REGULAR COUNCIL MEETING
AGENDA

OCTOBER 23, 2017 - 7:30 P.M.

CITY HALL COUNCIL CHAMBERS
15 LOOCKERMAN PLAZA, DOVER, DELAWARE

OPEN FORUM - 30 MINUTES PRIOR TO OFFICIAL MEETING (7:00 P.M.)
DUE TO A SCHEDULING CONFLICT, THERE WILL BE NO OPEN FORUM

INVOCATION BY PASTOR MARK WALTER - ST. ANDREWS LUTHERAN CHURCH

PLEDGE OF ALLEGIANCE LED BY COUNCIL PRESIDENT SLAVIN

AGENDA ADDITIONS/DELETIONS

* **CONSENT AGENDA**

THOSE ITEMS ON THE COUNCIL AGENDA WHICH ARE CONSIDERED ROUTINE AND NON-CONTROVERSIAL SHALL BE MARKED WITH AN ASTERISK (*) AND WILL BE ACTED UPON BY A SINGLE ROLL CALL VOTE OF THE COUNCIL. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A MEMBER OF COUNCIL SO REQUESTS, IN WHICH EVENT THE MATTER SHALL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED A SEPARATE ITEM.

* **1. ADOPTION OF MINUTES**
- **A. SPECIAL COUNCIL MEETING OF OCTOBER 9, 2017**
- **B. REGULAR COUNCIL MEETING OF OCTOBER 9, 2017**

2. PRESENTATION - RECOGNITION OF SERVICE - JOHN C. BLANCHFIELD - PUBLIC WORKS DEPARTMENT (SEPTEMBER 1989 - OCTOBER 2017)

* **3. COUNCIL COMMITTEE OF THE WHOLE REPORT - OCTOBER 10, 2017**

A. PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE

(1) PROPOSED RESOLUTION NO. 2017-12 NAMING OF THE BICENTENNIAL PLAYGROUND

(COMMITTEE RECOMMENDED ADOPTION OF RESOLUTION NO. 2017-12)

B. UTILITY COMMITTEE

(1) AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN: PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY

(COMMITTEE RECOMMENDED APPROVAL TO SOLICIT PUBLIC COMMENT ON THE PROPOSED AMERICANS WITH DISABILITIES ACT TRANSITION PLAN)

C. LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

(1) ANNUAL REVIEW OF INVESTMENT POLICY

(COMMITTEE RECOMMENDED APPROVAL OF THE SUBMITTED CHANGES)

* **4. QUARTERLY REVENUE REPORT**

(STAFF RECOMMENDS ACCEPTANCE OF THE REPORT)

* **5. SEMI-ANNUAL INSPECTION BY CITY MANAGER - ROBBINS HOSE COMPANY**
(STAFF RECOMMENDS ACCEPTANCE OF THE REPORT)

6. EVALUATION OF BIDS - SOUTH BRADFORD STREET AND WILLIAM STREET WATER MAIN REPLACEMENT PROJECT
(STAFF RECOMMENDS AWARDING THE CONTRACT TO TEAL CONSTRUCTION, INC., FOR THE CITY OF DOVER SOUTH BRADFORD STREET AND WILLIAM STREET WATER MAIN REPLACEMENT PROJECT, BID #18-0006PW, FOR THE AMOUNT OF $682,682)

* **7. APPOINTMENT OF JUDGES - ROBBINS HOSE COMPANY ELECTION - NOVEMBER 20, 2017**
A. CHARLIE BOYER
B. CARLETON CAREY, SR.
C. JAMES HURLEY

8. ACTING CITY MANAGER'S ANNOUNCEMENTS

9. COUNCIL MEMBERS' ANNOUNCEMENTS

10. ADJOURNMENT

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EXECUTIVE SESSION PURSUANT TO:

29 DEL. C. §10004(B)(2) - PRELIMINARY DISCUSSIONS ON SITE ACQUISITIONS FOR ANY PUBLICLY FUNDED CAPITAL IMPROVEMENTS, OR SALES OR LEASES OF REAL PROPERTY;

29 DEL. C. §10004(B)(4) - STRATEGY SESSIONS, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO COLLECTIVE BARGAINING OR PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE BARGAINING OR LITIGATION POSITION OF THE PUBLIC BODY;

29 DEL. C. §10004(B)(6) - DISCUSSION OF THE CONTENT OF DOCUMENTS, EXCLUDED FROM THE DEFINITION OF "PUBLIC RECORD" IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS;

29 DEL. C. §10004(B)(9) - PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED, UNLESS THE EMPLOYEE REQUESTS THAT SUCH A MEETING BE OPEN

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(E)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING.

SPECIAL COUNCIL MEETING

A Special Council Meeting was held on October 9, 2017 at 6:01 p.m. with Council President Slavin presiding. Members present were Mr. Anderson (arrived at 6:04 p.m., departed at 6:13 p.m., and returned at 6:14 p.m.), Mr. Sudler (arrived at 6:07 p.m., departed at 6:13 p.m., and returned at 6:26 p.m.), Mr. Neil, Mr. Lewis (arrived at 6:03 p.m.), Mr. Cole, Mr. Polce, Mr. Hare, and Mr. Lindell. Mayor Christiansen was also present.

Council staff members present were Mrs. Mitchell, Mr. Hugg, Mrs. McDowell, and Mr. Rodriguez. Mr. Diaz was also present.

ADOPTION OF AGENDA

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

Mr. Neil moved to recess into Executive Session pursuant to 29 Del. C. §10004(b)(4) - strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body. The motion was seconded by Mr. Lindell and unanimously carried.

The Special Council Meeting recessed into Executive Session at 6:02 p.m.

The Executive Session adjourned at 6:37 p.m.

ACTION RESULTING FROM THE EXECUTIVE SESSION (ITEM #2-A) - DIRECTION TO ACTING CITY PLANNER WITH REGARD TO ENFORCEMENT OF OR AMENDMENTS TO CHAPTER 66 OF THE DOVER CODE OF ORDINANCES

During the executive session, a strategy session was held with respect to potential litigation.

Mr. Hare moved for staff to continue efforts to reach compromise on the issue on or before December 1, 2017; absent a compromise, enforcement of the ordinance would begin on December 1, 2017, and Council will schedule an Executive Session update on the matter for November 13, 2017. The motion was seconded by Mr. Lindell and unanimously carried.

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

The Special Council Meeting adjourned at 6:37 p.m.

TRACI A. McDOWELL
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Special Meeting of October 9, 2017 are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

/TM

REGULAR COUNCIL MEETING

The Regular Council Meeting was held on October 9, 2017 at 7:30 p.m. with Council President Slavin presiding. Council members present were Mr. Anderson, Mr. Sudler, Mr. Neil, Mr. Lewis, Mr. Cole, Mr. Polce, Mr. Hare, and Mr. Lindell.

Staff members present were Police Chief Mailey, Ms. Peddicord, Mrs. Mitchell, Mr. Hugg, Fire Chief Carey, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Christiansen (departed at 7:47 p.m., returned at 7:57 p.m.; and departed at 8:03 p.m.) was also present.

OPEN FORUM

The Open Forum was held at 7:00 p.m., prior to commencement of the Official Council Meeting. Council President Slavin declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

Mr. Richard Kepfer, Hartly Road, advised members that his frustration regarding the lack of roadway markings at Rustic Lane and Crawford Carroll Avenue had finally been solved. He explained that he came upon an car accident that occurred there early in the spring as a result of there being no lines on the road and he went to the Public Works Department three (3) times asking what was going to happen. He indicated that the first time he was told that it was too cold to paint, the second answer was that it was not in the budget, and the third time he was told that the City was looking for money. Mr. Kepfer noted that he spoke only to the secretary and no one from the office called him. He stated that he never heard from anybody from the City until he put his name on the agenda to speak and he was rather disappointed with the lack of response. Mr. Kepfer informed members that he was retired now; however, he had worked for the railroad for 35 years and it was public safety, so he knows how important this is. He stated that he went to a lot of accidents, so this kind of fires him up. Mr. Kepfer explained that in the past week he found out that the City asked for and was granted transportation money from Senator Brian Bushweller and the project was going to get done. He stated that hopefully it would be done before it gets too cold to paint again.

Mr. Slavin extended his apologies to Mr. Kepfer. Responding, Mr. Kepfer stated that it was just a lack of response, which was not just here but everywhere. Mr. Slavin noted that he had asked Mrs. Donna Mitchell, Acting City Manager, to follow up with Mr. Kepfer. Mr. Kepfer stated that she had called him earlier in the day.

In response to Mr. Neil, Mr. Kepfer stated that he does not live in the City but owns property in the City, and he does not personally know any City Council members. Mr. Neil asked if Mr. Kepfer would mind reaching out to Council when he sees something like this, as they may be able to get something done. Responding, Mr. Kepfer stated that there was a lack of response and nobody would really tell him what they were going to do about it. He advised that he had to keep coming into the office to relay his concern to the secretary, who pulled it up on the computer. Mr. Kepfer stated that he never got angry at her, it was not her fault, and she was just doing her job. He noted that after his third trip there, he went up and saw the City Manager in August, which evidently started the wheels. Mr. Kepfer indicated that he did not receive a response from anybody until the day after he signed up to speak, when the Public Works supervisor called and gave him an update.

Mr. La Mar Gunn stated that he has an office at 11 North State Street in a building that he owns. He thanked Council President Slavin and Mr. Kirby Hudson, Assistant City Manager, for their prompt response regarding improving areas around the City, mainly the gardens. Mr. Gunn advised that he had watched the gardens grow to about four (4) feet high and he understood that there was an issue with being understaffed. He stated that they were doing a pretty good job, especially once he noticed them of the situation.

Mr. Gunn stated that, as a much more important matter, he had provided the City and Mrs. Traci McDowell, City Clerk, with an affidavit of truth as to an Ethics Commission investigation request pertaining to members of the citizenry having to encounter or be engaged with intoxicated councilmen. He stated that, at some point, the Ethics Commission and the City have to send a message. Mr. Gunn noted that under Section 30-73 the City has an obligation to report these to federal, State, and local authorities. He advised that, in his affidavit of truth, he had requested the dates and times that this process was done since it is required by the Code. Mr. Gunn indicated that he had asked several things throughout that affidavit of truth as to what type of reprimand or fine goes along with what appears to be substantial evidence as required by the Code. He indicated that he wanted it on the record, had submitted it in writing, and Mrs. McDowell had it in her office this evening. Mr. Gunn asked where the City stands in its position on the level of accountability for members of its own body. He stated that he personally believes that when you are appointed or elected to office you have a higher level of accountability to the citizenry and subject yourselves to public scrutiny, and if you cannot handle that, you probably should not be in those chairs. He stated that it was time to send a message that it is not okay for members of Council to encounter citizens throughout this City in an intoxicated manner, especially one that could end in death. Mr. Gunn stated that he would greatly appreciate this matter being addressed.

Mr. Eric Abernathy stated that he was present to advocate for the homeless. He advised that he had noticed that people are getting helped, noting that it seemed like, on average, one (1) person at a time was being helped, which he thought was okay as long as it was getting somebody off the street. Mr. Abernathy stated that he had also noticed that for every person that gets off the street, three (3) to five (5) more show up on the street, so it is a situation that does not seem to be changing. He indicated that all they want is some help so that they can get these people off the street. Mr. Abernathy advised that they were still going out and offering food and drinks to everyone every day, and were now doing this twice a day, but it is not enough. He stated that they need a place to lay their heads and rest and something needed to be done. Mr. Abernathy indicated that he was asking for help so everyone can work together to get this done. He stated that he commended folks because he had seen a big change from the first time they came to a City Council meeting. Mr. Abernathy noted that he was seeing hearts and minds change, noting that only God can do that. He stated that they appreciate any help they can get and, as they go forward, they will keep on doing what they are doing because it is all about the Lord and getting people off the street, because everyone deserves to have a place to live.

Pastor Aaron Appling stated that he was glad to hear about the Mayor's Blue Ribbon Panel transition and the Task Force coming into fruition and things starting to happen. He noted that the definition of insanity is to keep doing the same thing over again, expecting a different result. Pastor Appling stated that this State and country have been dealing with homelessness in the same way for years and it has not been effective. He noted that this did not mean that all the old things were bad; however,

he suggested that there needed to be some new things placed into the agenda that had not been tried before, and not to just repeat the same things over again. Pastor Appling stated that, as Mr. Abernathy had noted, after you get one (1) off the streets, then five (5) more come back on. He encouraged City Council and also the Task Force, as it is being directed by City Council and the Mayor, to look at some innovative, new ideas. Pastor Appling noted that they do a plethora of things in other states that had been very effective, like tiny homes and other ideas that had been presented at different times, and he offered to present other ideas as well. He advised that the most important thing that he wanted members to know was that they may butt heads with members and may not always agree, but deep down what they care about is getting these guys off the street, and this is the reason why they show up to every City Council meeting and do what they do. He stated that there are young guys in their teens and early 20s living on the streets who do not know about life, and there is no safety net in place to catch them. Pastor Appling encouraged and thanked the Mayor and members of Council for taking the effort to go down this road. He indicated that he supports anything to get these guys off the street and was here to help in any way.

Pastor Appling noted that they were continuing their efforts and doubling down to feed more people. He stated that he had advised Mr. Anderson earlier that they had been feeding seven (7) days a week, twice a day; however, they are not on the resource agenda for meals for the homeless. He stated that he did not know why they were not on there and had not known there was such an agenda, and this was another area where he thought that the old guard and new guard were not mixing together well. Pastor Appling indicated that he thought those little things and bridging the gaps would help to get further along the road of getting these guys off the street.

Mr. Hare stated that he does what he can to help. He indicated that Pastor Appling had stated that they ran out of water, and Mr. Hare noted that they would have to get together again. Mr. Hare asked if Kent County had done anything and if they had been to the County to ask what they could do to help. Responding, Pastor Appling advised that they had attempted to work with the County and it was a much more complicated system for them to figure out all the meetings. He stated that the County had not offered any help and, when they do go to the County, they pretty much say it is a City problem. Mr. Hare noted that the County meets every Tuesday, and Pastor Appling indicated that they might have to get it on their agenda soon to go over there.

Mr. Slavin stated that both Victory Church and Ms. Sue Harris had been placed on City committee agendas for the discussion of two (2) separate issues and thanked Mr. Anderson for bringing them forward. Pastor Appling thanked members for including those items on the agenda.

Ms. Katrina Stubbs stated that she had finally gotten her own apartment and was really excited about it. She advised that when she stood before members in January or February of this year, she was homeless. Ms. Stubbs explained that she had gone to every available resource and no one would do anything because she did not fit their criteria or list. She thanked Victory Church, which had been there for her from the very beginning, as well as Interfaith Mission Church and Calvary Assembly. Ms. Stubbs also thanked Mr. Lewis, whose heart went out to her when he first heard her story and who did everything he could to help her with different resources. She noted that, if she remembered correctly, he personally went that same week to Shepherd's Place and spoke with an individual to explain her situation and that she needed a place to get off the street. Ms. Stubbs stated that she knew Victory Church cares and thanked Mr. Lewis for being an actual politician who cares. She

noted that the average person does not think that politicians really care, but Mr. Lewis went out of his way and he and his family gave her different items for her new home. Ms. Stubbs stated that she is very excited about that and has pictures and an actual tour of her apartment on her blog, including the different items that Mr. Lewis had given. She noted that even though she is off the street, there are others still out there. Ms. Stubbs stated that her situation was a little different and was all about income and having a good, permanent, full-time job to be able to pay the $700 - $800 in rent. She advised that not everyone's situation is the same and asked members to remember, when they have meetings regarding homelessness, that one (1) solution is not for everyone.

Mr. Slavin noted that members of Council had received two (2) separate pieces of correspondence regarding item #9 - Proposed Resolution No. 2017-13 Censure of Councilman Brian E. Lewis: 1) an email from Ms. Lorraine O. Gloede, dated October 9, 2017 **(Exhibit #1)**, and 2) a letter from Mr. Ronald G. Poliquin, Esquire, dated October 6, 2017 **(Exhibit #2)**.

The invocation was given by Reverend Dr. Douglas L. Griffin, followed by the Pledge of Allegiance.

AGENDA ADDITIONS/DELETIONS

Mr. Anderson moved to amend the agenda to delete item #9 - Proposed Resolution No. 2017-13 Censure of Councilman Brian E. Lewis, stating his belief that procedurally with due process it should first go to the Ethics Commission. The motion was seconded by Mr. Sudler and failed by a roll call vote of six (6) no (Neil, Cole, Polce, Hare, Lindell, and Slavin), and three (3) yes (Anderson, Sudler, and Lewis).

Mr. Neil moved for approval of the agenda, as presented, seconded by Mr. Lindell and carried by a roll call vote of six (6) yes (Neil, Cole, Polce, Hare, Lindell, and Slavin), and three (3) no (Anderson, Sudler, and Lewis).

Mr. Neil moved for approval of the Consent Agenda, seconded by Mr. Hare and carried by a unanimous roll call vote.

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF SEPTEMBER 25, 2017

The Minutes of the Regular Council Meeting of September 25, 2017 were unanimously approved by motion of Mr. Neil, seconded by Mr. Hare and bore the written approval of Mayor Christiansen.

PUBLIC HEARING/FINAL READING OF PROPOSED ORDINANCE #2017-12 WITH STAFF AMENDMENT #1 (SA#1) AND PLANNING COMMISSION AMENDMENT #1 (PCA#1)

A public hearing was duly advertised for this time and place to consider proposed amendments to Appendix B - Zoning, Article 5 - Supplementary Regulations, and Article 6 - Off-Street Parking, Driveways and Loading Facilities.

Mr. Neil moved that the Final Reading of Proposed Ordinance #2017-12 be acknowledged by title only, seconded by Mr. Lindell and unanimously carried. *(The First Reading of the Proposed Ordinance was accomplished during the Council Meeting of August 28, 2017.)*

Mr. David Hugg, Acting Director of Planning and Community Development, reviewed Staff Amendment #1 (SA#1) and Planning Commission Amendment #1 (PCA#1) for Proposed Ordinance #2017-12. He advised that the most important component of SA#1 was a recommendation from the Public Works and Electric Departments to amend language relating to landscaping plans and designs that may create future obstacles for either underground or overhead utilities or infrastructure. Referring to PCA#1, Mr. Hugg explained that during the Planning Commission's review of the proposed ordinance, there was a concern that the City did not have a significant amount of predictability in the determination of where multi-use pathways would be required as a project component. As a result, the Planning Commission directed staff to prepare new language that sets forth a process for ensuring that consideration of the possibility of multi-use pathways versus regular sidewalks is conducted at the very beginning of the process and that it has some criteria, including roadway classification, presence and type of existing pathways, and the general character of the area where the development is going to occur.

Mr. Anderson, referring to PCA#1, asked if this would be required if it were determined to be paved by private funds by the developer or if it is something the City would do. He questioned how it would work in practical operation. In response, Mr. Hugg explained that these considerations, including the amendment proposed by the Planning Commission, are part of the site plan development process that a developer would go through and would determine both other items and in this particular case, determine whether standard sidewalks or pathways were to be included in the site plan.

Mr. Anderson asked if there had been any feedback from the real estate development community. Responding, Mr. Hugg stated that there had not been feedback in specific terms. He advised that staff tries very hard to have very early communications with developers, engineers, and architects involved in development processes and work through these kinds of considerations that include the landscaping plan, the signage plan, sidewalks, and a variety of topics. Mr. Hugg noted that, in this particular case, he thought that the question from the Planning Commission was a legitimate one regarding the criteria to be used to determine on behalf of a request of the developer, when the City would want something other than standard sidewalk.

Council President Slavin declared the public hearing open. There being no one present wishing to speak, Council President Slavin declared the public hearing closed.

Mr. Sudler moved for approval of Staff Amendment #1 (SA#1), seconded by Mr. Neil and unanimously carried.

Mr. Sudler moved for approval of Planning Commission Amendment #1 (PCA#1), seconded by Mr. Neil and unanimously carried.

Mr. Sudler moved for adoption of Proposed Ordinance #2017-12 as amended by Staff Amendment #1 (SA#1) and Planning Commission Amendment #1 (PCA#1), as recommended by the Planning Commission. The motion was seconded by Mr. Neil and, by a unanimous roll call vote, Council adopted Ordinance #2017-12 (Exhibit #3).

PRESENTATION - 2017 MAYOR'S ARTS AWARDS

The Mayor's Arts Award was established to recognize the importance of the arts in Dover and to honor groups and individuals who have made outstanding contributions to the artistic and cultural life of our great City. The award honors visual and performing artists, arts educators, arts organizations, arts volunteers, and supporters of the arts. The recipients of this prestigious award exemplify excellence, inspire the community through their artistic pursuits, and ensure a cultural legacy for future generations. Mayor Christiansen presented the 2017 Mayor's Arts Awards, as follows:

Teresa Emmons

Teresa Emmons, a graduate from the prestigious Juilliard, has guided thousands of budding ballerinas and damsel dancers since opening her dance school, The Dance Conservatory, over 30 years ago. Her dance company has performed countless recitals and ballets for Dover audiences. She presents her talents to students enrolled in the Dance Academy Program and the Visual and Performing Gifted and Talented Program at Dover High School.

