REGULAR COUNCIL MEETING
AGENDA

AUGUST 22, 2016 - 7:30 P.M.

CITY HALL COUNCIL CHAMBERS
15 LOOCKERMAN PLAZA
DOVER, DELAWARE

OPEN FORUM - 15 MINUTES PRIOR TO OFFICIAL MEETING (7:15 P.M.)

THE "OPEN FORUM" SEGMENT IS PROVIDED TO EXTEND THE OPPORTUNITY TO THE GENERAL PUBLIC TO SHARE THEIR QUESTIONS, THOUGHTS, COMMENTS, CONCERNS, AND COMPLAINTS. DISCUSSION OF ANY ITEM APPEARING ON THE AGENDA AS A PUBLIC HEARING IS PROHIBITED DURING THE OPEN FORUM AS AN OPPORTUNITY WILL BE PROVIDED DURING CONSIDERATION OF THAT ITEM. CITIZEN COMMENTS ARE LIMITED TO THREE (3) MINUTES. COUNCIL IS PROHIBITED FROM TAKING ACTION SINCE THEY ARE NOT IN OFFICIAL SESSION; HOWEVER, THEY MAY SCHEDULE SUCH ITEMS AS REGULAR AGENDA ITEMS AND ACT UPON THEM IN THE FUTURE.

INVOCATION BY CHAPLAIN WALLACE DIXON

PLEDGE OF ALLEGIANCE LED BY COUNCILMAN COLE

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 AUGUST 1, 2016 - VIOLATIONS OF THE DANGEROUS BUILDING ORDINANCE**
- **B. SPECIAL COUNCIL MEETING OF AUGUST 8, 2016**
- **C. REGULAR COUNCIL MEETING OF AUGUST 8, 2016**
- **D. SPECIAL COUNCIL MEETING OF AUGUST 9, 2016**

2. COUNCIL COMMITTEE OF THE WHOLE REPORT - AUGUST 9, 2016

* **A. PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE**

(1) REVIEW OF ACTIVE RECREATION AREA PLAN - PLANNED NEIGHBORHOOD DESIGN: SENIOR CITIZEN HOUSING OPTION - THE GRANDE - 90 SAULSBURY ROAD (CLUBHOUSE AND POOL) (PLANNING REFERENCES C-15-04 AND C-16-04)

(COMMITTEE RECOMMENDED APPROVAL OF THE ACTIVE RECREATION AREA PLAN WITH THE COMMENTS AND CONDITIONS PROVIDED, AS RECOMMENDED BY STAFF)

2. COUNCIL COMMITTEE OF THE WHOLE REPORT - AUGUST 9, 2016 (CONTINUED)

*** A. PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE (CONTINUED)**

(2) PROPOSED LAND SWAP - CAPITOL BAPTIST CHURCH/MAYFAIR PARK

(COMMITTEE RECOMMENDED APPROVAL OF STAFF'S RECOMMENDATION TO AUTHORIZE THE CITY MANAGER AND OTHER CITY STAFF TO NEGOTIATE A PROPOSED LAND SWAP WHICH IS MUTUALLY BENEFICIAL TO THE PROPERTY OWNERS AND THE CITY OF DOVER, INCLUDING ANY NECESSARY RESEARCH AND LEGAL EXPENSES NECESSARY TO DETERMINE THE TERMS AND CONDITIONS OF A POTENTIAL LAND SWAP THAT INVOLVES THE PUBLIC OPEN SPACE KNOWN AS MAYFAIR PARK WITH FOUR (4) CAVEATS, AS FOLLOWS: 1) THAT STAFF WOULD COME BACK AND PRESENT AT LEAST THREE (3) ALTERNATIVES ON THE PROPOSED LAND SWAP THAT INCLUDE MAPS AND DRAWINGS; 2) THAT THERE WOULD BE COMMENTARY FROM THE PARKS AND RECREATION DEPARTMENT ON WHAT THE POTENTIAL EFFECT WOULD BE ON THE FUTURE USES OF THE PARK FOR THE LAND SWAP; 3) THAT IT WOULD INCLUDE AN ESTIMATE OF COSTS, AND A PROPOSED COST SHARING ARRANGEMENT WITH THE CHURCH WOULD BE IDENTIFIED, AND 4) THAT STAFF WAS NOT AUTHORIZED TO EXPEND ANY FUNDS AT THIS POINT WITHOUT FURTHER APPROVAL)

(3) PROPOSED MURAL - KIRKWOOD/DIVISION STREET PARK

(COMMITTEE RECOMMENDED ACCEPTANCE OF THE PROPOSAL TO ALLOW THE RESTORING CENTRAL DOVER RESIDENT ENGAGEMENT WORK GROUP TO INSTALL A WOOD PANEL FENCE AS PROPOSED, AND PAINT A MURAL, AS RECOMMENDED BY STAFF)

(4) UPDATE-RESIDENTIAL APPEAL PROCESS AND NON-COMPLIANT/ NON-CONFORMING USES/REVIEW OF PHYSICAL DATA (53% COMPLETED)

(COMMITTEE RECOMMENDED PROVIDING SOME DIRECTION FOR MRS. TOWNSHEND AND THAT ANY EXISTING BUSINESS NOT BE UNDULY AFFECTED BY A POTENTIAL REZONING SO THAT THE APPLICATION FEE WOULD BE WAIVED AND THE PUBLIC NOTICE REQUIREMENT WOULD BE CONDUCTED BY THE PLANNING OFFICE)

(5) REVIEW OF NEW CASTLE COUNTY DISORDERLY PREMISES ORDINANCE

(COMMITTEE DEFERRED DUE TO TIME CONSTRAINTS)

(6) DISCUSSION OF SURVEY RESULTS REGARDING PROGRAMS, ACTIVITIES, AND NEW BUILDING AT DOVER PARK

(COMMITTEE DEFERRED DUE TO TIME CONSTRAINTS)

(7) COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM QUARTERLY UPDATE (APRIL, MAY, AND JUNE)

(COMMITTEE DEFERRED DUE TO TIME CONSTRAINTS)

*** B. LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE**

(1) DISPOSAL OF EXCESS PROPERTY

(A) SILVER LAKE DRIVE (EAST LAKE GARDENS)

(COMMITTEE TABLED THIS MATTER PENDING VERIFICATION OF THE DEED PROVIDED)

(B) 106 AND 110 SOUTH NEW STREET - OFFER FROM NCALL RESEARCH, INC.

(COMMITTEE RECOMMENDED THE FOLLOWING: 1) DETERMINING THAT THESE PROPERTIES ARE EXCESS PROPERTIES; AND 2) AUTHORIZING THE CITY MANAGER TO COMPLETE A FINAL AGREEMENT OF SALE TO NCALL RESEARCH, INC. FOR $10,000 PER PROPERTY)

2. COUNCIL COMMITTEE OF THE WHOLE REPORT - AUGUST 9, 2016 (CONTINUED)

*** B. LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE (CONTINUED)**

(2) CONSULTING SERVICES FOR ENTERPRISE RESOURCE PLANNING (ERP) TECHNOLOGY UPGRADES

(COMMITTEE RECOMMENDED AUTHORIZING THE CONTROLLER/TREASURER TO ENTER INTO A CONTRACT WITH BARRY DUNN MCNEIL & PARKER, LLC (BARRY DUNN) FOR PHASE I OF AN ERP NEEDS ASSESSMENT, SOFTWARE DEVELOPMENT, VENDOR SELECTION, AND CONTRACT NEGOTIATIONS, AS RECOMMENDED BY STAFF)

C. UTILITY COMMITTEE

(1) REQUEST FOR STREET ABANDONMENT (IMPROVED) - TOPAZ CIRCLE STUB STREET/ADOPTION OF RESOLUTION NO. 2016-08 SETTING A PUBLIC HEARING FOR SEPTEMBER 12, 2016 AT 7:30 P.M.

(COMMITTEE RECOMMENDED MOVING FORWARD WITH THE ABANDONMENT OF THE TOPAZ CIRCLE STUB STREET, TAKING INTO CONSIDERATION THE REQUEST TO FOLLOW THE ACTIONS LISTED IN STAFF'S RECOMMENDATIONS THAT THE ABANDONMENT BE CONDITIONAL UPON UTILITY EASEMENTS AND THAT COUNCIL ADOPT A RESOLUTION SETTING A PUBLIC HEARING REGARDING THE PROPOSED ABANDONMENT FOR SEPTEMBER 12, 2016)

*** (2) ELECTRIC DEPARTMENT FEDERAL REGULATORY AUDIT REPORT (INFORMATIONAL ONLY)**

(COMMITTEE ACTION NOT REQUIRED)

*** (3) QUARTERLY REVIEW OF UTILITY RELATED CAPITAL INVESTMENT PLAN (CIP) (ELECTRIC AND WATER/WASTEWATER) (**APRIL, MAY, AND JUNE) (PRE-AUDIT)

(COMMITTEE ACTION NOT REQUIRED)

3. EVALUATION OF BIDS

A. EAST WATER STREET BRICK PROJECT (SIDEWALK REPLACEMENT ADJACENT TO CHRIST CHURCH)

(STAFF RECOMMENDS AWARDING THE CONTRACT TO SAM'S CONSTRUCTION LLC FOR THE EAST WATER STREET BRICK PROJECT, BID #17-0001PW, FOR THE AMOUNT OF $80,700.00)

B. SOUTH NEW STREET WATER MAIN REPLACEMENT

(STAFF RECOMMENDS AWARDING THE CONTRACT TO TEAL CONSTRUCTION, INC. FOR THE CITY OF DOVER NEW STREET WATER MAIN REPLACEMENT PROJECT, BID #17-0002PW, FOR THE AMOUNT OF $292,500.00)

C. MALLARD POND MULTI-USE PATH

(STAFF RECOMMENDS AWARDING A UNIT PRICE CONTRACT, BASED UPON BID #17-0003PW, FOR THE MALLARD POND MULTI USE PATH TO DIAMOND MATERIALS LLC BASED ON THE WITHOUT PREVAILING WAGE UNIT PRICES FOR EACH WORK ITEM SUBMITTED. WORK WILL BE PERFORMED IN STRICT ACCORDANCE TO THE BID SPECIFICATIONS)

D. MCKEE RUN UNIT 3 STACK REPAIRS

(STAFF RECOMMENDS APPROVING AWARD OF CONTRACT TO NAES POWER CONTRACTORS - CHIMNEY DIVISION IN THE AMOUNT OF $223,852.00. MCKEE RUN UNIT 3 STACK REPAIRS ARE TO BEGIN ON OCTOBER 3, 2016 AND BE COMPLETED ON OR BEFORE NOVEMBER 16, 2016)

4. **ADDITIONAL APPOINTMENT TO THE ECONOMIC DEVELOPMENT COMMITTEE - CHAIR OF THE UTILITY COMMITTEE**

   (COMMITTEE RECOMMENDED THE APPOINTMENT OF THE CHAIR OF THE UTILITY COMMITTEE TO SERVE ON THE ECONOMIC DEVELOPMENT COMMITTEE)

5. **PROPOSED RESOLUTION NO. 2016-09 FORMALLY ESTABLISHING THE ECONOMIC DEVELOPMENT COMMITTEE**

   (ECONOMIC DEVELOPMENT COMMITTEE RECOMMENDED ADOPTION OF THE RESOLUTION)

6. **CLARIFICATION OF COUNCIL ACTION OF AUGUST 8, 2016 - PROPOSAL FOR DOVER PUBLIC LIBRARY TO ADOPT A SMOKE-FREE POLICY**

7. **FINAL READING - PROPOSED ORDINANCE #2016-19 WITH COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE AMENDMENT #1 (CCW/LF&A #1)**

   THE FIRST READING OF THE PROPOSED ORDINANCE WAS ACCOMPLISHED DURING THE COUNCIL MEETING OF AUGUST 8, 2016. THE ORDINANCE IS AVAILABLE AT THE ENTRANCE OF THE COUNCIL CHAMBERS OR ON THE CITY'S WEBSITE AT WWW.CITYOFDOVER.COM UNDER "GOVERNMENT."

   A. **PROPOSED ORDINANCE #2016-19 WITH CCW/LF&A#1 AMENDING CHAPTER 22 - BUILDINGS AND BUILDING REGULATIONS; CHAPTER 46 - FIRE PREVENTION AND PROTECTION; AND CHAPTER 50 - FLOODS (CONSOLIDATION OF CONSTRUCTION CODE APPEALS COMMITTEE AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS)**

8. **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 August 1, 2016 at 6:00 p.m. with Council President Slavin presiding. Council members present were Mr. Anderson (arrived at 6:05 p.m.), Mr. Sudler (arrived at 6:02 p.m. and departed at 7:48 p.m.), Mr. Neil, Mr. Lewis, Mr. Hosfelt, Mr. Hare, and Mr. Hutchison (arrived at 6:12 p.m.). Mr. Cole was absent.

Council staff members present were Mr. Koenig, Mrs. Townshend, Deputy City Solicitor Pepper, and Mrs. McDowell. Mayor Christiansen was also present (departed at 6:35 p.m.).

ADOPTION OF AGENDA

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

PUBLIC HEARINGS - VIOLATIONS OF THE DANGEROUS BUILDING ORDINANCE

Council President Slavin advised members that staff recommended: 1) declaring these buildings and all accessory structures on these properties dangerous; 2) ordering the properties demolished by September 1, 2016 by the owners or equity owners at their own risk; 3) ordering the Building Inspector to cause the demolition of the structures if not completed by the owners within 10 days of the date established by City Council; and 4) ordering the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the lands on which the buildings exist as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owners.

Mr. Slavin advised that this was the final step in a long process for these properties. He noted that the vast majority of property owners in the City of Dover never present such problems and, of those that do, the vast majority never let the issues get close to this level. Mr. Slavin indicated that this would be the last moment for these properties and, while he held firmly to the authority that Council has over such issues, he cautioned members of the need to be careful not to vacate the many hours that staff had put into these issues. He stated that in doing so, Council would undermine staff and send signals to problem property owners that they can just wait things out and get a reprieve from Council at the last minute. Mr. Slavin expressed the need to balance these considerations against what members would hear, noting that there are often compelling arguments to take into account with these issues.

Property Located at 139 Mitscher Road, Owned by Kathy G. Antoniou

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 139 Mitscher Road, owned by Kathy G. Antoniou. Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that there had been six (6) code enforcement cases on the property since 2013, including dilapidated building, abandoned vehicles, and a variety of exterior violations, and the utilities were terminated on July 29, 2015. She indicated that the property was originally registered as vacant in February 2013 and then condemned in May 2015 due to structural damage to the roof. Mrs. Townshend noted that there were outstanding charges of $601.14, $250 of which were the vacant building fee, which was unpaid and had been billed through the tax system.

Mrs. Townshend explained that the property was purchased on October 22, 2015 and the new owner intended to make repairs to the roof. Staff was preparing to bring this property forward with other

dangerous buildings last fall; however, when the property was transferred, staff allowed more time for repair. Mrs. Townshend indicated that a building permit was issued in November and a stop work order was placed on the structure due to work being done that was beyond the scope of the permit. She advised that updated building plans were required in order for staff to issue a permit. Mrs. Townshend noted that no further contact had transpired with the owner and no work had been done. She noted that the structure was completely missing the roof with all of its components and there were no ceilings. Because there was no roof, everything on the inside was deteriorating from water damage, and mold and mildew was present. Mrs. Townshend indicated that the property was in very serious condition and, under the definitions in the code, staff was bringing the property forward as unfit for habitation, general welfare, and code violations, noting that it was also an unoccupied building.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #1)***.

