COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole met on October 24, 2017 at 6:01 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson (arrived at 6:06 p.m.), Mr. Sudler, Mr. Neil, Mr. Lewis, Mr. Cole, Mr. Polce (departed at 6:18 p.m. and returned at 6:21 p.m.), Mr. Hare, and Mr. Lindell. Mayor Christiansen was also present. Civilian members present for their Committee meetings were Mr. Garfinkel and Mr. Shelton (*Safety Advisory and Transportation*), and Mr. Shevock (*Legislative, Finance, and Administration*). Dr. Stewart (*Legislative, Finance, and Administration*) was absent.

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

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

Update - Alternative to Speed Bumps - Ann Avenue (Sudler)

During their meeting of July 24, 2017, City Council approved the Council Committee of the Whole/Safety Advisory and Transportation Committee's recommendation to: a) install a traffic enforcement sign on Ann Avenue; b) install strictly enforced speed limit signs on Ann Avenue; and c) perform a traffic study on Walker Road and Ann Avenue indicating the timing of the lights and the count, date, and time of traffic flow.

Police Chief Mailey advised members that the Police Department conducted a speed survey of Ann Avenue, just north of Walker Road, after receiving a complaint from Mr. Sudler in reference to speeding through the neighborhood. He recalled that the original question was whether speed bumps would be feasible, explaining that he did not believe they would be because of a stipulation in the City Code. Chief Mailey reviewed the results of the speed survey conducted between July 14, 2017 and July 25, 2017, noting that 3,715 cars passed through the neighborhood during that time. He informed members that the average speed of vehicles passing through was 21.9 miles per hour (mph), the maximum speed was 57.6 mph, and the minimum speed was 6.3 mph. Chief Mailey noted that the posted speed limit in the neighborhood is 25 mph and 29 percent of the 3,715 vehicles were traveling between the speeds of 20 and 25 mph. He stated that 983 vehicles or 26.5 percent were traveling between 15 and 20 mph, and 715 vehicles or 19.2 percent were traveling between 25 and 30 mph. Chief Mailey noted that approximately 10 percent were traveling between 10 and 15 mph, and 6.6 percent or 245 vehicles were traveling between 30 and 35 mph. He offered to email the results of the speed survey to members. *(City Clerk's Office Note: Subsequent to the meeting, the "MetroCount Traffic Executive Speed Statistics" report (as on file in the City Clerk's Office) was provided to members.)*

Chief Mailey advised that he had contacted Mr. Windley from Senator Carper's office, who helps the Police Department with grants, and asked about the feasibility of grants for speed measuring devices. He stated that Mr. Windley informed him that there were no grants available at that time that the Department could apply for.

Chief Mailey stated that he thought that the best way to solve this problem would be through visibility and enforcement. He noted that there are several areas in the City that have similar problems and the Department's motorcycle unit moves from location to location throughout the month to try and serve the whole City. Chief Mailey advised that the motorcycle unit is understaffed due to a promotion and an officer injury from May of 2017. He explained that he has people in the academy, however, they will not come out of the academy until March of 2017, and then it will be approximately six (6) months before they go on their own. Chief Mailey stated that, with the depleted motorcycle unit, he also asked the patrol unit to move around the City and conduct enforcement, noting that they do a very good job in between going to complaints.

Mr. Sudler asked if Chief Mailey thought that a speed indicator that says slow down or too fast, like the one on Slaughter Street, could make a difference with the traffic issue on Ann Avenue and not cost that much. Responding, Chief Mailey stated that he thought that a speed sign would help. He noted that he had just come from an International Association of Police Chiefs (IACP) conference in Philadelphia that had several displays, and he and the Major were trying to price trailers that can be towed behind to move from one location to another. Chief Mailey stated that the Department is going to try to get one of them because they receive complaints from all over the City and these trailers do serve as a deterrent. He explained that when people are going 5, 10, or 15 mph above the speed limit and see a flashing sign, this brings about public awareness. Chief Mailey stated that people on the street see it, which is like peer pressure. He noted that drivers either slow down or ignore it, and they typically slow down. Chief Mailey advised that the Department is looking to correct the behavior and they do not want to write a bunch of tickets; however, they do have to maintain public safety.

