COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole met on June 27, 2017 at 6:00 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson (arrived at 6:07 p.m.), Mr. Sudler, Mr. Neil, Mr. Lewis, Mr. Cole, Mr. Polce (departed at 6:42 p.m. and returned at 6:44 p.m.), Mr. Hare, and Mr. Lindell. Mayor Christiansen was also present (arrived at 6:11 p.m., departed at 6:47 p.m. and returned at 6:50 p.m.). Civilian members present for their Committee meetings were Mr. Garfinkel and Mr. Shelton (*Safety Advisory and Transportation*), and Mr. Shevock and Dr. Stewart (*Legislative, Finance, and Administration*).

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

The Safety Advisory and Transportation Committee met with Chairman Lewis presiding.

AGENDA ADDITIONS/DELETIONS

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

Alternative to Speed Bumps - Ann Avenue (Sudler)

Mr. Sudler advised that he had received correspondence from and spoken with Mr. Francis Bethel regarding a possible speed reduction method for Ann Avenue.

Mr. Francis Bethel, 207 Ann Avenue, advised that he had lived in northwest Dover Heights all his life, having bought a home in 1990 down the street from where he grew up. He noted that people are in more of a hurry than they were in the 1960s and 1970s and cars speed through the area. Mr. Bethel informed members that there were many children in the area, and he expressed concern that a child would get hit by a car. He stated that he knew that there were issues regarding speed bumps due to ambulances that may come through. Mr. Bethel asked if a radar sign like the signs that are on State Street could be placed on Ann Avenue to show people that they are speeding.

Mr. Lewis noted that he had previously explained to Mr. Bethel that speed bumps are not allowed in the City of Dover because they slow down emergency vehicles and apparatus. Responding, Mr. Bethel stated that he understood that speed bumps were not allowed and asked if there were other alternatives.

Mr. Sudler asked if Mr. Bethel, as a constituent of the Fourth District, had any other speed concerns that were causing him alarm. Mr. Bethel indicated that he had a traffic issue that would be better served when addressing transportation matters. Mr. Sudler noted that he had received some concerns regarding ATVs, four-wheelers, and off road vehicles and asked Mr. Bethel if he had heard any of these vehicles. In response. Mr. Bethel advised that he had heard motorbikes late at night before, which were annoying.

Mr. Neil stated that the radar signs that Mr. Bethel had referred to had been funded by State senators and representatives, and it was unknown if funding would be available after the State budget is finalized. He expressed his belief that a study would have to be done to find out what the conditions

are, as had been done with other communities and streets, such as North State Street and Independence Boulevard. Mr. Neil noted that there are other traffic calming measures.

Police Chief Marvin Mailey stated that he was very familiar with the situation on Ann Avenue, having been a police officer in the City for several years. He noted that he was aware that speed bumps could not be used but suggested that a traffic enforcement sign would be ideal for the situation. Chief Mailey explained that this sign would flash, make people aware of their speed, and provide awareness to those outside or traveling along that same road that the person is speeding, which would apply peer pressure. In addition, he stated that a marked police car could be placed in the area for traffic enforcement, and enforcement action could be taken via a traffic ticket if speeding is observed. Chief Mailey stated that this approach would be a deterrent; however, it usually only works when an officer is in the area. He noted that the Police Department's focus in the last several months had been on reducing violent crime, which was taking officers elsewhere in the City. Chief Mailey stated that the Department receives speeding complaints from people throughout the City, noting that Mr. Hare had raised concern regarding a similar speeding situation on Wyoming Avenue.

Chief Mailey offered to bring Ann Avenue to the attention of the Special Enforcement Unit to make it part of their rotation for traffic enforcement. He indicated that this would be the easiest solution for the problem, noting that he did not think that other methods were feasible for the City. Chief Mailey stated that another method he was aware of was the use of traffic humps, which are similar to traffic bumps but elongated so that the increase in the height of the roadway is not sudden, so vehicles do not bottom out. He advised that there could also be raised crosswalks at the end of the streets and wherever crosswalks are designated; however, he was not sure that this would fit within the City's of Dover's economic plan, and he had no knowledge of and could not speak to the engineering. Chief Mailey noted that traffic circles also slow traffic down; however, Ann Avenue was not large enough to accommodate a traffic circle. He informed members that some major cities use chicanes, which force cars to slow down to steer right or left through erected safety poles in a road, similar to slalom skiing, but was unsure if this would work within the City of Dover. He stated that, from a cost aspect, the best solution to the problem would be traffic enforcement and, after that, traffic signs.

In response to Mr. Sudler, Chief Mailey clarified that chicanes involve several poles in the road that guide vehicles along, similar to a Division of Motor Vehicles (DMV) driving course, noting that they are sometimes used at approaches to large government buildings or events where traffic is forced to change directions. He stated that chicanes slow cars down; however, he expressed his opinion that a larger roadway than Ann Avenue provides would be needed for installation, noting that he is not an engineer.

Mr. Sudler asked, in Chief Mailey's professional opinion and experience, which of Chief Mailey's four (4) recommendations he thought would be the most desirable. Responding, Chief Mailey stated his belief that traffic enforcement was the way to go. He advised that the Police Department already has officers working who could not be in the area constantly but could be a presence and deterrent. Chief Mailey noted that traffic tickets usually translate to people talking, and when they know the police are in the neighborhood, they slow down. He indicated that traffic enforcement would be a quick but temporary fix, noting that as soon as another complaint is received from elsewhere in the

City, officers have to move to accommodate that need. Chief Mailey stated that a radar traffic enforcement sign would be a more permanent solution.

Mr. Slavin stated that, in dealing with this issue a couple of times over the past few years, his approach was to physically fix areas with traffic calming devices to slow speeds. He noted that members had not explored the idea of restricting traffic financially by making it more expensive for people to speed in certain areas. Mr. Slavin advised that he had talked about this briefly with former Police Chief Paul Bernat, who thought it might be possible to look at the City's ordinances, develop an overlay in special enforcement zones, and install appropriate signage. Mr. Slavin suggested that it could be indicated that there would be an additional fine for speeding in areas such as Independence Boulevard, North State Street, or Ann Avenue. He explained that speeders would receive a ticket per the State Code and an additional fine.

Responding to Chief Mailey, Mr. Slavin stated that the additional fine would be for the City rather than the State. Mr. Slavin stated that he would review his notes; however, he recalled that an avenue had been looked at for getting this done. Mr. Slavin expressed his belief that if people feel a financial impact, they will remember a particular area where they do not want to get caught again. For example, he noted that he had received a $75 ticket going through a red light at Route 13 and Loockerman Street and is not going to let that happen again. Chief Mailey stated that he agreed with the concept Mr. Slavin proposed; however, he advised that this change would have to be handled at the State level and had not been approved by the legislature. Mr. Slavin stated that he would ask legal counsel, stating his belief that the City could make a special enforcement zone.