Noting that the building was completely open and unsecured, Mr. Anderson stated that he was surprised that this was not an emergency case and questioned if September 1, 2016 would be too long. Responding, Mrs. Townshend noted that it was a masonry structure and indicated that staff was comfortable with this date.

Mr. Lewis concurred with staff's recommendation and questioned if the City would have a problem recouping funds if the property owner did not pay for demolition. Responding, Mrs. Townshend stated, based on the degree of deterioration, that she expected this demolition would not be as expensive as others. She anticipated asbestos costs to be lower since this property had no roof, noting that asbestos is often found in roofing materials. Mrs. Townshend explained that the City would bill for the demolition and place a lien on the property. If it is not paid, it would go on the taxes and the property would eventually be sold at a sheriff's sale. Mrs. Townshend advised that all of the costs are not always recovered because demolitions are sometimes expensive; however, she expected to recover most of the City's expenses in this case. She explained that if there are no bids at a sheriff's sale, the City typically bids on a property and the City then owns the asset and works to transfer it.

Referring to Page 6 of the presentation, Mr. Sudler expressed concern about the A-frame on the sides of the building, stating that there was no top plate fastened to it and the top seal was rotting. He felt that the building could just collapse in and agreed with Mr. Anderson that this should be an emergency matter, noting that it could collapse when there may be a child or someone else in the area. Mr. Sudler pointed out that there were no rafters or ridge holding it and the wood and beams were deteriorating. The structure was leaning and he felt that a strong wind or good rain could move it off the top seal, causing it to collapse. Mr. Sudler thought that Council should consider more expedient action.

Mrs. Townshend explained that the emergency provision allows staff to bring a matter to Council faster and without the degree of notice. She did not see anything in the code that specifically stated that Council was required to give 30 days, noting that they could provide a week or act immediately. Mrs. Townshend indicated that it would take staff a little time to get the demolition specifications out.

Stating that the City would obviously be tearing the building down, Mr. Hare questioned whether consideration should be given to leaving the accessory structure in tact, noting that it appeared to be almost brand new and was in better shape than the house. He felt that, if the City ends up owning the property, it could be an enticement for someone interested in buying the property. Responding, Mrs. Townshend advised that she would have no objection to leaving the accessory structure.

In response to Mr. Sudler, Mr. Timothy Taraila, Chief Code Enforcement Officer, advised that there were two (2) accessory structures. Mr. Hare noted that the second accessory structure appeared to be in good condition and Mr. Sudler concurred.

In response to Mrs. Townshend, Mr. Taraila advised that he had not been inside the accessory structures. Mr. Hare suggested that the accessory structures remain, if they are in good condition, as they might be an enticement for someone to buy the property.

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

Mr. Sudler moved to demolish the unit within 10 days, seconded by Mr. Anderson.

Mr. Slavin questioned if Mr. Sudler wished to clarify the motion to allow for staff discretion on the accessory buildings. Responding, Mr. Sudler stated his intent that the two (2) accessory buildings not be included in the demolition and would continue to stand if staff determines that they are sound structures.

Noting that Mr. Anderson and Mr. Sudler felt this was an emergency situation, Mr. Lewis requested clarification on the time frame to demolish the building.

Mr. Slavin clarified that the motion was to accept the recommendation of staff for demolition; however, to set the date 10 days from today and also to leave to staff whether the accessory structures stay or go.

In response to Mr. Lewis, Mr. Pepper stated that the motion was for 10 days but it did not have to be 10 days. He advised that Council was only restricted in the pragmatic sense that it takes some time to get the findings of fact and paperwork done and, if the City were to do the demolition, to bid this out. Mr. Pepper confirmed that the Council would be legally within its rights to set a time for 10 days.

Mr. Hare noted that they would be giving the homeowner 10 days to take the building down on their own and, if they did not, the City would take it down.

The motion to accept staff's recommendation to: 1) declare this building on this property dangerous, and to defer to the judgment of staff whether the accessory structures are sound and could remain; 2) order the property demolished by August 11, 2016 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of

demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner was unanimously carried.

Property Located at 126 North Ann Avenue, Owned by Musikami Bishogo

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that this property had been considered by Council previously when owned by a different party. After Council took action, the property was transferred and repairs started. She indicated that there have been 23 code enforcement cases for this property since 2011, including a number of abandoned and unregistered vehicles, junk and debris in the yard, numerous grass violations, broken windows, deteriorated siding and gutters, and work occurring on the building without a permit. Mrs. Townshend stated that the utilities were terminated in October 2010, the building was registered as vacant in May 2011, and transferred to the new owner in April 2013. Mrs. Townshend indicated that $1,500 was currently owed in outstanding taxes, noting that $965 of this amount was vacant building charges that had been billed through the tax system and $250 was owed in grass cutting charges.

Mrs. Townshend informed members that the property was currently scheduled for sheriff's sale. She noted that a renovation permit issued in 2012 had been extended numerous times; however, an inspection of the work was never scheduled. Mrs. Townshend indicated that there were expired plumbing and mechanical permits from 2015, also without inspections. She stated that the front gutter was missing, there were tall grass and weeds, and the property had been the subject of a fire a number of years ago. Mrs. Townshend advised that the property was unfit for habitation and met the definitions of general welfare, code violations, and unoccupied buildings.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #2)***.

Council President Slavin declared the public hearing open.

Mr. Steven Smith, Baird Mandalas Brockstedt, LLC, informed members that he was speaking on behalf of the mortgage holder, Ms. Tamika Workmon. He stated that this property had been through quite a bit, noting that Mr. Jesse Workmon, Ms. Workmon's father, had been the owner in 2010 until 2013. Since then, it was sold to Mr. Musikami Bishogo, the current owner, and the property had not been kept up. Mr. Smith advised that, unfortunately, neither Mr. Workmon nor Ms. Workmon were in a position to care for the property between 2013 and the present. He stated that, although it appeared to staff that nothing had been done, from their perspective many things had been done. Mr. Smith indicated that Mr. Workmon passed in early 2015 and Ms. Workmon had been his executrix and heir. Mr. Smith advised that the Workmon's sued Mr. Bishogo in an attempt to either recover the money that he owed them in return for the property that was transferred to him or cause him to transfer the property back to them so they could make it productive again. Mr. Smith informed members that they had not been sitting idly by. In May 2015, they filed with the Justice of the Peace Court and obtained a judgment in the amount of $13,000, despite Mr. Bishogo's vigorous defense, multiple motions to vacate, and multiple return trips to court. He explained that before they could attempt to get the property, that judgment had to be transferred to Superior Court. This was done in early 2016, and they were now finally scheduled for a sheriff's sale on the mortgage on September 1, 2016.

Mr. Smith advised that it had been a long process for them and a longer process for the City. He stated that although he could not justify the condition that the property was in, he could say that his client had already advanced substantial funds, paying him both to pursue Mr. Bishogo and to get control of the property. Mr. Smith indicated that when he gave her what was estimated to be a $50,000 repair bill make the property habitable, Ms. Workmon did not indicate that the amount would be problematic. He explained that she had requested him to relay that she lives in California and it would be difficult for her to travel here; however, she would be present for the sheriff's sale on September 1st and would be happy to accompany the inspectors to the property while she is here from September 2 to September 6, 2016 to evaluate the necessary repairs. Mr. Smith stated that Ms. Workmon wants to repair the property and make it part of the community again.

Mr. Smith expressed their regret about what had happened to the property under the care of Mr. Bishogo, stating that they had done everything they could to compel him to take responsibility for the promises he made to them, and it appeared that he did not make good on his promises to the City either. Mr. Smith requested that the property not be condemned immediately and that they be given a chance, noting that this had been waiting since 2010. Referring to the 23 violations mentioned on the property, he noted that some of them belonged to Mr. Workmon, who was a man in failing health. Mr. Smith expressed his belief that Ms. Workmon was much more vigorous at her age than Mr. Workmon was at his age. He requested additional time for them to come up with a plan to redevelop this property and get it into working order again.

Responding to Mr. Anderson regarding how much time was needed, Mr. Smith explained that one of the great difficulties was that, being a mortgage holder, he cannot go into the property and tell members what it looks like. He advised that he had seen photos that day, which were helpful; however, they were a poor substitute for having an expert on scene to say what is really wrong. Mr. Smith indicated that they would have no problem putting a plan together within a month from when they get into the building; however, how much time that work would take would depend on what they hear. He stated that it was obviously in their best interest to get this done promptly, noting that it did not make any sense for them to have an unproductive property.

In response to Mr. Sudler, Mr. Smith stated that the property owner was Mr. Musikami Bishogo, who was not present at the meeting but whom Mr. Smith had met on several previous occasions. Mr. Smith explained that he continues to be the representative of the note holder, which is the bank. He advised that the bank in this case was also the prior title holder because they represented Mr. Workmon, who passed on after transferring it to Mr. Bishogo. Mr. Smith advised that they now represent Ms. Workmon in finalizing the affairs of her father, so they were with the bank and also the family.

Responding to Mr. Sudler, Mr. Smith stated that they cannot currently enter the unit and until they have access, they cannot have a contractor inspect the unit to estimate the cost.

In response to Mr. Sudler regarding when access was expected, Mr. Smith informed members that being the winning bidder at a sheriff's sale does not mean that one can immediately enter the property; although this can occur. He stated that, generally speaking, it takes a period of time to prepare a deed and have the sheriff sign off on the deed. Mr. Smith advised that once the deed is prepared, signed, and recorded, there can be no question about their rights. He estimated that doing

this legally would take a good 30 days, noting that there would still be the possibility of the Superior Court setting aside the sheriff's sale if there was an inadequate bid. Mr. Smith indicated that he did not expect that to happen in this case, given the overall value of the property, but this was a theoretical possibility. Mr. Smith advised that another theoretical possibility would be Mr. Bishogo declaring bankruptcy before the September 1st sale date, noting that if this happened, the automatic stay would drop and they would be stuck again until they got relief from the automatic stay. Mr. Smith stated that these would be a lot of down sides for the City and his client. He noted that the City would be forced to go in and demolish the structure with the hope of recovering demolition charges, back taxes, and lawn mowing charges on a fresh sale, and he felt that their chances of getting this done as a private citizen might be a little better than the City's.

In response to Mr. Hutchison regarding liens on the property, Mr. Smith stated that he was only aware of their lien and the City's lien. Mrs. Townshend advised that there was also a Kent County tax lien. Responding to Mr. Hutchison regarding the total sum, Mr. Smith stated that their total was $13,000. Mrs. Townshend advised that the City's fees were $1,500; however, she did not have the amount for the County. Responding, Mr. Smith stated his understanding that the County's amount was smaller than the City's.

There being no one else present wishing to speak, Mr. Slavin declared the public hearing closed.

Mr. Hare moved for approval of staff's recommendation for the demolition of the property but to hold the demolition until November 1, 2016, contingent upon the issuance of a certificate of occupancy. Absent those items, the item would not come back to Council but would go forward on the November 1, 2016 action. The motion was seconded by Mr. Sudler.

Mr. Anderson questioned if this would be left to staff's discretion. He felt that a certificate of occupancy seemed highly unlikely because the work would have to be done, in addition to the other things that must be done for a certificate of occupancy, including inspections, etc. Mr. Anderson questioned if the maker of the motion would be open to stating that the work must be completed, as is usually done.

Mr. Sudler stated his belief that, in this situation, all of the work would be approved because there would be a need to get the permit from code enforcement, and staff would then have to do all of the inspections, which would lead up to a certificate of occupancy.

Mrs. Townshend questioned if Mr. Anderson's concern was that this time frame would not provide adequate time to get the certificate of occupancy, since they would not have possession until October 1, 2016. Responding, Mr. Anderson stated that he felt that a certificate of occupancy was a high bar because it would mean that the property must be ready to move in.

Mrs. Townshend explained that a certificate of occupancy is the documentation that a property meets full compliance with the codes and is ready to be occupied. In response to Mr. Sudler, she confirmed that this is when staff inspects a property and states that everything passes and someone can move in.

Mr. Hare stated that, with staff's discretion, he would extend it until March 1, 2017, noting that they would not have the property until October 1, 2016.

Mrs. Townshend questioned if it would be preferable to modify the motion to make it contingent upon the mortgage holder acquiring the property, noting that deference was being given to the mortgage holder. In response, Mr. Hare stated that he preferred to give deference to whoever gets the property. He stated that the mortgage holder would have until March 1, 2017, as would the purchaser at the sheriff's sale, and this information could be relayed at the sheriff's sale.

Referring to Mr. Anderson's comment about a very high bar, Mr. Slavin expressed concern about a very low bar, which would require the residents in that neighborhood to wait until March 1, 2017 for action to take place on a building which staff had already recommended for demolition. He felt that all the add-ons, dates, and everything else that had to be tracked would be complicated. Mr. Slavin indicated that he would support deferring this matter until the next quarterly meeting for an update on the legal status. He indicated that it did not give him great comfort that the person who spoke against demolition was not the property owner. Not wishing to offend Mr. Smith, Mr. Slavin noted that Mr. Smith was not the property owner and there was no guarantee that the property owner would take action or that the property would change hands to the mortgage holder. He believed that members would know who legally owns the property in 90 days.

Mr. Hare withdrew the motion to approve staff's recommendation for the demolition of the property but to hold the demolition until November 1, 2016, contingent upon the issuance of a certificate of occupancy, and that, absent those items, the item would not come back to Council but go forward on the November 1, 2016 action. Mr. Sudler concurred with the withdrawal.

Mr. Neil reminded members that one of staff's concerns had been promises that are made and never kept. He liked the idea of telling the property owner it must be done by November 1, 2016, believing that this would send the owner a sense of urgency.

Mr. Hare explained that he had not been aware that whoever bought it would not have it until October 1, 2016 and he felt that 30 days was probably not enough time.

Mrs. Townshend advised that Council President Slavin's suggestion to defer would allow for consideration at a November meeting. This would give time for the sheriff's sale and a new owner and, at that point, a building permit should be in hand. Mrs. Townshend advised that if Council wished to defer action, there would be more information by November 1, 2016.

Mr. Anderson moved to defer this item until the Special Council Meeting of November 7, 2016, seconded by Mr. Hosfelt and unanimously carried.

Property Located at 941 Lincoln Street, Owned by Joe W. Burden, Jr.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised that this property was owned by Dr. Joe W. Burden, Jr., and there had been nine (9) code enforcement cases on the property since 2014, including exterior code violations, a dilapidated shed which had been removed, a number of grass violations, and interior violations. She advised that utilities were terminated in September 2014 and the property was registered as vacant in April 2015.

Mrs. Townshend explained that complaints had been received from people within the community and this property had been reviewed during a walkthrough of Lincoln Park. She advised that the property was condemned as unfit for human habitation on September 11, 2014 due to a number of outstanding code violations and an active renovation permit for the property was currently under review.

