stated that they had been trying to get rid of the tenants for six (6) months. Mr. Hare indicated that landlords are notified if there is an issue and may say that they will try to take action.

As one (1) of the sponsors of the Proposed Ordinance, Mr. Slavin advised that it was not his intent to go after the landlords, stating his feeling that protections are already in place for this. He noted that the hole that exists is that behavior on the part of the renters cannot be penalized and the City

could only go after the landlords. Mr. Slavin indicated that the Proposed Ordinance would allow the City to go after the people who are causing the problem. He noted that if a problem persists, it would become a landlord problem, and the landlord would be notified.

Mr. Hutchison stated that, after reviewing the ordinance, he believed it would enhance the City's ability to protect its citizens.

Mrs. Townshend advised that the Police Department and Code Enforcement Division had improved their communications relating to nuisance activities at rental properties in a meaningful way, and the Planning Department was getting very good information flow from the Police Department so that the Planning Department could respond appropriately.

Mr. Caldwell noted that a lot of tenants can cause problems outside the premises. In response, Mrs. Townshend advised that it appeared that the Proposed Ordinance addressed the vicinity, since it referenced obstructing vehicular or pedestrian traffic. She stated that the Proposed Ordinance could be enforced if it could be documented that the offenses were connected to the premises.

Mr. Sudler noted that there were two (2) concerns with the Proposed Ordinance regarding clarity and questioned whether the ordinance as written could address these concerns, or if clarification should be adopted into the ordinance. Responding, Mrs. Townshend stated that she thought the Proposed Ordinance as written would address the concerns and felt this was a matter of how it was applied. She expressed the need to work with both the Planning and Police Departments to make sure they understood that the Proposed Ordinance would be used in conjunction with the Safe Communities Ordinance and would address some of the things that Safe Communities did not get to.

Mr. Sudler suggested, when the Planning Department works with and has dialogue with the Police Department, that this dialogue be reported and disseminated among the Committee for the record. He indicated that this could be done to fall back on in case a situation comes up so that members could say what the intent of the ordinance was and that it was clarified. Mrs. Townshend agreed to Mr. Sudler's suggestion.

Mr. Hutchison moved to recommend adoption of Proposed Ordinance #2017-01, seconded by Mr. Neil and unanimously carried.

Mr. Hare moved for adjournment of the Parks, Recreation, and Community Enhancement Committee meeting. The motion was seconded by Mr. Neil and unanimously carried.

Meeting adjourned at 6:13 p.m.

UTILITY COMMITTEE

The Utility Committee meeting was held with Chairman Cole presiding.

AGENDA ADDITIONS/DELETIONS

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

Dedication of Rights-of-Way and Public Infrastructure - Emerald Pointe

Mr. Scott Koenig, City Manager, stated that the City of Dover Department of Public Works had requested that all public infrastructure improvements related to the Emerald Pointe subdivision be dedicated to the City of Dover for permanent ownership and maintenance.

Referring to the list of public improvements associated with Emerald Pointe, as well as a map depicting the general location and configuration of the subject rights-of-way, Mr. Koenig informed members that the total construction value of the public improvements was $1,458,660.13.

Mr. Koenig reminded members that Council voted to abandon the stub portion of Topaz Circle south of Aquamarine Court in 2016. He stated that the removal of the curbing and paving in this area would be completed in 2017, in conjunction with other work throughout the City.

Mr. Koenig explained that staff had been monitoring a small sewer system issue, and if the City repaired the sewer system to bring it completely within standards, they would have to cut the road, which in some cases reduces the life of the road. Because the system had been performing, his recommendation was not to repair the sewer because the repair would not yield any value to the overall infrastructure. Mr. Koenig advised that staff had been happy with the monitoring of this subdivision, all houses had been built, and Certificates of Occupancy had been issued. He reiterated that Council had taken action on the stub street, noting that after the dedication, upright curbing would be installed and the existing macadam would be removed. Mr. Koenig advised that property owners could then proceed with modification of their deeds to acquire that property if they so choose. Mr. Koenig stated that, to his knowledge, all of the houses in this subdivision were occupied, unless vacated through moving, etc.

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

Mr. Neil moved to recommend approval of Staff's recommendation, seconded by Mr. Blakeman and unanimously carried.