Teresa has dedicated her life to dance education and has been sharing her expertise with the Dover community for decades. She has made a significant contribution to the arts in the greater Dover area and has made a profound impact on the culture of our community. She is described as a wonderfully positive and delightfully artistic person that is justly deserving of this recognition and honor due to her demonstration of artistic and technical excellence in the field of dance.

Ms. Emmons thanked members of Council and Mayor Christiansen for their continued support. She stated that she had lived in this beautiful town for 35 years, noting that when she first came here she thought it was a sleepy old town, until she saw the young people who are really awesome. Ms. Emmons stated that it had been a privilege for her to be able to help them fulfill their dreams and she hopes she can continue doing it for many more years to come.

Jackie McCabe

Jackie McCabe, who will always be Ms. Jackie to us, has entertained children of all ages in the Dover community for over three (3) decades. As one of the Children's Librarians at the Dover Public Library, Ms. Jackie leads the Story Time and Toddler Time through songs, crafts, and activities to get the children motivated. She is a local favorite at community and private events, playing her guitar or autoharp while cheerfully singing classic children's songs and folk tunes. She also dedicates her time and talent at Kids Cottage Learning Center and local events such as Dover Days and the Christmas Tree Lighting Ceremony.

Ms. Jackie is described as educating with a warm personality, infectious smile, and generous performances that make her well-deserving of this recognition and honor due to her demonstration of artistic and musical excellence in the field of arts education.

Mayor Christiansen thanked all of the members of the Greater Dover Arts Council for coordinating this wonderful recognition.

Ms. McCabe thanked everyone for the beautiful award. She noted that she started her career playing the guitar and singing in smoky bars; however, after she got married and had children, she did not

sing for a while. Ms. McCabe stated that a friend of hers came over for her son's birthday party and suggested that everyone sing "Wheels On The Bus," which she had never heard of before, and now she has gotten more mileage out of that song and it's just been wonderful, noting that she has had a great career that she has enjoyed.

Ms. McCabe thanked the individuals who were kind enough to nominate her and the others who responded to the nomination, explaining that it takes time to write letters, and she appreciates that. She thanked her mentor, Jane Richter, explaining that although she could not thank her in person, she could thank her in heaven someday. Ms. McCabe stated that, most of all, she had to thank her husband Mike who had been driving Ms. Jackie for 22 years.

COUNCIL COMMITTEE OF THE WHOLE REPORT - SEPTEMBER 26, 2017

The Council Committee of the Whole met on September 26, 2017 at 6:00 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson (arrived at 6:01 p.m.), Mr. Neil, Mr. Lewis, Mr. Cole, Mr. Polce, Mr. Hare, and Mr. Lindell. Mr. Sudler was absent. Mayor Christiansen (arrived at 6:01 p.m.) was also present. 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*).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

Proposed Ordinance #2017-13 Amending Appendix B - Zoning, Article 3 - District Regulations; Article 5 - Supplementary Regulations; and Article 12 - Definitions (Adult Day Care Provisions) (Sponsors: Neil and Hugg)

Mr. David Hugg, Acting Director of Planning and Community Development, informed members that the proposed ordinance was a result of the Planning Department's continuing process of looking at ordinances and identifying things that need to be fixed as well as omissions. He explained that a couple of months ago a woman inquired about opening an adult day care center and staff's first reaction was that it was a pretty good idea; however, staff then determined that there was no way that she could open an adult day care center under the existing City Code of Ordinances. Mr. Hugg noted that, while drafting the proposed ordinance, staff reviewed the State law to determine how it relates to the City's ordinance. Mr. Hugg stated that the proposed ordinance would create a new section to address adult day care facilities and clarify language in the existing ordinance as it relates to day care facilities for children.

Staff recommended adoption of Ordinance #2017-13.

The Committee recommended adoption of Ordinance #2017-13.

By consent agenda, Mr. Neil moved for approval of the Committee's recommendation, seconded by Mr. Hare and carried by a unanimous roll call vote. *(The First Reading of the ordinance will take place during the latter part of the meeting).*

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

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

Request for Letter of Support - Seatbelts for School Buses (Janetta Guinn)

Ms. Janetta Guinn, 749 Slaughter Street, expressed concern that there were not seatbelts on school buses, noting that she hears about accidents on school buses every day on the news. She informed members that she had been trying to get somebody to help her with this proposal.

Mr. Slavin reminded members that Ms. Guinn had attended a recent Council meeting to request Council's support in sending a letter to the legislature, and this item was placed on the Committee's agenda for that purpose. Mr. Slavin stated that he thought that it was a wonderful idea and something that he supports.

Mr. Slavin moved to recommend that Council proceed with drafting a letter of support for seatbelts for school buses to the City's delegation in both the State House of Representatives, and the Delaware State Senate, seconded by Mr. Garfinkel.

Mr. Neil stated that he was concerned because it had not been done and he thought that safety issues for vehicles had been looked at for many years. He explained that he was not certain that he would have the expertise to say that there was a reason not have seatbelts, noting that he thought that there would be complications in terms of whether children would be able to get in or out of the safety belts, in case of emergency. Mr. Neil stated that he thought that this matter should be looked at by safety experts who deal with vehicles. He noted that, while he thought it was a wonderful idea to do anything to protect school children riding in public buses, it is something that may be beyond members' expertise to decide.

Mr. Anderson informed members that, when he had looked at this particular issue years ago, there was a lot of controversy because school buses are made with compartmentalization, which has worked extraordinarily well. He stated that they are the safest vehicles in America, noting that buses over 10,000 pounds have the lowest injury rate of any form of advanced transportation. Mr. Anderson advised that there is an argument that compartmentalization works better than seatbelts, without the hassle. He stated that one (1) of the reasons why the National Transportation Safety Board did not require seatbelts on larger buses or make that recommendation was because there were concerns that students may be in a position to be strangled if a bus overturned, explaining that there would not be enough time for one (1) adult to go through and get all of the students off the bus. Mr. Anderson indicated his belief that some states had adopted seatbelt requirements for buses anyway, and he

did not think that there had been any evidence that having seatbelts on the buses increased the risk, particularly if there are at least three (3) points. He stated that he had not seen any reason to believe that they increase the danger; however, he would personally like to find out what the experts at the Delaware Department of Transportation (DelDOT) think. Mr. Anderson indicated that if seatbelts do not increase the danger, he thought that the matter would be worth looking at. He stated that it is an interesting subject; however, it is not a slam dunk because of the way school buses are designed.

Mr. Slavin stated that the National Highway Transportation Safety Administration did make a recommendation, in late 2015, that all new school buses should have seatbelts. He informed members that currently 19 states had legislation before their legislatures debating this issue. Mr. Slavin noted that he did not want to get lost in the bureaucracy, compartmentalization, and whether cars or buses are safe, explaining that he wanted to focus on whether the kids are safe. He stated that the import of this conversation was about a letter from this body saying that they are interested in this issue because children in the community ride on its roads, and members want to make sure that the community has the safest possible way to do this.

Mr. Polce advised members that he also did some research on this topic and found that 19 states do in fact have legislation in front of them, six (6) currently require seatbelts and three (3) of those six (6) have provisions in the language that would simply state "when we have the money." He stated that, on average, it costs $7,000 - $10,000 for every bus to be equipped with seatbelts, and the average total cost of a bus is approximately $80,000 - $120,000, noting that he did not like the $30,000 variance when talking finance.

Mr. Polce suggested that the appropriate entity to send the letter to would be the local education agencies (LEAs), since the LEAs are truly tasked with issues such as this. He explained that Capital School District is the school district that all the schools in Dover fall in; however, that does not necessarily mean that, for instance, Lake Forest or Milford School Districts would take up the same cause. Mr. Polce noted that Delaware has numerous LEAs, including 19 public school LEAs, as well as those for charter schools, and he thought it would be an appropriate course of action to include them in the City's letter.

Mr. Hare expressed concern regarding who would be responsible for ensuring that five- and six-year old children get strapped in when they get on the bus. He asked if the parents or the bus driver would be responsible. In response, Ms. Guinn stated that when her granddaughter was three (3) years old she knew how to unbuckle and buckle her seatbelt, noting that most three-, four-, and five-year old children know how to buckle and unbuckle their seatbelts. Mr. Hare explained that his granddaughter is special ed and did not really know how to buckle and unbuckle her seatbelt until she was nine (9). He stated that this was his only concern and he did not have a problem with recommending it; however, he noted that there would be a

lot of issues that would come up. Ms. Guinn noted that there is always an aide on that particular bus and no more or less than 10 or 12 kids. She stated that the majority of the other school buses do not have aides on them.

Mr. Lindell stated that he agreed with the concept for safety purposes; however, he was concerned about not starting at the local education district level in pursuing this issue, because they are the ones who ultimately have to foot the costs of the bill. He indicated that he thought that Mr. Polce's solution of addressing the letter to the local education agencies would be a good start and a reasonable compromise.

By unanimous consent, the motion was amended to reflect that the letter would be addressed to the local education agencies.

Mr. Shelton stated that he thought this was a great idea. He advised members that he had an opportunity to talk to a few bus drivers who worked at the Lake Forest School District to get their opinion on this, and everyone thinks it is a great idea; however, a couple of questions came up about who would make sure that everybody is buckled up. Mr. Shelton indicated that the bus drivers he spoke to said that making sure everyone is buckled up would be an issue because most bus drivers do not have a second person on their bus, so someone would have to be hired to make sure that all of the students are fastened and buckled in. He noted that another issue that was raised was how the bus drivers would be able to get to each student and get them out if there was an accident, especially if the bus was on fire, because young people get very anxious trying to get out. Mr. Shelton indicated that the bus drivers thought that the seatbelts may cause more of a problem than they are actually taking care of. He advised that the bus drivers were concerned about how they would manage seat belts, in addition to their current responsibilities. Mr. Shelton indicated that he thought that the matter really needed to be looked at on the local level, and that the City should make the local level aware and have them come back and possibly make a recommendation from there.

Mr. Garfinkel informed members that his granddaughter is small, so by law he has to put her in a car seat, explaining that it is very dangerous for a small child to be in a seatbelt. He noted that school districts are going to transport pre-K through second grade children who are all about that same size and, by law, need car seats. Mr. Garfinkel asked Ms. Guinn how her observation would reconcile with that and if she was talking about actually having car seats. In response, Ms. Guinn stated that they would have safety seats on the bus too, and noted there are normally aides on the buses for pre-K, kindergartners and toddlers, who can help out with unbuckling seatbelts. She reiterated that regular buses do not have aides but that most five- and six-year-old children know how to unbuckle and buckle a seatbelt. Ms. Guinn stated that her granddaughter comes home every day singing the safety song about fire and buckling up her seatbelt, noting that kids are smart these days and know these types of things.

Mr. Lewis stated that he agreed with Mr. Slavin, explaining that he thought that members needed to put the safety of children first. He reminded everyone that this was only a letter of recommendation and things would probably be ironed out as it progresses.

The Committee recommended that Council proceed with drafting a letter of support for seatbelts for school buses to the local education agencies.

By consent agenda, Mr. Neil moved for approval of the Committee's recommendation, seconded by Mr. Hare and carried by a unanimous roll call vote.

Prioritization of City of Dover State Capital Transportation Program (CTP) Projects

Mr. David Hugg, Acting Director of Planning and Community Development, advised members that each year City Council develops priorities for road improvements to be forwarded to the Secretary of Transportation and the Dover/Kent Metropolitan Planning Organization (MPO) for consideration in the department's Capital Transportation Plan (CTP). He noted that sometimes the projects that the City believes are a high priority show up in the list and sometimes they do not, but each year the City is offered an opportunity to suggest some projects. Mr. Hugg informed members that the way that the process works is that the City Manager and the City Planning Director compose a list, consult with the Public Works Department and the Police Department, and then bring a recommendation to the Safety Advisory and Transportation Committee and, ultimately, City Council, which gets forwarded to the MPO.

Mr. Hugg reviewed the 2017 Transportation Priorities, noting that, in most cases, the list was the same as the previous year; however, there were a couple of changes. He advised that the Crawford Carroll Avenue Extension was moved up in the priority list, from number eight (8) on the City's 2016 list, to number four (4). Mr. Hugg explained that this change reflected a lot of the new activity that is going on at Delaware State University, as well as some activity that staff believes will occur in that general corridor. He stated that staff also added West Street to the priority list to make DelDOT and the MPO aware that it is an important road segment, noting that it was not on the City's list last year, although it is in the CTP. Mr. Hugg informed members that project #7 - Kings Highway/Route 13 Intersection Improvements was also added to the list, explaining that it is an intersection that is going to be much more heavily impacted as the commercial development from Division Street to Kings Highway occurs in that general area.

Staff recommended approval of the recommended priority ranking for the coming year.

Mr. Hare noted that the curbs were complete on Wyoming Avenue and asked when paving would begin, noting that he had been receiving a lot of calls. Responding, Mrs. Mitchell advised that they were getting ready to begin paving.

Mr. Lindell stated that he only had one (1) concern. He explained that he was happy to see the Kenton Road Corridor Upgrades up to number two (2) on the list; however, he recalled that when the Kenton Road Corridor was discussed during a previous meeting, Mr. Sudler brought up College Road, from McKee to Kenton Roads as well. Mr. Lindell explained that he was concerned that the Kenton Road Corridor Upgrades was listed as number two (2) on the City's priority list; however, the College Road Corridor Upgrades (Kenton Road to McKee Road) was listed as number six (6). He noted that the College Road Corridor Upgrades was in the CTP as priority #77; however, the City's fifth priority on the list was in the CTP as priority #100. Mr. Lindell indicated that he thought that the Kenton Road and College Road Corridor Upgrades would be more closely linked together.

In response to Mr. Lindell, Mr. Hugg stated that the priority numbers are the priorities that the MPO assigns through their rating system which includes a variety of things, such as traffic volume, safety, accident numbers, sight distance, the age of the road, as well as economic development opportunities. He explained that the MPO ranking and the City's ranking do not always correspond. Mr. Hugg stated that he thought that the rationale behind putting Kenton Road where it was on the list was that the City is seeing a lot of development on the west side of the City. He explained that while College Road is also an impacted road, the traffic volumes and safety issues are greater on Kenton Road. Mr. Hugg informed members that it is a subjective process. He stated that there is no guarantee that DelDOT or the MPO will do anything other than thank the City for sending its list, noting that at least the City has the opportunity to have specific input, in addition to the normal transportation planning process.

Mr. Lewis thanked Mr. Hugg for his vigilance in putting this together.

The Committee recommended approval of the priority ranking for the coming year, as recommended by staff.

By consent agenda, Mr. Neil moved for approval of the Committee's recommendation, seconded by Mr. Hare and carried by a unanimous roll call vote.

By consent agenda, Mr. Neil moved for acceptance of the Council Committee of the Whole Report, seconded by Mr. Hare and carried by a unanimous roll call vote.

MONTHLY REPORTS - AUGUST 2017

By motion of Mr. Neil, seconded by Mr. Hare, the following monthly reports were accepted by consent agenda:

City Assessor's Report
City Council's Community Enhancement Fund Report
City Manager's Report
City Planner's Report
Controller/Treasurer's Budget Report
Fire Chief's Report
Police Chief's Report

ACCEPTANCE OF PROPOSAL - HEATING, VENTILATION AND AIR CONDITIONING (HVAC) CONTROL SYSTEMS FOR DOVER PUBLIC LIBRARY

Members were advised that the purpose of this operational level program is to provide planned preventative maintenance services to the Control Systems of the City of Dover Public Library's Heating, Ventilation and Air Conditioning (HVAC) system. For each year of the proposal, various items will be serviced biannually and others will be serviced annually. Each year a control system software subscription is included. Staff recommended that this three-year contract for planned services to the HVAC Control Systems for the Dover Public Library be awarded to Johnson Controls, Inc., due to the fact that Johnson Controls is the original equipment manufacturer and therefore can be the only provider to make the necessary upgrade to subscriptions which are proprietary to Johnson Controls and the Metasys product brand. The contract is necessary to guarantee the efficient operation of the HVAC system as well as the building.

Mrs. Donna Mitchell, Acting City Manager, advised members that, although the contract would only cost approximately $8,000 per year, it is above the purchasing policy threshold; therefore, it was brought forward for Council approval.

Staff recommended awarding the Planned Service Contract for the HVAC Control Systems for the Dover Public Library to the sole vendor, Johnson Controls, Inc., for a three-year amount of $25,363.

Mr. Neil moved for approval of staff's recommendation, seconded by Mr. Anderson and carried by a unanimous roll call vote.

AGREEMENTS BETWEEN THE CITY OF DOVER AND THE DELAWARE DEPARTMENT OF TRANSPORTATION (DELDOT) AND BETWEEN THE CITY OF DOVER AND NCALL ALLOWING RIGHTS-OF-WAY USE - PLACEMENT OF ARTWORK ON DELDOT TRAFFIC CONTROL DEVICES AND CITY OF DOVER ELECTRIC EQUIPMENT

Mr. David Hugg, Acting Director of Planning and Community Development, advised members that the Delaware Department of Transportation (DelDOT) has a program that allows artwork to be installed on their traffic control devices, which are the relatively large silver boxes located at various intersections. He indicated that this initiative was brought to staff's attention by Council President Slavin and the National Council on Agricultural Life and Labor Research Fund, Inc. (NCALL). Mr. Hugg stated that DelDOT submitted a proposal to the City in the form of a State of Delaware Highway Right-of-Way Use Agreement, the purpose of which is to allow the City to, either on its own or through a third party, allow artwork to be placed on DelDOT equipment.

Mr. Hugg advised that NCALL was very much involved in this process and stepped forward to run the program. He explained that in order for NCALL to run the program, a memorandum of agreement or contract between the City of Dover and NCALL would be required for the purpose of allowing the City to delegate the DelDOT relationship to NCALL. Mr. Hugg noted that this agreement was drafted as NCALL Agreement #1.

Mr. Hugg informed members that, during discussions regarding this program, it was realized that the City of Dover also has a number of large pieces of equipment at various locations throughout the City that are under the control of the Electric Department. He stated that it was determined that it

would be in the City's best interest to also allow those facilities to be part of this program. Mr. Hugg explained that this would only involve the City and NCALL, not DelDOT, and would necessitate a additional agreement between the City and NCALL, which was drafted as NCALL Agreement #2. He advised that NCALL Agreement #2 was developed in large measure with the input of Mr. Paul Waddell, Engineering Services and System Operations Superintendent, and other Electric Department staff, and has some specific requirements that go beyond the DelDOT provisions relating to the numbering and warning labels, etc.

Mr. Hugg stated that, in all of these cases, the City retains the authority, for purposes of its agreements, to discontinue or cause to be removed artwork that is placed on these facilities, and the agreement with DelDOT also provides that DelDOT can ask that they be removed at any given time. He noted that there is no expense to the City for being involved in this program, and the City will look to NCALL to put together procedures and a process for determining which facilities and what kind of artwork is appropriate.

Mr. Neil asked if the City is encouraging youngsters to do the artwork to indulge their feelings. He noted that earlier in the meeting, members had honored two (2) people in the area of the arts, and he hoped that it is either therapeutic or is going to be something that is going to encourage young people to get involved in art. He questioned how this would be done. Responding, Mr. Hugg stated that he did not have those details; however, Mr. Neil was correct that the intent of this program is to provide opportunities for artists of all skill and age levels to participate in the program. He indicated that specific categories of art or artists, etc. had not yet been determined with NCALL; however, it will be a managed program where the artist will have to describe what they are proposing to do and meet certain standards. Mr. Hugg explained that the standards will ensure that the artwork is not offensive.

Mr. Hugg expressed his hope that the NCALL program will involve reaching out to the school system as well as seniors and others, and the artists in the community who have expressed an interest in helping to make the City more attractive.

Mr. Anderson asked how this would comport with the City's existing corridor overlay zone and sign ordinances, and if there would be any conflicts. In response, Mr. Hugg stated that there would be no controversy or conflict, explaining that these are not considered signs. He advised that advertising for a brand, business, or particular service would not be allowed. Mr. Hugg noted that the idea would be to develop images that reflect the quality of life and the opportunities in the City, and as long as they do not involve any advertising or solicitation for business or anything of that nature, there would not be a conflict with the sign ordinance.

Mr. Lindell noted that earlier in the summer there was a concern in Bicentennial Village regarding an electric box from which the paint was peeling. He asked if the City would still be required to paint electrical equipment or if the citizens in the community would have to wait if there is a list of equipment waiting for the art design. Responding, Mr. Hugg advised that the City's maintenance program for its facilities would continue pretty much as it is now scheduled, noting that this program may actually provide an opportunity to catch up on some of the maintenance by virtue of taking a neglected traffic control device or electric box that will otherwise need to be painted and having artwork done on it that addresses that problem.

Mr. Neil expressed his hope that this could plant a seed for the City to have its own Dover Picasso, Chagall, or Monet, explaining that it would be wonderful if it turns out that the City is responsible for that by allowing these boxes to be painted. In response, Mr. Hugg noted that he personally knows a number of very accomplished young and not so young artists in the City who he thinks could really help send a message about living in the City of Dover.