Mrs. Townshend indicated that an inspection was done on July 5th or 6th by a City inspector, along with Mr. Greg Scott, a structural engineer with Scott Engineering, Inc. Based on the deficiencies found in that inspection, an inspection report was issued and a permit application was submitted. Mrs. Townshend explained that the permit could not be reviewed because of the "clean hands" ordinance and a clean hands letter was issued on July 20, 2016. Because it was a dangerous building, payment of the charges due against that specific property was required, rather than payment of charges due for all properties owned by the owner. Mrs. Townshend noted that payment was received on Friday, July 29, 2016, and, as of that afternoon, staff was awaiting one (1) remaining sign-off before the permit could be issued. She advised that there was deteriorated fascia and barge board, as well as mold and mildew in the basement, missing interior doors, and damaged interior and exterior doors. Mrs. Townshend stated that the girder header in the basement stairs needed to be replaced, smoke detectors were missing, there were loose or weak floors throughout, an electrical inspection was needed before it could be re-occupied, and there was also standing water in the basement. She advised that the property was being brought forward under the definition of the dangerous buildings ordinance, unfit for habitation, general welfare, code violations, and unoccupied buildings.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #3)***.

Mrs. Townshend explained that a meeting was held on July 22, 2016 that included Councilmen Sudler and Hare; Mr. Scott Koenig, City Manager; Mr. Timothy Taraila, Chief Code Enforcement Officer; Mr. William Pepper, Deputy City Solicitor; Dr. Burden; and herself. She stated that Dr. Burden would like an opportunity to make the repairs and was advised that this would be brought forward to Council during the current meeting. Mrs. Townshend indicated that staff had some reservations because other such buildings had come forward before, noting that Council acted on 742 Slaughter Street last year and now, a year later, the repairs were not quite finished and the property was close to, but not quite, where it needed to be.

Referring to Page 21 of the presentation, Mr. Sudler questioned if the photo was from the basement and if it depicted the girder beam for the floor. Mrs. Townshend confirmed that it was. Mr. Sudler asked if the structural engineering report addressed the girder. Responding, Mrs. Townshend stated that the report did address the girder and that the permit application related to this issue. She stated that these repairs would be subject to inspection, as per the requirements of the report.

Mr. Sudler asked if staff's recommendation reflected the conversation from the July 22, 2016 meeting that Mrs. Townshend referenced. Responding, Mrs. Townshend advised that staff's recommendation was demolition for all of the buildings coming forward in the time frame specified; however, she stated her understanding that Mr. Hare was prepared to make a motion to alter that to provide time for repair.

In response to Mr. Hosfelt, Mrs. Townshend stated that she did not believe that money was owed on this property or that there were any outstanding grass charges. She noted that a vacant building fee had been paid in order for staff to review the permit. Mrs. Townshend confirmed that this was one of the properties that was pointed out by neighbors when a walkthrough of Lincoln Park was conducted. Mr. Hosfelt advised that the walkthrough occurred almost exactly a year ago during the first week in August 2015.

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

Mr. Hare informed members that, during the meeting referenced by Mrs. Townshend, he told Dr. Burden that the City would put a stay on the demolition until November 1, 2016. If the certificate of occupancy was not obtained by November 1, 2016, the demolition would go forward without coming back to Council. Mr. Hare advised Dr. Burden that he did not care if it was 80% complete, if there was no certificate of occupancy, the building would be torn down.

Mr. Hare moved to accept staff's recommendation to demolish the building, but put a stay on the demolition until November 1, 2016. If Dr. Burden does not have a certificate of occupancy by November 1, 2016, the demolition would go forward and would not come back to Council for approval. The motion was seconded by Mr. Sudler.

Mr. Lewis stated that this had been an ongoing issue, and he concurred with staff's recommendation that it be demolished on the date they indicated. He agreed with this part of Mr. Hare's motion, but could not agree with giving this owner an extension because this issue had been ongoing and the City had dealt with Dr. Burden repeatedly in the past.

Mr. Hosfelt noted that the owner of the building was not even present to speak to it, and his history was known. Mr. Hosfelt stated that members were kidding themselves to think that this would be done by November 1, 2016. He indicated that he sided with Mr. Lewis and with staff on this issue and favored moving forward, the sooner the better.

Mr. Hare did not disagree with Councilmen Hosfelt and Lewis; however, he explained that this matter was put very succinctly to Dr. Burden and he had asked for Dr. Burden's word. Mr. Hare advised Dr. Burden that he did not care if the building was 80% completed, if there was no certificate of occupancy by November 1, 2016, the building would go down. He noted that the matter would not come back to Council and members would never hear of this again since there would either be a certificate of occupancy or the building would be torn down.

Mr. Neil agreed with his colleagues that Dr. Burden had not come through; however, he noted that Councilman Hare met with Dr. Burden as part of a group. Mr. Neil expressed his opinion that when you give your word that you are going to do something, you have to follow through and cannot change your word. Mr. Neil indicated that he would support the motion and vote for it, although he felt that Dr. Burden had done the City a great disservice.

Mr. Slavin agreed with Councilman Neil. He indicated that he did not intend to vote in favor of the motion because he never wanted to put Council in the position where his word would have to

become the word of the other people in the room, stating that he was a little wary of a deal that was cut, not in a bad way.

Mr. Hare clarified that there was never a deal; however, it was said that this would be presented to Council. Mr. Sudler also clarified that there was never a deal, only that Dr. Burden gave his word to those present at the July 22, 2016 meeting, but they did not give him their word. Mr. Sudler advised that Dr. Burden was told what could be proposed and that it may or may not occur. Mr. Sudler noted that Dr. Burden gave his word on what he would do, and it would be fine if Council voted another way. Mr. Sudler agreed with Mr. Slavin; however, he indicated that other scenarios and circumstances were discussed during the July 22, 2016 meeting that were not discussed during this hearing. Mr. Sudler felt a lot of it had to do with the fact that Dr. Burden did not know that he had to meet certain requirements to get the permit and he had applied for the permit two (2) weeks prior.

Mr. Hare noted that an inspection was done on July 6, 2016 and Dr. Burden was told it was okay. When he went to get the permit, he was told he could not get the permit because of clean hands, which was stated in a letter. Mr. Hare noted that the inspection report had nothing to do with the letter and that Dr. Burden had indicated that he was going to take care of everything; however, there was still one (1) thing he had not taken care of.

Mrs. Townshend explained that an inspection was performed on July 6, 2016, and the inspection report was part of the code enforcement documents that were available at the July 22, 2016 meeting. The permit application was received on July 7, 2016, and staff went through it and did a clean hands check. Staff had to wait for Mrs. Townshend to return to review this information, because they needed direction on a number of charges and requirements. She noted that there would have been more requirements if the building was not in a dangerous building situation. Mrs. Townshend indicated that staff has 10 business days from the date of application to do a clean hands letter, and it was done within that time.

Mr. Hare noted that those present in the July 22, 2016 meeting read the letter that was received and the permit was denied based on clean hands rather than an inspection. Mrs. Townshend advised that there was a separate letter that documented deficiencies in the structure.

Mr. Sudler felt that Dr. Burden's biggest concern was the two-week delay and that it took so long for the Planning Department to tell him what needed to be done. Mr. Sudler believed that most people do not know what clean hands means and that Dr. Burden was frustrated because he did not know what he needed to pay. Mr. Sudler suggested, when Mrs. Townshend is away in the future, that there be someone in command who could move things forward to avoid being blindsided in situations like this.

Mr. Hare stated that this property and the next property being considered would not be coming back to Council. He stated that Dr. Burden had other properties that would be coming forward, noting that he would not be surprised if there were two (2) or three (3) more properties considered in November. Mr. Hare felt the action taken tonight would be setting up for these other properties. He indicated that if these two (2) properties are not taken care of by November 1, 2016, then Dr. Burden

would not be able to say a word. Mr. Hare stated that Dr. Burden had mentioned something about probate, and that this was the home that Dr. Burden grew up in.

Mrs. Townshend stated that staff had checked with the Kent County Recorder of Wills and the estate was settled in January 2016, so probate was not an issue. She explained that because of the number of properties and the amount of charges, it took staff time to get the charges together. Mrs. Townshend stated that she then reviewed everything with staff, noting that there was not a great delay. She stated that Dr. Burden had received rental and other permits before and was well aware that permits cannot be issued when there are outstanding charges against a property. Mrs. Townshend stated that she did not believe it was correct to say that Dr. Burden was caught off guard by the charges that were due or had to be taken care of before the permits were issued.

Mr. Hutchison stated that he would like Dr. Burden to provide a detailed analysis of what must be done to bring the property at 941 Lincoln Street up to code and the time schedule. If members were looking at a 90-day grace period, he wanted to know how much would be done in the next 30, 60, and 90 days rather than waiting 90 days to find out that nothing had been done. Mr. Hutchison expressed the need to get it done now, and to provide a month to month schedule so members could see something moving forward toward accomplishing the goal.

Mr. Lewis stated, for the record, that he had reservations about giving this property owner an extension because the City had been down this road before. He informed members that, no matter how he voted, he wanted the record to reflect that he concurred wholeheartedly with staff's recommendation.

Responding to Mr. Hutchison, Mr. Hare stated that a structural engineer had started doing minimal work. Although a report could be requested; Mr. Hare felt it might be difficult to obtain. He indicated that the report would be irrelevant on November 1, 2016 since, if there was no certificate of occupancy at that time, the building would come down whether or not a report was provided.

Mr. Sudler asked if Dr. Burden was provided a detailed list of what needed to be paid. In response, Mrs. Townshend explained that the clean hands letter states exactly what needs to be paid and if it is specific to these properties. Mr. Sudler stated that he looked at the letter, which stated that there would be 10 days to appeal clean hands, but he did not see specifics about what needed to be paid. To his recollection, there were more than one (1) or two (2) items that needed to be paid on this property.

Mrs. Townshend advised that Mr. Taraila had worked on the letter and asked if members wanted to address the contents of the clean hands letter. Responding, Mr. Sudler stated that he would like to review the two (2) letters.

Mr. Slavin stated that he had heard no compelling arguments about why Council should not take staff recommendations, noting that there was a problem landlord who continued to come back with excuses on why he did not want to make his properties clean. Mr. Slavin noted that there had been no illness or legal struggle and nothing other than Dr. Burden's unwillingness to comply. Mr. Slavin questioned what benefit there would be to the City in going against staff's recommendation and giving additional time, noting that he had heard no benefit and believed that it would work against the City and the message that members were trying to send to these landlords.

Mr. Hare stated that the benefit related to not just these two (2) properties but every property that Dr. Burden owns. If these two (2) properties were not brought up to code by November 1, 2016, demolition would proceed. Mr. Hare explained that these two (2) properties were only a small portion of the properties Dr. Burden owns. If Dr. Burden had two (2) certificates of occupancy on November 1, 2016, Mr. Hare felt this might indicate that he had turned over a new leaf. If not, on November 1, 2016 there would be two (2) more properties to consider.

Mr. Slavin requested a two-minute recess so that Mr. Taraila could retrieve the letters.

By unanimous consent, the meeting recessed at 7:00 p.m.

By unanimous consent, the meeting reconvened at 7:02 p.m.

Mrs. Townshend read into the record correspondence from Mrs. Kristen Mullaney, Licensing and Permitting Supervisor, dated July 20, 2016 ***(Exhibit #4)***. In response to Mr. Sudler, Mrs.Townshend advised that this letter was sent out on July 20, 2016.

Noting that Dr. Burden was present, Mr. Sudler questioned if Council should hear from him.

In response to Mr. Slavin, Deputy City Solicitor Pepper stated that reopening the public hearing would be at the pleasure of Council. Mr. Slavin moved to reopen the public hearing. The motion failed for lack of a second.

Mr. Slavin advised that the motion *before members was to accept staff's recommendation and to issue a stay until November 1, 2016, contingent upon issuance of a certificate of occupancy. The motion failed by a roll call vote of four (4) yes (Anderson, Sudler, Hare, and Hutchison), four (4) no (Neil, Lewis, Hosfelt, and Slavin), and one (1) absent (Cole).

Mr. Anderson moved that the property at 941 Lincoln Street be repaired or demolished within 30 days, seconded by Mr. Sudler.

In response to Mr. Slavin, Mrs. Townshend advised that staff's recommendation was to demolish.

Mr. Anderson noted that there was now an active building permit.

The motion to 1) declare this buildings and all accessory structures on these properties dangerous; 2) order the property repaired or demolished by September 1, 2016 by the owners or equity owners at their own risk; 3) order the Building Inspector to cause the demolition of the structures if not completed by the owners within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the lands on which the buildings exist as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owners was carried by a roll call vote of seven (7) yes (Anderson, Sudler, Neil, Lewis, Hosfelt, Hare, and Hutchison), one (1) no (Slavin), and one (1) absent (Cole).

Property Located at 411 West Reed Street, Owned by Joe W. Burden, Jr.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that there had been eight (8) code enforcement cases on this property since 2013. There had been exterior violations, including overgrowth and weeds, outdoor storage, and broken windows. Mrs. Townshend indicated that utilities were terminated on June 30, 2014 and the City registered the property as vacant in April 2015. It was secured by City staff on August 20, 2014, and condemned as unfit for human occupancy due to insanitary conditions within the home. Mrs. Townshend stated that an active building permit had not been issued; however, a contractor made repairs to the roof, which was one of the required corrections, without a building permit. In addition, the contractor who performed the repairs did not have a City license. Mrs. Townshend advised that the permit was in the Planning Office and could be issued if and when the contractor gets a business license. She noted that the property had damaged wall siding, broken window panes, damaged window frames, and unsanitary conditions inside the home when staff was last there when it was condemned in August of 2014.

Mrs. Townshend advised that staff had only exterior pictures because they had not been permitted access to the interior. She noted that the previous tenants moved out in August 2014 but allowed their dogs to remain. Mrs. Townshend indicated that when the animal control officer went in, the first floor was found to have trash throughout and the flooring was soaked with urine and fecal matter from the animals. She noted that there had been no subsequent interior inspections. Mrs. Townshend reiterated that the hole in the roof had been repaired; however, it had been in place for a period of time, so it was unknown if there was mold, water damage, or structural damage due to those issues.

Mrs. Townshend stated that, based on the dangerous building ordinance, the property fit the definition of unfit for habitation, general welfare, code violations, and unoccupied buildings. She reviewed a presentation depicting the condition of the property ***(Exhibit #5)***.

Mrs. Townshend stated that the conditions that caused the property to be condemned in 2014 were a major issue, noting that staff did not have documentation that those issues had been repaired. She advised members that this property was the subject of discussion during the July 22, 2016 meeting referenced during the discussion of the previous agenda item regarding the property at 941 Lincoln Street, also owned by Dr. Burden. Mrs. Townshend informed members that staff had a building permit in hand and there was a "clean hands" letter that was very similar to that sent in regard to 941 Lincoln Street. She indicated that fees for code enforcement cases totaling $775 were paid on Friday, July 29, 2016.

In response to Mr. Anderson regarding problems with people entering the property, Mrs. Townshend stated that staff had not found the property to be unsecured since August 2014. She advised that it is in an area where there are a lot of people hanging out; however, it is also directly across from a property that is currently in the development phase. Mrs. Townshend felt that this activity should deter that type of entry.

Mr. Slavin declared the public hearing open.