Mr. Hare moved for adjournment of the Utility Committee meeting. The motion was seconded by Mr. Blakeman and unanimously carried.

Meeting adjourned at 6:19 p.m.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

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

Property Tax Credit Request - Route 8 (New Development)

Mr. Scott Koenig, City Manager, advised members that the request for a property tax credit for new development on Route 8 came out of the City Manager's Office based on discussions with a developer of land along the Route 8 Corridor. He indicated that staff had been working with the developer of land on the south side of Route 8 which was formerly owned by Ennis Business Systems, LLC. Mr. Koenig stated that there had been associated demolition of buildings and the property had been cleared in anticipation of future development. He explained that Franchise Management Services, Inc. c/o Mr. Nick Nastazos was proposing to build a new Dunkin Donuts facility, as well as other commercial space, on property located at 1116-1128 Forest Avenue. Mr. Koenig stated that the Route 8 traffic study envisioned a service road across the rear of this parcel, which would connect to the existing traffic light at the Modern Maturity Center and travel east towards the Gateway West Shopping Center. He explained that the overall traffic plan envisioned a full stoplight at the Modern Maturity Center, east-west stopping on Forrest Avenue, the existing southbound light at the Modern Maturity, and a full signal light which would allow cars access out of the site onto Route 8.

Mr. Koenig indicated that the concept plans of the Route 8 study included a service road with one (1) lane in each direction running from the Modern Maturity light in a southerly direction across this property to the rear, and then in an easterly direction to Gateway West. He indicated that in the development site plan for the property immediately east of the subject property, which includes several doctors' offices, an easement is reserved at the rear of the property for a future access road. Mr. Koenig advised that, in discussing this proposal with the current developer, he asked for consideration from the City of Dover for a tax credit for a period of time to reserve the potential for construction of the service road.

Mr. Koenig explained that the concept would be to assume that the land is approximately five (5) acres in size. He stated that the area needed for a proposed service road would equate to 1.5 acres of land. Mr. Koenig advised that instead of paying City of Dover property taxes on the entire five (5) acres, the developer would only pay property taxes on 3.5 acres of land. He indicated that this tax credit would only be for the land component. Mr. Koenig stated that the developer would pay full property taxes for all buildings and other improvements on the land, and the proposed property tax agreement would be for a 20-year term. He noted that if the service road was actually constructed across the property to public road standards, then the right-of-way for the service road as well as the improvements associated with the road would be dedicated to the City of Dover, and the City would draft a formal agreement for signature by the developer and the City. Mr. Koenig

stated that this approach would allow the City to preserve the service road concept across the development parcel without disrupting the development process.

Mr. Koenig informed members that he was interested in this approach because he did not want to purchase the land from this developer, and the reservation or the tax credit was a good way for the City to keep the concept alive without negatively impacting the overall tax revenue from the property. He explained that, assuming that Mr. Nastazos does the construction, there would be new building features at this location that would have full property tax, and the only credit would be the final alignment of a future road right-of-way or road easement. Mr. Koenig indicated staff had assumed that the service road would never happen, and if the City did not want to pursue this 10 or 15 years down the road, there could be language included that would allow the City to basically abandon the concept and at that point stop offering the tax credit. He advised that, on the other hand, the City would have a 20-year time frame to get the service road constructed, and if it is not constructed, the property would be unencumbered by the tax credit after the 20-year horizon. Mr. Koenig stated that this concept had been discussed at the developer-staff level and, if approved, staff would draft and execute the agreement. He noted that if Council chose not to move it forward, staff would abandon the concept and inform the developer.

Staff recommended authorizing the City Manager to execute a tax credit agreement for the purpose of reserving area for a future service road across the properties located at 1116-1128 Forrest Avenue.

Mr. Anderson asked if this approach would transfer with ownership transfers. Responding, Mr. Koenig stated that staff had not gotten that far into the discussion; however, he felt that the answer would be no and that the discussion was with the current developer.

Mr. Anderson stated that tax credits in the City usually exist just for 10 years and 20 years would be unusual. He asked if this was suggested because staff wanted to maintain the City's flexibility for up to 20 years. Responding, Mr. Koenig advised that he had suggested 20 years because it takes a long time for roads or road concepts to be approved. He indicated that he did not think 10 years would be long enough in this case and requested consideration of 20 years.