Mr. Neil moved for adoption of the agreements between the City of Dover and DelDOT, and the City of Dover and NCALL allowing rights-of-way use for the placement of artwork. The motion was seconded by Mr. Hare and unanimously carried.

FY17 EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM - JOINT GRANT WITH SMYRNA POLICE DEPARTMENT AND KENT COUNTY - COBAN IN-CAR CAMERA/COMPUTER SYSTEMS

Members were informed that the Dover Police Department recently received its annual allocation from the Office of Justice Programs (OJP) for the 2017 Justice Assistance Grant (JAG). Similar to previous years, Dover Police Department was identified as a disparate funding agency, along with Smyrna Police Department and Kent County. This disparate condition requires the submission of a joint grant application for the three (3) agencies.

Although no funds were designated for Kent County in the allocation document, a Memorandum of Understanding will be completed and signed by all three (3) agencies and will state that Kent County will waive any claim to funding on the grant. The Dover Police Department will serve as the fiscal and administrative agent for the grant. Grant funds for the Dover Police Department, in the amount of $48,071, will be used for the purchase of COBAN in-car camera/computer systems, and grant funds for the Smyrna Police Department, in the amount of $11,210, will be used for the purchase of evidence processing equipment and associated supplies.

Police Chief Marvin Mailey advised members the grant would go toward the purchase of 10 COBAN in-car camera/computer systems that the City of Dover's officers use to work out in the field and also serves as a video log of all interactions that the officers have during traffic stops. He explained that when an individual is stopped by a police officer, the in-car camera comes on and records video and audio of the traffic stop. Chief Mailey noted that this would replace outdated systems that are already in the car.

Staff recommended approval of the grant project, as requested.

Mr. Neil moved for approval of staff's recommendation, seconded by Mr. Lewis and carried by a unanimous roll call vote.

PROPOSED RESOLUTION NO. 2017-13 CENSURE OF COUNCILMAN BRIAN E. LEWIS

Mr. Slavin advised that this was not an issue that he took lightly in placing on the agenda, explaining that, while the Resolution was directed toward Councilman Lewis, it was really directed also to the larger issue of acceptable conduct, which generations of Council members before the current members had established for them. Mr. Slavin stated that it was also the acceptable conduct which members practice which influences the future generations of Councils that will come after them. He indicated that, as Council members, it is their duty and obligation to police themselves, which is why

they were here, and noted that specific authority had been granted in the City Charter for this purpose.

Mr. Anderson moved to suspend the rules to allow Mr. Ronald Poliquin, Esquire, attorney, to make a presentation. The motion was seconded by Mr. Sudler and failed by a roll call vote of six (6) no (Neil, Cole, Polce, Hare, Lindell, and Slavin), and three (3) yes (Anderson, Sudler, and Lewis).

Mr. Lewis stated that, since he was being accused, he would like to read a statement into the record and read the following statement:

> Good evening. It is unfortunate that I have been put in this position to defend myself against allegations as our City is facing real issues, including violent crime, economic growth, and racial strife. I thought we were elected to be problem solvers, not problem creators. I am also deeply disappointed that our Council President did not approach me first regarding the allegations listed in Resolution 2017-13 to allow me the professional courtesy and opportunity to respond to these false charges.
>
> In addition, if the Council President truly believes I committed an ethics violation, I would welcome the opportunity to defend myself fully and vindicate myself through a proper investigation by the Ethics Commission, which was set up and designed to investigate this exact type of allegation without the distraction of personal vendettas and petty politics. Unfortunately, I was denied the opportunity to respond to the allegations prior to our Council President's filing of this resolution.
>
> The consequences of this resolution passing go far beyond any damage to my reputation. It means any Council member with a simple majority vote can threaten censure as a chilling effect to opposing voices, therefore creating an abuse of the process. As far as the specific allegations themselves, let me make this clear. In no way did I intend to mislead a news reporter or the citizens of Dover. The situation we are here about occurred at a time when I recently returned from Florida, dealing with the death of my mom and, to add, the day I buried her my father suffered a stroke. I was balancing a family tragedy while still trying to serve my constituents.
>
> In September, I was contacted by a constituent with concerns of a potential conflict of interest held by Councilman Polce with his vote to sell the old Dover library building to Wesley College for $1, since Councilman Polce is a current employee of Wesley College. I forwarded that concern to the City Solicitor, Mr. Nick Rodriguez, on September 13th. I received a short email from Mr. Rodriguez stating, since there was no financial benefit, there was no ethical violation. To my knowledge, there are more than just financial conflicts of interest. In addition, there can be a concern about an appearance of a conflict of interest, even if it may not rise to the level of a legal conflict of interest. I did not believe Mr. Rodriguez's short email of a paragraph constitutes an official legal opinion since it did not address all of my concerns and since, in the past, official legal opinions are usually drafted in letter form and disseminated to the Mayor and all members of Council, including the City Clerk; therefore, I was still awaiting Mr. Rodriguez's official legal opinion. I do not

> mean this statement to be viewed as attacking Mr. Rodriguez in any way, whom I have the highest respect for.
>
> I deny telling a reporter, Mike Finney, that no legal opinion had been issued. In my experience, and I am sure the experience of all Council members and news reporters, it is not unusual for there to be inadvertent miscommunications issued in a news report. However, in retrospect, with the benefit of hindsight, I would have disclosed the email I received from Mr. Rodriguez to Mr. Finney in the spirit of full disclosure and regret any confusion that was caused by such an omission. This wasn't the first and will not be the last miscommunication between a member of this Council and the press. It is unfortunate this miscommunication is being used as a political opportunity to slander my good name. We are better than that as a Council, and the people of Dover deserve better. I strive every day to serve my constituents at the highest level and will continue to do so. It is my hope we can move on from this matter and be a better Council. Thank you.

Mr. Anderson stated that, not far from here, Delawareans made a difficult decision to break from Mother Britain and there were a number of reasons for this break, not the least of which were ex post facto laws and a bill of attainder. He stated that ex post facto law has to do with the idea of something becoming punishable or changing the penalty after the fact. Mr. Anderson noted that a bill of attainder is something that has to do with basically an organization passing a resolution declaring a person to be tainted, and without trial through sheer fiat declaring guilt. He advised that those items were part and parcel to why we became the nation we became. Mr. Anderson stated that members now see the denial of charges being represented by someone's rightfully and lawfully obtained counsel. He indicated that these three (3) things put together make this Resolution and the process that is being followed truly a throwback to a time that members do not want to see. Mr. Anderson stated that members were bypassing the due process afforded in the Ethics Code to make a judgment with no investigation or request for explanation. He noted that members are the author of the Resolution, want to be the accuser, and sit as judge over the proceedings and the alleged offense was one (1) that had never been considered an ethics offense before.

Mr. Anderson reviewed a document entitled "Examples of Behavior Justifying Censure for Local Elected Officials" **(Exhibit #4)**. Mr. Anderson noted that the City of Dover's former Councilman Robert Ritter was censured for the very defined item of divulging confidential information regarding executive session and violating the Freedom of Information Act (FOIA) laws. He advised that these were all clear violations that would have been clear before the offense, not afterwards. Mr. Anderson noted that the alleged offense was one that had never before been considered an ethics violation. He stated that if members presume guilt based upon hearsay evidence, it would become an offense after the fact, based on how the spirit of the Code moves the majority, guilt not based on a hearing or investigation but a bill of attainder, a fiat Resolution hurried onto the agenda, bypassing the committee process like it is some sort of emergency. Mr. Anderson requested members to ask themselves, as fair-minded persons, if this is the type of body they want to be and the type of society they want to lead. He noted that there had been talk about future generations and expressed his opinion that this was not the type of example members want to set for the future. Mr. Anderson indicated that this was not how the ethics process was used in the past. He stated that, admittedly, it had been used against people unpopular with the process, but at least

they waited until there was a longstanding rule violated and broken in a clear way. Mr. Anderson advised that the ultimate question was whether members wish to be better than the past or do they want to sink to a new low. He asked if they would listen to the better angels of equal treatment and fair play defined by the rules or sink to arbitrary rule. Mr. Anderson stated that he knew not what course his colleagues would take but, as for him, he would stand on the side of the cherished American values that founded this country and worked over centuries, imperfectly, but to make us a more perfect union.

Responding to Mr. Neil, Mr. Slavin stated that he had verified the information in the Proposed Resolution.

Mr. Neil read the following statement into the record:

> Whether the Resolution passes or fails, the basic issue deals with the Integrity of both the individual and the Integrity of this body as it is presently constituted. At the heart of this question is "Did a Member of this body seek publicity on an issue that was a non-legal issue when he already had an informal but authoritative, legal opinion from the City Solicitor in hand?" What was the purpose of seeking that publicity?
>
> Why use a news reporter as means of creating a story making it *Fact* rather than write a letter to the Editor with an *Opinion*?
>
> For instance, had the Council member said, "Even though I have a legal opinion that a member of this Council did not recuse himself in this vote, I believe the Councilman should have", we would not be having this discussion today. The accuser could have taken up the matter with the Ethics Commission before we came here today.
>
> For the record, the measure would have passed overwhelmingly minus the two votes.
>
> I am offended with the charges of politics playing a role to persecute an individual who has been given a mere two days to defend himself as IF we were a Court of law. Censure seems to say, "I am holier than thou and thou has not been censured, so therefore, I have done no wrong if given more time to explain."
>
> So, who is playing politics and why?
>
> In the defense Sound and Fury designed to cover the Integrity issue, is it OK for elected officials to fudge a little? Is this an issue of a member who was charged with a DUI and pled guilty not brought before an Ethics Committee? Why is it being used as a defense of a member who could have issued a Mea Copula, or claimed he was simply not quoted correctly in the newspaper article. He could have also said, "I disagree with the legal ruling."
>
> I believe that elected officials should have integrity, and if having integrity makes me an elitist, then I am an elitist.

> As a former newsman, I never engaged in "Fake News", as I believe the news media is the great defender of democracy in this nation. I will defend the right of free speech even when it comes to votes in this body...but I believe, we as elected officials should be held to a standard by separating fact from opinion within the scope of free speech.
>
> Shouldn't those of us who are extended the title of "The Honorable" by our elections, earn the right by our actions in how we comport ourselves within this body?

Mr. Sudler read a statement entitled "Councilman Sudler's Final Statement Regarding Resolution 2017-13 October 9, 2017" **(Exhibit #5)**. He stated that the biggest concern that came to his mind was that, if members move forward with this Resolution, they will be compared to an Oprah Winfrey show where everyone gets a censorship and he did not see that for the great City of Dover.

Mr. Hare stated that he had read the letters from Mr. Lewis' attorney and heard Mr. Lewis' statement. He advised that the letter indicated that, if President Slavin truly believes an ethics violation occurred, then the proper procedure would be to file a charge with the Ethics Commission. Mr. Hare indicated that he guessed that this did not apply to Mr. Lewis, because Mr. Lewis' attorney told Council members that this is what they should do; however, did not advise his client to do this. Mr. Hare noted that the letter stated, "Although not legally mandated in this context, the principles of due process and fundamental fairness necessitate that anyone accused of charges be given notice of the charges." He stated that he guessed this did not include contacting Councilman Polce and saying, "Hey, I have a problem. Maybe we can talk about this and you explain it to me." Mr. Hare stated that he guessed that did not happen. Mr. Hare noted that the letter stated that if the Council and Mayor agree the ethics violation is serious, then any accusation should be thoroughly vetted by a qualified panel. He stated that he guessed that this did not apply either in the other case.

Mr. Hare stated that he wondered, when Mr. Lewis makes a request of the City Solicitor, which costs the City money, and is going to do something about it, why Mr. Lewis does not vet it with the City Solicitor. He asked why Mr. Lewis does not call to ask for a formal letter, if he does not like the answer he gets or if he has not received what he is waiting for. Mr. Hare indicated that if this had happened and then it came out that Mr. Lewis got an opinion from the City Solicitor that this was not a conflict but that he did not agree with it, Council would probably not be here, as Mr. Neil said.

Mr. Hare advised that they were saying that Mr. Lewis should have been approached, and that Mr. Polce was not approached. He stated that there was not a proper investigation done prior to going into this. Mr. Hare asked who was denied. He indicated that there had been things that came up, and he had issues with some Council people in the past and had sat down, talked to them, and they worked it out, and did not need to run to the newspaper. He indicated that, to him, it is a basic issue. He noted that Mr. Lewis had stated that it was a rough time in his life and he should have vetted it a little better and checked things out. Mr. Hare stated that, to him, the bottom line was four (4) items: 1) Do your due diligence and make sure you have checked everything out before you make accusations; 2) courtesy for your fellow Council people; 3) respect the other Council people and don't just jump out there; and 4) the fairness that was brought up and respect, which he did not see here. Mr. Hare stated that he supported the Proposed Resolution.

Mr. Hare moved for the adoption of Resolution No. 2017-13, seconded by Mr. Neil.

Responding to Mr. Lewis, Mr. Slavin stated that he could not yield his comments to his attorney, Mr. Poliquin. He explained that members had voted earlier not to suspend the rules and he could not yield his comments under the terms of the rules.

Mr. Lewis stated that he felt his rights had been violated because he was entitled to due process.

Mr. Anderson stated that because the person is counsel and the Code specifically gives Mr. Lewis the right to due process, he would have the right to yield. Mr. Anderson appealed the decision of the Chair and asked that the City Solicitor be asked for his opinion. Responding, Mr. Nicholas Rodriguez, City Solicitor, stated that it was clear that Council voted not to suspend the rules and he thought that was the answer to the question.

Mr. Lewis asked Mr. Rodriguez if he did not have the right to legal representation since he was being accused of something. In response, Mr. Rodriguez stated that he always has the right to legal representation, but tonight Council voted, as he had already mentioned to Mr. Anderson, and that vote disqualifies Mr. Lewis from having anyone from the audience, or an attorney, to speak on his behalf at this time.

Mr. Lewis stated that once again his rights had been violated.

Mr. Hare called for the question, seconded by Mr. Lindell.

Mr. Slavin noted that it was not a debatable motion.

The motion to call for the question was carried by a roll call vote of six (6) yes (Neil, Cole, Polce, Hare, Lindell, and Slavin), and three (3) no (Anderson, Sudler, and Lewis).

Mr. Anderson, referencing Section 30-72(e) raised a point of order that Mr. Lewis had evoked his right to a hearing from the Ethics Commission; therefore, this should be referred to that Commission.

By a roll call vote of six (6) yes (Neil, Cole, Polce, Hare, Lindell, and Slavin), and three (3) no (Anderson, Sudler, and Lewis), Council adopted Resolution No. 2017-13, as follows:

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

WHEREAS, Councilman Brian E. Lewis, through his actions and words, promoted an unfounded allegation of a potential ethics violation against a member of Council, a method which violates the spirit and purpose of City Ordinance Chapter 30 - Code of Conduct and Ethics Commission, Article III - Ethics Commission; and

WHEREAS, Councilman Brian E. Lewis requested and received a legal clarification from City Solicitor Nicholas Rodriguez on September 13, 2017 as to whether a conflict of interest relating to the above referenced Council member existed; and

WHEREAS, on September 13, 2017, Councilman Brian E. Lewis received a legal clarification from City Solicitor Nicholas Rodriguez that there was no conflict of interest in the matter; and

WHEREAS, according to published reports on September 26, 2017, on September 16, 2017 and again on September 19, 2017, Councilman Brian E. Lewis contacted the *Delaware State News* to encourage news coverage of the perceived conflict of interest; and

WHEREAS, according to published reports, Councilman Brian E. Lewis did not disclose to the *Delaware State News* reporter that he had received a response from the City Solicitor that no conflict of interest existed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Members of Council, in Council met, that Councilman Brian E. Lewis is publicly censured for violating the spirit and purpose of City Ordinance Chapter 30 - Code of Conduct and Ethics Commission, Article III - Ethics Commission and, furthermore, for conducting himself in a manner which violates the spirit and purpose of his oath of office administered on May 11, 2015.

ADOPTED: OCTOBER 9, 2017

FIRST READING - PROPOSED ORDINANCE #2017-13

Council President Slavin reminded the public that copies of the proposed ordinance were available at the entrance of the Council Chambers, on the City's website at www.cityofdover.com under "Government," or by contacting the City Clerk's Office at 736-7008 or cityclerk@dover.de.us. Since the ordinance amends the Zoning Code, a public hearing is required. Staff recommended referral of the amendments to the Planning Commission on November 20, 2017 and that a public hearing be set for the Council Meeting of December 11, 2017, at 7:30 p.m., at which time final action by Council will take place.

Mr. Sudler moved to refer the amendments and set a public hearing before City Council for December 11, 2017 at 7:30 p.m., as recommended by staff. The motion was seconded by Mr. Neil and unanimously carried.

In accordance with Section 1-9 of the Dover Code, Council acknowledged the First Reading of the Zoning Ordinance Amendments as read by the City Clerk, by title only, as follows:

> PROPOSED ORDINANCE #2017-13 AMENDING APPENDIX B - ZONING, ARTICLE 3 - DISTRICT REGULATIONS; ARTICLE 5 - SUPPLEMENTARY REGULATIONS; AND ARTICLE 12 - DEFINITIONS (ADULT DAY CARE PROVISIONS)

ACTING CITY MANAGER'S ANNOUNCEMENTS

Mrs. Donna Mitchell, Acting City Manager, reminded everyone that the Silver Lake draw-down started earlier in the day, and work would begin on the dam once the lake is down to the right level; leaf collection would start on October 16, 2017; and the water system flushing process which began on Sunday, October 8, 2017 was continuing.

COUNCIL MEMBERS' ANNOUNCEMENTS

Mr. Anderson announced that the Mayor's Blue Ribbon Panel to End Homelessness final report and the Mayor's Task Force on Homelessness would be at the Dover Public Library for a public hearing on Tuesday, October 10, 2017. He encouraged everyone interested in the issue to attend that meeting or the meeting on October 24, 2017. Mr. Anderson indicated that these meetings would deal with some important issues in this City, and thanked the Mayor for the work that he has been doing on bringing a very diverse group of people together, noting that he can make things happen.

Mr. Anderson announced that the Adult and Juvenile Expungement Clinic would be held on Friday, November 3, 2017, with free legal assistance. He indicated that if financial assistance had been a barrier for individuals to get a second chance and they had been law abiding for years, they had no more excuses and should call Mr. Duncan at (302) 233-6462. Mr. Anderson noted that this information was also available on his Facebook page, DavidAndersonforCouncil, and he would make it available to the City offices as well. He stated that a clinic is held every Monday morning, except for holidays, at the City of Dover Public Library; however, the Clinic being held on November 3, 2017 was special because it has certain grants available to give people free legal assistance and help people with filing their background checks. Mr. Anderson noted that he was pleased to announce that the City's Fourth District fund would help some City residents who are not necessarily covered by those grants. He asked that people not let the past hold them back because in some places they can get a second chance.

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

Meeting adjourned at 8:41 p.m.

TRACI A. McDOWELL
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Regular Meeting of October 9, 2017, are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

/TM
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Exhibits

Exhibit #1 - An email from Ms. Lorraine Gloede, dated October 9, 2017, regarding censure of Councilman Brian Lewis
Exhibit #2 - A letter from Mr. Ronald G. Poliquin, Esquire, dated October 6, 2017, regarding Proposed Resolution No. 2017-13
Exhibit #3 - Ordinance #2017-12 Amending Appendix B - Zoning, Article 5 - Supplementary Regulations, and Article 6 - Off-Street Parking, Driveways and Loading Facilities
Exhibit #4 - A document entitled "Examples of Behavior Justifying Censure for Local Elected Officials"
Exhibit #5 - A statement entitled "Councilman Sudler's Final Statement Regarding Resolution 2017-13 October 9, 2017"

McDowell, Traci

From: McDowell, Traci
Sent: Monday, October 09, 2017 12:44 PM
To: City Clerks Office
Subject: FW: CENSURE OF COUNCILMAN BRIAN LEWIS

Members of Council,

Please see message below from Lorraine O. Gloede regarding Resolution No. 2017-13. She is unable to attend the meeting this evening.

Traci A. McDowell, MMC
City Clerk
City of Dover, Delaware
e-mail: tmcdowell@dover.de.us
Ph: (302) 736-7009
Fax: (302) 736-5068

This e-mail has been blind copied to the Mayor and Council.

From: Lorraine Gloede [redacted]
Sent: Monday, October 09, 2017 11:36 AM
To: McDowell, Traci <tmcdowell@dover.de.us>
Subject: CENSURE OF COUNCILMAN BRIAN LEWIS

Ms. McDowell:

It has come to my attention that there is a possibility of Councilman Brian Lewis' being censured at tonight's City Council meeting. Since I am unable to be at tonight's meeting to show support, I would like to enter some comments into the record via this email.

I have known Mr. Lewis since before he became a Capital School Board member. Although I did not attend many meetings, the one thing that stood out at those I did attend, was that he was the only one on the Board who asked how proposed actions would affect the taxpayers. If he felt that something was not right, he was not afraid to speak his mind. Many times he was a lone voice. Both of these qualities are admirable and in short supply today among those who govern.