Chief Mailey stated his concern that issuing both a State ticket and a City ticket would be double jeopardy for one (1) violation; however, he would defer to the City Solicitor. He stated that the Police Department would be willing to issue such tickets if this could be done within the confines of the law. Chief Mailey advised members that Maryland uses electronic speed signs, and tickets are mailed. He noted that he thought this would also be a useful deterrent.

Mr. Neil noted that the public serves as reporters and informs Council what is happening, and he expressed his hope that Mr. Bethel would return and advise members whether any measures used are working. He also asked Mr. Bethel to get the word out regarding any measures, but not to be one (1) of those who receives a ticket as a result. Chief Mailey noted that it often happens that the reporting parties are among the first to get tickets when officers are placed in a neighborhood.

Responding to Mr. Lewis, Chief Mailey advised that he could explore the possibility of extra funding or grants through the Office of Highway Safety. He stated that he had sent an email regarding funding to Mr. Larry Windley, Senior Director for Projects and Economic Development, Senator Tom Carper's Office, earlier in the day, and would contact Mr. Windley to see what could be done and report back.

Mr. Anderson agreed with Chief Mailey that signs and enforcement should be tried first but noted that there may be a need to consider other speed calming measures. Responding to Mr. Anderson, Chief Mailey advised that there were currently no speed humps in the City. Mr. Anderson indicated his understanding that speed humps would qualify under the City's code because they would not be so much of a problem. Chief Mailey indicated that he thought speed humps would qualify, but he

would have to check the Code. He noted that speed humps were quickly replacing speed bumps because, even when hit at a high speed, they do not cause any damage to vehicles. In addition, Chief Mailey explained that the City's police officers know where the traffic hazards are around the City and when officers need to slow down. He noted that he could not speak for the ambulance company because he does not supervise them.

Mayor Christiansen stated that he thought it possible to remedy the situation on Ann Avenue by installing strict enforcement signs. He noted that signs could be installed in other areas of the City as well to give warning that speeding will be strictly enforced and, if this did not work, another measure could be taken. Mayor Christiansen stated that he agreed with Mr. Neil, explaining that often when these concerns are raised at homeowners' association meetings and police officers are sent to an area, it is the people within the neighborhood who receive tickets. Mayor Christiansen advised that he had visited Ann Avenue found it to be like a race track, similar to other streets in the City lately. He noted that there were a lot of children and senior citizens in the area and he thought that, with strict enforcement and warnings from neighbors who received tickets, everyone will slow down.

Chief Mailey noted that a message could be placed on the Department's Facebook page and Twitter feed to let people know there would be intense enforcement in these areas, which may act as a deterrent.

In response to Mr. Shelton, Mr. Bethel stated that he had observed that those speeding throughout his neighborhood were mostly outsiders rather than his neighbors. Mr. Shelton noted that the Mayor had commented that neighbors' speeding may be deterred when they find out about enforcement there; however, Mr. Slavin indicated that this may not be the same for people outside the neighborhood.

Mr. Timothy Sybils, Milford/ Harrington, Delaware, stated that he went to Milford High School and was kicked out of high school during the first semester of his senior year and went into the military, noting that a high school diploma was not required to go into the military at that time. He indicated that he was in the United States Army Reserves. Mr. Sybils advised that there were identity thieves. Mr. Lewis explained that the agenda item being discussed was speeding on Ann Avenue and asked if Mr. Sybils had any comments regarding this item. Responding, Mr. Sybils advised that his concern was not related to speeding on Ann Avenue.

Mr. Sudler moved to recommend implementing and installing a traffic enforcement sign on Ann Avenue, as suggested by Police Chief Marvin Mailey, seconded by Mr. Neil.

Mr. Anderson moved to amend the motion to add the strictly enforced signs that the Mayor suggested because, by State law, they allow the City to enforce strictly if it so chooses, seconded by Mr. Sudler.

Mayor Christiansen asked to add an understanding that a traffic study would be done of Walker Road and Ann Avenue. He noted that a lot of people coming from Edgewell/Energizer cut through the area, and people coming out of the shopping center come down Ann Avenue to make a quick exit onto Walker Road. Mayor Christiansen suggested obtaining a traffic study and a counter that would

indicate the date and time when people are cutting through Ann Avenue. He noted that he had observed a number of cars from Maryland using Ann Avenue.

Mr. Neil moved to amend the motion to add a traffic study.

At the suggestion of Mr. Slavin, all motions on the floor were withdrawn so that one (1) comprehensive motion could be made.

Mr. Sudler moved to recommend: a) installing a traffic enforcement sign on Ann Avenue; b) installing strictly enforced speed limit signs on Ann Avenue; and c) performing a traffic study on Walker Road and Ann Avenue indicating the timing of the lights and the count, date, and time of traffic flow. The motion was seconded by Mr. Neil.

Mr. Polce questioned who would fund the sign and signage, whether this would come from the discretionary funds of the Council member who made the motion, and the general cost of the signs to be put up. Responding, Mr. Slavin stated that the City usually asks the legislative delegation if they will allocate funding for speed detection signs from their Community Transportation Funds (CTF), and they had been very good about doing that. He noted that the City used to have a couple of speed detection devices at the ready for installation and asked if the City currently had any. Responding, Mrs. Donna Mitchell, Acting City Manager, stated her understanding that the City had one (1) device; and it had been requested to be placed on Crawford Avenue earlier in the day for a study. She stated that she was unsure if the City had more than one (1) device, and she would have to check to see what could be done, noting that the legislators could be asked for another sign. Mr. Slavin advised that he thought the City could obtain a device either way.

At the request of Mr. Lewis, Mrs. Traci McDowell, City Clerk restated the motion.

The motion to recommend: a) installing a traffic enforcement sign on Ann Avenue; b) installing strictly enforced speed limit signs on Ann Avenue; and c) performing a traffic study on Walker Road and Ann Avenue indicating the timing of the lights and the count, date, and time of traffic flow was unanimously carried.

Noise Complaints - Mufflers and Car Radios (Lewis and Garfinkel)

Mr. Garfinkel informed members that noise in Dover from loud mufflers was becoming almost an epidemic and noted that an individual had discussed this issue during the Open Forum segment of the Regular Council Meeting of June 12, 2017. He advised that in west Dover, where many collector roads run into each other, noises such as big booms from motorcycles are heard all day and night. Mr. Garfinkel indicated that this was causing deterioration in the quality of life of the people of Dover and was a crime of disrespect. He stated that people buy homes, pay taxes, and keep properties up and should not be subject to booms from cars and trucks. Mr. Garfinkel indicated that the noise is getting worse, can be heard at the Wawa at Kenton Road and Forrest Avenue all day and all night long, and is unbearable. He expressed the need to address this, noting that this can be called a nuisance crime, is known as a broken window crime, and is a breeder crime. Mr. Garfinkel indicated that if people are allowed to get away with this, they will think they can get away with something else later and stated the need to pay attention to breeder and nuisance crimes.