Mr. Anderson asked whether Chief Mailey thought that the City should consider adding strictly enforced signs, not in the whole City but in developments. He indicated that these signs could be used when City needs to enforce speed limits, like on Ann Avenue or Village Drive, where 25 mph is the top speed that would be wanted, as opposed to most of Governors Avenue or Division Street, where there is more leeway because of the size of the street. In response, Chief Mailey stated that he thought this would help, noting that Mrs. Donna Mitchell, Acting City Manager, had information on signs and Mr. Anderson may want to pose this question to her.

Mr. Anderson asked if State guidelines indicate that the State wants municipalities to add strictly enforced signs or else give substantial leeway in the speed enforcement. Responding, Mrs. Mitchell stated that she thought that this was a municipal decision and that the State did not care whether municipalities put up strictly enforced signs; however, she could check on it.

Mrs. Mitchell informed members that Mrs. Sharon Duca, Public Works Director, had advised her that the City asked for money from Senator Bushweller in one (1) of the Community Transportation Fund (CTF) agreements for a mobile sign, and he had given $8,500 for it. She indicated that, based on the discussion during the meeting when this matter was considered previously, Ann Avenue was one (1) of the areas where staff planned to put a sign to start with. Mrs. Mitchell advised that this CTF agreement was underway. She noted that, during the previous discussion, it was stated that if strictly enforced signage is put out, there will be a need to strictly enforce, and it would be up to Chief Mailey how aggressively he could do this, with staff and time, etc. Mrs. Mitchell stated that

the traffic sign could be put out there and noted that Mrs. Duca indicated that if this is a permanent battle out there, a permanent sign may be wanted instead of the mobile sign. She advised that staff had been waiting for the police traffic study to come back to determine whether a permanent sign would be better than the mobile sign.

In response to Mr. Anderson, Mrs. Mitchell stated that she did not have cost estimates on the strictly enforced signs.

Mr. Hare noted that he had seen cameras used for speeding in other states and they work. Responding, Chief Mailey indicated that there had been a lot of talk about camera use; however, he noted that this would have to be passed by the State legislature. He advised that Maryland has these cameras; however, as far as he knew, nothing had been drafted or was on the Delaware legislative floor.

Mayor Christiansen indicated that he had gone to sit in the Ann Avenue area on several occasions, the latest being earlier in the day, and noticed that the timing of the light at Saulsbury and Walker Roads was one (1) of the things affecting the high volume of traffic through Ann Avenue. He stated that he wondered if the City should check with the Delaware Department of Transportation (DelDOT) because these are both DelDOT controlled roads. Mayor Christiansen advised that he noticed that if traffic is backed up at clock-out time at for one (1) of the local employers, people cut through this neighborhood. He suggested putting strict enforcement out there during that time if there is enough staff.

Chief Mailey indicated that he could reach out to Mr. Rivera at DelDOT, who had helped with a lot of issues and could perhaps provide some guidance and help on the cycling of that light.

In response to Mr. Shelton, Chief Mailey stated that he did not check how many tickets were written during the time period of the traffic study. He explained that typically staff conducts the speed survey and tries to let the area be unaffected by enforcement to get a good barometer of what is going on. Chief Mailey advised that having an officer there would skew the numbers.

Mr. Shelton stated that writing tickets would offer a deterrent for speeders cutting through. He indicated that he goes through the area and sees a lot of traffic coming out of Edgewell, going through the area, and heading north on Saulsbury Road.

Mr. Neil requested that the light on North State Street be kept green longer so that traffic can go back and forth safely.

Mr. Hare asked if Chief Mailey had looked at the possibility of hiring officers from Camden or Wyoming on a part-time basis and basing their pay on the number of tickets they write. Responding, Chief Mailey indicated that he did not love the idea of having another officer come in and enforce laws within the City of Dover and thought it would be problematic to pay officers to come and write tickets. In response to Mr. Hare, Chief Mailey stated that they could look at hiring an off-duty City officer. He noted that the Department pays an hourly rate based on enforcement efforts, which are

always at 110 percent. Mr. Hare stated that one (1) officer could probably make a living just sitting on Wyoming Avenue.

In response to Mr. Lewis, Chief Mailey advised that he would continue to keep a vigilant eye on this matter.