Councilman Lewis was not present at the one Dover City Council meeting I attended since his election; but, knowing his integrity, I am sure he continues to bring concern for the citizens he represents and lack of fear in doing so to the table. He is also a tireless volunteer, doing a lot of positive things for the community.

I urge you not to censure Councilman Lewis. I believe that doing so would result in unintended negative consequences.

Thank you.

Lorraine O. Gloede
126 Stone Ridge Drive
Dover, DE 19901
[redacted]

BROWN, SHIELS & BEAUREGARD, LLC
ATTORNEYS AT LAW

ANDRE M. BEAUREGARD
RONALD G. POLIQUIN

148 S. Bradford Street
DOVER, DE 19901
(302) 734-4766
(302) 734-4877 (FAX)

HERMAN C. BROWN
(1925-1995)
ROY S. SHIELS
(1939-2015)
H. CUBBAGE BROWN, JR.
(Retired)

October 6, 2017

Mayor and Council Members
P.O. Box 475
Dover, DE 19903-0475

RE: Proposed Resolution No. 2017-13

Dear Members of Council and the Mayor,

I am responding on behalf of Councilman Brian Lewis regarding the above proposed resolution No. 2017-13 seeking censure for an alleged violation of the Ethics Ordinance which he received notice of yesterday. It is extremely disappointing that President Slavin would bring this resolution prior to allowing Councilman Lewis an opportunity to respond and without a proper investigation into the alleged ethics violation. In other words, President Slavin didn't do his homework before taking such an extreme measure.

Although not legally mandated in this context, the principles of due process and fundamental fairness necessitate that anyone accused of charges be given notice of the charges and a meaningful opportunity to both respond to the charges and sufficient time to prepare a meaningful defense. The timing of President Slavin's proposal (4 days and only 2 business days) was obviously designed to blindside Councilman Lewis and give him the shortest opportunity to respond.

If President Slavin truly believes an ethics violation occurred, then the proper procedure would be to proceed by filing a charge with the Ethics Commission where an independent committee could hear the charges and allow Councilman Lewis an opportunity to refute such. President Slavin is circumventing this process because he doesn't truly believe that an ethics violation occurred.

It should be noted that President Slavin points to no specific portion of City Ordinance Chapter 30 - Code of Conduct and Ethics Commission, Article III - Ethics Commission which Councilman Lewis violated. It is highly inappropriate for President Slavin to make some vague allegation regarding ethics violations without pointing to the specific section of the ordinance which was violated.

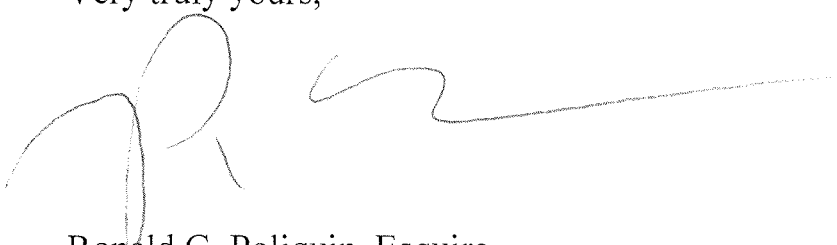
As what usually happens when someone rushes to judgement, the facts laid out in the proposed ordinance are both incorrect and incomplete. If President Slavin would've given Councilman Lewis the opportunity to respond to his concerns, he would've found the mistakes in his assumptions of what happened and perhaps not hastily filed the proposed resolution.

I am sure the Council and Mayor agree that any ethics violation is serious and any accusations should be thoroughly vetted by a qualified panel rather than being contested in the media and as a last minute resolution to a Council meeting. It is transparent that this alleged ethics violation is more motivated by President Slavin's desire to silence Councilman Lewis regarding policy differences rather than any supposed violation that was committed.

Ironically, President Slavin didn't feel a need to propose a public censure when Councilman Tanner Polce was recently convicted of the serious crime of Drinking Under the Influence (DUI) which actually caused injuries and endangered lives. Any quick google search of censure would demonstrate that Councilman Polce's conduct is much more appropriate for receiving a censure than what Councilman Lewis is accused of doing.

Censures should not be passed to score cheap political points. If this ordinance is passed, it will mean anyone who happens to disagree with President Slavin could be subject to censure. Councilman Lewis is proud of the work he has done for his constituents and will not be intimidated by these sorts of tactics. I look forward to speaking on behalf of Councilman Lewis at Monday night's meeting. Please feel free to contact me to discuss this issue further.

Very truly yours,



Ronald G. Poliquin, Esquire

RGP/np

cc: Nicholas Rodriguez, Esquire
Brian Lewis

CITY OF DOVER ORDINANCE #2017-12

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

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 1 – Supplementary Regulations Applying to Residence Zones, Subsection 1.8 – Buffers Along Arterial Streets of the Dover Code be amended to read as follows:

ARTICLE 5. - SUPPLEMENTARY REGULATIONS

Section 1. - Supplementary regulations applying to residence zones.

1.8 *Arterial Street Buffers.* Where residential zoned property fronts on a principal arterial street, as designated by the comprehensive plan, a landscape buffer shall be required in addition to normal landscaping of the street right-of-way. This landscape buffer shall be required when the property is subject to site development plan review or site development master plan review by the planning commission according to Appendix B – Zoning, Article 10 – Planning Commission. Arterial street buffers shall be a minimum of 30 feet in depth, measured from the right-of-way line of the arterial street.

1.81 *Landscaping of arterial street buffers.* At the time of development of the property, the arterial street buffer shall be planted with a variety of trees, shrubs and ground cover. The landscape design and planting plan for these arterial street buffers shall be subject to the approval of the planning commission as an integral part of the site development plan.

1.82 *Standards for arterial street buffer landscaping.* Landscaping in arterial street buffers shall follow the landscape guidelines outlined in Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines of this ordinance. Landscaping shall be designed to enhance the appearance of the arterial street, complement the architecture of buildings on site, and integrate with adjacent landscape areas. Landscape designs and planting plans which would pose a hazard to traffic on the arterial street, obstruct underground or overhead utilities or infrastructure, or significantly impede visibility of properties from the street shall be prohibited.

1.83 *Planning commission waiver.* The planning commission may approve a buffer less than 30 feet in depth. In approving a lesser amount of buffering, the planning commission shall consider the following factors:

a) Whether there are specific constraints related to existing lot size, lot configuration or the orientation of existing buildings on adjoining properties that would severely limit the development potential of the property if a deep buffer was required.

b) Whether a deep or shallow buffer would cause the property to be out of character with the surrounding built environment.

c) Whether there is significant landscape area within the right-of-way of the arterial street itself that can contribute to the buffer, and whether future road improvement activities are likely to reduce the depth of this area.

d) Whether the landscape design and planting plan for the buffer achieve the standards of subsection 1.82 – Standards for arterial street buffer landscaping.

(Ord. No. 1-78, 1-24-1978; Ord. of 12-14-1992; Ord. of 4-25-1994; Ord. of 6-13-1994; Ord. of 1-10-1996; Ord. of 5-22-2000; Ord. of 10-23-2006; Ord. of 1-14-2008; Ord. No. 2011-21, 10-10-2011; Ord. No. 2011-26, 12-12-2011; Ord. No. 2015-13, 10-12-2015)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 6 – Supplementary Regulations Applying to All Zones Other Than Single-Family Residence Zones of the Dover Code be amended to read as follows:

Section 6. - Dumpsters for trash and recycling.

6.1 *Location of trash receptacles.* In all zones of the City of Dover (except in residential zones where standard City of Dover 90-gallon trash containers are used), all trash receptacles and bulk recycling bins (excluding publicly operated recycling drop off centers), which shall be referred to collectively as "dumpsters" in this ordinance, are to be situated in order to allow safe and efficient access by trash collection vehicles, and shall be screened from public view. All dumpsters must comply with the following regulations:

6.11 *Location and screening required.* All dumpsters must be located in approved locations on the lot. Dumpsters must be placed on hard, paved, dust-free surfaces and may not be placed in designated parking spaces, fire lanes, or access ways. Outside storage of trash, cardboard, or shipping pallets is prohibited. A dumpster enclosure is required to screen the dumpster from view whenever these units are situated so that they will be visible from any public right-of-way or from an adjacent property.

6.12 *Minimum dumpsters required.*

Use	Dumpsters Required
Restaurant	Two required for the first 3,000 square feet of gross building area; one required for each additional 3,000 square feet of gross building area or fraction thereof
Shopping center (excluding supermarkets or anchor tenants)	Two required for the first three stores; one required for each store thereafter
Supermarkets & anchor tenants in shopping centers	Two required in addition to requirements for shopping center
Office & retail less than 50,000 square feet	Two required for the first 16,000 square feet of gross floor area; one required for each additional 16,000 square feet of gross floor area or fraction thereof
Office & retail greater than 50,000 square feet	Two required for the first 50,000 square feet of gross floor area; one required for each additional 24,000 square feet of gross floor area or fraction thereof

Industrial, warehousing & institutional	Two required for the first 80,000 square feet of gross building area; one required for each additional 40,000 square feet of gross building area or fraction thereof
Apartment complex	Two required for the first 48 apartments; one required for each additional 24 apartments or fraction thereof

6.13 *Selection of trash service.* Applicants for site development plan approval shall specify the proposed method of trash collection (side load or front load) at the time of application. A change in the method of collection may require an alteration of the site plan, subject to approval of the city planner or the planning commission.

6.14 *Maneuvering space.* Adequate off-street truck maneuvering space shall be provided on-lot and not within any public street right-of-way or other public lands. Internal site circulation lanes are to be designed with adequate turning radii to accommodate the size and efficient maneuvering of trash collection vehicles.

6.15 *Minimum dimensions for dumpster enclosures.* All dumpster enclosures must be adequate to screen dumpsters from public view. Enclosures for private collection must be no less than seven feet in height. The height of enclosures for City of Dover collection may be no less than five feet high.

6.16 *Enclosure construction.* All dumpster enclosures shall be constructed of durable materials that will withstand the normal use and wear expected in trash removal operations. Whenever a dumpster, in its enclosure, will be visible from a public right-of-way, the appearance of the dumpster enclosures shall complement the architecture of the principal building on the lot, and be constructed with the same or similar exterior materials.

6.17 *Gates.* Gates are required whenever a dumpster, in its enclosure, will be visible from a public right-of-way. Gates must be designed to swing back behind the front of the enclosure and lock in the open position. If City of Dover trash service is provided, it is the responsibility of the property owner or occupant to open and securely lock back the gates to allow for trash pick up. The gates may be opened 12 hours prior to pick up, and must be closed within 12 hours after pick up.

6.18 *Reduction of dumpster requirement*. When a use is required to provide dumpsters as part of site development plan approval, the required number of dumpsters may be reduced under the following circumstances:

a) *Dumpster pads reserved for future use*. An area of the site reserved for a dumpster may be substituted for an actual dumpster. The provided area must be large enough to accommodate a dumpster and must be accessible to trash collection services. The city planner may require that the owner of record of the property provide a dumpster in the reserved location, together with any enclosure required, upon determining there is need for the additional dumpster.

b) *Trash compactor substitution*. Trash compactors may be substituted for ordinary dumpsters at a two to one ratio. The city planner may approve a higher substitution ratio if specifications are provided indicating the machine will achieve a correspondingly higher trash compaction ratio.

Trash compactors must meet the same location and screening requirements as other dumpsters. Sites providing trash compactors must still provide separate receptacles for recycling.

6.2 *Location and screening approval required*. The locations of new dumpsters on a site and any screening necessary shall be approved through the site development plan approval process, according to the type of review required in Article 10 of this ordinance.

6.3 *Unauthorized dumpsters*. Any dumpster not previously approved through the site development plan approval process may be required by the city planner to be moved, removed, or screened if said dumpster is a nuisance to neighboring properties by virtue of its current location.

(Ord. of 9-13-1999)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 7 – Supplementary Regulations Applying to All Non-Residential Zones of the Dover Code be amended to read as follows:

Section 7. - Supplementary regulations applying to all non-residential zones.

7.1 *Lighting.* Lighting of commercial uses shall provide no less than 1½ footcandles at grade. Light shall be deflected away from adjacent residential areas and shall not be distracting to traffic on adjacent roads.

7.2 *Opaque Barrier*. Visual and sound screening shall be provided on a non-residential use when abutting a residential use, except in front yard areas. The screening shall be required to be installed on site as part of planning commission or administrative site plan approval. Where required, screening shall consist of an opaque barrier at least six feet in height, accompanied by landscaping.

7.21 *Opaque barrier options.* The requirement for the opaque barrier may be met by choosing one of the following:

a) An opaque fence made of durable materials such as wood, vinyl, composite, etc.

b) A wall constructed of masonry materials, either stucco, brick, split-faced block, or decorative concrete. If the principal structure on the lot is of masonry construction, the wall shall match the exterior of the building.

c) An earthen berm (3:1 slope maximum).

d) An earthen berm (3:1 slope maximum) with either an opaque fence or wall constructed on top. Materials of the fence or wall shall be as specified in options a) and b). The total height of the barrier may be no less than six feet high.

7.22 *Landscaping options.* The required opaque barrier must be accompanied by one of the following:

a) A durable and continuous evergreen planted screen, six feet in height at the time of planting. In the case of an earthen berm, the evergreen screen may be on the top of the berm.

b) A hedge that will grow to a height of at least six feet at maturity. The hedge shall be interspersed with evergreen trees at least six feet high at the time of planting. The hedge shall be at least four feet high at the time of planting.

7.23 *Parking lots.* Whenever a parking lot is located across the street from a residential use, it shall be screened from view of such land by a thick hedge located along a line drawn parallel to the street such hedge to be interrupted only at points of ingress and egress **and to meet the corner visibility standards of Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 1.31**. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. The hedge shall be at least two feet in height at the time of planting and shall grow to no more than four feet in height at the time of maturity. While the hedge is growing to a suitable height, an adjacent four foot high fence may be required by either the planning commission or city planner, according to the type of review required by Appendix B – Zoning, Article 10 – Planning Commission.

7.24 *Planning commission waiver.* The planning commission may waive the requirement for the opaque barrier (wood fence, masonry wall, or earthen berm) and require only landscaping as required by section 7.22 – Landscaping options in cases where noise is not a concern and the vegetation alone is considered a desirable aesthetic alternative.

7.3 *Arterial Street Buffers*. Where nonresidential zoned property fronts on a principal arterial street, as designated by the comprehensive plan, a landscape buffer shall be required in addition to normal landscaping of the street right-of-way. This landscape buffer shall be required when the property is subject to site development plan review or site development master plan review by the planning commission according to Appendix B – Zoning, Article 10 – Planning Commission. Arterial street buffers shall be a minimum of 30 feet in depth, measured from the right-of-way line of the arterial street.

7.31 *Landscaping of Arterial Street Buffers.* At the time of development of the property, the arterial street buffer shall be planted with a variety of trees, shrubs and ground cover. The landscape design and planting plan for these arterial street buffers shall be subject to the approval of the planning commission as an integral part of the site development plan.

7.32 *Standards for Arterial Street Buffer Landscaping.* Landscaping in arterial street buffers shall follow the landscape guidelines outlined in Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 15 – Landscape Guidelines. Landscaping shall be designed to enhance the appearance of the arterial street, complement the architecture of buildings on site, and integrate with adjacent landscape areas. Landscape designs and planting plans which would pose a hazard to traffic on the arterial street, obstruct underground or overhead utilities or infrastructure, or significantly impede visibility of properties from the street shall be prohibited.

7.33 *Planning Commission Waiver.* The planning commission may approve a buffer less than 30 feet in depth. In approving a lesser amount of buffering, the planning commission shall consider the following factors:

a) Whether there are specific constraints related to existing lot size, lot configuration or the orientation of existing buildings on adjoining properties that would severely limit the development potential of the property if a deep buffer was required.

b) Whether a deep or shallow buffer would cause the property to be out of character with the surrounding built environment.

c) Whether there is significant landscape area within the right-of-way of the arterial street itself that can contribute to the buffer, and whether future road improvement activities are likely to reduce the depth of this area.

d) Whether the landscape design and planting plan for the buffer achieve the standards of subsection 7.32 - *Standards for Arterial Street Buffer Landscaping*.

7.4 *Outdoor storage trailers.* Storage trailers accessory to an approved use shall be prohibited on a site, except when meeting the following conditions:

1. The total floor area of storage trailers shall be less than two percent of the gross floor area of the principal building.
2. All storage trailers shall be placed in accordance with all zoning regulations regarding permanent structures, including setbacks, parking, and other bulk regulations.
3. All such trailers shall be screened from public streets, and shall not be located between the principal building and the public road right-of-way.
4. Trailers placed during approved construction phases or those used as collection facilities for non-profit, governmental or philanthropic organizations shall not be calculated into floor area totals used to determine parking requirements, but must conform to setbacks and all other bulk regulations.
5. Storage trailers accessory to an approved use are to be temporary features on a site. No such trailer shall be in place for more than 18 months, except for those trailers to be used during construction or those used as collection facilities for non-profit, governmental or philanthropic organizations.

7.5 *Fences.* Fences or walls shall be limited to a maximum height of four feet above the ground when situated within front yard areas, and shall be limited to a maximum height of eight feet above the ground when situated within side and rear yard areas. Fences situated on corner lots shall be subject to the provisions of article 5, section 1.3. For the purposes of this provision, on lots with dual street frontage that are not corner lots, a fence situated to the rear of the principal structure shall be limited to a maximum height of eight feet above ground. Fences or walls with a height in excess of eight feet above the ground shall conform to the setback requirements for dwelling buildings as set forth in article 4 of this Appendix. Fence material commonly referred to as "barbed wire" and/or "razor wire," or any similar material shall be prohibited along property lines which adjoin residential zones.

(Ord. of 3-24-1986; Ord. of 12-14-1992; Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 5-22-2000; Ord. No. 2011-26, 12-12-2011)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 15 – Landscape Guidelines of the Dover Code be amended to read as follows:

Section 15. - *Landscape guidelines*.

The following guidelines shall be used in the design of site landscape as required in other sections of this ordinance and shall be followed unless it can be demonstrated through the site plan review process that such features would be impractical or incompatible with a particular land use or site development proposal. Failure to maintain required landscaping shall constitute a violation of this ordinance and is subject to, as specified in article 8, section 4, violations and penalties:

15.1 Trees of substantial size shall be provided to create a sense of scale and an overhead canopy. Where trees are set in paving, flush tree grates or open planters shall be used to protect root zones without interrupting the ground plane.

15.2 Large shrubs, small trees and evergreens are most effective for foundation planting around buildings, emphasizing major vehicular entrances and areas requiring visual screening. Avoid using large, dense plant material where maximum visibility is imperative.

15.3 Security and visibility are important considerations in landscape design along commercial corridors. Understory plant materials shall be confined to 36 inches or lower and trees shall be limbed to above 12 feet at maturity to allow for visual surveillance.

15.4 Color and specimen material shall be targeted to a few key locations. A few highly visible masses of color will be more effective than numerous small patches dispersed over the entire site.

15.5 Massing of plant material, or large groups of a single species is preferred over planting a large area with numerous species. Trees and shrubbery shall be used in scale with corridor development and large open spaces to create visual balance.

15.6 Grading shall be level, except to allow for necessary surface drainage and earth berms used for screening purposes.

15.7 Lawn areas shall be contained and separated from landscaped beds with defined edging such as concrete walks, steel edging or curbing.

15.8 Entrances shall be provided with landscaping to define the entrance location and to establish the site entrance as part of the overall landscape.

15.9 Landscape plantings shall be placed at least 10 feet away from all underground utilities and infrastructure, as measured from the trunk of the planting. Plantings located within 10 feet of overhead utilities or infrastructure shall be of a species that does not grow to the height of the lowest equipment overhead. Placement of all plantings must minimize conflict with required servicing of utilities and infrastructure.

(Ord. of 3-18-1992)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 16 – Tree Planting and Preservation of the Dover Code be amended to read as follows:

Section 16. - Tree planting and preservation.

16.1 *Purpose.* The purpose of this section is to establish standards and requirements for the protection and planting of trees and woodlands because it is recognized that woodlands and trees are not only desirable, but are essential to the health, safety, and welfare of the population in that they provide oxygen, reduce carbon dioxide, stabilize soil, cleanse the air by transpiring clean water into the atmosphere, cleanse water passing into the ground through the root system, provide protection for wildlife and their habitats, provide shade, reduce noise and glare, increase property values, and provide an important physical, aesthetic, and psychological balance to the built environment.

16.2 *Definitions.*

Caliper dimension. The term "caliper dimension" means an outside diameter measurement of the trunk of a tree measured at a vertical distance of three feet above grade.

Clearing. The removal of trees from an area of 5,000 square feet or greater, whether by cutting or other means. The term "clearing" shall not include the removal of trees for landscaping purposes by individual lot owners.

Development Area. The area containing all new site features (buildings, parking and drive areas, pedestrian walks, stormwater management areas, buffer areas etc. but not underground utilities) proposed by a plan. The development area shall be delineated using property lines and lines run straight across the property from one property line to another without bending or curving.