Ms. Altoria Turnage, Dover, questioned what constitutes a building being dangerous. Responding, Mrs. Townshend advised that the Dangerous Building Ordinance in Chapter 22 of the Dover Code

includes definitions in Section 22-381, and the property had a number of circumstances that could create a dangerous building. She explained that definitions include things such as leaning interior walls and damaged floors, and each of these has additional verbiage, such as loads on roofs; fire damage; unfit for habitation; light, air, sanitation; fire escapes, loose parts; general welfare; code violations; drug sales; unoccupied buildings; and incomplete buildings.

Ms. Turnage stated that she was unable to make it for the public hearing for the previous property. She stated that there were several other buildings in the downtown area in the vicinity of 411 West Reed Street that had not only been vacant but visually did not seem very habitable. Ms. Turnage stated that she did not understand why this was an issue with this home and advised that she understood the issue with this home but questioned why there was not code enforcement, visitation from code enforcement officers, or anything of that nature to some of the other vacant properties in that area as well.

Responding, Mrs. Townshend indicated that code enforcement staff inspects vacant properties that are registered, and they also make sure that properties are registered as they become vacant. She explained that staff monitors these things and unless Ms. Turnage provided her specific addresses, she could not indicate whether another property has open violations.

Ms. Turnage stated her belief that there were over 3,000 registered rental properties in Dover. Mrs. Townshend stated that there were over 3,000 rental permits, including standalone homes, apartments, and apartment complexes.

Responding to Ms. Turnage, Mrs. Townshend advised that, when fully staffed, there are a total of five (5) code enforcement officers; however, currently, there are four (4). Ms. Turnage questioned if one (1) of the four (4) was relatively new. Mrs. Townshend indicated that one (1) inspector was relatively new.

Ms. Turnage indicated that she believed he had to be relatively new because the more seasoned officers had just left and because, as of right now, 749 West North Street had been vacant longer than the home currently under consideration. Ms. Turnage advised that, visually, this home was leaning and had broken windows, and last summer the shrubbery had grown so much over the top of the house that there were several complaints to code enforcement about this particular house, but there was no dangerous building sign. She stated that there had not been any inspections on the property at 749 West North Street.

Mrs. Townshend stated that 749 West North Street is a vacant lot. She stated that staff could look at the code enforcement actions on any address that Ms. Turnage had concerns about to make sure that staff was enforcing accordingly. Ms. Turnage stated that she had personally called about this particular house because of the condition of the house, but there had not been anyone there to inspect it visually or, she believed, internally. As far as she knew, this house was owned by the bank. Ms. Turnage noted that this was just one of several homes in the downtown area. She questioned why this particular home was an issue and being brought up now for a dangerous building when some of these other homes had not been inspected. Ms. Turnage stated she knew that the City was short on enforcement officers right now, but she asked how it was that certain homes are still an issue but other homes were not being inspected. Mrs. Townshend stated that she could not say that this was the case, noting that she did not have the code enforcement details on all of the properties

in the City in front of her.

Ms. Turnage felt that Mrs. Townshend could certainly answer the question why some homes were not being inspected. She felt that some homes were being inspected every year but others were being neglected and she questioned why. Mrs. Townshend reiterated that she did not know this to be the case and she deferred to the Council President on that topic because she did not think that was the purpose of the meeting. Mr. Slavin stated that Mrs. Townshend had answered the question to the best of her ability with what she had in front of her and that she would be happy to follow up with Ms. Turnage.

Ms. Turnage stated that there were over 3,000 homes being rented now in Dover and that code enforcement officers were short staffed. She felt that Mrs. Townshend had not really answered the question because certain homes were being inspected more annually as opposed to other homes, and she questioned why. Mr. Slavin stated his belief that Mrs. Townshend had answered that she did not agree with this statement. Responding, Mrs. Turnage stated that this was not an answer but just a statement that Mrs. Townshend did not agree.

Mr. Slavin questioned if there were any other issues Ms. Turnage would like to bring, noting that the issue for the public hearing was if she was opposed to the declaration of this particular address as dangerous. Ms. Turnage stated that she was opposed because this home had been brought up and other homes had not. She stated that other homes definitely looked more dangerous and questioned why this home was being brought up right now when there were other vacant homes in the vicinity that had not been inspected and definitely needed to be.

Mr. Hare questioned why the homes that Ms. Turnage was bringing up had not been inspected. He asked if she had been into the Planning Office to ask. Ms. Turnage responded that she had called the office several times. Mr. Hare questioned if Ms. Turnage knew who owned those properties. In response, Ms. Turnage indicated that she had called and made complaints to the Planning Office several times about this and had talked to Ms. Velvet Bowen, Inspector I, the code enforcement officer. Ms. Turnage stated she had also spoken with Mr. Tim Taraila, Code Enforcement Supervisor, and Mr. Ron Coburn, Inspector II. Mr. Hare asked if Ms. Turnage had records of the dates and times she had called, what staff had told her, and the addresses of the properties. Responding, Ms. Turnage stated that the answer she was given was that they would look into it. Ms. Turnage stated that she had followed up with them.

Mr. Hare suggested that she do this again the next day, but he questioned what she had to say about the property currently being discussed. Ms. Turnage stated that she had the same thing to say that she had said previously.

Mr. Hare stated that this property had been there for a long time, like the previous property, and Council was told the properties would be taken care of. He asked if Ms. Turnage was saying that Council should not act because there was another property that might come up as condemned. Ms. Turnage responded that, reflecting back on this property, permits were being denied when Mrs. Townshend was out of the office for two (2) weeks. She questioned how sufficient repairs could be made if adequate time was not allowed to appeal the decision. Responding to Mr. Hare, Ms. Turnage indicated that this was the first time the property had been brought up since the decease of Mr. Burden, Sr.

In response to Mr. Hare, Ms. Turnage stated that she believed that probate was completed at the beginning of this year. She advised that quite a bit had been done to the property since the beginning of the year. Mr. Hare questioned how quite a bit could have been done since they did not have a permit. Responding, Ms. Turnage advised that they could not clean the inside of the property without a permit; however, they could do the exterior of the house. She stated that a permit was needed for the structural things that must be done to the house; however, Mrs. Townshend had been out of the office and Ms. Turnage was unsure how decisions were being made with her being out of the office.

In response to Mr. Hare, Ms. Turnage indicated that they could have gotten a permit in February, March, April, or May; however, they were still busy doing other properties that Mrs. Townshend had been bringing up. She believed members were aware that there were several properties, some of which need attention and some that did not need as much. Ms. Turnage stated that, with all the properties Dr. Burden has in Dover, a lot had been done since the passing of his father up to this point, noting that these properties are continually being done. She advised that they were just trying to help some of the people in Dover, such as the low-income families that need these homes. She explained that the improvements on these properties had been substantiated, noting that at some point it is what it is. Ms. Turnage stated that she did not agree with the demolition of this property.

Dr. Joe Burden, Jr. informed members that they would like to move forward with this specific house and asked Council to provide them 60 days to make repairs to this home. He indicated that they had started to be proactive and were continuously excited that there had been a move to revitalize this neighborhood. Dr. Burden indicated that, unfortunately, when he drives past that street at 10 or 11:00 at night, it is very busy, noting that he did not think they had anything to do with that. Dr. Burden felt that before getting to houses, there are dangerous streets, which is another whole issue. He advised that they had tried to be proactive and stop this matter from coming to Council. Dr. Burden indicated that on July 6, 2016 they came to get permits for both of the properties, noting that with the normal protocol they hear something within seven (7) days. He believed that he came to the City on July 20, 2016, and he indicated that he called Mr. Tim Taraila, who he normally has correspondence with, regarding the matter. Dr. Burden stated that Mr. Taraila was not aware of his permit, and when Dr. Burden talked to Mrs. Kristen Mullaney, Licensing and Permitting Supervisor, by phone, she was also not aware of it. He came down to the office to speak to Mr. Taraila to find out why he had not heard anything about the permit. Dr. Burden expressed frustration that on June 30, 2016, the day before the July 4th holiday, notices were put on these doors. He stated that he came down the next day and called a structural engineer regarding 941 Lincoln Street and they did a structural engineer report and had Mr. Ron Coburn, Inspector II, do a report.

Dr. Burden indicated that he turned in all of this information and Mr. Greg Scott, the structural engineer, had correspondence with Mr. Coburn and sent emails to the department letting them know that the structural engineering review had been conducted of the property and a girder in the basement needed repair. He noted that they were given instructions on how to appropriately repair the girder, etc. Dr. Burden thought he was being proactive in trying to keep this from coming to Council and felt he had been nothing but proactive in trying to keep things from coming to Council as they arise.

Dr. Burden expressed confusion about the dangerous building ordinances that were printed and given

to him during the meeting on July 22, 2016. Mrs. Townshend advised that they were code enforcement cases.

Dr. Burden questioned if there were exemptions for vacant buildings, noting that there were exemptions when the property was in probate. He stated that he brought down every form that he had ever received in regard to a vacant building and had a conversation with Mrs. Mullaney, asking her to make copies for him. Dr. Burden advised that he had turned in everything and had copies of all of those documents. Dr. Burden advised that he was released from probate January 16, 2016 and advised that it stated on a form that the vacant house ordinance was enforced on March 3, 2015. He noted that he was in probate around that time, explaining that the nine-month probate period started from the time his father passed in October 2014. Dr. Burden questioned how this could be a vacant building if his release was in January 2016. It seemed to him that if the house was vacant for a year, this should come up again in January 2017. Dr. Burden questioned how it was coming up now if he had documentation and copies of the forms that he turned in to Mrs. Mullaney and correspondence with Mr. Coburn in regard to all of those buildings being in probate. He asked how the City could go back beyond a year on the enforcement of the code and hold him accountable for this vacant building violation in response to him trying to proactively obtain a building permit so that he could do the right thing and rehabilitate a facility to help a homeless family in Dover.

Dr. Burden stated that they were proud to announce that they now had several homeless families in the homes that he had previously been down arguing with Council about, sick people from the Dover community. They were in the process of contacting the Delaware State News to do a newspaper article for these people so that they could break the stereotypical perception that their homes are dangerous and just sitting and that they do not proactively want to make repairs to help homeless people. Dr. Burden noted that, just the previous day, on the front page of the Delaware State News, there was an article in regards to the homeless situation in Dover, Delaware, the city that Council and they represent. One of the highlights of the article was that it would be great to be more proactive and supportive of community advocates who are trying to facilitate and advocate for homeless people in the Dover community. Dr. Burden stated that he could understand this if he was ducking and dodging Mrs. Townshend or Mr. Scott Koenig, City Manager, in any manner, but he was not and was being proactive.

Dr. Burden felt that people are not out there when they are working from 9:00 in the morning until 12:00 at night and do not see the blood, sweat, and tears that they put into the house, and they just say that this house or that house is dangerous. In regard to 411 West Reed Street, he asked that they be given 60 days and that members consider that he turned in a permit 14 days before he was informed that he could not receive one. Dr. Burden advised that it was said that if he did not reply by July 14, 2016, this matter would be brought before Council, and he put his paperwork in a whole week prior to that. He noted that normally when he does this, he does not have a problem getting a permit. Dr. Burden stated that he did not hear anything, then came back from New York and found that when he went to his house and property on July 18, 2016, all of these houses had notices on them stating that because he did not comply with making any repairs or was not proactive in repairing the homes, they would be brought before Council. He went down two (2) days later on July 20, 2016 to find out why he did not get anything, noting that no one had told him anything. He felt that if he put a permit in on July 27, 2016 and it was the 18th, and he had a $700 structural engineering report, etc., and the structural engineer met with the City of Dover worker, this was straightforward and he would have no problems repairing the homes. Dr. Burden indicated that the

last thing he wanted to do was to come here tonight, explaining that he had to take off work and drive all the way back to Dover from summer school to be at the meeting to present his case, and this was why he was trying to avoid this whole matter. Dr. Burden stated that it was not that he did not want to repair the homes, reiterating that he tries to be proactive and stating the need to be supportive of landlords and community advocates who are trying to be supportive. He stated that there were people in general who need housing in the Dover area. Dr. Burden asked Council to take all of these matters into consideration and allow them 60 days for the repair of 411 West Reed Street, stating that he had driven down the turnpike as fast as he could to get here, but missed out on consideration of 941 Lincoln Street and would have liked to have had more time for that. Dr. Burden requested, since they were given 30 days for 941 Lincoln Street, that Council allow 60 days so that they would have time to repair both of these facilities as they need to be.

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

Mr. Sudler questioned if the City had the right to move forward on buildings when someone is in probate or if it is necessary to wait for the identification of who actually owns these units. Responding, Mr. William Pepper, Deputy City Solicitor, stated that the title to real property passes at the incident of death; however, there is an eight-month period from which creditors can submit claims against the estate. He advised that there is a procedure by which property could be sold to pay debts, but in his experience in 30 years of practice was that this was exceedingly rare. Mr. Pepper indicated that most estates are sufficiently liquid that their real estate does not have to be liquidated to pay debts and that the City has within its police power the ability to enforce its ordinances.

Mr. Anderson noted that vacant building fees were exempt in probate and questioned if that should have been applied to this property. Responding, Mr. Pepper stated that he did not know sufficient details regarding when the vacant building fees were assessed to be able to comment. Mr. Anderson questioned if Mrs. Townshend was able to answer the question. Mr. Slavin stated that he believed that the question being asked was for a legal interpretation for an action that Council had taken and stated that he was going to leave this with the Deputy Solicitor, who needed additional facts before giving that opinion. Mr. Slavin requested Mr. Pepper, upon reviewing those facts, to communicate to Council what his opinion is, stating that he did not want to get into a position of asking a staff member who is not an attorney to interpret.

For clarification, Mr. Anderson asked when the vacant building fee was attached. Responding, Mrs. Townshend stated that she did not have the specific details and was unsure if Mr. Taraila did. She advised that one of the provisions of the exemptions of the vacant building fee is that, if the owner fails to register the property within 30 days of being notified, they may not be entitled to the exception. Mrs. Townshend advised that there could be a number of factors why the exemption was not applied and, without having the specific case details, she could not speak to it.

Mr. Hosfelt moved to follow staff's recommendations in regards to 411 West Reed Street, seconded by Mr. Neil.

Mr. Hare moved to amend the motion to accept staff's recommendation for the demolition of the building, but to stay the demolition until November 1, 2016, contingent upon issuance of a certificate

of occupancy. The motion was seconded by Mr. Anderson.

Mr. Neil stated his understanding that there had not been an agreement per se but a recommendation, which was why he changed his mind and voted to have the building on Lincoln Street demolished. He noted that new members of Council had come in and heard the same story from Dr. Burden, and Mr. Neil voted for Dr. Burden at that time. Mr. Neil stated, however, that each time Dr. Burden comes there is the splitting of hairs, and Mr. Neil stated that Dr. Burden knew all about this and inherited the property from his father. He felt that Dr. Burden was aware of the properties, the problems with the properties, and the problems that the City has with empty and dangerous buildings, and if he was not, Mr. Neil felt he should be. Mr. Neil stated that he believed that Dr. Burden knew about it, had to take care of it, and had not done so. He stated that this was a scar in the City that must be resolved, and the faster the better so the City could make sure that whatever goes up in those areas will be good housing for people, which he stated it was not now. Mr. Neil stated that one of the complaints about the City is dangerous buildings.