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

Meeting adjourned at 6:17 p.m.

UTILITY COMMITTEE

The Utility Committee met with Chairman Cole presiding.

AGENDA ADDITIONS/DELETIONS
Mr. Lewis moved for approval of the agenda, seconded by Mr. Neil and unanimously carried.

Americans with Disabilities Act Sidewalk Compliance - Lincoln Street
Members were advised that the Fiscal Year 2017 Street & Alley Program includes Lincoln Street as a street that is scheduled to be reconstructed. Staff identified that the northern side of Lincoln Street, near the intersection with Forest Street, has sidewalk that is not compliant with the Americans with Disabilities Act (ADA) as the cross slope does not meet the standards, and it would be impossible to regrade the driveways to meet this requirement. Staff's recommendation was to bump out the new sidewalks into the road, an example of which exists on Washington Street. An adjustment to the adjacent catch basin would be required as well. The road width would be reduced to 26 feet and, as a result, parking would only be allowed on one (1) side of the street.

Staff recommended approval of the proposed sidewalk orientation to comply with the Americans with Disabilities Act.

Mr. Anderson noted that Lincoln Street is very busy and asked how the width reduction would affect traffic and if it would make this a substandard portion of the road. In response, Mrs. Mitchell stated that the road would still meet the requirements for road width. She indicated that if sidewalks had to be done on both sides it would not be doable; however, Mrs. Sharon Duca, Public Works Director, had included a sidewalk on just one (1) side, which made the 26-foot roadway width doable. Mrs. Mitchell stated that she could not speak from an engineering perspective; however, she had advised Mrs. Duca that she would present this matter since it Mrs. Duca's daughter's birthday.

Mr. Neil moved to recommend approval of the proposed sidewalk orientation to comply with the Americans with Disabilities Act, as recommended by staff. The motion was seconded by Mr. Hare.

Mr. Hare asked who requested this item. Responding, Mrs. Mitchell indicated that, during the Council Committee of the Whole/Utility Committee meeting of October 10, 2017, there was an

ADA presentation and that, as streets are being improved, the City is having to upgrade sidewalks to meet federal ADA requirements. In response to Mr. Hare, Mrs. Mitchell explained that the sidewalk upgrades were not optional due to federal ADA requirements. Noting that the original width would be reduced from 32 feet to 26 feet, she reiterated that there would not be parking on both sides of the street.

Mr. Sudler stated that he personally thought this matter should be deferred until Mrs. Duca was present. Responding to Mr. Sudler, Mrs. Mitchell stated her understanding that a sidewalk was not required on the other side of the street; however, she would have to confirm that with Mrs. Duca. Mr. Sudler indicated that he would be voting no because he thought that members needed to get more information from Mrs. Duca before making a final decision.

The motion to recommend approval of the proposed sidewalk orientation to comply with the Americans with Disabilities Act, as recommended by staff, was carried by a roll call vote of seven (7) yes (Neil, Lewis, Cole, Polce, Hare, Lindell, and Slavin), and two (2) no (Anderson and Sudler).

Mrs. Mitchell stated that she would ask Mrs. Duca to provide additional information. *(City Clerk's Office Note: Subsequent to the meeting, Mrs. Mitchell notified members that Mrs. Duca advised her that the sidewalk section on the other side of Lincoln Street is at the correct grade and already compliant.)*

Conwell Street Discussion

During their meeting of August 28, 2017, City Council approved the Council Committee of the Whole/Utility Committee's recommendation that a legal opinion regarding the ownership of Conwell Street and the City's legal options in regard to this matter be provided at the next Utility Committee meeting.

Mr. Slavin advised that on October 23, 2017, members of Council held an Executive Session regarding this matter and the contents of that session could not be discussed in a public forum, nor could the legal opinion that members received.

Mr. Slavin moved to recommend that the concerns of residents of Conwell Street be directed to the State legislators for that district and request that the State of Delaware take ownership of that street. The motion was seconded by Mr. Sudler and unanimously carried.