Police Chief Marvin Mailey stated that he had spoken to Mr. Garfinkel about this issue previously and that the loud noise in Dover that comes from tailpipes is a constant complaint from residents, homeowners' associations, and others. He explained that, at that time, he had looked into Section 42-2 - Noise, (b) - Prohibited Acts, (7) - Exhausts of the Dover Code, which prohibits acts including "The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom." Chief Mailey explained that this is an affirmative defense; therefore, if the noise is coming through a muffler, then an officer cannot take action. He advised that he had gone to the Department of Motor Vehicles (DMV), explained the problem to the supervisor of the inspection lanes, and asked what the process is for a vehicle inspection and what they look for. Chief Mailey advised this gentleman that he wanted to know what could be done about the complaints being received regarding the noise issue with mufflers in the City. He stated that he was advised that the DMV had not touched mufflers in seven (7) years because people were coming in with $2,000 - $3,000 muffler systems that were failing inspections, and they complained to personnel at the DMV. Chief Mailey stated that this individual stated that shortly after these complaints were received, the DMV stopped inspecting for noise issues, and he questioned how the Dover Police Department could write people up for this because the DMV was no longer testing.

Chief Mailey stated that the City does not have an ordinance that backs officers up on violations related to mufflers, and the State of Delaware has nothing on the books, other than the statement indicating "Muffler cutouts prohibited" in Title 21. He noted that muffler cutouts circumvent the muffler, explaining that they make it appear that there is a muffler on the car but have a hole designed to bypass the muffler system. Chief Mailey explained that these cutouts are typically seen in expensive sports cars or muscle cars driven by people who want their car to be louder. He stated that the Police Department could not do much without having verbiage written into the Code, noting that the City of Newark had advised them that they have the same problem and do not enforce this issue, after having used a decibel meter that was not successful for them. Chief Mailey indicated that Milford has something on their books pertaining to loud noises and vehicles; however, he had not spoken to Police Chief Kenneth Brown to see whether and how it was being enforced. He stated that, without teeth in the ordinance, the Police Department cannot do anything. Chief Mailey advised that people who pass inspections would question how they could be written up based on a City ordinance. He stated that he wanted to solve this problem for the City; however, he indicated that the Department was facing a stumbling block.

Mr. Hare stated that the City had gone through this issue years ago and one (1) of the solutions was to enforce speeding. He noted that those who travel in residential neighborhoods at 25 mph do not make loud noise; therefore, those who make this noise must be speeding and could be given tickets. Chief Mailey agreed with Mr. Hare; however, he stated that officers must be present to observe the speeding. Mr. Hare noted that they must also be present to observe loud noise. He indicated that a loud vehicle that comes through his neighborhood each day at 6:40 a.m. or 6:50 a.m. is serving as an alarm clock, and it is not known who the driver is. Chief Mailey suggested providing the Police Department with a description of the vehicle. Mr. Hare stated that people traveling at 25 mph in his and Mr. Garfinkel's neighborhoods would not make this noise. Chief Mailey advised that officers could be sent out to enforce the speed.

Mr. Garfinkel stated that the ordinance cited by Chief Mailey, referenced "a muffler or other device which will effectively prevent loud or explosive noises therefrom." He expressed his opinion that someone could be cited for not having a muffler that is effectively preventing loud or explosive noises. In response, Chief Mailey explained that this would not be defensible in court because it would involve an individual's judgement, and there must be something clear and defined for an officer to charge someone. He noted that if an officer wrote a ticket and the individual stated that their defense was that they have a muffler, the case would be lost in court.

In response to Mr. Garfinkel, Chief Mailey stated that, to his knowledge, this section of the code had not been appealed to a Superior Court, and the State does not enforce or look into this issue. He advised that a hearing would start at the Justice of the Peace (JP) Court level. Chief Mailey stated that he was willing to try; however, it would be a tremendous uphill battle that he did not think would be successful. Responding to Mr. Garfinkel, he indicated that he had spoken to Deputy City Solicitor William Pepper about this matter, and Mr. Pepper was in agreement that having a muffler on a motor vehicle would constitute an affirmative defense.

Mr. Garfinkel referred to a conversation he had with Chief Mailey regarding straight pipes. Responding, Chief Mailey stated that a straight pipe does not muffle but is an extension of a pipe, whereas a muffler is a device that circumvents the noise through several channels to the exit. He noted that a straight pipe is no different from a pipe running off the engine and does not function as a muffler. Mr. Garfinkel stated that there is no muffler on vehicles with a straight pipe and this is citable by police. Chief Mailey stated that the Dover police are aware of this and write tickets for everything that they can.

Referring to the report of "Summons Issued for Loud Noise from Vehicle - June 15, 2016 through June 14, 2017," Mr. Garfinkel noted that there were 30 violations for a loud noise from a vehicle. Chief Mailey advised that this report was specific to vehicles. Referring to the list of "Complaints for Loud Noise Received by the Police Department - June 2016 through June 2017," he explained that this reflected the total number of noise complaints, including loud parties, radios playing loudly in cars, etc. Chief Mailey stated that noise heard 50 feet from its source can be written up. He noted that approximately 800 complaints were received within a year and 30 citations had been written. Chief Mailey noted noise complaints involve moving targets, and it takes time for officers to respond. He stated that if officers do not happen upon a vehicle, their success rate is not very good. In response to Mr. Garfinkel, Chief Mailey advised that the 30 citations were not due to mufflers but radios, noting that officers cannot enforce mufflers.

Mr. Sudler stated that when there are complaints about music being too loud at clubs, the noise level is measured by the ability to hear the bass 50 feet away. He asked if there is a tangible measurement for sonic booms that allows for a charge to be defended in court. Responding, Chief Mailey stated that the Police Department had never had a decibel meter. He expressed his belief that a sonic boom would be an intense noise, noting that Air Force jets are not allowed to fly over Dover. Chief Mailey stated that he believed that if a sonic boom came from ground level, there would be property damage, and a vehicle could not reach that noise level, which would shock the senses.

Mr. Sudler asked how a violation could be defined without a decibel meter and if Chief Mailey recommended that the City support the Department in obtaining this tangible tool. Responding,

Chief Mailey stated that a City ordinance could be enforced if it was written in a fashion that determined acceptable and non acceptable decibel levels.