Mr. Shevock questioned if the developer would pay for any of the roadway and how far he would take the service road back. Responding, Mr. Koenig indicated that there was a kind of caveat with the developer that the City would show him an alignment that would allow him to build a service road component and then dedicate it. He was interested in this concept so that he would not have future maintenance responsibilities for the road. Mr. Koenig noted that they had not fully discussed at what point this would happen. He indicated that the developer was very adamant about building the first building but was concerned about the total all-in cost for development because he would have to build a turn lane, modify the signal, etc. Mr. Koenig advised that ideally, through the development of this parcel, two-thirds of the service road would be built on the developer's property. He stated that the developer would then request that the City take dedication of that road area and the potential extension easement of that area so that he could divest himself of the maintenance issue.

Mr. Shevock asked if the developer would build to City specifications. Responding, Mr. Koenig stated that if the developer wanted the road to be dedicated in the future, he must build it to the City's structural number standards, turning radiuses, etc., and staff would encourage this.

Mr. Hare asked how much money was being discussed. Responding, Mr. Koenig stated that he would have to obtain this answer for members. He estimated that the credit on the land at $1,500 to $2,000 per year, noting that he did not think it would be this high but had not brought a number with him.

Mr. Sudler moved to recommended authorizing the City Manager to execute a tax credit agreement for the purpose of reserving area for a future service road across the properties located at 1116-1128 Forrest Avenue, as recommended by staff. The motion was seconded by Mr. Shevock and unanimously carried.

Project Carry-Forward Budget Balances/Proposed Ordinance #2017-04 - Budget Amendments

Members were provided a revised Committee Action Form (CAF) regarding Project Carry-Forward Budget Balances & Proposed Budget Amendments dated January 10, 2017 ***(Attachment #1).*** Mrs. Donna Mitchell, Controller/Treasurer, advised members that the form was revised for clarification and reviewed the CAF. In regard to the Rate Stabilization Reserve, she noted that this reserve has a policy of 10% - 20% of power supply costs. She noted that putting the entire $6M that was over the projection in the Electric Fund Budget Balance into the Rate Stabilization Fund would have put this fund over policy; therefore, $2M was placed in the Rate Stabilization Fund, which keeps the fund within the policy, and $2M was placed in both the Future Capacity Reserve and the Depreciation Reserve. Mrs. Mitchell noted that no revenue increases were projected because staff was waiting to complete the Quarterly Revenue Report after December 2016 is closed, noting that any favorability would be brought forward at that time.

In regard to increases to the Division budgets for vacation sell-back, Mrs. Mitchell explained that "retirement payout" was struck through because there was no retirement money included, it was agreed that this would be covered with salary savings, and no retirement money was budgeted.

In regard to additional adjustments to the FY17 Budgets, Mrs. Mitchell explained that there had been a request from Ms. Margery Cyr, Library Director, for a glass door/wall in the library to partition off and reduce the noise level in the small theater. She indicated that when reductions were made to balance the budget, this item was removed; however, a commitment was made to Ms. Cyr that this would be covered through a budget amendment if there was extra money in the Capital Project Fund. In regard to moving overhead distribution lines to underground distribution lines on the North Street Project, Mrs. Mitchell explained that Mr. Scott Koenig, City Manager, had brought forward a CAF for improvements to water and wastewater portions of this project a few weeks ago, and the funding now being discussed was for the electric side of this project.

Staff recommended approval of the proposed Budget Amendments for Fiscal Year 2017.

Mr. Anderson stated his recollection that money had been borrowed from the Rate Stabilization Fund. He asked if this was correct and, if so, whether this fund was now current.

Responding, Mrs. Mitchell stated that, in regard to the Rate Stabilization Fund, if funding is available, a power cost adjustment (PCA) credit is given. She indicated that if Rate Stabilization Fund monies are used for another purpose, the fund is replenished. Mrs. Mitchell explained that these funds are mostly used for power supply cost adjustments and that the City was currently doing such a cost adjustment. She stated these funds would replace money put into the power supply cost adjustment in people's electric bills.

In response to Mr. Anderson regarding the status of the Rate Stabilization Fund, Mrs. Mitchell stated that it would be at the highest compliance level. She noted that the highest compliance level is 20% and it was at approximately 19.3%.