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

Meeting adjourned at 6:13 p.m.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

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

Proposed Ordinance #2017-14 Amending Chapter 30 - Code of Conduct and Ethics Commission, and Appendix F - Fees and Fines (City of Dover Ethics Initiative) (Sponsors: Lindell, Polce, and Slavin)

During their meeting of September 12, 2017, members of the Council Committee of the Whole/Legislative, Finance, and Administration Committee considered a Proposed City of Dover Ethics Initiative, and during their meeting of October 10, 2017, members deleted Proposed Ordinance #2017-14 from the agenda, 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.

Mr. Polce expressed appreciation to Mrs. McDowell for the tremendous amount of time and effort she had placed in revising this specific section of the ordinance, and to his colleagues for their comments on how to strengthen a raw idea with regard to the City's Code of Conduct and Ethics. He explained that the Proposed Ordinance would make general revisions to the ordinance, bring it up to current practice, and address four (4) items that were discussed approximately one (1) month and two (2) weeks ago.

Mr. Polce advised that a four-pronged process would be used to ensure that Council members are operating in a transparent fashion when it relates to financial holdings. Referring to line 73 of the Proposed Ordinance, Mr. Polce stated that the first prong would require both elected and appointed officials to receive and read the Standards of Ethical Conduct and Ethics Commission either electronically or in hard copy and sign and acknowledge that they have read the contents. He advised that the second prong was a financial disclosure report, noting that a template of the report was attached as an appendix to the Proposed Ordinance. Mr. Polce indicated that this document was modeled directly after the Public Integrity Commission's (PIC's) document that all elected officials both in the General Assembly and the executive branch have to file annually. He stated that the document is fairly straightforward and essentially asks for disclosure of where financial interests are vested to ensure operation in the most open and transparent fashion possible.

Mr. Polce explained that the Proposed Ordinance also requires members to receive annual training to be received in the modality that is best. He noted that there had been a great partnership with the PIC, and the executive director of the Commission had offered to come to a Council meeting to offer guidance on specific procedures.

Mr. Polce stated that the spirit and revisions of the ordinance would get to the issue that members had been facing: operating in an open and transparent fashion and ultimately holding themselves accountable where potential conflicts of interest rooted in financial holdings come into play. He indicated that the revisions would bring the ordinance to standard and best practice. Mr. Polce stated

that Mrs. McDowell did extensive research on several different municipalities and cities to incorporate language that strengthens the City's current practice.

Mr. Sudler, referring to the Financial Disclosure Report, Section 1(A) Instruments of Ownership, noted that the form states "Do not include dollar amounts." Responding to Mr. Sudler, Mr. Polce explained that only the entity that members work for was needed. Mr. Slavin stated his understanding that the instructions for Section 1 indicate that legal or equitable ownership in excess of $5,000 needs to be disclosed and below $5,000 does not need to be disclosed.

Mr. Sudler stated that he did not agree that a dollar amount is necessary at this segment of government and that he thought that this should be stricken from the template. He indicated that he thought it was okay to disclose the entity for which members work, but disclosing how much one makes from that entity was irrelevant and he asked that this be removed. Responding, Mr. Slavin advised that members would never have to disclose how much they make but only the interest they have if the amount is above $5,000. He explained, for example, that if he owns Company A and determines that it is worth $1,000, he would not list Company A; however, if he owns Company B, which is worth $6,000, he would list "Company B" without any dollar amounts.

Mr. Lewis noted that Section 1(A) of the Financial Disclosure Report states that the instruments of ownership includes retirement accounts, 401K, IRA, etc., and advised that he works for the State of Delaware and has investments in a 401K and an IRA. He indicated that money in his fund is disbursed in different areas and asked if he would be required to name all of those companies. Responding, Mr. Slavin noted that he files this form on an annual basis and only the manager of the fund, such as Fidelity Investments, Voya Financial, or the State of Delaware pension system, needs to be named.

Mr. Neil stated that he is receiving money from his 401K and would report those who are managing it; however, if Mr. Lewis is in a 401K and is not receiving money but just putting it into the fund, he did not believe that Mr. Lewis would have to report it since he would not be taking it out until he retires. Responding, Mr. Slavin stated that it would be a matter of where someone's interests are. He indicated that if a member bought interest in a particular fund's 401K, they would list that fund manager.

In response to Mr. Lewis, Mr. Slavin stated that these funds would be considered an investment and all investments are required to be disclosed at the highest level, but not at the individual level. He advised that he thought that individual stocks are not asked for. Mr. Slavin noted that if a member has a mutual fund, they will list the owner of the mutual fund.