Responding to Mr. Sudler regarding a recommended decibel level in regard to sounds and mufflers, Chief Mailey stated that the City's ordinance, as it relates to audio devices like radios, etc., is appropriate and 50 feet is a reasonable expectation. Mr. Sudler stated his belief that this would lead to too much hearsay, since what may be acceptable to one person may not be to another. He suggested doing research on having something tangible and concrete, such as 50 decibels. Mr. Sudler noted that he likes loud music and Mr. Neil may not, and he questioned how to define a concrete, acceptable and valid happy medium. Responding, Chief Mailey stated that the DMV's standard would probably be a starting point. He indicated that he would have to research this matter; however, his recollection was that the gentleman from the DMV had indicated that 90 decibels was their previous standard and they would stand 25 feet away. Chief Mailey advised that it would be better if a sound meter pegged the noise above 90 decibels, because there would be awareness. He noted that this could be done at the City level; however, there would be opposing arguments because an offender would question why their muffler system passed through inspections but they could not drive through the City.

Mr. Sudler indicated that smoking marijuana is prohibited by federal law; however, state laws allow it; therefore, he was not worried about a possible difference between the State and the City. He stated that he thought there was an absolute need for a tangible tool. Mr. Sudler advised that he thought it would behoove members to research a reasonable decibel level to define a sonic boom violation.

Mr. Neil agreed that, if action was taken, the law should be redefined to state that sound cannot exceed a certain decibel level even with a muffler, and this is what would be enforced. He suggested looking at the law to see if it could be given teeth to allow officers to act.

Chief Mailey advised that he must go by the law, and stepping outside the rules or testing them causes issues. He noted that a local business was recently cited for a nuisance ordinance violation as it pertained to their establishment. Chief Mailey stated that there had been problems prosecuting this matter at the JP level because of gaps that were written into the ordinance. He indicated that a ruling would be obtained from the JP judge so that the weak spots in the ordinance could be addressed and it could be properly enforced. Chief Mailey stated that the noise issue regarding mufflers and car radios was definitely a weak spot in the noise ordinance and, if something was included to establish a clear level, officers would gladly enforce it. He stated that it was not in the spirit of integrity for the Police Department to write tickets for the sake of writing them, noting that they do not want to go to court to lose. He expressed the desire to write tickets that are defensible, and he stated that, in his opinion, it was not currently defensible.

Mr. Neil stated that the safety nets woven into State laws have many loopholes that must be closed and redefinition is needed so that there are laws with teeth. He stated that the JP Court does not establish any precedent with the Superior Court of the State and that if a loophole was found, it could be closed.

Mr. Garfinkel advised that Section 42 of the U. S. Code addresses road noise, and the Environmental Protection Agency in Philadelphia could probably send regulations on this issue. He indicated that there are also standards for the decibel level of a motorcycle coming off the assembly line. Mr. Garfinkel stated that the research had been done and just needed to be requested. He asked Chief Mailey what would be done on this issue. Responding, Chief Mailey stated that he could ask Mr. Pepper if the ordinance could be rewritten. He advised that an acceptable standard for noise level must be established so that officers can act when they observe a non-compliant vehicle. Chief Mailey advised that when officers hear a vehicle that they think is extremely loud, they could stop the vehicle for probable cause for a noise violation. He indicated that they would have a decibel meter in hand and an RPM level or idle speed would have to be established for testing the vehicle, and depending on what the decibel meter shows, a citation would or would not be issued. Chief Mailey indicated that this would be the easiest way to remedy the problem, noting that issuing citations for exceeding the speed limit may also solve the problem. Chief Mailey expressed his opinion that these would be the two (2) best ways to solve the problem.

In response to Mr. Garfinkel, Chief Mailey advised that he could research this issue to look for best practices and discuss it with Mr. Pepper before the Committee's next meeting.

Mr. Shelton informed members that he worked in manufacturing at Scott Paper and Playtex and hearing protection is required for noise over 85 decibels. He indicated that this is how this issue is handled within the U. S. government.

Mr. Lindell indicated that he typically leans toward going with an expert on a subject and, in this case, this was Chief Mailey. He concurred with Chief Mailey's comments about enforcement and stated that it would be futile to send officers out to enforce. Mr. Lindell stated his recollection that the City of Newark had been challenged because, even if a decibel level is set, there is still reasonable doubt regarding how it is measured. He advised that the problem could be addressed through traffic enforcement. Mr. Lindell stated that the Police Department should be allowed to handle this situation, noting that if there was an issue with an ordinance, the Committee could review it. He indicated that he did not want members to develop an ordinance setting a decibel level if it could not be prosecuted properly in JP Court, since this would be a waste of the time of police officers and members of the Committee.

Mr. Lewis concurred with Mr. Lindell, stating that, as a former police officer, he understood Chief Mailey's position. He noted that police officers can only follow what the law says, and if they go beyond it they would be challenged and prosecution would be unsuccessful.

Mr. Sudler stated his understanding that Chief Mailey had indicated that he needed a tangible tool. Responding, Chief Mailey advised that if the City's ordinance was re-written and established a level, a tool would be needed to measure it, and this would be a decibel meter. Mr. Sudler advised that City Council would define what would be reasonable.

Mr. Sudler moved to recommend that Chief Mailey research a reasonable decibel indicator that would be proficient in prosecuting an affirmative offense charge for sonic boom, in accordance with not only the U.S. Code for the State of Delaware but also reasonable in regard to the hearing which they currently use for the City of Dover. The motion was seconded by Mr. Shelton.

Mr. Neil suggested using the term "noise above a certain level" rather than sonic boom, because there may not necessarily be a booming sound. Mr. Sudler requested that sonic boom be defined.

Mr. Lewis suggested that Chief Mailey and the City Solicitor meet to discuss this matter, including whether the ordinance needs to be changed, what is best for the City, and enforcement of violations.

Mr. Anderson stated that he concurred with the motion but preferred the term "excessive noise" because this was already defined in the City Code. He stated, however, since members were not currently drafting legislation, he did not know if the motion needed to be amended as long as there was an understanding of excessive noise.

Mr. Garfinkel indicated that he thought Mr. Sudler's motion was a good one; however, he thought it premature because Chief Mailey had indicated that he could report back in a month on this issue and had not been allowed that time. He suggested allowing Chief Mailey to discuss this with the City Solicitor and provide a baseline. Mr. Garfinkel indicated that he would also like to see a review of the best practices of departments in other jurisdictions, noting that this would place members in a better position to make further determinations.

Mr. Hare advised members that a sonic boom is defined as the sound associated with a shockwave created by an object traveling through the air faster than the speed of sound. He noted that no tickets would be written for sonic booms.

Mr. Slavin thanked Mr. Garfinkel for bringing up this issue. He cautioned members that the City was facing serious crime issues and stated that if Council sends out a message to the 90-member uniformed police force that loud noise is a priority, they will do what they are asked and enforce loud noise. Mr. Slavin advised that every minute officers spend enforcing this issue is one (1) less minute they will be enforcing heroin and major crimes the City is facing. He expressed the need to understand that there is a finite number of minutes for uniformed police officers on the street at any one (1) time. Mr. Slavin indicated that it is left to the Chief to set priorities based on the crimes being seen, and he wanted to be sure that the Chief is given this latitude. He indicated that Chief Mailey had advised members that legal counsel had stated that this issue was unenforceable at this time, noting that there may be additional information that the Chief could bring back to help illustrate this. Mr. Slavin expressed the desire to be very careful not to send the wrong signal that this is a priority over other things.