Design professional. The term "design professional" shall be any person licensed as a landscape architect or architect, or Delaware certified nursery professional.

Dripline. A line on the ground established by a vertical plane extending from a tree's outermost branch tips to the ground, i.e., the line enclosing the area directly beneath the tree's crown, from which rainfall would drip.

Tree. Any self-supporting, woody perennial plant, usually having a main stem or trunk and many branches and at maturity normally attaining a trunk diameter greater than three inches at any point and height of over ten feet.

Tree protection area. Any portion of a site wherein are located existing trees which are proposed to be retained in order to comply with the requirements of this section. The tree protection area shall include no less than the total area beneath the tree canopy as defined by the dripline of the tree or group of trees collectively.

Woodland. An area of contiguous wooded vegetation (7,500 square feet or greater), where trees exist at a density of at least one tree with a caliper dimension of six inches or greater per 375 square feet of land and where the tree branches form a contiguous canopy.

16.3 *Applicability.* The terms and provisions of this section shall apply to any activity on real property which requires conditional use, site plan or subdivision approval of the planning commission as set forth in article 10, except the provisions in subsection 16.4 which shall apply to all real property.

16.4 *Tree preservation.*

16.41 *Trees required by planning commission to be replaced.* Trees required by the planning commission as a part of a conditional use, subdivision, or site plan approval shall not be removed unless they are diseased or infested, or present a danger to life and property. In cases where such trees are removed, they must be replaced with a tree planting in accordance with the table of trees standards kept in the office of the city planner.

16.42 *Trees of special value.* Trees having an historic value, as determined by the state historic preservation officer, or that are of an outstanding nature due to type or species, age, or other professional criteria, may be required by the planning commission to be preserved. Such trees may be prohibited from being removed by the city planner until such time that the planning commission has granted approval to remove such trees.

16.43 *Tree preservation in wetlands.* No portions of wetland areas shall be developed or cleared of vegetation unless granted permission under state and/or federal permit; and they shall remain as essentially undisturbed areas protected under the provisions set forth in subsection 16.7.

16.44 *Clearing prohibited without approval.* Clearing, as defined by this section, for any purpose whatsoever, except the establishment of trails and pathways (not greater than eight feet in width) and open yard areas, shall be prohibited unless approved by the planning commission through the site plan, conditional use, or subdivision review process.

16.5 *Woodland preservation.*

16.51 *Tree preservation and selective clearing plan required.* All site development proposals which involve the development of woodland areas and require planning commission approval shall include a tree preservation and selective clearing plan as part of the submission plan. The tree preservation and selective clearing plan shall be prepared in accordance with the provisions of subsection 16.5, subsection 16.7 and subsection 16.8 of this section.

16.52 *Limited clearing for site development allowed.* Generally, site development plans for the construction of a new building within existing woodland areas shall limit clearing of the land to those areas necessary to provide for the placement of the building or group of buildings, adequate access onto the property and to the proposed building or group of buildings, utility placement, off-street parking and yard areas to allow for daylight infiltration and building maintenance. When woodland areas are proposed to be cleared to allow for new construction, clearing within the area of the proposed construction shall be limited to an area of 30 feet from proposed building foundation, and 15 feet from off-street parking lots, and utility placement.

16.53 *Maximum clearing requirement.* Specifically, no more than 50 percent of a lot, parcel or tract of land occupied by woodland vegetation may be cleared for any purpose.

16.54 *Reserved.*

16.6 *Tree preservation and planting in nonwoodlands.*

16.61 *Tree preservation and planting plan required.* All developments requiring approval of the planning commission shall be required to submit, with its application and plans, a tree preservation and planting plan as set forth in subsection 16.8, and shall conform with the following provisions.

16.62 *Tree density.* For each property required to submit a tree preservation and planting plan, a development area as defined in this section shall be delineated within the nonwoodland area of the property. Within this development area, existing trees may be retained and new trees shall be planted such that the development area shall attain or exceed a tree density of one tree per 3,000 square feet or fraction thereof.

16.63 *Minimum standards for new trees.* For new trees to be counted toward the required tree density, they must be of a species and size as set forth in the table of trees approved by the planning commission and kept on file in the office of the city planner, or be of an alternate species found acceptable by the commission.

16.64 *Minimum standards for existing trees.* For existing trees to be counted toward the required tree density, the tree shall have a minimum caliper dimension of two inches. No trees over eight inches in caliper dimension shall be removed unless within an area of 30 feet from the proposed building foundation, off-street parking lot, and utility placement.

16.7 *Tree protection and planting requirements.*

16.71 *Application.* The following guidelines and standards shall apply to activities regulated under article 5, section 15 of this ordinance:

16.72 *Protection required.* To protect the required trees or woodland and their critical root zone, a tree protection area delineated by the dripline of a tree or group of trees to be retained, shall be established. The protection area shall not be disturbed by site utility and grading work, by construction activities such as parking, material storage, concrete washout, sedimentation intrusion or erosion, or other activity. Damage to trees or woodlands and their critical root zones shall require tree plans to be revised to compensate for the loss as determined by the building inspector.

16.73 *Protection measures.* Tree protection areas shall be protected by fencing, staking, or continuous ribbon and, where necessary, silt screens which shall be situated to coincide with the dripline of the tree or group of trees to be preserved. Protection measures shall be erected prior to construction, and must remain until final landscaping is installed.

16.74 *Planting requirements.* New trees proposed to be planted for credit toward the density requirement shall have spacing that is compatible with the spatial site limitations and with responsible consideration toward species size when mature. Species selected for planting must be ecologically compatible with the specifically intended growing site. Trees selected for planting shall be free from injury, pest, disease, and disorders.

16.8 *Tree preservation, planting and selective clearing plans.*

16.81 *Plan specifications.* A tree preservation and planting plan or a preservation and selective clearing plan, prepared by or in conjunction with a design professional, shall be shown on a copy of a preliminary plat, sketch, or site plan, as appropriate to the proposed development, drawn to the same scale and covering the same area as the other plan documents prepared for the planning commission hearing. The plan may be combined with a required buffer and landscape plan for the project, at the option of the developer. The plan shall provide sufficient information and detail to clearly demonstrate that all applicable requirements and standards of this section will be fully satisfied. The plan shall contain, but need not be limited to, the following:

a. Project name, zone, parcel number, north arrow and scale.

b. Developer's name, address and telephone number.

c. Name, address, and telephone number of the design professional responsible for the preparation of the plan.

d. Delineation of all lot lines, minimum yard areas, buffers, and landscape areas as required by the zoning ordinance [this appendix].

e. Total acreage of the site and total lot area for each lot delineated.

f. Delineation of all wetlands and woodlands.

g. Designation and delineation of all lots in nonwoodland areas expected to retain existing trees to meet the tree density requirement.

h. Approximate location and description of the protective tree fencing, staking, or continuous ribbon to be installed which, at a minimum, shall follow the dripline of all trees to be retained along adjoining areas of clearing, grading, or other construction activity.

i. The location, spacing, caliper dimension, and species of new trees proposed to meet tree density requirements.

j. Measures to be taken to avoid sedimentation intrusions and erosion in tree protection areas, and the location of such devices.

k. A summary table of the number of new trees to be planted and minimum number of existing trees to be retained to meet the tree density requirement, if any, along with calculations showing that the tree density requirement has been achieved. Groupings of trees in the tree protection areas for new trees may be keyed to the summary table by area rather than having each tree individually labeled on the plan.

l. There shall be a note on the plan indicating that a one-year full price replacement guarantee on all new trees planted is held by the applicant.

16.9 *Tree mitigation.*

16.91 *Planning commission waiver.* The planning commission may waive the provisions of subsections 16.52, 16.53, and 16.62, and require replacement planting for mitigation purposes should the planning commission determine, after demonstration by the applicant, that due to physical limitations of the land which would otherwise prohibit the reasonable use of the land, or for purposes of preserving, protecting and promoting the interest of public health, safety, welfare and/or public convenience. All tree mitigation plantings must occur within the corporate limits of the City of Dover. Tree mitigation may occur off-site in accordance with the provisions listed below in this ordinance:

(a) If a waiver is sought from the provisions of subsection 16.62, new tree plantings are required at a rate of 1:1. All new tree plantings shall meet the minimum size at planting requirements of the City of Dover table of trees.

(b) If a waiver is sought from the provisions of subsection 16.52 and/or subsection 16.53, then mitigation must be in the form of newly created woodland areas. New woodlands shall be created at a rate of 1.25 times the amount of woodlands to be removed. A woodland mitigation plan shall be prepared by a licensed forester, landscape architect, or certified nursery professional, for the consideration of the planning commission.

(c) All tree mitigation must occur on-site unless an off-site location is specifically approved by the planning commission. When considering off-site locations for tree mitigation, the commission shall consider:

1) A physical hardship related to the land which would otherwise prohibit compliance on the subject site;

2) Whether the mitigation plan proposed by the applicant is superior in terms of environmental benefits, tree quantity, or aesthetic qualities compared to strict compliance with the ordinance on-site.

16.92 *Tree mitigation required for unauthorized clearing.* In the event that trees or woodland areas to be preserved under this ordinance or as a condition of a site plan, subdivision, or conditional use approval are illegally removed, tree mitigation shall be required. All tree mitigation plantings must be placed on the same lot, parcel, or tract on which the illegal clearing occurred, except as noted below. All replacement trees must be of the same or a similar variety as the trees illegally removed.

(a) If trees have been removed from non-woodland areas, new tree plantings shall be provided in accordance with the table below:

Caliper Dimension of Trees Removed	Number of Trees Required	Caliper dimension at Planting
25″ or larger	5 trees	3″
17″ to 24″	3 trees	3″
9″ to 16″	3 trees	3″
8″ or less	2 trees	3″

* *Note* —All trees replanted must be guaranteed to survive a minimum of one year.

(b) If trees have been removed from woodland areas, then mitigation must be in the form of newly created woodland areas. New woodlands shall be created at a rate of 1.75 times the amount of woodlands that were illegally removed. The woodland unlawfully removed must be replanted to satisfy a portion of this requirement. A woodland mitigation plan shall be prepared by a licensed forester, landscape architect, or certified nursery professional, for review and approval by the city planner.

(c) If the applicant wishes to provide replacement plantings on any property other than the one on which illegal clearing occurred, the mitigation plan must be reviewed and approved by the planning commission. When considering off-site locations for tree mitigation, the commission shall consider:

1) A physical hardship related to the land which would otherwise prohibit compliance on the subject site;

2) Whether the mitigation plan proposed by the applicant is superior in terms of environmental benefits, tree quantity, or aesthetic qualities compared to strict compliance with the ordinance on-site.

(Ord. of 7-13-1992; Ord. of 7-12-1993, § 4; Ord. of 9-13-1999; Ord. of 4-28-2008(2); Ord. No. 2010-25, 11-8-2010)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 18 – Sidewalk Requirements of the Dover Code be amended to read as follows:

Section 18. - *Pedestrian, bicycle, and multi-modal access requirements*.

18.1 *Purpose*. The purpose of this section is to establish standards and requirements for the construction of transportation networks for pedestrians, bicyclists, and other users of non-motorized forms of transit, in order to ensure safe and convenient multi-modal access to all development within the City of Dover. Sidewalks, multi-use paths, and other hard paved trails, whether adjacent to a roadway or not, shall be referred to collectively as "pathways" within this section. It is the intent of this section that all new pathways installed shall be designed to a standard commensurate with existing and expected future multi-modal traffic volumes, recognizing that the convenience of a growing network of such pathways citywide will encourage residents and visitors to use non-motorized means of travel to reach their destinations.

18.2 *Applicability*. Sidewalks or other pathways according to the requirements of this section shall be installed on a property by the property owner or developer under the following circumstances:

a) When the property is part of a development proposal which is subject to planning commission site development plan review.

b) When the property is part of a development proposal which is subject to planning commission site development master plan review.

c) When the property is part of a request for a conditional use permit which also requires site development plan review or site development master plan review.

d) When the property is part of a development proposal which is subject to administrative site plan review, provided the proposal involves construction of an entire new building.

18.3 *Pathway design standards and location requirements*. Pathways shall meet the following minimum standards and requirements in order to allow for pedestrian access:

a) *Public street frontage*. Standard City of Dover sidewalk, as per chapter 98, article IV of the Dover Code of Ordinances, shall be required to be installed along the entire public street frontage of a property. Where frontage sidewalk exists but does not meet the standards of chapter 98, article IV, the sidewalk shall be re-laid to meet the standards. Sidewalk shall include barrier-free access ramping at points of intersection with street crossings and at other locations so as to afford reasonable barrier-free pedestrian movement and site access.

b) *Private street frontage*. Wherever a private road within a development is proposed, whether planned for future subdivision or not, Standard City of Dover sidewalk, as per chapter 98, article IV of the Dover Code of Ordinances, shall be required to be installed on both sides of the cartway of the private road. Such sidewalk shall include barrier-free access ramping at points of intersection with street crossings and at other locations so as to afford reasonable barrier-free pedestrian movement and site access.

c) *On-site linkages*. Within all nonresidential developments and all multifamily residential developments, sidewalk at least five feet wide, constructed of concrete or good paving brick

laid substantially in concrete, shall be installed to make pathways between street frontages, parking areas, building entrances, and any other site features needing pedestrian access. Such pathways shall be designed to provide reasonable travel times between these features and disincentivize taking shortcuts across areas inappropriate for pedestrians. Where such pathways must cross drive lanes, standard City of Dover crosswalk shall be installed.

18.4 *Alterations to pathway design standards*. The planning commission or city planner, according to the type of plan review required by article 10 of this ordinance, may alter the minimum pathway design standards under the following circumstances in order to allow for multi-modal access:

a) Where vehicular traffic on adjacent roadways is of sufficient speed and volume to pose a potential danger to bicyclists and other non-motorized forms of transport using the roadway, or where pedestrian and multi-modal traffic is expected in sufficient volumes to cause conflicts on a narrower sidewalk, a ten-foot wide multi-use path made of concrete or asphalt may be required instead of standard City of Dover sidewalk along the public street frontage.

b) Where it is determined by evaluation of the characteristics of the nearby transportation networks including roadway classification type, the presence and type of existing pathways, and the general character of the area in terms of development, future development potential, and zoning district, a ten-foot wide multi-use path made of concrete or asphalt may be required instead of standard City of Dover sidewalk along the public street frontage.

c) Where an adopted plan recommends installation of multi-modal facilities for a specific site, those facilities may be required to be constructed according to the standards of the agency implementing the plan.

d) Where it can be shown that pathway materials alternate to those specified in this section would be more durable to multi-modal traffic, be more environmentally desirable, or be more in keeping with the overall design of the development, use of these alternate materials may be authorized.

18.5 *Waiver of pathway location requirements*. The property owner or developer may request a waiver from the planning commission or city planner, according to the type of plan review required by article 10 of this ordinance, under the following circumstances in order to reduce or eliminate the requirements for pathway installation:

a) When the property is isolated from the existing pathway network, with no existing pathways within the immediate vicinity of the property.

b) When the proposed use would not generate or attract additional pedestrian, bicycle, or other non-motorized trips.

c) When physical characteristics of the property are such that pathway installation is impractical or impossible.

18.6 *State Law Requirements*. Where state laws or regulations of the Delaware Department of Transportation applying to right-of-way design conflict with the provisions of this section, the state laws and regulations shall prevail.

(Ord. of 6-13-1994; (Ord. of 9-13-1999)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 19 – Building and Architectural Design Guidelines of the Dover Code be amended to read as follows:

Section 19. - Building and architectural design guidelines.

The following guidelines shall be used in design of buildings and their architectural characteristics for the purposes of meeting the intent of Appendix B – Zoning, Article 10 – Planning Commission, section 2, subsection 2.27:

(1) *Physical orientation and facade.*

(i) The principal building facade of proposed buildings shall be oriented toward the primary street frontage, and in the same direction as the majority of existing buildings on the frontage street. Proposed buildings on corner properties shall reflect a public facade on both street frontages.

(ii) Consideration shall be given to the dominant architectural features of existing buildings, but do not necessarily have to mimic those styles. Large expanses of blank walls are to be avoided, and consideration shall be given to windows and entrance ways along frontage, as well as projecting elements such as eaves, cornices, canopies, projecting bays, shadow lines and overhangs.

(2) *Architectural characteristics.*

(i) *Building proportions.* Consideration shall be given to proportional attributes, including overall height-to-width ratios, of existing building facades, doors, windows, projecting canopies, and other architectural features, found in adjacent existing buildings.

(ii) *Building mass.* Facades of new buildings shall consider, but not mimic, the sense of lightness or weight of existing buildings on neighboring properties and consider similar proportions of solids (i.e., siding, blank walls, etc.) to voids (i.e., windows, door openings, etc.).

(iii) *Materials.* Proposed buildings shall incorporate durable exterior surface materials similar to and complementary with the color, texture, size, and scale of exterior materials reflected on existing buildings in the immediate vicinity.

(iv) *Roofs.* Consideration shall be given to general shape, ridge and eave heights, and material characteristics expressed in existing buildings along the subject street.

(v) *Visible utilities*. Outside HVAC equipment and visible utility connections shall be designed to minimize impact on adjacent property owners, by reducing their overall visible presence and if necessary screening them from public view. Consideration must also be given to equipment placement in proximity to loading areas and public facades of the buildings.

(3) *Exemptions.*

(i) *Building additions.* Proposed building additions which will be designed to match the architectural characteristics and exterior material treatments of the existing building to

which the addition is being made shall be exempt from the requirement to submit elevation drawings or other graphic representations.

(Ord. of 9-25-2000)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 1 – Permitted accessory parking of the Dover Code be amended to read as follows:

Section 1. - Permitted accessory parking.

1.1 *Off-street parking spaces*. Off-street parking spaces, open or enclosed, are permitted accessory to any use. One commercial vehicle may be parked on a lot in any residence zone only if less than one ton in carrying capacity.

1.2 *Trailers and boats*. The long-term use of a recreational vehicle as a residence by any person or persons is prohibited in all zones. A boat with its trailer or a utility trailer, under 31 feet body length or an unoccupied recreational vehicle, may be parked within a garage or anywhere behind the setback line if screened from adjacent lots. However, none of the vehicles shall be parked in a required side yard if alley parking adjacent to the lot is available.

1.3 *Driveways*. No driveway shall provide access to a lot located in another zone, which lot is used for any use prohibited in the zone in which such driveway is located.

1.4 The minimum width of a residential driveway shall be nine feet.

1.5 *Access drives*. In areas under the joint or overlapping jurisdiction of the Delaware Department of Transportation and the City of Dover, the regulations of the Delaware Department of Transportation relating to ingress and egress drives shall apply.

(Ord. of 9-12-1983; Ord. of 1-10-1996; Ord. of 11-13-2007; Ord. No. 2016-16 , 8-8-2016)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 3 – Required Off-Street Parking Spaces, Subsection 3.6 – Drainage and Surfacing of the Dover Code be amended to read as follows:

ARTICLE 6. - OFF-STREET PARKING, DRIVEWAYS AND LOADING FACILITIES

Section 3. - Required off-street parking spaces.

3.6 *Drainage and surfacing.*

(a) All open permanent parking areas and access drives shall be properly drained and all such areas shall be provided with paved asphalt, concrete or other hard, paved, dust-free surface.

(b) All permanent parking areas shall be enclosed with upright concrete curbing at least six inches in height. The city planner may relax this requirement for a portion of a parking area when there is a demonstrated need to convey stormwater to a proposed or approved stormwater management area. Curbing shall not be required for loading areas, handicapped access and for parking spaces accessory to a one-family or two-family residence (see also article 6, section 5.3).

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 3 – Required Off-Street Parking Spaces, Subsection 3.9 – Adjustments to Parking Requirements of the Dover Code be amended to read as follows:

3.9 *Adjustments to parking requirements.* The planning commission or city planner, according to the type of plan review required by Appendix B – Zoning, Article 10 – Planning Commission, may reduce, in an amount not to exceed 50 percent, the number of parking spaces required when, in the opinion of the commission, it has been demonstrated that the use is adequately served by transportation and parking alternatives, including but not limited to:

(a) Site plan proposals within the downtown redevelopment target area, as described in appendix C of the Dover Code of Ordinances, may be granted a 20 percent reduction in the amount of off-street parking normally required, due to the availability of mass transit, municipal parking and existing pedestrian amenities.

(b) Designated off-street parking reserved for car pools, van pools, and bicycle parking facilities, in accordance with the following schedule:

(1) Each carpool space shall be equivalent to three standard parking spaces.

(2) Each vanpool space shall be equivalent to five standard parking spaces.

(3) Every group of five bicycle parking spaces shall be equivalent to one standard parking space.

(c) Employer participation in a traffic-mitigation plan approved by the Delaware Department of Transportation.

(d) Cash-in-lieu of parking contributions toward the capital construction or improvement of municipal parking facilities that are proposed. The cash-in-lieu of parking contribution shall be in a monetary amount equivalent to the estimated cost of construction for the number of standard surface parking spaces for which the reduction is sought. To take advantage of this option, the developer shall submit to the city engineer a cost estimate for the parking requested to be waived. The city engineer shall examine the estimate for accuracy in current prevailing costs of construction at the time of proposal and shall report to the planning commission his/her findings.