Mr. Anderson advised that there had been a lot of work and improvement in this process and expressed thanks. He indicated that he still had a problem with unnecessarily cutting and pasting this type of form to have things that really should not be included at either level. Mr. Anderson stated that he thought a 401K should be treated the same as a bank account, which is not required to be disclosed, and that this particular element should be removed. He advised that, with a thrift account, someone could change their monetary allocation twice a month and their future contributions every day if they wanted to, not that he would do so. Mr. Anderson stated that the

proposed provision would not really give any information, noting that someone has no more financial interest in having their bank account at Fidelity than they do in having it at Citizens. He indicated that these are instruments for anonymous investments for which members do not control the outcome. Mr. Anderson advised, for example, that the City deciding whether or not to get a Templeton fund or a Fidelity fund would not remotely affect the value in any way possible. He stated that this provision was just more paperwork, should be dropped from the City's form, and members should focus on things that could create a possible conflict of interest. Mr. Anderson indicated that most of the rest of the form dealt with more practical things, such as business enterprises and other instruments of ownership. He reiterated that he thought that a 401K should be treated like a bank account and should not be included on the City's form.

Mr. Slavin stated that he appreciated the concern that Mr. Anderson had raised; however, he disagreed because there are times when members are asked to choose fund managers. He indicated that it would be important for them to disclose any relationships they have so that there would not be even the sniff of a conflict of interest. Mr. Slavin advised that he would go with the fact that this is a system that works for judges, legislators, and every appointed official in the State of Delaware and that he will vote for it to be adopted by the City. Mr. Slavin stated that if people are uncomfortable with having this standard of ethics and disclosure behind them, they can vote against it.

Mr. Slavin moved to recommend adoption of Proposed Ordinance #2017-14, seconded by Mr. Lindell.

Mr. Neil stated that he was happy with the Proposed Ordinance and thought it a very solid piece of legislation. He informed members that he had taken money and put it aside in his 401K and this was deferred compensation. Mr. Neil explained that the Internal Revenue Service states that he has to remove 10 percent of this every single year, and he will list who is handling that account because it is real income that he is using. He noted that he did not think that a person who is putting funds into that type of account is accountable until they retire and start drawing money out, because they are not benefitting from the money. Mr. Neil noted that these funds are put aside as a pension for the future. He stated that he would list his Social Security, his pension, and the money he receives from the City. Mr. Neil indicated that he would support the Proposed Ordinance because he thought that the transparency issue was the issue really at stake.

Mr. Lewis noted that Mr. Polce had mentioned that it might behoove Council to receive a presentation from a representative of the PIC or its director. He suggested that it would be good for members who have reservations to direct their individual questions to the PIC representative for final clarification.

Mayor Christiansen commended everyone for their work and comments and noted that Mr. Polce had offered, once the Proposed Ordinance is adopted, for members to receive additional training as they move forward with filling out their documents. He stated that he thought that, in these days and times, the public requires members to be above reproach with the citizens that they serve. Mayor Christiansen indicated that he thought that all of those in the room serve with integrity, honor, and to the best of their ability. He noted that once they set an example to the public that they are

serving in this manner, the public's trust and belief that the actions of Council and City staff are in the best interests of the citizens will be confirmed. Mayor Christiansen expressed thanks to Mr. Polce for bringing this matter to members' attention, to the other sponsors, and to Mrs. McDowell for the yeoman duty that she put forth.

Mr. Lindell stated that he supported the measure fully and appreciated the work that Mr. Polce and Mrs. McDowell put into researching, and putting the document together. He advised that he did not see this as a big issue, noting that when he ran and was elected, he expected that members should be held to a higher standard, which meant he should be expected to share a little more information than the average Joe or Jane citizen should share. Mr. Lindell indicated that he would report Voya on his sheet, noting that members would not be disclosing dollar amounts. He indicated that members were getting lost in the weeds and that the system works throughout the State and is a vetted process. Mr. Lindell stated that if training was needed, this could be done after the Proposed Ordinance is approved.