Mr. Hare noted that there was a lot of research to be done on this topic and suggested that Mr. Sudler and Mr. Garfinkel do this research, noting that Chief Mailey currently has a lot on his plate. He stated that he would not tell Chief Mailey to make this a priority because there are many things that need to be addressed first. He advised Chief Mailey not to defer something that is more important to do this, noting that people could live with this noise a few more weeks or a month. Responding, Chief Mailey advised that he could perform research and delegate some duties, noting that he has a staff working for him. He stated that he would look into this matter further and come back with information. Chief Mailey indicated that he must be clear on what he is looking for, noting that members had mentioned both decibel meters and industry standards.

Mr. Anderson stated that the issue should not be brushed aside because it is lower on the level of importance. He noted that some places that had repeatedly had loud noise were eventually shown to be locations where there were problems with drugs and violence. Mr. Anderson advised that an address on North New Street had repeated noise problems over the years, and a shooting occurred there. He stated that there were loud noises and problems at a location on North Kirkwood Street, and it became a disorderly premise, with repeated shootings coming from that area. Mr. Anderson noted that there was an address on Fulton Street with similar disorderly problems and a shooting came from there, with a bullet ending up near Mr. Anderson's home. He stated that repeated noise problems are leading indicators and tend to involve groups of people gathering at a location and creating the noise. He noted that at 6:00 p.m. noise may not be a worry, but sometimes there are groups of people at 10:00 p.m., 11:00 p.m., or midnight.

Mr. Slavin stated that the discussion was about mufflers. Responding, Mr. Anderson noted that the topic was radios, loud noises, etc., which had become part of the problem, and that radios are inside mobile vehicles. Mr. Anderson indicated that, in his experience, people party from vehicles, move on when they see the police, and then return. He advised that, with enforcement, success had been achieved on North Kirkwood Street, where there had not been a single problem recently, and on Fulton Street. He stated that this issue was linked to public safety and was not necessarily a frivolous issue.

Mr. Lindell moved to call for the question, seconded by Mr. Hare.

Mr. Sudler stated that the motion was to have the Police Chief perform research on a reasonable decibel indicator that would be proficient in prosecuting an affirmative offense charge for sonic boom. He stated that the term "sonic boom" could be removed if needed, and replaced with "excessive noise," as suggested by Mr. Anderson. Mr. Sudler advised that he was asking Chief Mailey to do research and get back to the Committee, and this could consist of talking to the City Solicitor. Mr. Sudler expressed his belief that there was consensus among members for Chief Mailey to do the research and get back to members.

The motion to call for the question was unanimously carried.

The motion to recommend that Chief Mailey research a reasonable decibel indicator that would be proficient in prosecuting an affirmative offense charge for excessive noise, in accordance with not only the U.S. Code for the State of Delaware but also reasonable in regard to the hearing which they currently use for the City of Dover was unanimously carried.

Mr. Neil moved for adjournment of the Safety Advisory and Transportation Committee meeting, seconded by Mr. Cole and unanimously carried.

Meeting adjourned at 7:07 p.m.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee met with Chairman Hare presiding.

AGENDA ADDITIONS/DELETIONS

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

Clarification - Request for Incentives - Nail Spa by TR

During their Regular meeting of April 10, 2017, City Council approved the Council Committee of the Whole/Legislative, Finance, and Administration Committee's recommendation that Staff come back with a recommendation with regard to buildings with less than 5,000 square feet, what the impact would be, and whether or not the time could be increased for a smaller building to have the abatement. Consideration of this item was deferred during the Council Committee of the Whole/Legislative, Finance, and Administration Committee meeting of June 13, 2017.

Mr. David S. Hugg III, Acting Director of Planning and Community Development, explained that a request for incentives was received from the owner of a building that did not meet the requirements or specifications set forth in the in Appendix E - Commercial and Industrial Building Redevelopment of the Dover Code. He noted that the building was under 5,000 square feet. and work on it had already commenced, which would make it ineligible for the incentive even if it was otherwise eligible. Mr. Hugg advised that, after researching this issue, it appeared that the ordinance was adopted in 2012 to deal with issues regarding big box or large commercial buildings that were vacated by Kmart, Walmart, and others, and to incentivize redevelopment for new business opportunities.

Mr. Hugg explained that he initially questioned why a 5,000 square foot parameter was included in the ordinance, noting that buildings of this size are often fairly large commercial buildings with many kinds of uses. He estimated that this parameter would eliminate approximately 80% of the commercial buildings in Dover, particularly in strip centers. Mr. Hugg indicated that there must have been a rationale for this limitation, as well as the specification of $15,000 or more of investment, and that Council must have intended to focus this particular incentive on a very limited number of buildings. He advised that, using Geographic Information Systems (GIS) information, he attempted to count how many buildings were being discussed and determined that there were at least 166 buildings under 5,000 square feet, mostly in the downtown area. Mr. Hugg estimated that if all of the buildings were eligible and at least $15,000 was invested in each building, the cost to the City, even at $50,000 per building, would be approximately $400 per year, per building. He advised that the fiscal impact of adding other buildings to this ordinance would not be particularly significant unless there were very large numbers of buildings. Mr. Hugg noted that the ordinance had a very specific purpose, was still on the books, and had been amended. He informed members that the ordinance stated that it was implemented "to promote the renovation and equalization of commercial and industrial buildings on the city's principal commercial corridors. In order to promote the business growth and reutilization of vacant commercial buildings." Mr. Hugg advised that the intent of the ordinance was very clear, and if Council wanted to incentivize smaller, commercial businesses at some point, this would probably not be the right ordinance to amend. He recommended looking for another incentive that would work better and be more effective, if Council wanted to move in that

direction, rather than trying to amend the current ordinance to make it fit something that it was not intended for.

Mr. Sudler moved to recommend acceptance of Mr. Hugg's recommendation to look for another incentive that would work better and be more effective, if Council wanted to incentivize smaller, commercial businesses at some point, rather than trying to amend the current ordinance to make it fit something that it was not intended for. The motion was seconded by Mr. Lewis and unanimously carried.

Organizational Recommendations - David S. Hugg III, Acting Director of Planning and Community Development

Mr. David S. Hugg III, Acting Director of Planning and Community Development, advised members that, when he joined the City, he was asked to look at how the City is organized, not only in the Planning Department but broadly, and suggest possible improvements or changes that might make operations more efficient and streamlined. Mr. Hugg reviewed a memorandum dated June 23, 2017 regarding Initial Recommendations on Reorganization ***(Attachment #1)***. In regard to the Department of Planning and Inspections, Mr. Hugg indicated that at some point there may be an opportunity to look at the Department's hierarchy, noting that no one was currently serving as second in command; however, he did not think this was necessary at this time.