Mr. Lewis wanted the record to reflect that he concurred with staff's recommendation.

The motion to amend the original motion in favor of demolition with a stay until November 1, 2016, and contingent upon the issuance of a certificate of occupancy failed by a vote of four (4) yes (Anderson, Sudler, Hare, and Hutchison), four (4) no (Neil, Lewis, Hosfelt, and Slavin), and one (1) absent (Cole).

Mr. Slavin advised that the motion was to accept staff's recommendation for the demolition by September 1, 2016.

Mr. Anderson stated that, on principle, he tended to have a problem with a recommendation to demolish rather than to repair or demolish by the date set, stating that people's property is one of the most sacred constitutional rights. He felt that the building was not an emergency situation or so dangerous that it was a threat to public safety that would require immediate demolition; therefore, unless the motion was to repair or demolish, no matter whose property it was, he would vote against it. In addition, Mr. Anderson noted that, by his count, there had been in the past 16 months approximately a dozen properties downtown that had been brought up and were demolished or repaired, not just Dr. Burden's properties. He stated that there is only a limited budget, so there are a lot of properties that staff are processing. Mr. Anderson wanted to put on the record that it was not any particular property owner that seemed to be targeted, from what he could see.

The motion to accept staff's recommendation to demolish by September 1, 2016 failed by a roll call vote of four (4) yes (Neil, Lewis, Hosfelt, and Mr. Slavin), four (4) no (Anderson, Sudler, Hare, and Hutchison), and one (1) absent (Cole).

Mr. Anderson moved that the property be repaired or demolished by September 30, 2016, seconded by Mr. Sudler.

Mr. Hosfelt questioned if members honestly thought this would happen in 30 days, noting that members had seen the pictures of both the previous property and this property. He stated that they had been like this for years and felt that members were wasting their time.

Responding, Mr. Anderson felt this was not a waste since the property would be repaired or demolished. If it was not repaired, Dr. Burden would need to get it demolished or else the City would. Mr. Anderson felt it was the same effect, one way or another.

Referring to Mr. Hosfelt's comments, Mr. Sudler noted that Dr. Burden had a lot of properties and motion was slow; however, he did see him moving forward. Mr. Sudler stated that he did not think that Council should take the approach of "do we really think", noting that there were a lot of approaches that could be taken in the City. Mr. Sudler questioned if we really think that racism, targeting certain property owners, code enforcement targeting people in this city or other cities, or police brutality were going to stop. Mr. Sudler stated that he was stating this to say that we should not have that type of temperament or attitude.

Mr. Hosfelt stated that they were talking about a problem landlord. In response, Mr. Sudler stated that they could not define it as a problem landlord. Mr. Sudler stated that he was talking about different areas, such as code enforcement and police brutality. He stated that there are a lot of things being in this world that we think will stop, but they are still going on. Mr. Sudler indicated that his comments were not personal toward Mr. Hosfelt because Mr. Hosfelt was a former Chief of Police, but he just did not agree with this type of temperament.

Mr. Hare advised that he would support Mr. Anderson's motion because Dr. Burden gave him his word in the meeting that he would have the work done. Mr. Hare stated that he takes a man's word as his bond until he proves differently.

Mr. Hosfelt stated that this was in the Fourth District, and that they had walked through that neighborhood and made a commitment to the residents to help them and Council was now putting this off. He could not agree with putting off the commitment to all of those residents in support of this. Mr. Hosfelt stated that he had been in the vacant building on numerous occasions, noting this was years ago, and could tell members that it would not be fixed in 30 days. He questioned how they had gotten from a landlord demolishing a vacant building to suddenly talking about police brutality and racism and stated that he would like to know the connection.

Mr. Sudler stated that there were a lot of things that they could look at and think things were going to continue that way. He indicated that this was nothing personal to Mr. Hosfelt, noting that he did not bring up just police brutality, but code enforcement and other areas.

The motion to 1) declare this buildings and all accessory structures on these properties dangerous; 2) order the property repaired or demolished by September 30, 2016 by the owners or equity owners at their own risk; 3) order the Building Inspector to cause the demolition of the structures if not completed by the owners within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the lands on which the buildings exist as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owners was carried by a roll call vote of five (5) yes (Anderson, Sudler, Neil, Hare, and Hutchison), three (3) no (Lewis, Hosfelt, and Slavin), and one (1) absent (Cole).

Property Located at 528 Bay Road, Owned by Los Paisas LLC

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members

that this property was a commercial building on Bay Road just south of the Route 13 split. She stated that there had been nine (9) code enforcement cases since 2012, including exterior code violations, dilapidated building, and interior and grass violations. Mrs. Townshend indicated that utilities were terminated in May 2013, it was registered as vacant in May 2012, and secured by the City in April 2012. She advised that there were outstanding charges of $4,726 owed in taxes, inclusive of the vacant building fee that had been placed on the tax bill. Mrs. Townshend explained that, in order for anything to happen, an electrical inspection would be required. The exterior surfaces needed to painted and there were damaged soffit and fascia board and a deteriorated roof that was allowing rain to enter the structure. Mrs. Townshend stated that there were damaged doors; numerous broken windows; water damage to the interior wall, ceilings and cooking equipment; and exposed electrical wiring. She indicated that the property met dangerous building definitions, including unfit for habitation, general welfare, code violations, and unoccupied buildings.

Mrs. Townshend reviewed a presentation depicting the condition of the property ***(Exhibit #6)***. She noted that this was the former La Tonalteca Restaurant, which had been vacant for quite a while. Mrs. Townshend advised that staff had held this property back a couple of times because it looked like transfer was going to take place; however, she believed that this had fallen through on a number of occasions.

Mr. Slavin declared the public hearing open and, there being no one present wishing to speak, he declared the public hearing closed.

Mr. Lewis moved to proceed with staff's recommendation and demolish this property, seconded by Mr. Hare.

Mr. Anderson advised that, as he had said before, he always votes on the traditional repair or demolish, and for this reason he would be voting no. He indicated that this was not because he did not feel this was a dangerous building

The motion to accept staff's recommendation to: 1) declare this building on this property dangerous, and to defer to the judgment of staff whether the accessory structures are sound and could remain; 2) order the property demolished by September 1, 2016 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner carried by a roll call vote of six (6) yes (Neil, Lewis, Hosfelt, Hare, Hutchison, and Slavin), one (1) no (Anderson), and one (1) absent (Cole).

COUNCIL MEMBERS' ANNOUNCEMENTS

None.

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

Meeting adjourned at 7:53 p.m.

TRACI A. McDOWELL
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Special Meeting of August 1, 2016, are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

/TM
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Exhibits
Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 139 Mitscher Road
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 126 North Ann Avenue
Exhibit #3 - Presentation - Violation of Dangerous Building Ordinance - 941 Lincoln Street
Exhibit #4 - Correspondence from Mrs. Kristen Mullaney dated July 20, 2016 - Denial of Building Permit #16-1010
Exhibit #5 - Presentation - Violation of Dangerous Building Ordinance - 411 West Reed Street
Exhibit #6 - Presentation - Violation of Dangerous Building Ordinance - 528 Bay Road

EXHIBIT #1
Special Council Meeting of August 1, 2016

Violation of Dangerous Building Ordinance 139 Mitscher Rd

Planning & Inspections Department

Dover, Delaware

August 1, 2016

139 Mitscher Rd
Case History

- 6 code enforcement cases since 2013
  - Exterior code violations – dilapidated buildings
  - Abandoned vehicles
- The utilities were terminated on December 29, 2015
- Registered as vacant on February 4, 2013
- Condemned as unfit for human occupancy on May 6, 2015 due to structural damage to the roof.

Outstanding Charges

- $601.14 in taxes which includes a 1st year vacant building registration fee of $250.00

Case History

- Property was purchased on October 22, 2015 with the new owner intending to make repairs to the roof.
- Building permit was obtained on November 23, 2015.
- A stop work order was placed on the structure in December due to the amount of work being done to the home which was not listed on the permit.
- Updated building plans were required to submit a new permit.
- No further contact with the owner has occurred and no work has been done to the structure.

Code violations included but not limited to:

- Completely missing roof with all its components
- No ceilings
- Interior walls, floors, cabinets and such are deteriorating from water damage
- Mold and mildew are forming on wood materials

Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*




















CITY OF DOVER


CITY OF DOVER

Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

EXHIBIT #2
Special Council Meeting of August 1, 2016

Violation of Dangerous Building Ordinance 126 N Ann Ave

Planning & Inspections Department

Dover, Delaware

August 1, 2016

126 N Ann Ave
Case History

- 23 code enforcement cases since 2011
  - Abandoned and unregistered vehicles – junk & debris
  - Numerous grass violations – parking on the grass
  - Broken windows – deteriorated siding, gutters
- The utilities were terminated on October 22, 2010
- Registered as vacant by the city on May 31, 2011
- Vacant building registration was transferred to the owner on April 23, 2013

Outstanding Charges

- $1,513.89 in taxes which include $965.00 in vacant building fees and $250.00 in grass cutting charges.
- Currently on the Sheriff sale list

Code violations included but not limited to:

- Expired renovation permit #12-1707. The permit was extended numerous times but no inspections have been done.
- Expired plumbing & mechanical permit #15-618. The permit has expired with no inspections done.
- Missing front gutter
- Tall grass and weeds

Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(4) *Fire Damage, etc.*

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*





















Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

EXHIBIT #3
Special Council Meeting of August 1, 2016

Violation of Dangerous Building Ordinance 941 Lincoln St

Planning & Inspections Department

Dover, Delaware

August 1, 2016

941 Lincoln St
Case History

- 9 code enforcement cases since 2014
  - Exterior code violations – dilapidated shed
  - Grass violations – Numerous interior violations
- The utilities were terminated on September 9, 2014
- Registered as vacant by the city on April 6, 2015
- Source of neighbor complaints
- Property was condemned as unfit for human occupancy on September 11, 2014 due to numerous outstanding code violations.
  - Active renovation permit #16-1010

Code violations included but not limited to:

- Deteriorated fascia/barge board
- Mold & mildew in the basement
- Missing interior doors
- Damaged interior and exterior doors
- Repair and replace the girder, header and basement stairs
- Missing smoke detectors
- Loose/weak floors throughout interior
- An electrical inspection is required
- Standing water in the basement

Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*




DANGER
2015/09/08 10:22


2015/09/08 10:22


2015/09/08 10:23


2015/09/08 10:22


2015/09/08 10:23


2016/07/06 10:03


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2016/07/06 10:07


2016/07/06 10:07


2016/07/06 10:22

Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

EXHIBIT #4
Special Council Meeting of August 1, 2016

City of Dover

July 20, 2016

Joe Burden, Jr.
1422 McKee Rd
Dover DE 19904

Re: Denial of Building Permit #16-1010

Dear Mr. Burden:

We have received your application for renovations at 941 Lincoln Street. In a review of the City's delinquent list, we determined that you have delinquent payments for the following property:

Code Enforcement Fees Owed: Case #16-1532 $375.00 & Case #15-877 $300.00

In accordance with the provisions of *Dover Code, Chapter 1, Sec 1-13. Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings,* the City is unable to approve your permit until such time that all delinquent charges are paid in full. Please contact the Customer Service Department at (302)736-7058 with any questions you may have regarding your bill.

The denial of this permit may be appealed to City Council within 20 days of receipt of this letter. Please contact the City Clerk's Office at (302) 736-7008 or cityclerk@dover.de.us to file an appeal.

Once we have received confirmation that the delinquency has been satisfied, we will process the application.

Sincerely,
Planning Office

Kristen Mullaney

Kristen Mullaney
Licensing & Permitting Supervisor

City of Dover

July 20, 2016

Joe Burden, Jr.
1422 McKee Rd
Dover DE 19904

Re: Denial of Building Permit #16-1009

Dear Mr. Burden:

We have received your application for roofing at 411 West Reed Street. In a review of the City's delinquent list, we determined that you have delinquent payments for the following property:

Code Enforcement Fees Owed: Case #16-1117 $375.00 & Case #15-4033 $400.00

In accordance with the provisions of *Dover Code, Chapter 1, Sec 1-13. Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings,* the City is unable to approve your permit until such time that all delinquent charges are paid in full. Please contact the Customer Service Department at (302)736-7058 with any questions you may have regarding your bill.

The denial of this permit may be appealed to City Council within 20 days of receipt of this letter. Please contact the City Clerk's Office at (302) 736-7008 or cityclerk@dover.de.us to file an appeal.

Once we have received confirmation that the delinquency has been satisfied, we will process the application.

Sincerely,
Planning Office

Kristen Mullaney

Kristen Mullaney
Licensing & Permitting Supervisor

Sec. 1-13. - Clean hands.

(a) *Eligibility to receive city utilities or services.* No person, artificial entity, or owner of a ½ or greater interest in that artificial entity shall be eligible to receive any city services, utilities, permits, licenses, or approvals if that person, artificial entity, or owner of a one-half or greater interest in that artificial entity owes outstanding payments to the city; or if that person, artificial entity, or the owner of a ½ or greater interest in that artificial entity is responsible for documented violations of the Dover Code of Ordinances that have remained unresolved for more than 45 days. If the party, artificial entity, or owner of a ½ or greater interest in that artificial entity requesting city approval is current on some but not all obligations owed to the city, the request shall be denied until such time as the person, artificial entity, or owner of a one-half or greater interest in that artificial entity is current and in compliance with all city obligations.

(b) *Obligations which must be current.* Applicants for city services, utilities, permits, licenses, or approvals shall be current on all of the following obligations to the city, including interest, penalties, court costs, and/or attorney's fees if applicable, prior to receiving such approvals:

(1) Property taxes.

(2) Applicable Delaware realty transfer taxes.

(3) Water, sewer, and electric connection/disconnection, front footage and/or usage charges.

(4) Trash fees.

(5) Application fees.

(6) Permit fees, including building permits, building code and inspection/reinspection fees.

(7) Vacant building fees.

(8) Inspection fees.

(9) Charges for the costs of razing or demolition of buildings done through public expenditure.

(10) Charges for duly authorized improvements or maintenance to the exteriors of buildings or property done through public expenditure.

(11) Assessments for the installation of sewer lines, water mains, sidewalks, and curbing.

(12) Charges for the costs of removing weeds, grasses, refuse, rubbish, trash, or other waste material done through public expenditure.

(13) Miscellaneous charges.

(c)

Appointment to committee, commission, or board. Prior to any person being appointed to a city committee, commission, or board, the city clerk will determine if there are outstanding payments due to the city in their name or the name of any artificial entity in which they own ½ or greater interest; or if they are responsible for outstanding, documented violations of the Dover Code of Ordinances that have been unresolved for more than 45 days. If it is determined that such delinquency or violation exists, this shall be reported to the council president and an executive session shall be scheduled to discuss the nature of the delinquency prior to appointment. If an appointed member of a city committee, commission, or board is determined to have such a delinquency or outstanding violation during their appointment, the city clerk shall report such delinquency or violation to the council president and an executive session shall be scheduled to discuss the violation or delinquency. City council may reject an appointment or remove an appointee from a city committee, commission, or board due to such delinquency or violation.