Mr. Anderson moved to amend the Financial Disclosure Report, Section 1(A) to state "excludes retirement accounts not receiving distribution." The motion was seconded by Mr. Lewis and failed by a roll call vote of nine (9) no (Sudler, Neil, Lewis, Cole, Polce, Hare, Lindell, Slavin, Shevock) and one (1) yes (Anderson).

The motion to recommend adoption of Proposed Ordinance #2017-14 was unanimously carried.

Mr. Polce thanked his colleagues for the positive feedback that they provided him approximately a month and a half ago.

Proposed Ordinance #2017-15 Amending Chapter 34 - Elections, Article III - Absentee Voting (Sponsors: Anderson and Lindell)

Mrs. Traci McDowell, City Clerk, advised members that Proposed Ordinance #2017-15 was brought about by a change in State legislation that removed the requirement for notaries for absentee ballots. She explained that the Proposed Ordinance would amend Chapter 34 of the Dover Code to remove this requirement for the City, and combine a couple of paragraphs that were very similar. Mrs. McDowell explained that the Proposed Ordinance would also remove the list of reasons for eligibility to vote by absentee ballot and reference the Delaware Code instead, explaining that sometimes the State's reasoning for absentee eligibility changes and the City is not made aware right away.

Staff recommended adoption of Ordinance #2017-15.

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

Update - Resolution No. 2017-10 - Establishing the "Making Dover Prosper" Initiative

During their meeting of August 14, 2017, City Council adopted Resolution No. 2017-10 - Establishing the "Making Dover Prosper" Initiative, which included a direction to the City Manager and Director of Planning and Community Development to report to City Council not later than October 31, 2017 with recommendations and a path forward.

Mr. David Hugg, Acting Director of Planning and Community Development, reviewed an outline, plan, and status report regarding Resolution No. 2017-10 - Establishing the "Making Dover Prosper" Initiative.

Mayor Christiansen stated that Mr. Hugg had made the City shine lately by drawing new businesses downtown and giving out appropriate information. He advised that Mayor Purzycki, City of Wilmington, was scheduled to attend the Economic Development Committee meeting of October 25, 2017, to share some of the successes, failures, and strategies used in Wilmington. Mayor Christiansen invited everyone to attend, noting that Mayor Purzycki had been and continues to be successful in Wilmington.

Mr. Anderson thanked Mr. Hugg for all of the work that he was doing, stating that he was focused like a laser and was cutting through the problems.

Mr. Neil noted that the Kent Economic Partnership had recently honored Mr. Hugg for his work in Smyrna. He stated that the light Mr. Hugg had brought to Smyrna was beginning to shine here and expressed his hope that Mr. Hugg could earn another significant honor from the Partnership for what he was doing for the City of Dover.

Mr. Hugg thanked members of Council, not only for bringing him complaints but for helping staff to find solutions. He advised that Dover has a great future and that approximately half a dozen new businesses either opened or were about to open downtown in the last six (6) months. Mr. Hugg stated that he could not take credit for all of these businesses but this was a good sign, and he thought everyone should be positive about this and tell this story.

Discussion - Development of Policies/Procedures

Mr. Slavin advised members that he had requested that the Discussion - Development of Policies/Procedures regarding Legal Opinions and Excused Absences be added to the agenda because he has concerns and is unsure whether the City needs new procedures. He indicated that if new procedures are necessary, he would need members' help in creating them.

Legal Opinions

Mr. Slavin stated that the City currently has a practice that allows for legal opinions to be requested by anyone and that legal opinions cost money; therefore, there was an unrestricted burner going on when it comes to these costs. He explained that it is not known how much a legal opinion will cost when it is obtained, and without knowing this, there is no control on how much is spent for legal opinions. Mr. Slavin stated that in some cases, over the course of the last 10 or 20 years, legal opinions had been requested for the same matter multiple times and he expressed the desire to avoid that issue. He indicated that he wanted to open this matter for suggestions. Mr. Slavin noted that

he did not want to create a choke point and did not think that being the gatekeeper would be an appropriate role for him; however, he thought that members could do something together to make this procedure better.