Mr. Anderson noted that money was taken for HVAC maintenance at Weyandt Hall and questioned if other needed maintenance, such as roofing and other issues, were already covered. In response, Mrs. Mitchell advised that since this building was owned by the Electric Fund, Mr. Harry Maloney, Electric Director, had a line item in this department's administrative budget for maintenance for it. She explained that this mostly covered the electric and routine maintenance. Mrs. Mitchell stated that janitorial services were also covered; however, the HVAC and door replacement were major projects that were added to the capital budget in the Electric Fund so that these capital components could be depreciated.

Mr. Anderson asked if the problem with Weyandt Hall's roof when there is rain had finally been solved. Responding, Mrs. Mitchell advised that the problem had been solved and the roof no longer leaked.

Referring to the $330,000 in personnel favorability in FY 16, Dr. Stewart asked if this transfer was needed to cover additional positions that were added. In response, Mrs. Mitchell stated that it was; however, $300,000 of this amount had been transferred to the uncollectible reserve before the year ended for audit purposes, so this was taken out of personnel savings.

Dr. Stewart asked if personnel savings usually go to the Other Post-Employment Benefits (OPEB) fund. Responding, Mrs. Mitchell stated that these funds go to the OPEB fund or to pension funds for unfunded liabilities.

Mr. Hutchison stated his understanding that no revenue increases were being projected and asked when the Quarterly Revenue Report was due. In response, Mrs. Mitchell advised that it is usually due for the first City Council meeting in February; however, she was trying to prepare it now to provide it to the Clerk's Office by January 14, 2017 to be placed on the next agenda. She indicated that the report was tracking favorably and she wanted to bring this forward and had asked staff to see if they could get it done as the books were being closed. Mr. Hutchison asked if Mrs. Mitchell would be making a recommendation based on the report's findings. In response, Mrs. Mitchell stated that she would be making a recommendation, preparing another budget ordinance, or providing information that would be rolled in the next time staff brings forward another budget ordinance.

Mr. Anderson commented that he saw no adjustments in the area of parks and recreation and asked if there had been any discussion regarding improvements of fields, etc. In response, Mrs. Mitchell stated that there had not been discussion and the Proposed Ordinance would only bring forward what was carried forward from last year's open projects. She explained that any enhancements or new projects desired for this year would have to be brought forward by staff or Council for discussion at a meeting because they would be unbudgeted projects.

Mr. Sudler moved to recommend approval of the proposed Budget Amendments for Fiscal Year 2017, as recommended by staff. The motion was seconded by Mr. Shevock and unanimously carried.

Consideration of Cost of Living Allowance (COLA) for General Pension Plan Retirees

Mr. Scott Koenig, City Manager, stated that the request for consideration of a Cost of Living Allowance (COLA) came out of the City Manager's Office as a follow-up to discussions over the last several years. He read into the record his memorandum dated December 29, 2016 regarding Consideration of Cost of Living Allowance for General Pension Plan Retirees into the record, as follows:

> For several years, representatives of the General Pension Plan retirees have inquired about a Cost of Living Allowance (COLA) for the current city pensioners under the City's General Pension Plan. These discussions have not lined up with the City's budget process. The City Manager is requesting authorization to expend approximately $1 ,000 to analyze the financial impact for three (3) different COLA amounts: 1%, 1.5% and 2.0%. The analysis will be completed by Nyhart. These expenses will be charged against the pension fund assets.
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> The scenarios are one-time COLAs that would increase the retiree's annual payment by the correlating percentage. Once the financial impacts are determined, the City Manager will make recommendations for budgetary considerations. Ultimately, City Council would have to authorize any COLA before one could be implemented.

Mr. Koenig advised that this request had come before the Pension Board, Council committees, and Council on a number of occasions over the last several years. He indicated that he would like to see it approved to obtain a hard dollar amount on the cost if COLAs were authorized. Mr. Koenig explained that he would come before the Committee and Council with the results and recommendations at a later date.

Mr. Hare asked if these were non-union employees. Responding, Mr. Koenig advised that this would include members of the General Employee Pension Plan, so there were a number of different employees that in some cases were unionized. He indicated that some of these pensioners retired from the City before anyone in the work force was unionized; however, this would cover everything from electric personnel, to general office work, to sanitation, so they were in some cases formerly unionized employees.