(d) *Responsibility of city personnel.*

(1) The administrative agency to which a request has been submitted shall have the responsibility to make a reasonable effort to determine whether there are outstanding payments or outstanding documented violations of the Dover Code of Ordinances.

(2) The appropriate administrative agency shall notify an applicant that the request cannot be processed because of an outstanding payment or an outstanding documented violation. Said notice shall be in writing and shall be sent within ten working days of receipt of the request.

(e) *Exception.* Notwithstanding the provisions of this section, the building inspector, with the concurrence of the city manager, may issue permits and approvals for work that is necessary to correct violations associated with Chapter 22, Buildings and Building Regulations, Article XI, Dangerous Buildings.

(f) *Appeal of denial of utilities, services or approvals.*

(1) *Appeal to city manager.* Any applicant, person, corporation, or other entity or any owner or member of that corporation or other entity requesting such city services, utilities, permits, licenses, or approvals who receives the aforesaid written denial may appeal that denial to the city manager within 20 calendar days of such denial. The city manager, or his/her designee, shall thereafter hold a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

(2) *Appeal to city council.* An applicant aggrieved by the decision of the city manager regarding his/her appeal may appeal such decision to city council within 20 calendar days of such decision. City council shall schedule a hearing at which said applicant shall be permitted to give evidence that such payment has been made or that a required action has been carried out, or otherwise show that such denial is based on incorrect information or is not lawful as to that applicant.

(Code 1981, § 1-13; Ord. of 11-25-2002; Ord. No. 2012-10, 6-25-2012)

EXHIBIT #5
Special Council Meeting of August 1, 2016

Violation of Dangerous Building Ordinance 411 W Reed St

Planning & Inspections Department

Dover, Delaware

August 1, 2016

411 W Reed St
Case History

- 8 code enforcement cases since 2013
  - Exterior code violations – overgrowth/tall weeds
  - Outdoor storage – broken windows
- The utilities were terminated on June 30, 2014
- Registered as vacant by the city on April 6, 2015
- Secured by City Staff on August 20, 2014 and condemned as unfit for human occupancy due to insanitary conditions.
  - Active building permit #16-1009

Code violations including but not limited to:

- Damaged wall siding
- Broken window panes
- Damaged window frame
- Insanitary conditions within the home. The interior has not been re-inspected since it was condemned in August of 2014. A previous tenant moved out but allowed their dogs to remain in the house. Upon entry with the Animal Control Officer, the first floor was found to have trash throughout and the living room was urine soaked with fecal matter about.

Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*



















Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

EXHIBIT #6
Special Council Meeting of August 1, 2016

Violation of Dangerous Building Ordinance 528 Bay Rd

Planning & Inspections Department

Dover, Delaware

August 1, 2016

528 Bay Rd
Case History

- 9 code enforcement cases since 2012
  - Exterior code violations – dilapidated buildings
  - Numerous grass violations – interior violations
- The utilities were terminated on May 21, 2013
- Registered as vacant by the city on May 19, 2012
- Secured by the City on April 19, 2012

Outstanding Charges

- $4,726.87 in taxes, which includes a 4th year vacant building registration fee of $2,000.00

Code Violations included but not limited to:

- An electrical inspection is required
- Exterior surfaces need to be painted
- Damaged soffit
- Damaged fascia/barge board
- Deteriorated roof which allows rain water into the structure
- Damaged exterior egress doors
- Numerous broken windows
- Water damaged interior wall, ceilings and cooking equipment
- Exposed electrical wiring also damaged from water leaks

Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*


528


528


LIENZO CHARRO "LOS TRES POTRILLOS"
ENTRADA
TAQUILLA
CANTINA EL TEQUILA


CANTINA EL TENAMPA
LA ADELITA
TIENDA
DE
ABARROTES
alpura


LA FLOR
AV LA TONALTECA




KORSA








DE MICHOAC


AV LA TONALTECA
LA FLOR DE MICHOA


EXIT
2016/04/19 13:58


2016/04/19 13:59


2016/04/19 14:00

2016/04/19 14:00


2016/04/19 14:01



Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property demolished by **September 1, 2016** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause demolition of the structures if not completed by the owner **within 10 days of the date established by City Council**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

SPECIAL COUNCIL MEETING

A Special Council Meeting was held on August 8, 2016 at 6:01 p.m. with Council President Slavin presiding. Members present were Mr. Hare, Mr. Hosfelt, Mr. Hutchison, and Mr. Neil. Mr. Anderson, Mr. Cole, Mr. Lewis, and Mr. Sudler were absent. Mayor Christiansen was also present.

Council staff members present were Mr. Koenig, Mrs. Mitchell, and Mrs. McDowell.

ADOPTION OF AGENDA

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

Mr. Hutchison moved to recess into 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. The motion was seconded by Mr. Neil and unanimously carried.

The Special Council Meeting recessed into Executive Session at 6:01 p.m. and reconvened at 6:20 p.m.

ACTION RESULTING FROM THE EXECUTIVE SESSION

Potential Land Purchase

During the Executive Session, Mr. Scott Koenig, City Manager, advised members of a potential land purchase.

Mr. Hutchison moved to authorize the City Manager to go forward with the appraisal of the property described, seconded by Mr. Hosfelt and unanimously carried.

Mr. Neil moved to authorize the City Manager to set up a meeting with Mayor Christiansen and Council President Slavin to speak with Senator Bushweller, seconded by Mr. Hutchison and unanimously carried.

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

The Special Council Meeting adjourned at 6:21 p.m.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Special Meeting of August 8, 2016 are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

/TM

REGULAR COUNCIL MEETING

The Regular Council Meeting was held on August 8, 2016 at 7:30 p.m. with Council President Slavin presiding. Council members present were Mr. Sudler, Mr. Neil, Mr. Hosfelt, Mr. Hare, and Mr. Hutchison. Mr. Anderson, Mr. Cole, and Mr. Lewis were absent.

Council staff members present were Police Chief Bernat, Mrs. Mitchell, Mr. Koenig, Mrs. Townshend, Fourth Assistant Fire Chief O'Connor, Deputy City Solicitor Pepper, and Mrs. McDowell. Mayor Christiansen was also present (departed at 7:38 p.m.).

OPEN FORUM

The Open Forum was held at 7:15 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. Joseph Swiski, 481 Sunset Drive, stated that over the weekend he heard discussion from one of his neighbors that the public access to Silver Lake was going to be either deeded over or somehow given or purchased to a person that lives right next to it. He was also told that it is their intent to put up a swimming pool or something of that nature. Mr. Swiski stated that his only concern is that this is the only public access readily accessible to him for Silver Lake. He explained that he often takes his grandson down there to sit and look at the ducks and it is just a nice place to go for a walk. Mr. Swiski stated that he did not have any solid details or other information, noting that this had just come up; however, he wanted to bring to members' attention that if access is cut off it would be a hardship for him because he would not have access to the lake anymore.

Responding to Mr. Swiski, Mr. Slavin indicated that the Council Committee of the Whole/Legislative, Finance, and Administration Committee was scheduled to consider the Disposal of Excess Property - Silver Lake Drive (East Lake Gardens) during their meeting tomorrow, August 9, 2016, noting that Mr. Swiski was welcome to attend and speak during that meeting as well.

Mr. Edward Thomas Christian, Jr., 9 Pennwood Drive, stated that he would like to address items 5-C-2 - Proposal for Dover Public Library to Serve as a Passport Acceptance Facility, 5-C-3 - Proposal for Dover Public Library to Adopt a Smoke-Free Policy, and read the following statement:

> All glory, honor, praise and thanksgiving to the creator of heaven and earth. I am merely talking aloud to myself and the persons in this chamber are overhearing my babbling. If the Dover Public Library does not want to replicate what the post office next door to the Library is doing then what is, or what will the Dover Public Library be doing with its passport facility plans? I wonder how many passport applications the post office serves daily, weekly, monthly. I wonder how much revenue it generated from this service. I wonder where and how this generated revenue is used, spent. A proposed passport plan services put forth by the Dover Public Library effort to continue the vision that something is always going on at the library. Is it to fulfill a goal that the Dover Public Library needs to be a community service facility which should be at the front of providing services which are currently being provided. I wonder how many persons in this chamber use the services provided at the old

library. I wonder how many persons in this chamber are currently using the services at our thumping new facility at the Dover Public Library next door. Have you attempted reading newspapers at one of the two tables around the mechanical room which is forever playing a thunderous sound for your brain and ears? Have you tried viewing periodicals with the daily regular occupants who possess a variety of odors while nodding, dozing, napping around the large television screen? How many males in this chamber have used the first floor restroom for men and attempted to get soap from the dispenser to wash your hands? Maybe someone should Google the Coronado Public Library in Coronado, California and get some ideas from them. That facility is the most beautiful structure and service provider library facility I've had the pleasure of using. My only consolation is that that facility costs more, a sum more, then our immediate or our immense facility next door.

The second item. Does any person know of any positive health benefits to smoking? The tobacco industry bamboozled and hoodwinked the general public and population about the effects and affects of smoking. The industry was not alone. It was aided by lobbyists, economists, politicians, to name a few others in that endeavor. Smoking is an individual choice which can be done in private and/or public. To allow smoking or ban smoking in and around public buildings and facilities is a difficult choice. There are a number of public employees who now smoke on public property. What does federal law say about smoking in public? What does Delaware state law say about smoking in public and in, on, and around public grounds, buildings and facilities? We have our freedoms as outlined in constitutions, laws, ordinances, etc.; however, one must be careful to ensure that this freedom of choice, smoking, does not infringe on the health, the safety, and the general welfare of everyday living citizens and public structures to accommodate the feelings, etc. that a smoker enjoys while endangering others. Thank you.

Mrs. Margie Cyr, Dover Public Library Director, reminded members that, this past weekend, the Dover Public Library hosted Comic Con 2016 in downtown Dover. She stated that it was a wonderful event, explaining that Comic Con celebrates the literature genre of all things comic. Mrs. Cyr informed members that they had many happy people on the streets of Dover, noting that the Library exceeded their goal of having10,000 people in attendance and the weather held. She thanked members of Council and the City for supporting this event, especially the Library staff, the Public Works Department, and the Police Department. Mrs. Cyr stated that all of these people, everyone else in the City, and all of those who attended made it a wonderful event.

Ms. Elisa Vassas, 478 North East Avenue, East Lake Gardens, expressed concern regarding the possible issue of loss of the lake access. She stated that she is probably one of the very few remaining homeowners there, explaining that she has her mom's house and has been there since 1968. Ms. Vassas noted that there was probably one other family there as long that remembers when there was a beach there. She stated that they had sand, picnic tables, and a pier, which the City took away in the early 1970s when, as she recalled, a drainage ditch had to be put in. Ms. Vassas informed members that she had provided Councilman Neil with a copy of one of her neighbor's deeds that did address that the lake access is for all of the homeowners in that area.

Ms. Vassas indicated that one of her complaints was that only one of her neighbors was given a written notice that this issue was going to be considered by the Council Committee of the Whole/Legislative, Finance, and Administration Committee tomorrow. She stated that none of the other neighbors received any sort of written notification. Ms. Vassas noted that Mrs. Burks could not attend this evening's meeting; however, she texted Ms. Vassas that this would be happening.

Ms. Vassas stated that she and those of her neighbors she spoke to were shocked about this matter. She stated that what really upset her even more was reading that the discussions started two (2) years ago and came up with the new homeowners last year. She reiterated that neither her nor her neighbors were notified that there was a possibility they could lose access. Ms. Vassas requested, if this property is going to be sold, that her and her neighbors would be considered, if they are interested in buying that parcel. It was her hope that when things come up in her neighborhood that will impact her and her neighbors, the City would do a better job of letting everyone know.

The invocation was given by Bishop Thomas L. Holsey. Bishop Holsey requested members to join in a moment of silence in memory of Mr. Harry W. Downes, Sr., a 31-year employee of the City of Dover, who recently passed away. This was followed by the Pledge of Allegiance.

AGENDA ADDITIONS/DELETIONS

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

Mr. Hare requested that item #5-C-5 - Consideration of Legislative, Finance, and Administration Committee Review and Approval of Any Positions That Remain Open for Over Six (6) Months Without Being Recruited, be removed from the Consent Agenda.

Mr. Neil moved for approval of the Consent Agenda, as amended, seconded by Mr. Hare and carried by a unanimous roll call vote (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF JULY 25, 2016

The Minutes of the Regular Council Meeting of July 25, 2016 were unanimously approved by motion of Mr. Neil, seconded by Mr. Hare and bore the written approval of Mayor Christiansen.

CERTIFICATE OF RECOGNITION - CAROLINE HERMANCE

The City Clerk read the following Certificate of Recognition into the record:

> *Ms. Caroline Hermance began making her mark on our community at a young age by giving back to others and sharing her gifts and talents; and*
>
> *Ms. Hermance continues to display exceptional leadership skills as she works with individuals with disabilities, provides respite to their caregivers, mentors students with disabilities, and serves as a Special Olympics Project UNIFY Leader. Caroline was also named the Music Leader of Respite and Super Kids, a summer program through Grace Presbyterian Church in Dover. During the academic year, she aided other students by helping them understand concepts, taught kids with disabilities new*

skills, and provided instruction in theater skills such as choreography and blocking; and

Ms. Hermance's musical ability has reached many in our community through her performances in theater roles such as Helen in "Bye Bye Birdie" and in the lead roles of Dorothy in "The Wizard of Oz," Mary Poppins in "Mary Poppins," and Catherine in "Pippin." She has also spent endless hours as an instructor and founding member of the bagpipes section of the Dover Police and Fire Pipes and Drums band; and

Academically, Ms. Hermance remained focused by maintaining her position on the honor roll for ten marking periods, high honor roll for two marking periods, and membership in the National Honor Society. She received an Outstanding Academic and Athletic Achievement Award, while carrying a courseload that consisted of Advanced Placement Classes and classes through Delaware Technical Community College. She also excelled on the field in lacrosse and the courts in volleyball.

***THE MAYOR AND COUNCIL OF THE CITY OF DOVER, DELAWARE**, do hereby present this Certificate of Recognition on this 8th day of August 2016 to **Caroline Hermance** and extend best wishes for her continued success in future endeavors.*

On behalf of the members of the City Council, Mayor Christiansen presented Ms. Hermance with the Certificate of Recognition.

Noting that Ms. Hermance would be attending Loyola University in Maryland, Council President Slavin stated that his daughter graduated from there this past spring, and he wished Ms. Hermance nothing but as wonderful an experience as she had.

PUBLIC HEARING/FINAL READING OF PROPOSED ORDINANCE #2016-16 WITH STAFF AMENDMENT #1 (SA#1) AMENDING APPENDIX B - ZONING

A public hearing was duly advertised for this time and place to consider approval of proposed amendments to Chapter 22 - Buildings and Building Regulations; Chapter 26 - Businesses; Chapter 50 - Floods; Chapter 66 - Manufactured Homes and Trailers; Chapter 102 - Taxation; Chapter 106 - Traffic and Vehicles; Chapter 110 - Utilities; Appendix B - Zoning, Articles 2, 3, 4, 5, 6, 7, and 12; and Appendix F - Fees and Fines.