(e) Proposals involving superior urban design which contribute to an enhanced pedestrian environment and which include such features as pedestrian plazas and pocket-parks, pedestrian-way connections with existing sidewalk systems and community facilities, park benches and other street furniture, mass transit connections and shelters, and landscaping and shade tree plantings.

In all areas, except the downtown redevelopment target area, the planning commission or city planner, according to the type of plan review required by Appendix B – Zoning, Article 10 – Planning Commission, may require the development plans to have an area of open space designated where parking could be constructed less than or equal to the number being reduced. In such cases the plan shall bear a note which explains that the petitioner, in accepting a parking reduction, agrees to construct such additional parking as is otherwise required under the provisions of this appendix, if the planning commission, after a hearing, determines that the reasons for granting said reduction no longer exist. In all such instances where the planning commission determines that the reasons for granting a reduction no longer exist, the owner of record for the subject property for which a reduction was previously granted must construct the parking required to meet the regulations of the city during the next construction season.

(Ord. of 12-14-1992(2); Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 4-23-2007(4); Ord. No. 2009-12, 9-14-2009; Ord. No. 2009-30, 3-8-2010; Ord. No. 2011-29, 1-9-2012; Ord. No. 2011-29, 1-9-2012)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 – Off-Street Parking, Driveways and Loading Facilities, Section 5 – Supplementary Regulations for Parking and Loading Facilities of the Dover Code be amended to read as follows:

Section 5. - Supplementary regulations for parking and loading facilities.

5.1 *Access near street corners.* No entrance or exit for any accessory off-street parking area with over ten parking spaces, nor any loading berth shall be located within 50 feet of the intersection of any two street lines.

5.2 *On lots divided by zone boundaries.* When a lot is located partly in one district and partly in another district, the regulations for the district requiring the greater number of parking spaces or loading berths shall apply to all of the lot. Parking spaces or loading berths on such a lot may be located without regard to district lines, provided that no such parking spaces or loading berths shall be located in a residence zone, unless the use to which they are accessory is permitted in such zone, or by special permission of the board of adjustment.

5.3 *Supplementary parking regulations for multiple dwellings.* No parking space shall be located in any front yard or within three feet of any lot line in side or rear yards. The parking of motor vehicles within 15 feet of any wall or portion thereof, is prohibited. Except for electric vehicle charging stations, no automobile service shall be permitted to be extended to users of the lot, including sales, repair or fueling, and no gasoline, oil, grease, or related supplies shall be stored or sold in any such lot or in any garage on such lot.

5.4 *Supplementary regulations for any parking lots adjacent to residential lots.*

5.41 Whenever space is provided for the parking of ten or more vehicles in the open, such spaces shall be individually identified by means of pavement markings.

5.42 Reserved.

5.43 *Parking lots.* Whenever a parking lot is located across the street from a residential use, it shall be screened from view of such land by a thick hedge located along a line drawn parallel to the street, such hedge to be interrupted only at points of ingress and egress and to meet the corner visibility standards of Appendix B – Zoning, Article 5 – Supplementary Regulations, Section 1.31. The open area between such hedge and the street shall be landscaped in harmony with the landscaping prevailing on neighboring properties fronting on the same street. The hedge shall be at least two feet in height at the time of planting and shall grow to no more than four feet in height at the time of maturity. While the hedge is growing to a suitable height, an adjacent four foot high fence may be required by either the planning commission or city planner, according to the type of review required by Appendix B – Zoning, Article 10 – Planning Commission.

(Ord. of 4-25-1994; Ord. of 9-13-1999; Ord. of 10-12-1998; Ord. No. 2009-28, 3-8-2010; Ord. No. 2016-14, 5-9-2016)

ADOPTED: OCTOBER 9, 2017
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SYNOPSIS

The ordinance updates sections of Articles 5 and 6 of the *Zoning Ordinance* in order to enhance the flexibility of the code in several areas, including dumpster requirements, screening and buffer requirements, tree planting requirements, and curbing requirements. The proposed ordinance also adds requirements for recycling to Article 5, Section 6 and rewrites Article 5, Section 18 to allow the City to require multi-use path instead of frontage sidewalk under specific circumstances.

The staff amendment provides for a series of technical corrections and clarifications to ordinance #2017-12. The amendment also addresses Public Works staff concerns about landscaping planted near utilities and infrastructure. The amendment also expands a restriction on parking within 15 feet of buildings with multiple dwellings.

The Planning Commission amendment provides clarification of the requirements for determining when "multi-use" pathways would be required as a project component instead of standard sidewalks. The concept for the amendment was recommended by the Planning Commission upon their review of Ordinance #2017-12 and review of the proposed provisions for pedestrian, bicycle, and multi-modal access requirements.

(SPONSORS: HARE AND SLAVIN)

Actions History:
10/09/17 - Public Hearing/Final Reading – City Council
09/18/17 - Public Hearing/Recommendation – Planning Commission
08/28/17 - First Reading – City Council
08/14/17 - Introduced – Council Committee of the Whole/Legislative, Finance, and Administration Committee

Examples of Behavior Justifying Censure for Local Elected Officials

Name	Allegations	Date
Samuel Guy, Councilman City of Wilmington, DE[1]	On multiple occasions, accused fellow council members of stealing, and "abusive, berating, degrading and threatening" comments to staff and council.	4/07/17
Jonathan Merritt, Onslow County School Board member, North Carolina[2]	Driving While Intoxicated (DWI)	3/31/17
Brooklyn Supreme Court Justice Carl Landicino, New York[3]	Driving Under Influence (DUI)	1/7/16
David Q. LaBarre, Durham County District Attorney and Superior Court Judge[4]	Using offensive and denigrating behavior during DUI arrest.	5/5/17
Tony Thomas, Alderman Savannah, Georgia[5]	Used expletives and vulgar remarks to a female reporter. Also, appeared intoxicated at parade.	5/31/17
Ulysses Curie, State Senator, State of Maryland[6]	Accepting bribes from a grocery store chain.	11/10/11
Robert Ritter, City Council, City of Dover, DE[7]	Divulged confidential information from Executive Session. Violated FOIA laws.	03/13/06

[1] http://www.delawareonline.com/story/news/2017/04/06/wilmington-ouncil-president-moves-censure-sam-guy/100119828/
[2] http://www.jdnews.com/news/20170405/merritt-censure-discussed-by-school-board-public-asks-for-his-resignation
[3] https://www.law360.com/articles/744935/ny-judge-censured-over-drunken-driving-episode
[4] http://www.newsobserver.com/news/local/counties/durham-county/article148846584.html
[5] http://savannahnow.com/news/2017-05-31/savannah-city-council-censures-condemns-tony-thomas-contentious-meeting
[6] https://www.washingtonpost.com/blogs/maryland-politics/post/maryland-senate-censures-ulysses-currie/2012/02/17/gIQANb30JR_blog.html?utm_term=.decd8660db1a
[7] https://www.cityofdover.com/regular-city-council-meeting-4-4

COUNCILMAN SUDLER'S FINAL STATEMENT REGARDING RESOLUTION 2017-13 OCTOBER 9, 2017.

Council President Slavin,

For the record,

I would like to acknowledge that I consider You and Tanner Polce not only a friend, but a highly respected Council Colleague, that I admire and respect.

In fact, what is unique about our relationship is that you and I have recognized that we have not always agreed on matters pertaining to the Public's Business and have made a pledge to one another to always disagree respectfully without affecting our personal friendship.

My Council President and Friend, there is no doubt in my mind of your commitment and dedication to serving this great City of Dover and all of the Council-Members that you represent.

However, I am greatly sadden and truly disappointed in the alternative conflict resolution method, which you are proposing tonight for all of Council to endorse.

Council-President, with all due respects my fiduciary duty to the Public Pursuant to Article III.

Section 30-31(B) 1 titled Public Trust.

Will not allow me to be muzzled while in my opinion, an unlawful and undeserving reprehensible censorship is being sanctioned upon my fellow **2nd District Councilman, Brian Lewis.**

COUNCILMAN SUDLER'S FINAL STATEMENT REGARDING RESOLUTION 2017-13 OCTOBER 9, 2017.

In fact,

I believe that if an investigation was conducted upon each and every current and past councilperson or mayor, then it would be discovered, that from time to time, we ourselves are guilty of violating the public's trust by not avoiding conduct that creates a justifiable impression among the public that such trust is being violated because no-one is flawless.

After conducting extensive research pertaining to a Conflict of Interest versus Potential Conflict of Interest,

I have come to a resolution of my own, and that is, there is no merit, exhibits or guidelines that has navigated me to endorse Resolution 2017-13.

In Conclusion,

According to Article III. Section 30-31(B) 5 titled "FAIRNESS"

I believe that if City Council does not set-aside this resolution and refer this matter to the Ethics Commission pursuant to

Article III. Section 30-73(E) titled "RIGHT OF PERSON CHARGED"

Then City Council should prepare at least one or two more **Resolutions for Malfeasance of Public Office,**

Due to **Slander, Defamation of Character by Statement**, and **Misrepresentation of Facts** made publically in Delaware State Newspaper or other media resources with the possible intent for personal and or political gain.

- Thank You My Fellow City Council Members for your time and consideration to set-aside resolution 2017-13

MAYOR AND COUNCIL

Be It Hereby Known To All That

The Mayor and Council Commend

JOHN C. BLANCHFIELD

for Dedicated Service to the City of Dover

September 1989 - October 2017
28 Years of Service

The Mayor and Council Extend Sincere

Appreciation and Congratulations

ROBIN R. CHRISTIANSEN
MAYOR

TIMOTHY A. SLAVIN
COUNCIL PRESIDENT

COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole met on October 10, 2017 at 6:00 p.m., with Mr. Hare presiding in the absence of Council President Slavin. Members of Council present were Mr. Sudler, Mr. Neil, Mr. Lewis, Mr. Polce, and Mr. Lindell. Mr. Anderson and Mr. Cole were absent. Mayor Christiansen was also absent. Civilian members present for their Committee meetings were Mr. Caldwell (*Parks, Recreation, and Community Enhancement*), Ms. Arndt (*Utility*), and Mr. Shevock and Dr. Stewart (*Legislative, Finance, and Administration*). Dr. Warfield (*Parks, Recreation, and Community Enhancement*) was absent.

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE

The Parks, Recreation, and Community Enhancement Committee met with Chairman Sudler presiding.

AGENDA ADDITIONS/DELETIONS

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

Proposed Resolution No. 2017-12 Naming of the Bicentennial Playground

During the Regular City Council meeting of August 14, 2017, members considered Continental Park's Workshop Update and accepted the July 2017 Chair's Report.

Mr. Dave Hugg, Acting Director of Planning and Community Development, reminded members that a meeting was held a number of months ago with residents in Bicentennial Village, to discuss some of the park opportunities and issues in that neighborhood, particularly related to Continental Park. He explained that, as a result of that meeting, everyone was in favor of building a small playground in a different location than Continental Park. Mr. Hugg indicated that the George Washington Drive area was selected. He advised that funds had been secured for this project from the Parks and Recreation Capital Investment Plan (CIP), and equipment had been ordered for a tot lot, primarily for children aged two (2) to six (6) years old. Mr. Hugg stated that, in order to avoid confusion and give the park some recognition, staff believed that it needed a name, and the name that had been suggested to staff was Bicentennial Playground. Mr. Hugg advised that Proposed Resolution No. 2017-12 would authorize naming the park as Bicentennial Playground and putting up a sign, and it would also allow for noting the playground on maps, etc.

Staff recommended adoption of Proposed Resolution No. 2017-12.

Responding to Mr. Sudler, Mr. Hugg advised that the name of the development was Bicentennial Village. Mr. Sudler asked if Mr. Hugg thought that some may feel that all of the playgrounds should be named Bicentennial Village rather than Continental Park. Responding, Mr. Hugg explained that the original name in the approved subdivision plan was Continental Park, and this area had been known as Continental Park for some time. He noted that it was planned to leave Continental Park as a passive recreation area with a couple of benches and do some improvements to the adjoining woodland edge. Mr. Hugg indicated that he did not think there would be any confusion or issues,

noting that this was consistent with what had been done previously for other parks. He stated, for example, that Mayfair Park was named after the Mayfair subdivision.

In response to Mr. Sudler, Mr. Hugg stated that no other recommendations were received from constituents or residents in that community for other possible names, although an extensive survey was not done. He advised that, at this point, staff was trying to differentiate the park from Continental Park.

Mr. Neil moved to recommend adoption of Resolution No. 2017-12 *(Attachment #1)*, as recommended by staff. The motion was seconded by Mr. Lindell and unanimously carried.

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

Meeting adjourned at 6:06 p.m.

UTILITY COMMITTEE

The Utility Committee met with Mr. Hare presiding in the absence of Chairman Cole.

AGENDA ADDITIONS/DELETIONS

Mrs. Donna Mitchell, Acting City Manager, requested that item #3 - Agreement for Establishment of Wastewater Service - Winding Creek, be deferred for further review.

Mr. Lindell moved for the deletion of item #3, Agreement for Establishment of Wastewater Service - Winding Creek, seconded by Mr. Neil and unanimously carried.

Mr. Neil moved for adoption of the agenda, as amended. The motion was seconded by Mr. Lewis and unanimously carried.

Americans with Disabilities Act (ADA) Transition Plan: Pedestrian Facilities in the Public Right-of-Way

Mr. Jason Lyon, Water/Wastewater Manager, explained that the Americans with Disabilities Act (ADA) was enacted by the Federal Government on July 26, 1990, and one (1) of the requirements of this Act was for each government agency to produce a Transition Plan to ensure reasonable, accessible paths of travel in the public right-of-way for everyone, including people with disabilities. Mr. Lyon stated that staff had worked with the University of Delaware T2 Center to develop a draft plan based on federal requirements. He reviewed a presentation, entitled "Americans with Disabilities Act Transition Plan: Pedestrian Facilities in the Public Right-of-Way," and indicated that the proposed Transition Plan would make the City of Dover compliant with the aforementioned regulation. Mr. Lyon noted that one (1) aspect of the Transition Plan was to allow for public comment on the document, and the City would publicly advertise the document and provide directions for the public to provide feedback. He indicated that it was recommended that the Transition Plan be advertised to the public for a minimum of thirty (30) days to obtain input from

citizens and, once the public comment period is over, staff will assemble the comments, make alterations to the plan, if necessary, and present it to the Utility Committee for recommendation to Council.

Staff recommended approval to solicit public comment on the proposed Americans with Disabilities Act Transition Plan.

Mr. Polce asked how the City had historically dealt with ADA compliance issues within subdivisions of communities that do not have a homeowners' association (HOA). He stated, for example, that a constituent in Bicentennial Village had reached out to him several times with concerns and noted that this subdivision does not have a formalized or active HOA. Mr. Polce asked who is liable and responsible for ensuring that a sidewalk is up-to-standard and ADA compliant. Responding, Mr. Lyon advised that the analysis would be done by staff, who would check into the sidewalk, as it is in the right-of-way. He indicated that this constituent would have to reach out to staff so that they can go to the location, and analyze the sidewalk, document it, and put it on the list of things to be repaired.

Referring to the photos on page 11 of the presentation, Ms. Arndt noted that it looked like the street had been widened. Responding, Mr. Lyon explained that this was just the angle of the photo and the street had not been widened.

Ms. Arndt asked if the historic brick sidewalks downtown would be an issue. She stated that those sidewalks need repair; however, she would hate to see the bricks taken out completely and replaced with concrete, noting that this had happened in her neighborhood. Responding, Mr. Lyon stated that the State ADA Coordinator and many federal agencies do not like brick because bricks heave and pop up and down. He indicated that it is very difficult to install brick completely flat, and it is necessary to put a concrete base underneath the brick and a leveling feature below to make sure that it stays flat. Mr. Lyon stated that it was his best guess that it would be determined on a case-by-case basis whether or not bricks would be taken out. He noted that there had been situations when staff had reached out to constituents to see what their preference was. Mr. Lyon advised that brick sidewalks can be done; however, they are more difficult to complete. Ms. Arndt stated that, given Dover's historic aspect, it would be worthwhile to look into maintaining brick sidewalks as much as possible.

Mr. Neil stated his understanding that when a street or something comes up that has a barrier, staff will automatically look into making it ADA accessible; however, if a complaint comes in, staff will look at that specific item to analyze it and begin taking action or put it in a priority status. In response, Mr. Lyon stated that this was correct. He explained that currently the work order process for complaints received is to map them into the Geographic Information System (GIS) and then put them in a queue of areas that need to be addressed. Mr. Neil stated that, having worked 20 years in vocational rehabilitation in Maryland, he thought this was terrific. He suggested getting the word out about accessibility, noting that this would help seniors who have walkers and wheelchairs, mothers with kids in strollers, and businesses who have carts, etc., to move items. Mr. Neil stated that accessibility is an overall benefit for the population.

Referring to Mr. Polce's comments regarding ADA compliance issues within subdivisions of communities that do not have HOAs, Mr. Neil stated that the State of Delaware Division of Vocational Rehabilitation has a lot of expertise and may be able to help in certain circumstances, for example, the installation of a walkway for a private home for a person who has a disability to be able to get into their home. He noted that for every inch of height, a foot is needed for a wheelchair to operate. Mr. Neil advised that a three-foot ramp is needed for a three-inch step; otherwise, a wheelchair could tilt over or an individual may not be able to maneuver it. He suggested that, if there is a problem that is not within staff's ability to take care of, they contact the Division of Vocational Rehabilitation to see if they have the expertise or are able to do some installations within the homes.

Mr. Sudler asked if a two-inch by four-inch brick size is currently used, and Mr. Lyon stated that nominal size brick is used. Mr. Sudler suggested using six-inch, by nine-inch, by two-and three-eighths-inch-thick brick, which is more sturdy and durable, and using stone dust instead of sand for the bed. He noted that he has a lot of experience with laying pavers and retaining walls as a contractor and mason.

Referring to Mr. Neil's remarks, Mr. Sudler stated that there is also funding for people in residential communities through the State of Delaware Division of Rehabilitation and Occupational Therapy, noting that he had done some work for them as a construction vendor. He explained that a resident has to qualify by saying that they are going to go back to work but need help or assistance, such as a handicapped ramp. Mr. Sudler advised that this agency will find a contractor who will build a ramp according to the City Code, noting that he had gone through this process. He stated that the Division of Rehabilitation and Occupational Therapy does not necessarily have the ADA requirements but just has a list of contractors, who would obtain the ADA requirement when they go to get a permit from the city in which they are providing the service. Mr. Sudler advised that the resident has to be in the process of trying to get back to work, which is the occupational aspect. He stated that he thought that this program is worth looking at, and that staff could at least provide information to the community in regard to other ADA resources.

Mr. Neil moved to recommend approval to solicit public comment on the proposed Americans with Disabilities Act Transition Plan, as recommended by staff. The motion was seconded by Mr. Lindell and unanimously carried.

By unanimous consent, the Utility Committee meeting adjourned at 6:26 p.m.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

Mr. Polce moved for the deletion of item #3 - Proposed Ordinance #2017-14 - City of Dover Ethics Initiative, due to the absence of Council President Slavin, who was a sponsor of the ordinance, and due to Mr. Polce's conversations with Mrs. Traci McDowell, City Clerk,

regarding tightening up some of the language. The motion was seconded by Mr. Lindell and unanimously carried.

Mr. Neil moved for approval of the agenda, as amended. The motion was seconded by Mr. Shevock and unanimously carried.

Annual Review of Investment Policy

Ms. Lori Peddicord, Acting Controller/Treasurer, advised that a few small changes were recommended for the City of Dover Investment Policy Statement. She explained that it was recommended to add "Fitch" to the minimum short-term rating requirements on page 7, the table on page 8, and the Policy Considerations section regarding securities downgrades on page 9. Ms. Peddicord noted that currently only Standard and Poor's, and Moody's were included in these sections of the Policy.

Staff recommended approval of the submitted changes.

Mr. Sudler moved to recommend approval of the submitted changes to the City of Dover Investment Policy Statement *(Attachment #2)*, as recommended by staff. The motion was seconded by Mr. Neil and unanimously carried.

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

Meeting adjourned at 6:28 p.m.

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

Meeting adjourned at 6:29 p.m.

William F. Hare
Acting Chair

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Attachments
Attachment #1 - Proposed Resolution No. 2017-12 Naming of the Bicentennial Playground
Attachment #2 - City of Dover Investment Policy Statement with recommended changes

City of Dover

MAYOR AND COUNCIL

PROPOSED COUNCIL RESOLUTION NO. 2017-12

A RESOLUTION PROPOSING THE NAMING OF BICENTENNIAL PLAYGROUND

WHEREAS: parks and playgrounds offer opportunities for relaxation, exercise, contemplation, and interaction with nature; and

WHEREAS: The City of Dover has an extensive system of park and recreation facilities that add to the quality of life in the community; and

WHEREAS: providing quality affordable recreation and leisure services that promote healthy lifestyles for residents of Dover is a goal of the Parks and Recreation Department; and

WHEREAS: City Staff engaged the Bicentennial Village community in assessing their recreational needs and opportunities; and

WHEREAS: as a result of that initiative plans were developed and funding was secured to create a playground facility for 2-5 year olds in the community; and

WHEREAS: this new facility deserves to have a proper identity linking it to the community it serves.