In regard to the reporting structure, Mr. Hugg indicated that he had asked the Delaware City Managers' Association to do a survey, results were received from most of the jurisdictions, and found that Dover was the only municipality of all those who responded that operates with a split system, where some members of senior staff report to Council or a member of Council and not to the City Manager. Mr. Hugg stated that the split system works as long as the City Manager, the City Planner, and others get along, but if there were significant policy issues, this approach would become disruptive. He advised that his suggestion and recommendation would be for Council to look into streamlining the reporting structure and to put the City Manager on the spot as being responsible for operation of the City government and moving it forward.

Mr. Hugg stated that his recommendations were provided for discussion and he was willing to expand upon them.

Mr. Hare stated that members would be unable to do justice to these recommendations during the current meeting. He suggested that another meeting be scheduled to address these concerns and that the Kent Economic Partnership (KEP) be invited.

Mr. Sudler asked Mr. Hugg to elaborate on his comments regarding the reconstitution of the Economic Development Committee, and questioned why Mr. Hugg felt so strongly about Option #3 - assign as a priority duty of the Assistant City Manager. Responding, Mr. Hugg explained that he was not recommending the re-establishment of an Economic Development Committee, noting that committees are bound by the Freedom of Information Act (FOIA), notice requirements, and membership. Mr. Hugg advised that he had been working with Mr. Anderson in regard to a resolution to be presented at the next Council meeting regarding an issue that was being termed "Making Dover Prosper." He indicated that, in the absence of a point person or persons for the City, if an interested party calls the Mayor and the Mayor asks Mr. Hugg, who is in the office, to follow

up with them, there is an opportunity to work with this individual. He explained that if this party does not call the Mayor or if Mr. Hugg is not in the office, this contact may be lost. Mr. Hugg indicated that there is currently no point of contact in the City to direct someone to if they are interested. Mr. Hugg informed members that all jurisdictions must deal with the same set of regulations, whether or not they like them, and Dover is not any worse than anyplace else. He indicated that Dover had been accused of being overly cumbersome; however, based on his experience, Dover was not that bad. Mr. Hugg explained that many people need someone to help them through the process, tell them that it will take 60 days to go before the Planning Commission because of timing, notice, etc., and keep them apprised.

Referring to Mr. Sudler's question regarding Option #3, Mr. Hugg stated that this option would be to use the Assistant City Manager position for economic development. He advised that his initial concern regarding this option was not whether or not that position would become the economic development director but what would be done with the other critically important day-to-day functions that need to answer to someone at a fairly senior policy level. Mr. Hugg indicated that these functions need to be addressed by someone who can make policy, not by an administrative assistant. He questioned what alternative would be created if these functions are not addressed by the Assistant City Manager, so that the City Manager is not overloaded.

Mr. Neil indicated that a workshop should be held over a long day to review all of the issues brought up by Mr. Hugg, which he thought were brilliant. He advised that Mr. Hugg's recommendations provided food for thought regarding directions in which the City could go based on Mr. Hugg's experience. Mr. Neil also applauded the Mayor, noting that he had seen him in the role described by Mr. Hugg and thought he was very good at it.

Mr. Lewis asked if Mr. Hugg's recommendation was to hire a part-time or per diem consultant to help with promoting Dover. In response, Mr. Hugg indicated that he would like the opportunity to pursue this question further, instead of saying yes or no at this time. He stated that there may be City staff whose job duties could be refined to include more promotion, and this could include the City Planner, as well as others. Mr. Hugg advised that before hiring someone, there was a need to know what it is that the City is trying to promote and what words would be used, such as "Making Dover Prosper" or "Make Dover Your Next Home," and hiring a firm may be considered after that. Mr. Hugg informed members that Smyrna had hired a public relations firm from Wilmington for strong point marketing who did wonderful things at an estimated cost of $20,000 - $30,000, which was not very expensive. He noted that this firm was not used regularly.

Mr. Polce thanked Mr. Hugg for the report, noting that he and Mr. Hugg had discussed the need to focus on economic development and foster synergy, both downtown and broadly throughout the City. He indicated that he looked forward to further conversation.

Mr. Slavin explained that he had been briefed by some of the members who were putting together the revitalized KEP. He noted that there are a lot of moving parts related to what was going on with the break-up of the Delaware Economic Development Office (DEDO), the public/private partnership that had been formed, and what is left for other places. Mr. Slavin indicated that a need had been expressed for a presentation to the City of Dover on these issues when these members were ready,

and suggested that this would be the time to hold a workshop for a deeper discussion into economic development.

Mr. Slavin encouraged Mr. Hugg to continue to work on the issues related to Parks and Recreation and the Library with Mrs. Donna Mitchell, Acting City Manager, stating that Council would likely consider those issues during the Council Retreat in January, which is a full-day planning session. He noted that Council could look at that issue then and consider it for next fiscal year.

Mr. Anderson moved to recommend acceptance of the report, seconded by Mr. Slavin and unanimously carried.

Proposed Ordinance #2017-09 Amending Chapter 2 - Administration, Article IV - Officers and Employees, Division 1 - Generally, Section 2-201 - Compensation and Expenses for Mayor, Council, Employees and Other Elected or Appointed Officials (Sponsors: Neil and Slavin)

Mr. Neil advised that, before the most recent members of Council were elected, Council had been asked to complete a Survey of Mayor and City Council Member Responsibilities, indicating what they did as members and how much time it they spent, for review by the Compensation Commission. He indicated that the Compensation Commission was to prepare a report and possibly recommend increasing Council's compensation. Mr. Neil noted that the report had not been issued, and some Commission members' two-year terms had expired and they could not be reappointed. Mr. Neil explained that Council President Slavin had asked him to review the ordinance and offer recommendations. He noted that when the original ordinance was developed, Council members were serving two-year terms and were now serving four-year terms, and it seemed to make sense to extend the terms of the Compensation Commission members to four (4) years as well. He thanked Mrs. Traci McDowell, City Clerk, for working with him on Proposed Ordinance #2017-09.

Mr. Anderson stated that he favored the Proposed Ordinance as long as it would not allow for the extension of the terms of those currently serving on the Compensation Commission. He advised that there should be some measure of accountability when reports are not provided in a timely manner. Mr. Anderson suggested that the Committee should also consider what recourse they would have if there are not meetings and reports, and expressed his belief that this may be grounds for looking for a new Commission. Mr. Sudler stated that he agreed with Mr. Anderson. Mr. Hare stated that he also agreed with Mr. Anderson; however, he thought there were some members of the Commission who should be reappointed and was unsure if these members' terms had expired.