Mr. Neil moved that the Final Reading of Proposed Ordinance #2016-16 with SA#1 be acknowledged by title only, seconded by Mr. Sudler and unanimously carried. *(The First Reading of the ordinance was accomplished during the Council Meeting of June 27, 2016.)*

Mrs. Ann Marie Townsend, Director of Planning and Community Development, advised that the ordinance was the culmination of a process that started in November 2015 to update all of the provisions within the Dover code that address manufactured housing and mobile homes because the standards for that type of housing had changed significantly over time, and it was determined that

the language in the Dover Code was not current. She noted that the ordinance also establishes standards for land lease communities in the Dover Code.

Mrs. Townshend advised that amendments were proposed by the Electric Department and the Fire Marshal's Office for clarification when the ordinance was reviewed by the Development Advisory Committee. She stated that the amendment, as it relates to utilities, clarifies that community owners need to coordinate with the City of Dover regarding any utility services and equipment. She noted that there have been some issues where things have been done by some of the community owners that do not comply. The amendment, as it relates to the Fire Marshal's Office, changes the approving authority of the National Fire Protection Association (NFPA) criteria from the Planning Commission to the Fire Marshal's Office, which has jurisdiction in matters related to the NFPA Codes.

Mrs. Townshend advised that a public hearing was held before the Planning Commission on July 18, 2016. She noted that the Planning Commission unanimously recommended adoption of Proposed Ordinance #2016-16. Mrs. Townshend advised that, although the Planning Commission's motion was silent on the amendments, they assume that it was inclusive of the amendments.

Council President Slavin declared the hearing open.

Mr. Paul McDonald, 123 Kurt Drive, stated that he was the President of the Wild Meadows Homeowners Association. He noted that, first and foremost, he was a fighter against what they consider outrageous rent increases and imposition of fees for things that should be part of their rent, in addition to being a full-time unpaid employee of Wild Meadows, LLC. Mr. McDonald stated that it was his job to report on any and all defects in the property: accumulating water, accumulating debris, carcasses of animals, all kinds of things. He advised that he is then required to file those defects in a report by certified mail on a regular basis, because management will not recognize anything that is not in certified form. Mr. McDonald stated that they then hope to get a response to some of those reported defects. He advised that the articles outlined on page five (5) of the ordinance would go a long way to improving that situation.

Mr. McDonald elaborated that preventing accumulating standing water and the associated mosquitoes and greenhead flies are a constant issue. He noted that they spend a great deal of time and money fighting them. Mr. McDonald advised that office hours do not exist in the community, which has one (1) part-time employee that works less than a day and a half as a representative of the community, and is almost always unreachable. He also noted that, since they started paying rent in the community, it has been impossible to get a receipt for the lot payment, which is just common business practice. Mr. McDonald stated that it is grossly unfair not to have recognition of payment.

Noting that the ordinance states "the land lease community must notify the City of Dover if they intend to sell the community," Mr. McDonald advised that this has recently become an issue for the community and they hope that the language will help to improve the well-being of the Wild Meadows residents with regard to their future.

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

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

By motion of Mr. Neil, seconded by Mr. Hare, Ordinance #2016-16 (*Exhibit #1*) was adopted by a unanimous roll call vote (Mr. Anderson, Mr. Lewis, and Mr. Cole absent).

HUMAN RELATIONS COMMISSION REPORT - JULY 20, 2016

The Dover Human Relations Commission (DHRC) meeting was held on July 20, 2016 at 6:07 p.m. with Chairman Henderson presiding.

Election of Chair - Communications Committee

This item was deferred until there are more members serving on the DHRC.

Election of Chair - Community Engagement Committee

This item was deferred until there are more members serving on the DHRC.

DHRC Committee Updates

Government Policy, Programs, and Practices Committee (McGiffin)

Mr. McGiffin advised members that all of the data research had been completed for the Government Policy, Programs, and Practices (GPPP) Committee's online survey of employees with regard to diversity in the City of Dover.

Responding to Mr. McGiffin, Mrs. Jody Stein, Administrative Assistant, City Clerk's Office, advised that no hard copies of the survey had been submitted to the City Clerk's Office.

Mr. McGiffin indicated that there were 23 responses to the online survey and he had started to put together the results from the interviews conducted with management employees regarding diversity in the City. Mr. McGiffin stated that he would write up the results of the survey and interviews and share them with Mr. Henderson, who also serves on the GPPP Committee. He indicated that they would advise the Commission regarding what they believe the results mean, and the Commission would then decide whether to accept, modify, or reject their analysis. Mr. McGiffin advised that that the GPPP Committee may suggest the next steps to address what was learned. He felt that both the survey and the interviews were useful.

Responding to Mrs. Sadusky, Mr. McGiffin stated that approximately ten (10) City management employees were interviewed. He stated that the online survey was for non-management employees; however, respondents were not asked to identify themselves and responses could have come from any employee. Mr. McGiffin noted that one (1) employee who had been interviewed called to see if they should complete the survey as well, and they were told not to do so. He informed members that the surveys and interviews provided a broad range of feedback and that the GPPP would present their findings at the next meeting.

Community Engagement Committee
This item was deferred.

Education Committee
This item was deferred.

Communications Committee
This item was deferred.

Old Business

DHRC Vacancies (First and Fourth Districts)
Mr. Henderson noted that the Commission has two (2) vacancies for representatives in the First District and two (2) vacancies for representatives in the Fourth District. He indicated that he would reach out to the City Council representatives in these districts for suggestions for possible appointees.

Mr. Henderson advised that he would be away during the month of August and asked that the next meeting be scheduled for September 21, 2016.

By consent agenda, Mr. Neil moved for acceptance of the Human Relations Commission Report, seconded by Mr. Hare and carried by a unanimous roll call vote (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

COUNCIL COMMITTEE OF THE WHOLE REPORT - JULY 26, 2016
The Council Committee of the Whole Meeting was held on July 26, 2016 at 6:00 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson (arrived at 6:11 p.m. and departed at 6:20 p.m.), Mr. Sudler (arrived at 6:08 p.m.), Mr. Neil, Mr. Cole, Mr. Hosfelt, Mr. Hare, and Mr. Hutchison. Mr. Lewis was absent. Mayor Christiansen (departed at 8:05 p.m.) was also present. Civilian members present for their Committee meetings were Mr. Keller (*Safety Advisory and Transportation*), Mr. Blakeman (*Utility*), and Mr. Shevock and Ms. Stewart (*Legislative, Finance, and Administration*). Mr. Shelton and Ms. Arndt were absent.

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

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

Viability of the ShotSpotter Gunshot Detection and Location Service
Deputy Police Chief Marvin Mailey informed members that gunfire is a major concern in the City, noting that the communities most affected are the least likely to report calls to 911, so gunfire is vastly under-reported. He advised that the Police Department had responded to 95 calls for service for shots fired in various areas throughout the City in 2016, stating that people are often gone when they respond. On the rare occasions when someone is hit, the Department conducts an

investigation; however, these incidents are largely under-investigated due to lack of evidence. Deputy Chief Mailey explained that the ShotSpotter gunshot detection and location system works by triangulating the noise emitted from gunfire and helping to pinpoint the exact location. He noted that several audio devices or sound listening posts would be located throughout a sector of the City, and they would be able to pick up the noise, report it to a center, de-conflict that noise as a backfire from a car or other device, and report it to the Police Department to determine the location. Deputy Chief Mailey indicated that the current system depends on citizens calling from their residence or cell phone to report gunfire. Officers then respond to the area and conduct a grid search. He stated that the ShotSpotter would allow officers to go to the exact area of the shots. If subsequent shots are fired, they would be able to follow this on a grid map and possibly arrest those firing the shots, locate the handgun, and conduct their investigation in a professional way.

Deputy Chief Mailey advised that ShotSpotter claims that 80% of all shootings go unreported, and he noted that it is not a foolproof system. Under daytime circumstances, the accuracy dips to about 25 meters from the sound device. He explained that when shootings are outside, the sensors triangulate to the system and help officers locate the exact location. Deputy Chief Mailey stated that the City of Wilmington currently uses the ShotSpotter system and Wilmington Police Chief Bobby Cummings was interviewed about this system in March. He explained that, even though ShotSpotter did not capture all of the data, it appeared that three (3) sensors would capture gunshots and alert the Police Department. ShotSpotter had enabled the City of Wilmington to respond to unreported gunfire and collect evidence, including shell casings, from crime scenes that would otherwise not have been collected. Deputy Chief Mailey stated that these shell casings were now being entered into the Integrated Ballistics Identification System (IBIS) so they can be tied back to firearms.

Deputy Chief Mailey indicated that the cost to cover a three (3) square mile area of the City would be approximately $195,000 per year, noting that the equipment would leased rather than owned and that grant funds were available. He stated that three (3) sources of grants and funding had been identified; however, they had expired since the research was done on the system. Deputy Chief Mailey advised that the federal government traditionally renews these grants each fiscal year, so more grants would be available in the next federal budget year. He informed members that there had been 17 shootings so far this year, no homicides, and 40 handguns had been recovered from the streets of Dover without having the benefit of the ShotSpotter. Deputy Chief Mailey felt this system could increase those numbers, reduce the rate of shootings, and keep the homicide numbers down to the desired level of zero (0).

Responding to Mr. Hosfelt regarding the success rate or number of cases cleared in Wilmington as a result of the ShotSpotter, Deputy Chief Mailey stated that he did not have those exact numbers but that he could get them and report back.

In response to Mr. Hosfelt regarding the availability of the $195,000 in grant funds that was mentioned for next year, Deputy Chief Mailey stated that he could contact Mr. Windley in Senator Carper's Office, who helps the Police Department with federal grants on a routine basis. He noted that Mr. Windley is very good at finding grants and identifying sources to purchase equipment.

Mr. Neil advised that a resident in White Oak Park had reported a shot fired, and questioned if the equipment would cover an area that distance from downtown. Responding, Deputy Chief Mailey stated that White Oak Park would be outside the area of coverage, which is approximately 400 meters from the site. He explained that the equipment would cover the area where the microphone is in position and, if located in the downtown area, it would not collect data from outlying areas across Route 13. Deputy Chief Mailey explained that gunshots outside the network of microphones would not be collected.

In response to Mr. Neil, Deputy Chief Mailey stated that the cost would be approximately $65,000 per square mile and microphones must be affixed to light poles and raised areas to collect audio feedback. Only a small footprint would be covered, and ideally the system would be placed in the highest crime areas.

Mr. Neil stated his understanding that if this system was wanted now, it would have to be the result of a grant.

Having cursorily researched this system, Mr. Slavin advised that one of the complaints was about accuracy. He noted that the ShotSpotter would provide guidance to a certain grid, and within that grid it did not give any additional coordinates to someone who would be dispatched.

Deputy Chief Mailey stated that, according to his reading, the ShotSpotter triangulates and is supposed to pinpoint a location. Theoretically, if gunshots were in the network of the sound gathering devices, it should be able to pinpoint an exact spot on a grid map so that officers could go directly there. He noted that a certain amount of disturbance would affect the system during daytime hours.

Mr. Slavin indicated that this was what he was referring to, noting that other noise interferes. He noted that some police departments had purchased and then abandoned the ShotSpotter because they learned that for every shot that was fired where ShotSpotter identified a location, there was a correlation with a number of calls telling them where it occurred. They found it was cheaper to allow people to call on their cell phones and the calls tended to come quicker.

In response to Mr. Slavin regarding any soft costs on the City's end and how information would be received and what the intervention would be, Deputy Chief Mailey stated that the information would go directly to the dispatch center. The information on the dispatchers' display would be sent to the responding officers and

they would be given an exact location, rather than an area, to start their search. Deputy Chief Mailey indicated this would be additional information for dispatchers.

Deputy Chief Mailey explained that the City of Wilmington has vastly different problems than Dover. He indicated that there are a lot of citizens who pick up the phone to let the Police Department know that shots have been fired in their neighborhood; however, it becomes very difficult for the Police Department to respond to a general area rather than a specific point to pick up the search. Deputy Chief Mailey advised that there are other systems on the market, noting that he and Councilman Hosfelt had attended a presentation at Dover Downs on a very good Verbi system. He noted that the equipment would be owned and the City would have it until the sensors need replacement. Deputy Chief Mailey advised that this system comes with a lofty price tag, but it includes military grade software and materials that are currently being used in the Middle East. He informed members that this would integrate directly with camera systems and go directly to any iOS device. Since it is web-based, if an officer had the application and shots went off, the officer would receive a message on their phone or tablet telling them where to go.

Mr. Hutchison expressed interest in looking at Wilmington's statistics and results and questioned how long they had been using this system. Deputy Chief Mailey believed that it was very new technology that was born out of the engagement in the Middle East, so he estimated that it had been within the last ten (10) years. He indicated that the ShotSpotter system must be leased rather than owned; however, the Verbi system would be purchased at a much higher price. Deputy Chief Mailey indicated that, although the up-front cost would be high, after five (5) to ten (10) years, less would be paid over the life of the equipment compared to a lease. He reiterated that ShotSpotter would cost $195,000 each year for three (3) square miles. He indicated that the Verbi representative had sent him a spreadsheet that indicated that over ten (10) years, there would be a savings of approximately $840,000 if the two (2) products were compared side by side. Deputy Chief Mailey noted that the Verbi system would cover a six (6) mile footprint rather than three (3) miles.

Mr. Hutchison stated that the City of Dover Police Department has a great working relationship with the Dover community. He realized that this equipment could be considered; however, when the price tag is considered, he felt that putting boots on the ground and possibly paying extra duty officers to become more involved in community policing would provide a better value than this device. Deputy Chief Mailey advised that the Department was currently doing this, and extra duty officers were assigned in high crime areas. In addition, he explained that the Department's crime analyst identifies areas in the City that require police attention, and specific dates and times and patrols are assigned based on that intelligence. Deputy Chief Mailey noted that this system would take officers' searches down from an area to a specific point, and this would be a benefit.

Mr. Anderson indicated that Wilmington started testing this program in approximately 2014 in a small area and seemed to like it, so it was very new in

Delaware. In regard to a cost/benefit analysis, he would like to evaluate if it fits Dover and not to commit to it. Mr. Anderson believed that there had been incidences when seven (7) or eight (8) calls were received about shots fired, but because of echoes and the way sound carries, it was indicated that gunfire came from different areas. He questioned if this system would have helped in this type of situation. Responding, Deputy Chief Mailey stated that, rather than looking at a sector of a couple of blocks, it would narrow the search to a specific point on a street where the first shot was fired. If several shots were fired during a drive-by shooting, it would tell the direction of vehicle travel and indicate in red dots on a grid map exactly where the first and sequential shots were fired. Deputy Chief Mailey explained that, in general, officers currently go from one (1) block to another and look for shell casings or stop to try to solicit responses from the people on the street. Having been on the street when shots were fired, he noted that sound bounces all over at night. Mr. Anderson advised that he had also been on the street when shots were fired.

Mr. Neil questioned if upgrades would be part of the system or if it would fall behind if technology accelerates. Responding, Deputy Chief Mailey believed that if equipment was leased and newer technology came out, newer equipment would be provided; however, he stated he would have to confirm this information with ShotSpotter. If the equipment was purchased, an upgrade to newer equipment would have to be purchased.