NOW, THEREFORE, BE IT RESOLVED:
The Dover City Council designates this facility the "BICENTENNIAL PLAYGROUND" and instructs the Department of Public Works in conjunction with the Department of Parks and Recreation to install a proper sign in recognition thereof.

ADOPTED:
Y:\Dave Hugg

ROBIN R. CHRISTIANSEN
MAYOR

TIMOTHY A. SLAVIN
COUNCIL PRESIDENT

Actions History
10/10/2017 - Introduction – Council Committee of the Whole/Parks, Recreation, and Community Enhancement Committee

City of Dover, DE

Investment Policy Statement

Dated October 10, 2016

1.0 Governing Authority

It is the policy of the City of Dover to invest public funds under its control in a manner that will provide the highest investment return consistent with the maximum safety of principal, while meeting cash flow needs of the City. The investment program shall conform to all state and local statutes governing the investment of public funds.

2.0 Scope

This Investment Policy Statement (the "Policy") applies to all financial assets of the City of Dover for which the City retains direct or indirect daily control. Funds for which the City has retained outside fund manager(s) shall also be governed by this Policy or, in the case of bond proceeds, related governing bond documents.

2.1 Accounts

2.1.1 Cash and Liquidity Accounts: The majority of the City's cash balance available for investment is maintained in the cash and liquidity accounts. These accounts will be managed and invested by investment managers, selected by the City Council through competitive bid, in order to maximize the return to the City while, at the same time, providing for safety of principal and sufficient liquidity for the City to meet its cash needs. The City will manage its short-term investments to ensure sufficient liquidity and prevent their premature sale for the purpose of covering expenditures. Short-term investments should mature at face value in sufficient amounts to meet any liquidity needs.

2.1.2 Reserve Cash (Intermediate) Account: To the extent cash is not expected to be needed on short notice, the City shall invest such funds in the Reserve Cash Account. This fund shall be managed and invested by an investment manager or managers**,** selected by the City Council after a competitive bid, in order to maximize the return on said money to the City while providing for the safety of principal.

All of the City of Dover's funds are accounted for in its Comprehensive Annual Financial Report. Those funds to which this Policy applies include (excluding the Deferred Compensation Plan and Pension Trusts):

2.2 Funds

2.2.1 General Fund
2.2.2 Capital Project Funds
2.2.3 Special Revenue Funds
2.2.4 Enterprise Funds
2.2.5 Internal Service Funds
2.2.6 Any new fund created by the City Council, unless specifically exempted

3.0 Objectives

The primary objectives of the City of Dover's investment activities, in order of importance shall be:

3.1 Safety

Preservation of principal is the foremost objective of the investment program. To attain this objective, funds shall be diversified among securities of high credit quality and liquidity, so that risk of loss of principal is minimized.

3.2 Liquidity

The City's investments shall be made for such periods as to enable the City to meet all operating requirements that may be scheduled or reasonably anticipated.

3.3 Return on Investments

A goal of the investment program shall be to maximize investment return within the constraints of Sections 3.1 and 3.2.

4.0 Delegation of Authority

Authority to manage the City of Dover's investment program is derived from this Policy, which is approved by City Council, and "Dover Code, PART I, Subpart A, Article II, Section 17" (attachment B) which states in part that "The Controller/Treasurer shall be the custodian of all of the City funds."

The City's Controller/Treasurer shall:

1) Review this Policy annually and recommend changes, if any, to City Council;
2) Be charged with implementing the Policy, and may delegate authority to make investments to an investment advisor. The Controller/Treasurer shall be responsible for all investment transactions and shall establish controls to regulate the activities of the investment advisor, if any.
3) Ensure that records of the City's investment activities are kept for ten years.

5.0 Prudence, Ethics and Conflicts of Interest

Any official of the City or investment advisor/manager empowered to make investments on behalf of the City of Dover shall comply with the following:

5.1 "Prudent Person" Rule

Investment decisions shall be made with the judgment and care which persons of reasonable intelligence, under circumstances prevailing at the time the investment is made, would exercise in the management of their own investments assuming that their objectives are those shown in Section 3.0 of this policy.

5.2 Ethics and Conflict of Interest

The delegate authorized to make City investments shall act at all times in an ethical manner, and shall not engage in activity that could impair or be perceived to impair their ability to make impartial investment decisions. They shall disclose to the Mayor and City Council any material interests in financial institutions with which the City has financial dealings, and which may be related to the performance of the investment program. Employees and officers shall refrain from undertaking personal investment transactions with the same individual(s) with whom business is conducted on behalf of the City.

6.0 Authorized Institutions and Dealers

All broker/dealers that desire to become qualified for investment transactions with the City shall meet the following:

1. Primary dealers and regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule)
2. Capital of at least $25,000,000 or capital of $5,000,000 for firms incorporated in the State of Delaware
3. Registered as a dealer under the Securities Exchange Act of 1934
4. Member of the Financial Industry Regulatory Authority (FINRA)
5. Registered to sell securities in the State of Delaware
6. Engaged in the business of effecting transactions in U.S. government, federal agency, and corporate securities for at least five (5) consecutive years

To the extent the City utilizes the services of an outside Investment Advisor, it shall be the responsibility of the Investment Advisor to maintain an approved list of brokers.

7.0 Safekeeping and Custody

To ensure that securities are deposited in an eligible financial institution prior to the release of funds, all trades of marketable securities will be executed by delivery vs. payment ("DVP").

Further, all securities will be held by an independent third-party custodian, in the name of the City, and evidenced by safekeeping receipts in the City's name. The custodian shall provide daily confirmation of held securities as well as a monthly transactions and holdings report.

8.0 Authorized Investments and Trading of Securities

The Controller/Treasurer or authorized delegate may invest only in the types of securities listed below. The maximum stated maturity of any security shall be limited to 10 years at settlement, unless otherwise stated. The maximum average maturity of the portfolio shall be seven years. For asset backed and Agency mortgage backed securities, the maximum maturity shall be defined as the weighted average life ("WAL"). WAL is a convention that estimates the expected weighted amount of time, in years, for the principal amount of an issue to be fully paid. For Agency mortgage backed securities, WAL shall be limited to 10 years, measured at the settlement date, provided by Bloomberg Financial Markets. For asset backed securities, the average life must not exceed two years, except for such securities that are subject to periodic reset of coupon or interest rate - - these may have an average life not to exceed three years.

8.1 United States Government Securities

Marketable securities issued by the U.S. Government and supported by the full faith and credit of the U. S. Treasury either by statue or an opinion of the attorney general of the United States. The maximum maturity shall be limited to 10 years. Up to 100% of the portfolio may be invested in this sector.

8.2 Government Agency Securities

Debt securities issued by government-sponsored enterprises ("GSE"), federal agencies, federal financing banks, and instrumentalities of the U.S. Government. The maximum maturity shall be limited to 10 years. Up to 50% of the portfolio may

be invested in this sector, with a maximum of 20% in any one issuer.

8.3 Certificates of Deposit and Time Deposits

8.3.1 **Domestic Institutions**: Issued or endorsed by a domestic bank, or a savings and loan association, organized and supervised under the laws of the United States and denominated in U.S. dollars; provided, however, that deposits are fully insured or guaranteed by the Federal Deposit Insurance Corporation ("FDIC").

If not insured by the FDIC:

- The banking institution must have assets of not less than $5 billion; and
- Issuers must have a short-term rating in the highest category by Standard & Poor's, Moody's, or Fitch and a long-term rating of at least the "A" category by Standard & Poor's, Moody's, or Fitch.

The maximum maturity of any investment in this sector shall be limited to 10 years at trade settlement. This sector shall not exceed 25% of the total portfolio. No single issuer shall exceed 5% of the City's portfolio.

8.3.2 **Delaware-Domiciled Institutions**: Issued by or endorsed by any bank or savings association domiciled in the State of Delaware and organized and supervised under federal or State of Delaware banking laws which does not meet the requirements of Section 8.3.1 hereto; provided, however, that:

- For each of the latest two years, the bank or association has had a return on total average assets of 0.50% or greater and an average capital ratio (defined as total equity capital to total assets) of at least 1 to 20, or the instrument is secured as set forth in Section 9, "Collateralization of City Deposits," hereto; and
- Not more than the lesser of $10 million or 25% of an issuer's total equity capital, may be invested in any one issuer. (Investments due to mature in one business day may be excluded from the computation of this percentage.)
- The Board expressly affirms that, consistent with these guidelines, Delaware banks and savings associations should be considered as a source of investment.
- The maximum stated maturity of any investment in this sector shall be limited to 10 years at time of purchase. This sector shall not exceed 20% of the total portfolio. No single issuer shall exceed 5% of the City's portfolio.

8.4 Corporate Debt Instruments

Such instruments include commercial paper bankers' acceptances, and non-convertible senior debt securities (bonds and debentures).

8.4.1 Corporate securities must be denominated/issued in US dollars. Many foreign corporations issue debt/securities in the US market, in US dollars.

8.4.2 No single issuer shall exceed 5% of the City's portfolio.

8.4.3 Commercial Paper shall be limited to a final maturity of 270 days. This

sector shall not exceed 25% of the total portfolio. Issuers shall be rated in the highest short-term category by Standard & Poor's, Moody's, or Fitch.

8.4.4. Bankers' Acceptances shall be limited to a final maturity of 365 days. This sector shall not exceed 25% of the City's Portfolio. Issuers shall be rated in the highest short-term rating by Standard & Poor's, Moody's, or Fitch.

8.4.5 Corporate bonds and debentures shall be limited to a final maturity of 10 years. This sector shall not exceed 50% of the total portfolio. Issuers shall hold a long-term rating of at least the "A" category by Standard & Poor's, Moody's, or Fitch.

8.5 Repurchase Agreements

The underlying collateral shall consist of U.S. government and/or GSE securities provided, however, that:

8.5.1 All repurchase agreements must be governed by a written master repurchase agreement;

8.5.2 Agreements will be entered into only with respect to underlying securities in which the investment manager may otherwise invest as described above, and only with a recognized U.S. Government/broker or a bank which meets the requirements set out under paragraph Section 8.3.1 or 8.3.2 above;

8.5.3 In the case of repurchase collateral held in book-entry form in the Federal Reserve System, all deliveries of securities must be made, for the transfer thereof, through the Federal Reserve book-entry system to the account designated by the investment manager for such purpose. Securities held in certificated form must be delivered to the investment manager or a custodian as directed by the investment manager.

8.5.4 Any collateral employed under this paragraph shall be counted towards the applicable maximum limits set forth within these guidelines for such type of investment, and such collateral shall be valued at market at not less than 103 percent of the maturity value of the agreement and marked-to-the-market as requested by the investment manager.

8.5.5 Repurchase agreements shall be limited to a maximum maturity of 90 days from date of purchase. This sector shall not exceed 50% of the total portfolio. No single issuer shall exceed 25% of the City's portfolio.

8.6 Registered Investment Companies (Money Market Funds)

No single fund shall exceed 25% of the City's portfolio. Money market funds shall be rated AAA by Standard & Poor's. A current prospectus must be obtained before investing in any money market fund, and current holdings reports must be maintained at least each month.

8.7 Mortgage-Backed Securities

Mortgage-backed securities issued by the following: Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Association (FHLMC). This sector, combined with the asset backed security sector, shall not exceed 10% of the total portfolio.

8.8 Asset Backed Securities

These investments include auto loan receivables, credit card receivables, home equity loans, and manufactured housing loans. These can be fixed or floating rate and must be rated in the highest long-term category by Standard & Poor's, Moody's, or Fitch. This sector, combined with the mortgage-backed security sector, shall not exceed 10% of the City's portfolio. No single issuer shall exceed 5% of the City's portfolio.

8.9 Municipal Obligations

Taxable and tax-exempt securities issued by state and local governments and public authorities in the United States. The maximum stated maturity of any investment in this sector shall be limited to 10 years at time of purchase. This sector shall not exceed 30% of the City's portfolio. No single issuer shall exceed 5% of the City's portfolio. Issuers shall be rated in at least the "A" category by Standard & Poor's, Moody's, or Fitch. Additionally, Issuers in the short term market (under one year) shall be rated at a minimum of "mig-1", "f1" or "sp-1" for Moody's, Fitch and Standard &Poor's.

8.10 State of Delaware Investments Pool

8.10.1 Delaware Local Government Investment Pool (DELGIP) -The investment in this pool is permitted in relation to the City's cash flow and the guidelines set forth by the State of Delaware. The investment in this pool will not exceed 25% of the total funds available and will be monitored by the City's Finance Department on a monthly basis.

8.10.2 Delaware Local Government Retirement Investment Pool (DELRIP) The investment in this pool is permitted in relation to the City's Post-Retirement Benefits Fund. The investment in this pool will not exceed 25% of the total funds available and will be monitored by the City's Finance Department on a monthly basis.

8.11 Trading Securities

The Controller/Treasurer is hereby authorized to sell securities prior to their stated maturity date in the following circumstances:

1. A security with declining credit may be sold prior to its maturity to minimize loss of principal;
2. A security swap may be executed if it would improve the quality, yield, or target duration of the portfolio;
3. Securities may be sold to provide needed liquidity.

8.12 Internal Control on such transactions

8.12.1 An investment report will be provided to the Council on a quarterly basis.

8.12.2 All investment reporting documents will be provided to the independent auditors.

8.12.3 Investment records will be kept by the City for ten (10) years.

8.12.4 The trading shall not involve any hedge, derivatives and/or borrowing funds for trading purposes.

A summary of permitted investments is below:

Investment Type	Sector Limit	Issuer Limit	Maturity Limit	Credit Quality Minimum
United States Government Securities	100%	100%	10 Years	N/A
Government Agency Securities	50%	20%	10 Years	N/A
Mortgage-Backed Securities	Combined 10% limit	N/A	10 Year WAL	N/A
Asset Backed Securities		5%	2 Year WAL	Highest long-term rating by Fitch, Moody's or S&P
Municipal Obligations	30%	5%	10 Years	Long-term rating of at least "A" by S&P, Moody's, or Fitch For issuers in short term market, rating of at least "mig-1", "f1 or "sp-1" for Moody's, Fitch & S&P
FDIC-Insured Deposits	25%	5%	10 Years	N/A
Certificates of Deposit and Time Deposits (not insured by FDIC)	25%	5%	10 Years	Highest short-term rating by Fitch, Moody's or S&P. Long-term rating of at least "A" by S&P, Moody's, or Fitch
Delaware-Domiciled Institutions	20%	5%	10 Years	N/A
Commercial Paper	25%	5%	270 Days	Highest short-term rating by Fitch, Moody's or S&P
Bankers' Acceptances	25%	5%	365 Days	Highest short-term rating by Fitch, Moody's or S&P
Corporate Bonds and Debentures	50%	5%	10 Years	Long-term rating of at least "A" by S&P, Moody's, or Fitch
Repurchase Agreements	50%	25%	90 days	N/A
Registered Investment Companies (Money Market Funds)	100%	25%	N/A	AAAm by S&P
Delaware Local Government Investment Pool	25%	N/A	N/A	N/A
Delaware Local Government Retirement Investment Pool	25%	N/A	N/A	N/A

9.0 Collateralization of City Deposits

If the City deposits funds in any financial institution, those funds will be subject to the following collateralization requirements. The financial institution shall:

9.1 Collateralize the City's daily ledger balance(s) if, for any quarter during the most recent eight quarters the bank has not met both of the following two criteria:

- Return on total average assets of 0.50 percent or greater.
- Average capital ratio (total equity to total assets) of 5.00 percent or greater.

9.2 If either criterion in paragraph 9.1 is not satisfied collateral must be pledged and shall consist of one or more of the following securities:

- U.S. Government securities
- U.S. Government agency securities
- Federal Home Loan Board letters of credit
- State of Delaware securities
- Mortgage backed securities as referenced in Section 8.7
- Securities of a political subdivision of the State of Delaware with a Moody's rating of "A" or better

9.3 Ensure that the securities pledged as collateral (except for Federal Home Loan Board letters of credit) have a market value equal to or greater than 102 percent of the ledger balance(s) in the account(s) marked to market each day.

9.4 Ensure that securities pledged as collateral are housed at the Federal Reserve Bank or a mutually agreed upon third party depository. (The trust department of the winning vendor will not be acceptable.)

9.5 Provide reports on a monthly basis to the City Finance Department detailing the collateral pledged.

9.6 Provide a Call Report (Consolidated Report of Condition and Income, FFIEC 031) on a quarterly basis to the City Finance Department.

10.0 Policy Considerations

If securities owned by the City are downgraded by either Standard & Poor's, Fitch or Moody's to a level below the quality required by this Policy, it shall be the City's policy to review the credit situation and make a determination as to whether to sell or retain such securities in the portfolio.

If a security is downgraded two grades below the level required by the Policy, the security shall be sold immediately.

If a security is downgraded one grade below the level required by this Policy and matures within 6 months, the security may be held to maturity. The Controller/Treasurer may determine to sell the security if it is determined that there is a probability of default prior to maturity.

If a decision is made to retain a downgraded security in the portfolio, its presence in the portfolio will be monitored and reported monthly to the Controller/Treasurer.

11.0 Internal Controls

The Controller/Treasurer is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the City are protected from loss, theft, or misuse. The Controller/Treasurer shall also establish a process for an annual independent review by an external auditor to assure compliance with policies and procedures. The internal controls shall address the following:

- Control of collusion
- Separation of transaction authority from accounting and recordkeeping
- Custodial safekeeping
- Prohibition of physical delivery securities
- Clear, written delegation of authority to subordinate staff members
- Written confirmation of transactions for investments and wire transfers

12.0 Performance Standards

The City of Dover's investment decisions shall be made with the objective of obtaining a rate of return commensurate with the investment risk constraints and the cash flow needs. On a quarterly basis, the Controller/Treasurer shall compare the City's portfolio against the

Merrill Lynch 0-5 Year U.S. Treasury Index, in terms of time-weighted total return and average duration for the period under review.

13.0 Reporting

At the end of each calendar quarter, the Controller/Treasurer will submit a report of all quarter-ending investments to the Mayor and City Council. Reports shall include the following:

- Listing of individual securities held as of last day of reporting period, sorted by sector
- Par, market, and amortized cost values of each security
- Coupon, current yield, and final stated maturity date of each security

14.0 Investment Policy Adoption

The City of Dover's investment policy will be adopted by the City Council after review and recommendation of the Legislative and Finance Committee. The policy will be reviewed at least once every year by the Legislative and Finance Committee, which is charged with considering the existing policy and any recommendations to modify the policy. Any modifications to the policy must be approved by the City Council.

LEGEND

1. Original approval by City Council - November 14, 1988
2. Revised policy approved by City Council - March 7, 2005
3. City Council Approved with No Changes – April 14, 2008
4. Revised policy approved by City Council – July 25, 2011
5. Revised policy approved by City Council – August 12, 2013.
6. Revised policy approved by City Council – September 8, 2014
7. Revised policy approved by City Council – October 10, 2016

ATTACHMENT A

GLOSSARY

AGENCIES: Federal agency securities, otherwise known as "Government Sponsored Enterprises."

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Large denomination CD's are typically negotiable.

BANKERS ACCEPTANCE: A short-term credit investment which is created by a non-financial firm and whose payment is guaranteed by a bank.

COLLATERAL: Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

COMMERCIAL PAPER: An unsecured obligation issued by a corporation or bank to finance its short-term credit needs. Maturities typically range from one (1) to 270 days.

COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR): The official annual report for the City of Dover. It includes five combined statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed Statistical Section.

CORPORATE BONDS: A debt security issued by a corporation based in the United States of America. Such bonds usually have a par value of $1,000, have a term maturity, and are traded on a major exchange.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns, in an attempt to limit risk.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to $250,000 per deposit.

FEDERAL FUNDS RATE: The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

FEDERAL HOME LOAN BANKS (FHLB): The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-a-vis member commercial banks.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional banks and about 5,700 commercial banks that are members of the system.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FMHM mortgages. The term "passthroughs" is often used to describe Ginnie Mae's.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

LOCAL GOVERNMENT INVESTMENT POOL (LGIP): The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

MARKET VALUE: The price at which a security is trading and could presumable be purchased or sold.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MORTGAGE-BACKED SECURITIES (MBS): An investment instrument that represents ownership of, and is backed by, an individual interest in a pool of mortgages such as those issued by Ginnie Mae or Freddie Mac. Principal and interest from the individual mortgages is used to pay principal and interest on the MBS.

MUNICIPAL NOTES AND BONDS: Securities issued by a state, city, or local government to finance operations or special projects.

PRUDENT PERSON RULE: An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody

state--the so-called legal list. In other states the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

RATE OF RETURN: A measure of worth, either at security or aggregate portfolio level, over a period of time. There are many return conventions, including but not limited to yield to maturity at cost, yield to maturity at market, yield to worst, time weighted total return, dollar weighted total return.