Mr. Sudler moved to recommend adoption of Proposed Ordinance #2017-09. The motion was seconded by Mr. Lewis and unanimously carried.

By unanimous consent, the Legislative, Finance, and Administration Committee meeting adjourned at 7:41 p.m.

Mr. Sudler stated that he wished to submit information regarding Chapter 59 - Juvenile Curfew of the Dover Code for consideration during the next Safety Advisory and Transportation Committee meeting. Mr. Lewis stated that he would review the information and decide whether or not to place the item on the Committee's agenda. *(City Clerk's Office Note: This item has been placed on the next Safety Advisory and Transportation Committee agenda for consideration.)*

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

Meeting adjourned at 7:42 p.m.

Timothy A. Slavin
Council President

TAS/TM/js/dd
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Attachments
Attachment #1 - Memorandum from Mr. David Hugg, Acting Director of Planning and Community Development, dated June 23, 2017 regarding Initial Recommendations on Reorganization

TO: Council, Mayor

FROM: David Hugg, Interim Director

DATE: June 23, 2017

SUBJ: Initial Recommendations on Reorganization

This report focuses on the opportunities and issues relating to the organization of a portion of the City's structure. It addresses Planning & Inspections, Parks & Recreation (but could involve the Library) and Economic Development, although some recommendations involve Public Works and City Manager functions. My preferred recommendations where there are options are marked with an asterisk (*)

Summary:

- Planning & Inspections (internal) – no changes to internal structure at this time
- Planning & Inspections and Parks & Recreation:
    - Base change – put parks maintenance function w/staff and other necessary resources in P&R (remove from PW) but leave under Planning & Inspections*
    - Option #1 – reestablish Parks & Recreation Department with Director*
    - Option #2 – create a Parks & Recreation Manager for daily operations but leave with Planning & Inspections organizationally
    - Option #3 - establish Parks, Libraries and Cultural Affairs Department with Director
- Planning & Inspections (external) – City Planner should report directly to City Manager, not council (w/wo P&R)
- Economic Development:
    - Base change – set aside a specific fund/line for promotion and marketing*
    - Clarify role of Mayor in promotion, marketing, recruitment, retention, representation*
    - Option #1 – create separate Office of Economic (or Business) Development*
    - Option #2 – join in regional economic development entity based on KEP
    - Option #3 – assign as a priority duty of the Assistant City Manager
    - Option #4 – independent consulting services
- Other – All departments, except public safety and city clerk, should ultimately report to City Manager w/some support duties going through Assistant City Manager (note: I asked the DE City Managers Association to do a quick survey of Manager/Assistant duties, the results of which I will have soon).

Planning & Inspection (internally):

This department seems to function well with exceptionally good internal coordination among the components (Permitting/Front Desk, Building Permits, Code Enforcement, Fire Marshall and Planning & Zoning). Internal processes are appropriate for ensuring that coordination and approvals occurs. Opportunities to increase cross-training would help to smooth out the periodic workflow, but some alternatives are being explored, including use of third parties to backup staff as needed. I do not see the need for any structural changes in this department at this time.

Planning & Inspections/Parks & Recreation (reporting structure):

The larger question involves whether the City Planner/Planning & Inspections Department (with or without Parks) should continue to report separately to the Council. In most jurisdictions that I am familiar with all administrative functions report to a town or city manager or a county administrator, with the exception of police/public safety and perhaps whatever unit directly supports the council. This structure provides a single point of managerial oversight, minimizes policy and other miscommunications and conflicting policies, provides a better focus for fiscal and priority decisions, and ensures clearer lines of responsibility and accountability. This structure does put a burden on the manager; often larger cities or counties utilize deputies or assistant managers who have specific areas of responsibility, but those positions still answer to the manager.

Dover's structure is unique in that along with the clerk's office, the Finance Director, City Planner, the Assessor, Police and the Fire Department do not report to the City Manager. The City Manager's position appears to be most closely aligned with utility and public works operations and billings, with a number of additional support functions (HR, IT, procurement) and the Library (which currently reports through the Assistant City Manager).

Parks and Recreation:

Sometime ago, with the retirement of the Parks Director, these responsibilities were added to the scope of the City Planner/Director of Planning & Inspections. While that was a cost savings, it left the Parks and Recreation function with no other managerial structure and made them "step-children" of the Planning & Inspection Department. Currently they function largely on their own, setting schedules, implementing programs and managing facilities. While that seems to function reasonably well (because the staff are well motivated and take charge), they get hit-or-miss attention from the Director and there is little supervision or prioritization of tasks. I feel there are three options available (excluding doing nothing):

A fundamental (and urgent) issue involves park maintenance and up keep. It is my understanding that responsibility for all park facilities and grounds is placed in Public Works, with grounds maintenance the responsibility of the Grounds Section of that unit and maintenance of the Recreation Center falling under the Facilities unit. Given that excessive deferred maintenance is apparent at many of the City's Parks, I believe the responsibility for maintenance of park & recreation grounds and facilities (except major repairs and utility services) should be a direct function of the Parks & Recreation unit. Grounds and facility maintenance duties should be reassigned from Public Works to Parks & Recreation along with sufficient staffing and equipment to ensure proper attention. This should happen regardless of which organizational option is selected. P&R maintenance staff should still be available for snow or other weather related needs or in the case of a major utility failure where all hands are needed.

Base change – move park maintenance responsibilities and relocate with appropriate staff and other resources to P&R to better address priority, accountability and responsibility*

Option #1: reestablish the position of Parks & Recreation Director and return the Department to its prior status.*

- Pros: improves direction and supervision; focuses attention clearly on P&R needs; restores status within city government relative to others for consideration of resource needs

- Cons: adds significant cost associated with creating the Director position (salary and other costs could be in the $100,000 - $125,000 range depending on the starting salary); adds another direct report to City Manager or alternatively to council.

Option #2: create a manager/supervisor-level position within the Parks & Recreation group, reporting to the P&I Director, whose job duties include daily operation of the facilities and programs, basic resource management/expenditure control, general supervision and reporting, but not policy or major decisions.

- Pros: improves general supervision and operation; is less costly than a director position; improves involvement in broader department matters

- Cons: involves some added expense (about $70,000 depending on where the position's compensation is set); requires creation of a new job title and description

Option #3: reestablish the earlier Department of Parks, Recreation and Libraries (perhaps renamed to include the notion of community or cultural affairs). I understand that this structure was in place until about the time the new library was being built. I think the separation of Libraries was in part due to the retirement of the director (Zak Carter) and the changing role of libraries generally. The pros and cons are the same as the first option, the primary difference is organizational in terms or reporting.