Mr. Anderson stated that he agreed with Mr. Slavin on both points, noting that he did not think that members want to choke off legal opinions because many times legal opinions save money in the long run, so that huge mistakes are not made for something that would have cost $125 for an opinion. He indicated that he would like to see a library of legal opinions that is easy to access so they are not duplicated. Mr. Anderson indicated that if members question if an opinion that is 20 years old is valid, they could ask if it should be updated, and this is the approach he would use if he had this concern. He asked if this could be done through the City Clerk's Office, stating that he thought it would be nonsense to duplicate things that the City already has.

Mr. Slavin noted that the City has a body of knowledge to which access is needed; however, it is a restricted, confidential body of knowledge. He expressed the need to keep tight control over this information, stating that he did not think it would even be put on a protected intranet. Mr. Slavin indicated that a gatekeeper may be needed to take requests and suggested perhaps having the City Clerk's Office service those requests and advise whether or not there had been a previous legal opinion. Mr. Anderson asked if it would be feasible to use the City Clerk's Office as a clearinghouse for legal opinions, noting that this may possibly save on both time and money. Mr. Slavin stated that perhaps the City Clerk's Office could be called or emailed first to see if there is any precedent, and if not the request for a legal opinion would proceed.

Mr. Slavin suggested that an appropriate motion would be to ask the City Clerk's Office to come up with some procedures in this regard. He also suggested a second motion to have Mrs. Donna Mitchell, Acting City Manager, compile the City's legal costs related to legal opinions for fiscal years 2017 and 2018 so members can correlate where the requests are coming from, explaining that in addition to the nine (9) members of Council, there are also staff members who request legal opinions. He stated that the data would indicate how much of an issue the City has.

Mr. Slavin moved to recommend that Mrs. Donna Mitchell, Acting City Manager, compile the costs associated with legal opinions requested in FY 17 and year-to-date FY 18 correlated by requestor. The motion was seconded by Mr. Lindell and unanimously carried.

Mr. Hare stated his belief that members had stated some time ago that all legal opinions would be vetted through the Clerk's Office. He advised that he agreed with this process and thought that someone who obtains a legal opinion on their own which had previously been obtained should be the one to pay for the opinion.

Mr. Sudler stated that he agreed with Mr. Anderson, Mr. Slavin, and Mr. Hare and expressed his belief that this matter had been discussed previously. He indicated that he liked the idea of having the City Clerk's Office review requests for legal opinions and get back to members; however, he stated that he would like to read for himself the literature on the opinion rather than just receiving a call stating whether or not an opinion had been obtained.

Mr. Anderson moved to recommend that the City Clerk's Office develop recommended guidelines for the issue of legal opinions and the compilation of existing legal opinions. The motion was seconded by Mr. Lindell.

Mrs. Traci McDowell, City Clerk, requested clarification regarding the compilation of legal opinions. Responding, Mr. Anderson advised that he would like the City Clerk's Office to give members guidelines on a procedure for obtaining legal opinions and recommendations on establishing a compilation of existing legal opinions.

Mr. Hare stated that he agreed to a certain degree that if members need a legal opinion, they could ask the City Clerk's Office to get the information. He explained that he did not think it was necessary to have the City Clerk's Office put together a whole list of legal opinions, for example, from the last 15 years; however, if a question is raised that requires a legal opinion, the City Clerk's Office could research to determine if an opinion was previously provided and advise members of that opinion.

Responding to Mayor Christiansen, Mrs. McDowell explained that legal opinions are currently archived by title and subject and are permanent, according to the State records retention policy. She indicated that staff has all legal opinions ever obtained; therefore, making a compilation would be mind-boggling. Mrs. McDowell stated that the opinions are easy to retrieve, noting that all of the legal opinions received in paper format are stored electronically and the City Clerk's Office can search the whole database.

In response to Mr. Anderson, Mrs. McDowell advised that staff essentially has a compilation because legal opinions are filed electronically in Fortis, the City's document management system. Mr. Anderson stated that members do not need a compilation and have the City Clerk to access the opinions.

Mr. Anderson suggested that the motion be amended to recommend that the City Clerk's Office develop a recommended procedure for requesting legal opinions and, as the seconder, Mr. Lindell agreed to the amendment.

By unanimous consent, the motion was amended to recommend that the City Clerk's Office develop a recommended procedure for requesting legal opinions.