Mr. Hare asked if the union negotiated all of these employees' pension matters when they were unionized. In response, Mr. Koenig stated that, as far as he knew, the formula used for those in the defined benefit pension plan was based on the number of years of service and a percentage of salaries. He indicated that the union had typically negotiated medical benefits and in some cases what percentages these individuals were paying as retirees. Mr. Koenig estimated that there were approximately 200 plus retirees at this point, some of whom had been retired for many years, and this was where the focus of this discussion was coming from. He stated his belief that the formula for their actual monthly pension payment was standard across the board for everybody, so the fact that they were in unions or not in unions had no effect on this actuarial calculation.

Mr. Hare indicated that he did not have a problem with this; however, he wanted to make sure that everybody was on the same playing field. He indicated that if non-union retirees were paying a greater percentage for healthcare than union employees, this should be figured in if a COLA increase is given.

Mr. Koenig explained that there is not a 100% level playing field, noting that some retirees now in the pension plan are cost-sharing for retirement health care and some former employees are not contributing to their health care costs in retirement because they retired many years ago. He noted that some who have retired over the last few years are contributing a portion of their health care costs, and some who are retiring or have retired that are not even in the defined benefit plan. Mr. Koenig explained that this current request would only affect the pool of former employees in the defined benefit plan and would not do anything for retirees in the defined contribution. He indicated that it would not correlate with whether it is a spousal retirement, since there is a formula for that, or with cost-sharing and health care, noting that those items are detached from one another.

Mr. Neil indicated that there was a range of figures for COLAs, noting that for Social Security this year it was 0.3%, and the increase for the Delaware Manufactured Home Relocation Authority for rent justification was 0.6% based on average of three (3) years. Mr. Neil noted that the proposal was for 1%, 1.5%, or 2%, stating that this would good if the inflation rate was driven up 5%, 6%, or 7%, but bad if it is low as it is now. He stated that the inflation rate probably would increase. Mr. Neil questioned if there could be some sort of a float that would be fair to a retiree if inflation goes up but would at the same time be fair to the City if the rate stays as low as it is now for Social Security purposes.

Mr. Koenig indicated that this question may be beyond his ability, stating his belief that it had been more than five (5) years since there had been any type of COLA consideration for this group of retirees. Mr. Les Blakeman, 209 Falmouth Way, stated his belief that the last COLA raise was in 2006; therefore, it had been 11years since there was an increase.

Mr. Koenig noted that Mr. Blakeman had indicated that there had not been an increase since 2006 and stated that he had not brought any cost of living averaging information for the discussion this evening; however, it had been a significant amount of time since pensions had been adjusted at all. In regard to a rate that would float, Mr. Koenig indicated that he was looking for a very simple calculation stating the cost if the pensions for everyone in this group increased, for example, by 1% or 1.5% and how it would be funded. He stated that he thought it would cost a lot more than $1,000

to analyze the cost of an associated floating mechanism, and staff was trying to get the simplest, fairest plan together to accurately evaluate this matter.

Mr. Neil expressed his hope that Council would consider a floating rate because a fixed rate could be good or bad. He indicated that if no one had gotten an increase since 2006, anything would be better than what it is now. Mr. Neil advised that he was laying the idea of a floating rate on the table for consideration in the future, whether or not the proposal was approved, because other mechanisms were being used on a regular basis, including by Social Security. He stated that the Consumer Price Index for all Urban Consumers (CPI-U) is used for rent justification for the Philadelphia, southern New Jersey, and Wilmington area, and they came up with the 0.6% rate currently being used; however, it was based on a three-year period. Mr. Neil noted that retirees got no increase from Social Security one (1) year, and this year Social Security granted 0.3%, which was gobbled up.

Mr. Anderson asked if the effect of a one-time increase would be looked at rather than an annual increase. Responding, Mr. Koenig indicated that what would be asked for would be the effect of taking the annual pension and increasing it by 1%, 1.5%, or 2% going into the future. For example, he stated that if a pension was $1,000 per month and the increase was 1%, the pension would increase to $1,010 per month until something was altered in the future. In response to Mr. Anderson, he confirmed that it would be a one-time initial increase, not 1% each year, and that change would run in perpetuity.

Mr. Anderson indicated that floating mechanisms were not necessarily needed because perpetual annual increases were not being discussed beyond the base. He stated that members were talking about the effect on the pension fund and unfunded liabilities, etc., if this increase was done periodically, such as every 10 years or so.