REPURCHASE AGREEMENT (RP OR REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, that is, increasing bank reserves.

REVERSE REPURCHASE AGREEMENT: The purchase of a security by a dealer with the agreement to sell it back to the seller at a fixed price at a later date. Typically used by owners of securities to finance short-term needs without having to liquidate the security.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

TIME DEPOSITS: A savings account or CD held for a fixed term or with the understanding that the customer can withdraw only by giving advanced notice.

TREASURY BILLS: A short-term (less than one year) non-interest bearing discount security issued by the U.S. Treasury department to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BOND: Long-term U.S. Treasury securities having initial maturities of more than 10 years.

TREASURY NOTES: A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months or one year.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1: also called net capital rule and net capital ratio.

Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting

syndicates. Liquid capital includes cash and assets easily converted into cash.

VARIABLE RATE MASTER DEMAND NOTES: A floating rate security with initial maturities and indexed rates chosen by the investor. The interest rate is adjusted periodically, usually off a standard such as that prevailing on a Treasury Bill or the prime interest rate.

YIELD: The rate of annual income return on an investment, expressed as a percentage.

INCOME YIELD is obtained by dividing the current dollar income by the current market price for the security.

NET YIELD or YIELD TO MATURITY is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

CITY OF DOVER
FISCAL YEAR JULY 1, 2017 TO JUNE 30, 2018
QUARTERLY REVENUE REPORT
As of September 30, 2017

				25.0%			
	GENERAL FUND	**FY18 BUDGET**	**YTD REVENUES**	**% BUDGET RECEIVED**	**COMMENTS**	**FY16 REVENUES**	**FY17 REVENUES**
1	Property Taxes	$ 12,615,600	$ 12,581,900	99.7%		$ 12,434,600	$ 12,524,200
2	Payment In Lieu of Taxes	410,000	43,500	10.6%		412,200	371,400
3	Transfer from Electric Fund	10,000,000	2,502,000	25.0%		10,000,000	10,000,000
4	Intrafund Service Receipts Electric	3,660,100	964,000	26.3%		3,628,000	3,425,000
5	Transfer from Transfer Tax Fund	1,209,300	391,300	32.4%		2,188,600	1,633,600
6	Business Licenses	1,467,000	1,408,700	96.0%		1,475,800	1,462,400
7	Intrafund Service Receipts Water/Wastewater	1,716,100	440,200	25.7%		1,422,000	1,583,000
8	Sanitation Fees	3,080,400	784,100	25.5%		2,527,500	2,514,600
9	Permits & Other Licenses	1,956,000	442,700	22.6%		1,735,800	2,069,700
10	Transfer from Municipal Street Aid Fund	673,100	166,500	24.7%		673,300	673,400
11	Fines & Police Revenue	746,600	212,000	28.4%	SRO's-6 months paid; Fines are down	652,000	679,100
12	Police Extra Duty Fees	500,000	35,900	7.2%	Timing of NASCAR	541,600	497,200
13	Transfer from Police Grant Funds	60,000	-	0.0%		159,600	239,800
14	Court of Chancery Fees	1,350,000	222,500	16.5%	September fees not yet received	1,123,700	1,343,000
15	Transfer from Water/Wastewater Fund	900,000	228,000	25.3%		850,000	875,000
16	Transfer from Civil Traffic Penalties Fund	511,800	108,900	21.3%	September ERLSP not yet received	442,800	463,600
17	Library Revenues & County Reciprocal Pymt	400,000	26,000	6.5%	Kent County book reimb not yet received	419,700	380,600
18	Franchise Fees	688,100	-	0.0%	Q1 franchise fees not yet received	510,600	690,800
19	General Fund Grant Receipts	545,000	-	0.0%		572,500	554,200
20	Recreation Revenue	150,000	36,700	24.5%		183,200	169,000
21	Other Miscellaneous Receipts	153,900	23,200	15.1%		173,600	230,000
22	Interest Income	138,000	34,900	25.3%		172,100	154,500
	TOTALS	$ 42,931,000	$ 20,653,000	48.1%		$ 42,299,200	$ 42,534,100
	Final Budget					**$ 41,936,100**	**$ 42,223,500**

CITY OF DOVER
FISCAL YEAR JULY 1, 2017 TO JUNE 30, 2018
QUARTERLY REVENUE REPORT
As of September 30, 2017

	WATER/WASTEWATER FUND	FY18 BUDGET	YTD REVENUES	25.0% % BUDGET RECEIVED	COMMENTS	FY16 REVENUES	FY17 REVENUES
1	Water Fees	$ 5,914,600	$ 1,669,200	28.2%		$ 5,457,100	$ 5,776,100
2	Wastewater Fees	3,768,000	982,800	26.1%		3,745,500	3,718,700
3	Wastewater Adjustment Fees - County Trtmt	2,952,900	774,400	26.2%		2,936,800	2,912,700
4	Groundwater Inflow Adjustment	1,899,700	495,000	26.1%		1,878,100	1,863,200
5	Water Impact Fees	231,000	247,900	107.3%		238,000	672,100
6	Wastewater Impact Fees	209,000	224,200	107.3%		207,500	611,800
7	Water Tank Space Leasing	391,400	10,900	2.8%	Timing of rent payments	338,000	376,200
8	Interest Income	11,400	6,700	58.8%		4,600	15,700
9	Other Miscellaneous Revenues	61,000	14,500	23.8%		70,000	86,100
	TOTALS	$ 15,439,000	$ 4,425,600	28.7%		$ 14,875,600	$ 16,032,600
	Final Budget					**$ 15,037,500**	**$ 15,467,200**

	ELECTRIC REVENUE FUND	FY18 BUDGET	YTD REVENUES	25.0% % BUDGET RECEIVED	COMMENTS	FY16 REVENUES	FY17 REVENUES
1	Sales to Customers	$ 79,656,000	$ 23,334,400	27.2%		$ 77,844,900	$ 80,624,300
2	Distribution of Earnings	(6,176,700)	(1,838,300)	0.0%		-	(1,845,900)
3	Utility Tax	1,236,200	348,300	28.2%		1,309,700	1,322,000
4	Transfer from Rate Stabilization Reserve	-	-	0.0%		750,000	-
5	Miscellaneous Revenue	765,700	231,500	30.2%		1,211,600	921,900
6	Interest Income	216,300	50,500	23.3%		65,700	218,000
	TOTALS	$ 75,697,500	$ 22,126,400	29.2%		$ 81,181,900	$ 81,240,300
	Final Budget					**$ 81,830,400**	**$ 79,428,600**

City of Dover

Memorandum

To: Mayor and City Council

From: Donna Mitchell, Acting City Manager

Date: October 17, 2017

Subject: Semi-Annual Inspection – Robbins Hose Company

In accordance with Section 46-43 of the City Code, the Acting City Manager performed the required semi-annual inspection of the Dover Fire Department on Monday, October 16 at 3:00 p.m. with Chief Carleton Carey, Jr. and Mr. Carter Knotts, Fire Chief's Assistant. This inspection was held at Robbins Hose Station No. 2. Station No. 1 was completed in May 2017. The following items were discussed:

1) The roof and HVAC system at Station # 2 – There is ceiling tape and paint peeling in the truck bay from what appears to be a moisture problem. Mr. Knotts indicated there is evidence of mold in the A/C vents on the second floor of the station. The City is scheduling an appointment with the Facility Supervisor to assess the roof as well as the moisture problem. If it is determined a capital project is necessary, this will be budgeted in the FY19 CIP. Minor improvements are needed to replace some ceiling tiles.

2) The fire siren at S. New and Dover Streets is experiencing some mechanical problems and the Company is working on a repair to address the problem. This is one of the original fire signals. The cost of a new signal is approximately $22,000.

3) Station No. 2 and all apparatus inspected were well maintained in appearance and condition.

4) The Dover Fire Department purchased their own phone system and will be coming off of the City's phone system once the project is completed. This project was funded by the Company and a grant. The Officers and staff of Robbins Hose Company will be testing the air packs this month. The annual pump test on the fire engines has been completed.

5) Fire Prevention Week was October 9 – 13, 2017. The Dover Fire Department fire prevention officers met with several area schools and day care centers. The total student attendance was 3,212, as well as approximately 100 adults.

Once again, everyone was extremely helpful with their assistance in my understanding of the operations. Please feel free to contact me if you have any questions or concerns.

cc: Carleton Carey, Jr., Fire Chief
Carter Knotts, Fire Chief's Assistant
Kirby Hudson, Assistant City Manager
Sharon Duca, Public Works Director
Mike Hamlett, Public Works Supervisor II

ACTION FORM

PROCEEDING: City Council	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Public Works	**DATE SUBMITTED**: 10/13/17
PREPARED BY: Sharon Duca, P.E., Public Works Director/City Engineer	
SUBJECT: Evaluation of Bids – S. Bradford Street and William Street Water Main Replacement	
REFERENCE: CIP- Water Quality Improvement	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller	
EXHIBITS: Exhibit A & B – Aerial Map	
EXPENDITURE REQUIRED: $682,682	**FY 2018 BUDGET**: $1,046,000
FUNDING SOURCE (Dept./Page in CIP & Budget): Department of Public Works - Water Management, CIP Projects #WQ1801 (S. Bradford Street $266,332) & WQ1802 (William Street $416,350), CIP Project Name: Water Quality Improvements Account No.: 417-6800-568.40-31.	
TIME TABLE: Notice to proceed to be issued within thirty (30) days of Council approval. Project anticipated to be completed in 240 calendar days.	
RECOMMENDED ACTION: Award the contract to Teal Construction, Inc., for the City of Dover S. Bradford Street and William Street Water Main Replacement Project, Bid #18-0006PW, for the amount of $682,682	

BACKGROUND AND ANALYSIS

The Fiscal Year 2018 Capital Improvement Plan includes a project called Water Quality Improvements. Staff identified the need for upgrading the following two (2) water mains: (1) the existing four-inch (4") water main located in S. Bradford Street, between West Loockerman Street and West Division Street and (2) the existing four-inch (4") water main located in William Street, between Pear Street and North State Street. The existing undersized mains were installed prior to 1960 and are made of unlined cast iron pipe. This project will replace these mains with new eight-inch (8") cement lined ductile iron pipe water mains. The new water mains will provide City of Dover customers with improved water quality, increased system reliability and improved fire protection.

The bid was advertised to the public as an Invitation to Bid in accordance with the City's purchasing policy by the City's Purchasing Agent under ITB #18-0006PW. Bids were opened on October 4, 2017. The City of Dover received three (3) bids shown in the table below:

CONTRACTOR	LOCATION	BASE BID	CONTINGENCY ITEMS	TOTAL COST	EVALUATED PRICE
TEAL CONSTRUCTION CO.	**DOVER, DE**	**$657,396.00**	**$25,286.00**	**$682,682.00**	**$662,201.54***
REYBOLD CONSTRUCTION	BEAR, DE	$1,214,035.00	$21,700.00	$1,235,735.00	$1,235,735.00
LINDSTROM EXCAVATING CONTRACTORS, INC.	MIDDLETOWN, DE	$1,199,968.00	$44,475.00	$1,244,443.00	$1,244,443.00

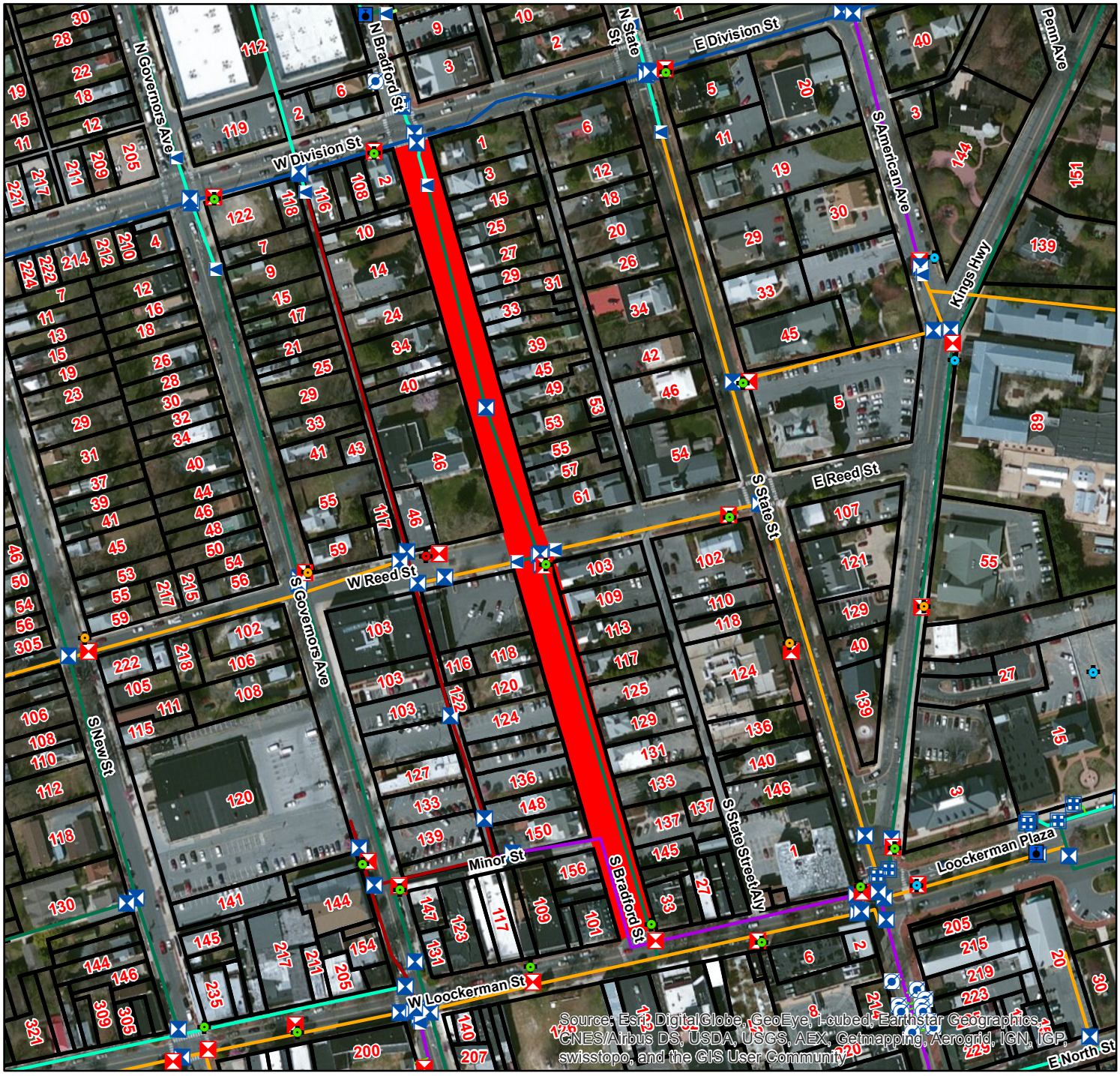
**- Teal Construction Co., was awarded a 3% reduction, due to local vendor preference*

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City staff reviewed the submissions and found that Teal Construction, Inc. bid met all requirements for the qualifications of the project. The staff recommends awarding the contract to Teal Construction, Inc. in the amount of $682,682.00 for the S. Bradford Street and William Street Water Main Replacement Project.

Exhibit A

South Bradford Street
Water Main Replacement



0 50100 Feet

N

Legend

- Project Area
- Dover Parcels
- Dead End
- Reducer

Fire Hydrants

- 1500 GPM
- 1000 - 1499 GPM
- 500 - 999 GPM
- Below 500 GPM
- Service Line

Valve

- Service Connection
- Meter Pit
- Hydrant Valve
- Division Valve

- Curb Stop/Meter Pit
- Curb Stop/House
- Curb Stop
- Blow Off

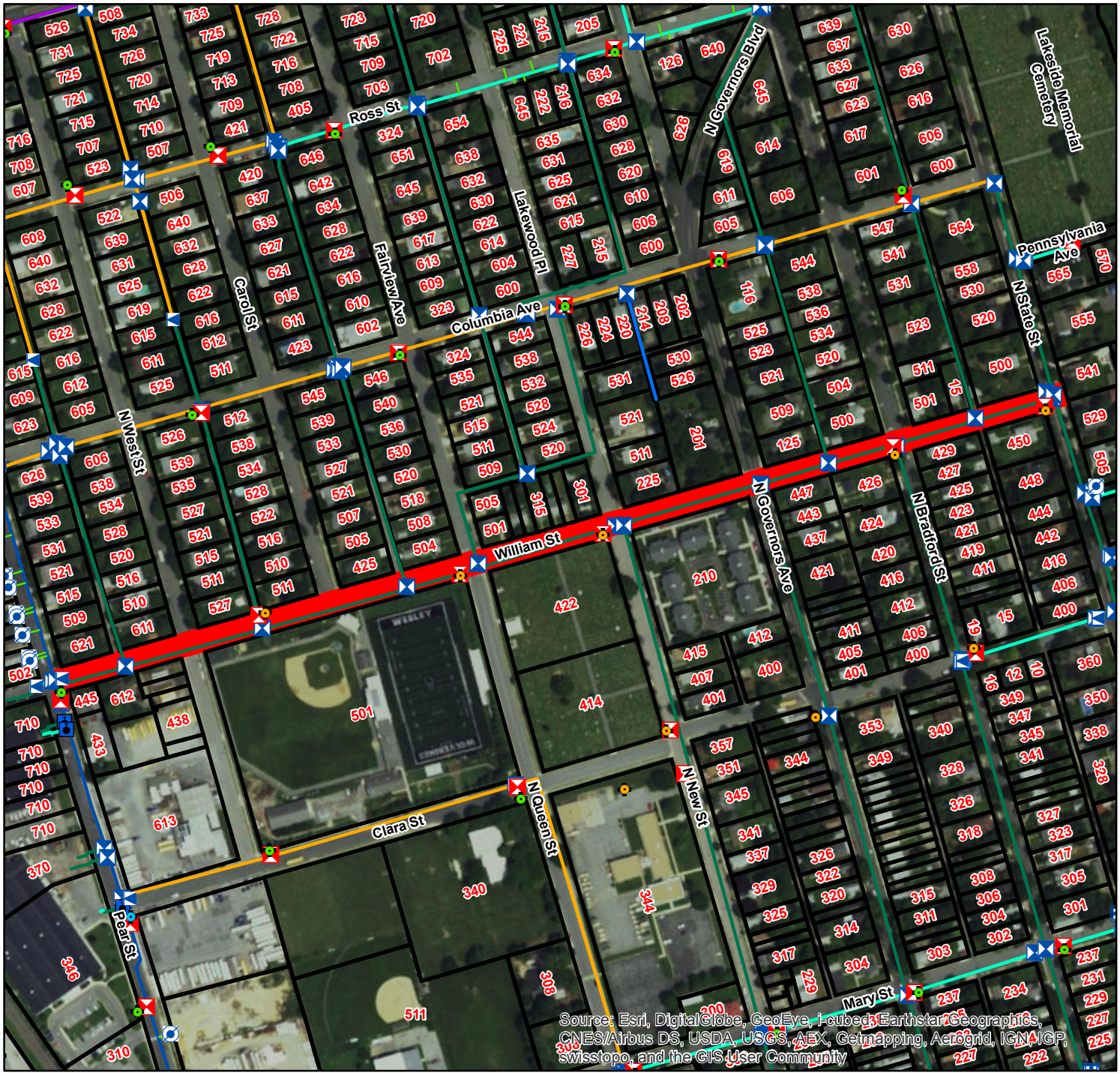
Main

- 1"
- 2"
- 3"
- 4"
- 6"
- 8"
- 10"
- 12"
- 14"
- 16"
- 20"

Date Printed: October 11, 2017
File: m:\gis_data\projects\tech_mxds
\jason_lyon_maps\caf_maps
\caf_s_bradford_st_water_replacement
Department: Public Works GIS
City of Dover, Delaware

Exhibit B

William Street
Water Main Replacement



0 150 300 Feet

N

Legend

- Project Area
- Dover Parcels
- Dead End
- Reducer

Fire Hydrants

- 1500 GPM
- 1000 - 1499 GPM
- 500 - 999 GPM
- Below 500 GPM
- Service Line

Valve

- Service Connection
- Meter Pit
- Hydrant Valve
- Division Valve

- Curb Stop/Meter Pit
- Curb Stop/House
- Curb Stop
- Blow Off

Main

8" 10" 12" 14" 16" 20"
1" 2" 3" 4" 6"

Date Printed: October 11, 2017
File: m:\gis_data\projects\tech_mxds
\jason_lyon_maps\caf_maps
\caf_william_st_water_replacement
Department: Public Works GIS
City of Dover, Delaware

DOVER FIRE DEPARTMENT

DOVER'S VOL. FIRE DEPT.
Since 1882

To: Traci A McDowell
City Clerk's Office

From: Brian F. Bashista
Robbins Hose Company

Date: October 9, 2017

Subject: Selection of Election Judges

I submit the following members to be Judges for the Robbins Hose Company Election that will be held on the third Monday in November (11-20-17).

1) Charlie Boyer
2) Carleton Carey, Sr.
3) James Hurley