Mrs. Mitchell stated that she had compiled legal costs through most of last year and the prior year; however, it would be very time consuming to determine which of the costs related to legal opinions and which to legal services. She stated that she could provide the legal costs that had been compiled summarized by department, by whom the legal opinion was requested, and what the matter was, but not necessarily to indicate that the City Clerk had these opinions.

Mr. Slavin stated, as the maker of the motion, that what Mrs. Mitchell had compiled would meet the intent of the motion. He advised that he did not want to cause any additional work at this point, stating that he thought members had a solution that would work, and any additional data she could provide on overall legal costs would just give them a better sense of what was being spent.

Mrs. Mitchell noted that, when she became Acting City Manager, she put out a directive to department heads that everything had to be run by her. She noted that staff had managed the legal costs, which came in under budget through the end of June, rather than being over budget as in prior years.

The motion to recommend that the City Clerk's Office develop a recommended procedure for requesting legal opinions was unanimously carried.

Excused Absences

Mr. Slavin stated that this item was a housekeeping issue related to Section 13 of the City's Charter, which states that missing three (3) consecutive regular meetings by a Council member without being excused by Council calls for the removal of the member. He noted that he did not believe this provision had ever been exercised. Mr. Slavin expressed concern that, as a current practice, members notify him if they are going to miss a meeting and there is no action taken by Council to state that they are excused. He advised that he did not want to be put in this position, noting that the power to grant excuses is vested with Council as a whole, and not with the Council President. Mr. Slavin proposed that a procedure be developed that could be as simple as an email or letter sent to Council stating, "I will be missing the following meeting for the following reason," with the level of specificity to be determined by the person requesting it. He indicated that such a request would be placed on the consent agenda for the next meeting so that an action of Council would grant the excuse.

Mr. Slavin moved to recommend that the City Clerk's Office develop a procedure for Council members to request being excused for absences, with the level of specificity to be determined by the person requesting it, and that members' requests be placed on the consent agenda for the next meeting so that an action of Council grants the excuse. The motion was seconded by Mr. Sudler.

Mr. Lewis asked how "excused" would be defined and if this would apply to work-related and family-related matters. Responding, Mr. Slavin noted that this question went to the heart of the matter and it was up to Council, and not him, to define this.

Mr. Anderson stated that this item needed more discussion because certain items, such as bereavement, military service, and work conflicts, should be spelled out. He indicated that there are other reasons which may be worthy of discretion and Council's consideration, such as health issues. Mr. Anderson advised that members may need to review this and possibly develop an ordinance.

Mr. Hare stated that the motion on the floor was for members to send an email to Mrs. Traci McDowell, City Clerk, stating that they will not be attending a meeting because, for example, they have a work obligation, a sick mother, or have to go out of town. He noted that it may be a different matter if someone states they will miss the next six (6) meetings because they are going on vacation to Florida. Mr. Hare stated that he thought members were making a mountain out of a mole hill, giving a reason for not attending would be simply following the existing ordinance, and there was no need to write something into the ordinance. He noted that a member had been away for the better part of year while in the military and this absence was approved.

Mr. Slavin stated that the motion he put forward was to have the City Clerk's Office come up with recommendations. He indicated that a request may be passed through the Clerk's Office and presented to members as an excuse that meets the conditions set forth. Mr. Slavin noted that citing a person's medical excuse or illnesses on the floor would put the City in violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and he expressed the need to be careful about this. He stated that he thought it would be easy for the City Clerk's Office to put a recommendation together and that he was sure that there is some human resources language that would allow for this.

Mr. Cole stated that the more general the process is, the easier it would be to follow. He stated that when things start being listed, it becomes more cumbersome and this had occurred in his other jobs.

Mr. Neil noted that the problem was not with missing one (1) meeting but with missing three (3) consecutive meetings unless there were extenuating circumstances, such as military service. He stated that he thought the proposal would work and there should not be a problem with it. He noted that multiple absences could cause problems for constituents.

The motion to recommend that the City Clerk's Office develop a procedure for Council members to request being excused for absences, with the level of specificity to be determined by the person requesting it, and that members' requests be placed on the consent agenda for the next meeting so that an action of Council grants the excuse was unanimously carried.

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

Meeting adjourned at 7:10 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 7:11 p.m.

Timothy A. Slavin
Council President

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