Mr. Koenig confirmed this and stated, for clarification, that a snapshot would be taken of every pensioner right now. If Council awarded a 1.5% increase, those annualized numbers would be adjusted by 1.5%and this would become their annual pension going into the future.

Dr. Stewart asked if the City funds COLA increases in one (1) lump sum or over a period of years. Responding, Mr. Koenig indicated that the City had not done a COLA increase since 2006; however, he thought the intent was to come up with a number and fund it all in a lump sum, assuming that the City had the money to do that, because it was not desired to create additional liability.

Mr. Hare noted that it would be a lump sum every year, noting that if was determined that the cost of a 1% increase was $5,000, there would be an additional $5,000 cost every year. He noted that this cost would be amortized. Mr. Hare stated he thought the request would be a good first step.

Mr. Anderson moved to recommend that the City Manager be authorized to expend approximately $1 ,000 to analyze the financial impact for three (3) different COLA amounts: 1%, 1.5% and 2.0%. The analysis will be completed by Nyhart. These expenses will be charged against the pension fund assets. The motion was seconded by Mr. Sudler and unanimously carried.

Proposed Time Change for Open Forum

Mr. Hare advised members that Mr. Slavin had indicated that he would like to see the time for the Open Forum segment of the Regular City Council Meetings moved to 7:00 p.m. due to the number of speakers that had been present at meetings over the last few months.

Mr. Sudler asked if Open Forum would be held from 7:00 p.m. to 7:30 p.m. Responding, Mr. Hare indicated that it would be held at 7:00 p.m. but could end earlier than 7:30 p.m. if speakers are done earlier. He noted that there might be times when Open Forum may run a little longer than 7:30 p.m.; but starting at 7:00 p.m. would be better than 7:15 p.m. He noted that the Open Forum for Council usually starts at 7:15 p.m. and would be moved back to 7:00 p.m.

Mr. Anderson asked if this would be for a particular session of Council through May 2017. Responding, Mr. Hare indicated that the change would be permanent.

Mr. Sudler moved to recommend acceptance of the time change for Open Forum for City Council meetings from 7:00 p.m. to 7:30 p.m. as presented by Councilman Hare, seconded by Mr. Neil and unanimously carried.

Proposed Ordinance #2017-02 Amending Chapter 2 - Administration, Article V - Finance, Section 2-422 - Disposal of Excess Property

Mr. Scott Koenig, City Manager, reminded members that he had been before Council several times over the last year or two (2) to discuss the disposal of excess property, and Mr. Slavin had commented about the difficulty of reading the procedure for sale and disposition of real property. He stated that the procedure was re-typed, and Mrs. Traci McDowell, City Clerk, had subsequently indicated that it should be codified and placed into the municipal code so there would be no ambiguity about what it said and when it was adopted. Mr. Koenig explained that Proposed Ordinance #2017-02 would codify the procedure for sale and disposition of excess City-owned real property, stating that no changes had been made to the procedure, to his knowledge and it had just been placed in code format. Staff recommended that Proposed Ordinance #2017-02 be moved forward to Council.

Mr. Anderson stated that he had a question about the State code change which allows for land banking and the forming of land banking organizations. He noted that Mr. William Pepper, Deputy City Solicitor, and Mrs. Ann Marie Townshend, Director of Planning and Community Development, were studying these issues and Mr. Anderson expressed concern about changing the municipal code before the City had a chance to look at a possible addition to the code in this regard. Mr. Anderson asked, if the City were to take advantage of the recent change in State law, whether this would fall under Exception E of the proposed ordinance pertaining to non-profit organizations. Responding, Mr. Koenig advised that he would have to get an answer from Mr. Pepper in this regard, stating that he would happy to do so before the next City Council meeting.

Mr. Anderson stated that he would definitely like an opinion and would like to delay adoption of the ordinance until members had a chance to look at the land bank issue if it would affect the ordinance. He indicated that there would be no reason to delay the ordinance if it would not be affected by the State code change.

Mr. Hare stated that he thought the Proposed Ordinance could move forward, a legal opinion could be obtained, it could be discussed at the Council meeting, and appropriate action could be taken.