Economic Development, Marketing & Promotion:

The lack of a centralized and focused approached to economic development places the City at a distinct disadvantage, particularly relative to Smyrna and Milford. At any given time, one or more of the Mayor, The Council President, the City Manager, the Assistant City Manager, the City Planner, the Public Affairs Officer, and individual councilmembers, may be engaged in recruitment, retention, and business promotion on behalf of the City. Even worse, there are probably times when none of those positions are actively engaged, resulting in missed opportunities and inconsistent signals to prospects, other economic development interests, or the public.

Additionally, there is no consistent and carefully crafted marketing or promotion strategy for the City; the website is marginal in terms of its promotional value; only "bad news" seems to be published in the media; and initiatives by other entities (KEP, CDCC, GKC, DDP, etc.) seem to drive how the City is marketed to the world. I recently revised the City website under "Business: Locating to Dover" to make it more focused, replace an unattractive picture, and delete a now defunct commercial source link, but that is simply a stopgap.

Let me digress for a moment. Governor Carney has proposed a new public/private partnership entity to replace the current Delaware Economic Development Office (DEDO). House Bill 226, which comes as a result of the Governor's Working Group on economic development, creates a public/private non-profit body outside the governmental structure to take over the broader functions of attracting early stage

technology enterprises and entrepreneurs, large employers, international businesses, and state marketing strategies, formerly housed in DEDO. Many remaining functions of DEDO will be transferred to a new Division of Small Business, Development and Tourism in the Department of State. The public/private partnership, according to the Working Group's report, will essentially be a subscription/ pay to play arrangement. There is considerable concern that upstate interests will dominate this new entity, possibly not adequately representing Kent county interests. I mention this only to empathize the need for the City to be in a leadership role as I feel we will get diminished attention.

Base change: *

The base change has to do with promoting the City. I firmly believe that the City has to be the leader in the economic vitality of the county and the region. We are the State Capital. We have the bulk of the jobs and manufacturers in the county within our borders. We are the home of state and county government, and DAFB, with all the other attributes that attract economic activity (colleges, health care, regional retail, professional services, etc.). Getting that done requires, first, the commitment to make it happen; and, second, the allocation of resources for which the priority is fostering the economic development of the City. The City cannot afford to let someone else do it or let it happen on its own. Nor can the City only focus on the downtown while letting the rest of the city happen. I believe a budget of not less than $50,000 per year should be allocated to promoting the whole City.

Defining the role of the Mayor: *

The role of the Mayor in economic development matters should also be clearly defined so that the position can bring the stature and high level presence to the table in recruitment, retention and related activities. The Charter (Subpart A, Article II, Section 14) offers no guidance on this matter. In my experience, the Mayor is generally perceived as the face of the community in terms of recruitment, communicating with prospects, assisting in retention or expansion issues, cutting ribbons and other ceremonial functions, and speaking on behalf of the city relative to its condition, growth and economic outlook. I won't venture any further into this discussion because Dover's Charter and delegation of official powers sets forth an overall structure that is different from most.

Option #1: *

The most logical option is reestablishment of a City of Dover Office of Economic Development (or Office of Business Development) entity, the name of which can be debated, and which might only be a staff of one, with or without consulting assistance (note: the staff could be either an employee or be contracted). In my mind this position is functionally separate from the City Manager's Office, having flexible interaction with the Mayor and Council President, and ultimately reporting to the Council President. I realize this structure existed in some form until recently, but I believe it is worthy of reconsideration.

The Office should have a clear mission statement, measurable objectives, regular reporting requirements and a designated budget to allow for data procurement, marketing and promotion, participation in business development organizations and events, and support services. The Office should also have access to a dedicated promotion and marketing fund (see above), and basic support resources. A budget of at least $150,000 per year should be allocated to provide staff and contractual resources to make this function viable (costs include compensation, benefits, memberships, some travel, economic data and analysis, consultant services).

Option #2:

Another option is to regionalize economic development functions building off of the already established structure(s) represented within the Kent Economic Partnership (KEP). The KEP's mission is set forth as "the premier engine that creates and maintains a diverse business climate for the benefit of the citizens of central Delaware." Managed by a public/private board, KEP includes the City of Dover, the municipalities of Smyrna and Milford, Kent County and a cross section of the major employers in the county. While offering the potential to employ highly trained staff and be more flexible in terms of working with present and potential businesses, the City is advised not to relinquish all responsibility for economic development activities, and to hold a voting seat on the board (perhaps a veto for projects that are within or adjacent to the City boundaries if necessary). This option is getting some attention within KEP; I do not have enough information to speculate on costs or ultimate structure.

Option #3:

The City has an Assistant City Manager and that position could be primarily responsible for economic development and promotion. These duties would be similar to a separate position (option #1), but a critical question then becomes how to distribute the duties that would otherwise have been assigned to the Assistant City Manager and avoid overloading the City Manager. In my opinion those duties are too important and have too high level policy and operational considerations to be delegated to someone at an administrative level. Some larger cities across the country have two or more ACM's, one for administrative functions and one for growth and development; Dover is probably not ready for that yet.

Option #4:

Economic development activities could be undertaken solely through a consulting relationship with a firm that specializes in these services. This option could be costly and limit quick response when a prospect turns up. A risk is that the firm might not have the same priorities or objectives of the City, leading to conflicting approaches, or may not give City issues their full attention. My experience suggests that having a staff person responsible for the function and securing contractual services for specific tasks is a better model.

In any of these options the commitment to economic development should be a priority, not just left to happen or without a clear city commitment. Experience suggests that letting economic development take care of itself or under somebody's else's direction is poor practice with generally unsatisfactory consequences.

Sidebar: these options beg the question of the level of City support and fiscal obligation to groups such as the Downtown Dover Partnership or the KEP.

Other Organizational Considerations:

The role of the City Manager/Assistant City Manager need to be affirmed and clarified. Given the extensive responsibilities that fall on the City Manager, particularly if Planning & Inspections and Parks & Recreation both become direct reports, some responsibilities should be assigned (as some currently are) to the Assistant City Manager. I feel that both positions are committed to enough responsibilities and

that neither should take on economic development unless it becomes a priority duty and other functions are reassigned.

Duties that would report directly to the City Manager might be: Finance, Assessor, Public Works, Electric, Planning & Inspections and Parks & Recreation. Duties that might report through the Assistant City Manager could be Customer Service, Human Resources, Information Technology, Procurement, Library (if not combined with Parks), and any other ancillary functions. I am aware of discussions about having a Controller position separate from the City Manager to provide checks and balances and ensure proper utilization of funds. In this scenario the preparation of the budget requests could lie with the City Manager while the responsibility for developing, presenting and tracking the budget could be assigned to the Controller. This model is similar to the separate Office of Management, Budget and Planning (executive) and the Office of the Controller General (legislative)at the state level. I have not reviewed this option as it might relate best to Dover, but I know that it works effectively at the state level for coordination of executive and legislative budgetary functions.

I hope these recommendations are of value and am willing to discuss or develop them further as desired.