Mr. Neil expressed concern that the City has vacant buildings that do not move forward as fast as they should in terms of determining whether they can be used in a different manner, if they are surplus, or what their value is, and he thought the Proposed Ordinance would enable the City to move forward. He indicated that these are City properties that citizens invested their money to purchase, and the City should be giving citizens full value, whether the buildings are sold or used elsewhere. Mr. Neil stated that one (1) of his suggestions during the Council Retreat held on January 6, 2017 was to look at this matter and move forward with it, and he had no problem with moving forward with the ordinance or with checking on Councilman Anderson's concerns and thoughts.

Mr. Anderson moved to recommend adoption of Proposed Ordinance #2017-02, with a caveat that a legal opinion be obtained regarding whether the State code change which allows for land banking and the forming of land banking organizations would affect the Proposed Ordinance.

Proposed Ordinance #2017-03 Amending Chapter 2 - Administration, Article IV - Officers and Employees, Division7 - General Employee Pension Plan and Division 8 - Deferred Compensation Plan; and Article VI - Other Post-Employment Benefits Fund and Creating Chapter 80 - Personnel

Mrs. Donna Mitchell, Controller/Treasurer, advised members that she had developed an outline of the provisions of Proposed Ordinance #2017-03 and reviewed them, as follows:

1. Established a New Chapter #80 for Personnel and incorporates the retirement related ordinances into this chapter. (All pension, deferred compensation and Other Post Employment Benefit Plans)

2. Administratively revises the ordinances to remove redundancies included in all ordinances by adding a definition section and expands Division 1 - Generally to clarify the provisions that apply to all retirement plans. i.e., Normal retirement, early retirement, termination of employment.

3. Administratively changes the terminology used from defined benefit and defined contribution to the specific plan applicable. i.e. general employee pension plan, deferred compensation plan (457), or money purchase plan (401).

4. Incorporates the provisions that apply to the General Pension Plan into the Money Purchase Plan Division since the General Pension Plan is now a closed plan since 2009.

5. Inserts where applicable for each plan that the terms and conditions of the plan are defined in the Plan documents for the 401/457 Plans. This would negate any continued changes if contribution percentages change or plan changes as required by IRS rule changes.

6. Administratively changes the terminology to reflect changes in actuarial standards for both pension and OPEB. What used to be actuarial required contributions is now actuarial determined contributions.

7. Revises New Section 80-516 (General Pension Plan rows 494 - 541):

   Benefits to cease upon reemployment; exceptions -

   This provides expanded detail in conformance with IRS regulations as to under what circumstances a retiree in the General Pension Plan can return to work without having to stop their retirement benefits. It mirrors the State of Delaware code and has been reviewed and suggested by a labor attorney familiar with the tax code provisions.

Referring to Line #179, Mr. Anderson questioned why "irrevocable" was stricken in regard to the decision to join the deferred compensation plan. Responding, Mrs. Mitchell explained that the deferred compensation plan is the 457 plan, which is a voluntary choice; however, the 401 plan is an irrevocable decision and the ordinance was adjusted to reflect this.

Mr. Hare noted that a City employee who retires must wait six (6) months before they can come back and work for the City. Mrs. Mitchell confirmed this and noted that employees under age 65 can work only under certain circumstances; however, there are no restrictions for those over age 65. She advised that the ordinance spells out the circumstances under which an employee can return, such as for a project or as a casual/seasonal employee.

Responding to Mr. Hare regarding whether an employee can return part-time, Mrs. Mitchell stated that they can return part-time for no more than six (6) months if they are under age 65; otherwise they would have to stop their pension.

Mr. Hare asked if employees could work part-time for six (6) months and then take a break. In response, Mrs. Mitchell indicated that it was against Internal Revenue Service (IRS) rules to plan to let employees go for a little while and then bring them back.

Mr. Sudler moved to recommend adoption of Proposed Ordinance #2017-03 as presented, seconded by Mr. Hutchison and unanimously carried.

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

Meeting adjourned at 7:04 p.m.

Mr. Anderson moved for adjournment of the Council Committee of the Whole meeting. The motion was seconded by Mr. Neil and unanimously carried.

Meeting adjourned at 7:05 p.m.

Timothy A. Slavin
Council President

TAS/TM/js/dd
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Attachments
Attachment #1 - Revised Committee Action Form Regarding Project Carry-Forward Budget Balances & Proposed Budget Amendments dated January 10, 2017

ACTION FORM

PROCEEDING: Council Committee of the Whole
DEPARTMENT OF ORIGIN: Finance **DATE SUBMITTED: 01/10/2017**
PREPARED BY: Donna Mitchell, Controller/Treasurer
SUBJECT: Project Carry-Forward Budget Balances & Proposed Budget Amendments
REVIEWED BY: City Manager & Controller/Treasurer
APPROVALS: Council Committee of the Whole
EXHIBITS: Exhibit A – Capital Investment Plan Amendments
EXPENDITURE REQUIRED: As per the attached Exhibit & Draft Ordinance **AMOUNT BUDGETED**: N/A
TIMETABLE: Upon Council approval
RECOMMENDED ACTION: Staff recommends approval of the proposed Budget Amendments for Fiscal Year 2017.

The proposed budget amendment includes adjustments to the Beginning Budget Balances for all funds and Capital Project budgets (see Exhibit A). It also includes any adjustments related to Council Actions taken to date on changes in project budgets or operating items that were not included in the original budget.

Financial Policy transfers of favorable carry forward balances are as follows –

- The General Fund includes a transfer to the Capital Asset Reserve of $253,400 attributed to favorable revenues and after a reduction of $485,000 for the purchase/demolition of Water Street properties.
- Personnel favorability in FY16 is included to be transferred to the OPEB Trust in the amounts of $101,800 for Water/Wastewater and $109,300 for Electric. The General Fund had approximately $330,000 of personnel favorability; however, these funds were needed to increase the Reserve for Uncollectible Accounts and the Customer Service & Library (Passport) staff increases as approved by City Council.
- The transfer to the Contingency Reserve in the Water Utility was increased from $110,000 to $131,100 to bring it in line with the financial policy of a minimum balance of $250,000.
- The Electric Fund Budget Balance ended the year with ~~Rate Stabilization Reserve has been increased by~~ $6 million over the projection due to favorable power supply cost. This favorability was allocated as $2 million each to the Rate Stabilization Reserve, the Future Capacity Reserve, and the Depreciation Reserve (all policy compliant). Transfers to the capital reserves are intended to assist with the financing of advanced metering infrastructure/technology, DAFB substation, and potential projects as ~~required~~ recommended by the Integrated Resource Plan.

Additional adjustments are as follows –

- No projected revenue increases are being projected at this time as we are holding off until the analyses and completion of the Quarterly Revenue Report. There are a couple of revenue changes in the Capital Funds for sales of assets and insurance proceeds that help offset cost of vehicles.
- Increases are incorporated for the Customer Service & Library Divisions per Council approvals. Corresponding changes to the Interfund Service Receipts/Charges are also reflected.

- Increases to Division budgets for vacation sell-back, ~~retirement payout~~, and education assistance with a corresponding decrease to Other Employment Expenses across all applicable funds.
- Power supply was reduced by $65,000 to cover higher than expected insurance premiums on the generation assets at the McKee Plant due to higher asset replacement cost. The power supply management fee was lowered in the most recent contract, so the funds were available to cover the increased premium.
- Project balances are carried over from last fiscal year as reflected in the Capital Investment Plan Amendments Schedule (Exhibit A – page preceding Draft Ordinance) with the additional adjustments to the FY17 Budgets as follows:

    - The General Fund Transfer-In and the corresponding capital expenditure in the City Manager's budget was increased by the $485,000 for the purchase/demolition of the Water Street properties (as also explained above).
    - Additional increases to the General Capital Investments are included for a glass door/wall in the Library to partition off and reduce the noise level in the small theater $15,000.
    - Due to a high level of emergency repairs needed for infrastructures failures in storm water, water, and wastewater utilities we have increased the Emergency Repair capital budgets by $48,000 General Fund CIP, $5,000 Water CIP, and $225,000 Wastewater CIP.
    - The Electric CIP budget is being increased by $170,000 to move overhead distribution lines to underground distribution lines on the North Street Project, along with an increase of $23,000 for unexpected capital improvements (HVAC & Door) at Weyandt Hall.
    - The Water, Wastewater & Electric Utilities CIP have all been increased $50,000 each for economic development applications as approved by Council.
    - Grant Funds have been adjusted to reflect new programs and/or adjustments to current grants.