In response to Mayor Christiansen, Deputy Chief Mailey was not aware of any other cities in the area currently using the equipment. Mayor Christiansen suggested taking a trip to other communities that have a system in place to confirm the information provided by Mr. Slavin and learn about the success or failure in other communities before purchasing the equipment, and Deputy Chief Mailey concurred. Mayor Christiansen felt it sounded like a great system that would assist the City's police officers in doing what is necessary.

In response to Mayor Christiansen, Deputy Chief Mailey stated that he believed that preventive maintenance would be included in a contract but indicated that he would have to check. Mayor Christiansen requested that Deputy Chief Mailey provide he and the Committee information on other communities within a reasonable radius of Dover that are using a system. He expressed the desire to hold a conference call with officials or take a trip to find out the worthiness and effectiveness of the product. Mr. Hosfelt suggested, once it is established that a city or township is to be visited, that a member of Council attend such a meeting.

The Committee deferred Viability of the ShotSpotter Gunshot Detection and Location Service for further investigation.

Assessment of the Possibility of a Comprehensive Review of Emergency Medical Services Within the City of Dover

During the Special Council Meeting - Budget Review held on May 24, 25, and 26, 2016, concern was expressed regarding ambulance service, partially due to the result

of the Operational and Administrative Analysis - Dover Fire Department - Final Report - March 2016. Chairman Hosfelt indicated that, at that time, there was discussion about possibly forming a committee or getting a group together to look at the City's ambulance service. He stated that he believed that the City was in its second year of at least a three (3) year ambulance contract, with two (2) possible one (1) year extensions. He advised that he had held preliminary discussions with people in the industry throughout the State and desired to form a committee or at least bring back to Council suggestions regarding a committee to look at the City's ambulance service to see if it is deficient, if there is agreement with the study, and move forward from there. Mr. Hosfelt noted that he did not have knowledge regarding the ambulance service and was unsure if other members did, noting that there may be a couple of members of staff that have more knowledge. He felt that getting a committee of experts throughout the State together may be a good idea to see if the best interests of the citizens are being served.

Mrs. Kay Sass, Public Affairs and Emergency Management Coordinator, explained that she would address questions that were raised during the Special Council Meeting - Budget Review. She advised that, at that time, Mayor Christiansen had asked how PrimeCare bills for each individual transported. Mrs. Sass stated that the City's contract with PrimeCare specifically lists how fees are charged. She advised that the contractor accepts Medicare, Medicaid, and contracted insurance carriers as full reimbursement unless there is a deductible or coinsurance payment on the patient's insurance. Mrs. Sass indicated that PrimeCare can bill for the deductible, and outside of that they do not bill.

Mrs. Sass advised members that Mayor Christiansen had noted that Hartly responded to an incident and questioned if Hartly was eligible for the fee. She explained that Hartly's numbers were low and the City reciprocates what Hartly does for Dover, noting that Dover reciprocated 110 times in 2015. She expressed the importance of understanding the magnitude of the number of calls that Dover takes in, noting that calls had doubled in the last ten (10) years. In 2015 there were 8,856 calls for PrimeCare and in 2005 there were 4,460.

In regard to the number of times that the Fire Department was called to assist PrimeCare, Mrs. Sass indicated that this information had been requested from the Fire Department multiple times. She explained that she had documentation from 2009 and 2013 asking that this information be provided when issues occur so that the City can investigate these incidents. Mrs. Sass stated that both she and the Mayor had asked for this information, and on July 20, 2016 they received only the numbers for each year. To date in 2016 there were 13 calls, and in 2015 the Fire Department assisted with 37 calls, which was less than 0.5 percent. Without knowing the date or time of the calls, Mrs. Sass had no way to investigate what occurred that caused the call. She felt it likely that calls were related to an obese population, noting this is particularly common for elderly, non-ambulatory individuals, and two (2) people arriving at such a scene in an ambulance sometimes need assistance to lift these people. Mrs. Sass advised that in one such documented case from 2013, the weight

of a Kent General Hospital patient was estimated at 465 lbs. and the two (2) people in the ambulance requested assistance. She indicated that if she had more details, she would be able to determine why assistance was needed; however, she had been able to get documentation for only two (2) incidents since 2009.

Mrs. Sass noted that Mr. Hosfelt had expressed concern that PrimeCare knows that they can make insurance money if they are in a position to make a run. He felt they were taking runs when they should be on standby in the City to handle its issues. Mrs. Sass explained that neither the City nor PrimeCare determines which calls they go on since everything goes through the Kent County 911 Center. She explained that Mr. Kevin Sipple, Assistant Director, Kent County 911, and the rest of the group do a superb job of providing documentation every month to the City so that calls can be reviewed. Mrs. Sass stated that if they are dispatched to a call, they must make that run. They do this in the order of runs, and when Dover is not available, they go down a list. Mrs. Sass noted that since the City particularly relies on Camden and Cheswold, who help Dover out tremendously, the City started giving them a donation a couple of years ago. To her knowledge, this is the largest donation that these organizations receive to keep their services going. Mrs. Sass explained that this is part of being a good neighbor, noting that the City deals with a lot more runs than Camden and Cheswold.

In response to Mr. Hosfelt, Mrs. Sass indicated that she did not have the numbers with her regarding the number of times Camden and Cheswold had assisted the City; however, she explained that the City had just made its donation to them. Mrs. Sass noted that the donation amount is determined by a formula based on the number of calls that they responded to and the number of times the City responded to them. She stated that the number of scratches is deducted, a certain percentage is given to other things, and the recent total was roughly $15,000.

Mr. Hosfelt questioned if two (2) ambulances were run during the day and one (1) at night in 2015. Responding, Mrs. Sass stated that PrimeCare was required by the City's contract to run one (1) ambulance 24 hours per day, seven (7) days per week, and the other ambulance runs from 7:00 a.m. to 7:00 p.m. seven (7) days per week. She advised that this is when additional coverage is needed, noting that data supplied by Kent County shows how many calls come in per hour and a spike in calls could be seen. Mrs. Sass stated that the 7:00 a.m. to 7:00 p.m. coverage had started prior to her involvement with the contract.

In response to Mr. Hosfelt regarding the number of ambulances and shifts in 2005, Mrs. Sass stated her belief that just one (1) ambulance was run until 2009. Responding to Mr. Hosfelt, Mrs. Sass indicated that the City's current contract with PrimeCare extends until March 30, 2018.

Mr. Hutchison noted that one of Mrs. Sass' duties and responsibilities is to be the personal contact to work with PrimeCare and questioned if she was aware of any problems or issues this year. Responding, Mrs. Sass explained that if any issues

come through, she talks them over with the City Manager, contacts PrimeCare and tells them what she has heard or needs information on, and within 24 hours they provide all necessary documentation. She noted that there had been a couple of cases where accusations were made; however, Kent County does a great job of providing information. Mrs. Sass cited an instance where they were able to provide her with a recorded conversation from an individual who made a complaint, which cleared PrimeCare of any wrongdoing.

In response to Mr. Hutchison, Mrs. Sass indicated that she was not aware of any issues that the City had regarding the total service that PrimeCare does for the City of Dover and surroundings.

Mayor Christiansen asked if the 8,856 calls were single carries or multiple patients. Responding, Mrs. Sass indicated that to determine the call details she would have to go through and check each call. She stated that she could ask PrimeCare if they could provide that information. In regard to the average billing per run, she stated that this would depend on the insurance; however, a basic breakdown of the fees indicated that emergency stretcher transports are $425, emergency stretcher mileage per load and mile is $9.95 per mile, and a flat rate service call fee is $125.

Responding to Mayor Christiansen regarding billing for refusals once an ambulance goes on location, Mrs. Sass indicated that PrimeCare does not bill for refusals. She advised that she had spoken to a private fraud investigator from the Department of Insurance in February 2013 when complaints were made by some local individuals, and they did a thorough investigation of PrimeCare and all of their billing. They stated that Delaware does not have a fee schedule and the amounts charged are based on usual and customary fees for the area. Mrs. Sass explained that, as far as the investigator was aware, PrimeCare ambulance service charges logical prices for responding. She stated that he indicated that all ambulance services charge for responding to a scene, whether they end up transporting a patient or not. Mrs. Sass advised that the fraud investigator found absolutely nothing wrong; however, they had suggested verbiage that could be added, some of which was used for the new contract.

Mayor Christiansen expressed appreciation for Mrs. Sass' efforts and the information she provided, stating that she does an outstanding job juggling all of the jobs that she does.

Mr. Hosfelt questioned if Mrs. Sass, as a City resident ,was satisfied with the service received from PrimeCare, and she responded that she was.

Mr. Scott Koenig, City Manager, questioned if the Committee wanted to form a committee for the Request for Proposals (RFP). He stated that the City had just entered the second year of the contract and the City had approximately 19 or 20 months before the contract ends. Mr. Koenig stated that if Council wants to issue an RFP, staff would be more than happy to. He noted that the operational study

indicated that Dover has enough activity and call volume to attract a national carrier. Mr. Koenig stated that the difference between local and national carriers is that a national carrier may not charge the City a standby charge. He estimated that approximately $20,000 to $21,000 per month is paid to PrimeCare as a standby charge and a national carrier would survive on pure billing. He explained that the City pays a monthly fee for the 24/7 unit and a separate bill for the 7/7 unit. Mr. Koenig informed members that a couple of years ago there was discussion about adding a third shift, at a value of approximately $10,000 per month or $120,000 per year. This was compared to making an approximate $15,000 contribution to the volunteer fire departments that are helping the City. Mr. Koenig stated that the volunteer fire department contribution was better financially both for the City and for the companies that were assisting.

From a contract management standpoint, Mr. Koenig stated, in his opinion, that the PrimeCare contract was reasonable. The complaints heard, after investigation, had been generally unfounded as they worked their way through the system. He noted that the consultant had stated that if the City was not already in the Emergency Medical Services (EMS) business, this would not be a business to begin incurring the start-up cost and billing responsibility. From a managerial standpoint, Mr. Koenig stated that staff was not recommending bringing the service in-house because the City was getting reasonable service from the private providers and would recommend continuing the operational relationship between a private service provider and the City of Dover. If an RFP was done, he recommended doing it in a format that could be distributed nationally and incurring the cost to do a national advertisement in a national publication, which, to his knowledge, the City had not done previously.

Mr. Hosfelt stated that this could be budgeted for in the next fiscal year. Mr. Koenig suggested working on the RFP within the next three (3) months, noting that the cost to advertise would be part of the very late FY 17 or very early FY 18 budget. The RFP could be issued at the beginning of FY 18, which would allow enough time to get proposals back, select a provider, and have a transition period if the City changed providers.

Mr. Neil stated his understanding from the study that there would be a cost savings if a national provider were used and if the ambulance could use the City's facilities to house the ambulance. Mr. Koenig stated his understanding that the cost components from the study were twofold, noting that if the City obtained a national provider: 1) the City would not be paying the monthly standby charge currently being paid for service; and 2) instead of renting building space from the private sector, as PrimeCare currently does, a national provider could potentially rent space inside the firehouses from Robbins Hose Company. Mr. Koenig noted that this relationship is not within the control of the City Manager but would have to be authorized by Robbins Hose Company.

The Committee recommended that staff prepare a Request for Proposals (RFP) to look at emergency services.

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 (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

Overview of the Airport Environs Overlay Zone Related to Dover Air Force Base and Fordham Brewery

Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that, in December, Fordham and Dominion Brewery Co. had applied to the Planning Commission for an expansion of the brewery on Horsepond Road. When that application came in, there was some discussion at the Development Advisory Committee (DAC) meeting. Mrs. Townshend indicated that the Dover Air Force Base community planner is part of the DAC and attends meetings when there are applications that are near the Base, or specifically within what they identify as the Air Installations Compatible Use Zones (AICUZ). She advised that, for the City's purposes, the AICUZ zone is the Airport Environs Overlay Zone (AEOZ). Mrs. Townshend stated that, at the time, staff did not have a lot of detail, but there seemed to be an increase in events being seen at the Base. Unfortunately, a lot of these events did not come to the Department of Planning and Inspections for permits, so staff did not have a clear number. Mrs. Townshend explained that at the DAC meeting, staff talked to Mr. Jim Lutz, who was then serving as Fordham's Chief Executive Officer, about the importance of getting permits when they have special events and the fact that they are in what is called the Accident Potential Zone (APZ) II, which does not allow for public assembly. Staff advised that if Fordham was planning to have more events than they had in the past, there would be a need to look at the restrictions. Mrs. Townshend indicated that staff was assured by Mr. Lutz that Fordham did not have any interest in having more than two (2) to three (3) events in a year.

Mrs. Townshend informed members that approximately one (1) month later, the City Fire Marshal's Office happened to see a post on Facebook by the brewery that showed overcrowding at a release party held in the brewery. This raised a flag from the Fire Marshal's standpoint because Fordham is a manufacturing facility from a building and fire code standpoint and had not been reviewed and approved as an assembly. Mrs. Townshend noted that it became a concern when people were packed in elbow to elbow in a facility that had not been reviewed for egress and those types of things associated with an assembly use. At that point, the Fire Marshal's Office reached out and Fordham was instructed that anything other than the standard tours and tastings that would be incidental to the brewery use would require additional review. Mrs. Townshend stated that the Fire Marshal's Office also reminded Fordham that if that side of their business was going to grow, this would require a discussion with the Planning Office because of the AEOZ.

Mrs. Townshend stated that by April, Fordham was starting to have more events, staff was finding out about them, and they were not getting permits. There had been some staffing changes at the brewery, and she felt that some of this fell through the cracks. Staff reached out again and reminded Fordham that they had to get permits

when they have events. Mrs. Townshend indicated that in early May, staff received a number of special event permit applications that included multiple events in a month. The initial series of applications included three (3) during the month of May, farmers markets throughout the summer on Saturdays, and a release party once per month, in addition to other community events. Mrs. Townshend stated that staff then looked hard at the AEOZ and reached out to the Base community planner so that staff was not making assumptions about the zone that were not what the AICUZ's expectations were. She stated that the zone specifies temporary uses no more than five (5) days. When staff met with the Base, they believed that this type of use was not what Fordham had presented when they came through the process. Referring to correspondence dated May 31, 2016 from Mr. Matthew Jordan, Dover AFB Community Planner, Mrs. Townshend stated that this letter reiterated that, under their AICUZ, Fordham is a manufacturing facility. She alerted Council that staff was going to need to address this issue and staff sent a letter to Fordham. Mrs. Townshend indicated that, at that point, the issue began to get more publicity, legislators expressed concerns, and ultimately there was a meeting at the end of June to discuss what resolution there might be.

Mrs. Townshend stated that Fordham's attorney had presented an alternative for the City to look at to modify the City's Zoning Determination and Administrative Policy. She advised that the determination was drawn from the zoning district itself and from the City's Comprehensive Plan. Mrs. Townshend indicated that the purpose of the AEOZ is to protect public safety in the areas around the Base and to protect the viability of the Base. She informed members that one of the City's commitments to the United States Air Force was to protect the areas around the Base from encroachment of incompatible uses. Mrs. Townshend noted that the issue was not that the City was trying to do something to a business but that this business had changed. When they opened in 2004, they were strictly a brewery and did not have any events. Mrs. Townshend advised that a review of the City's records revealed that the first special event permits were issued in 2012. She indicated that this issue grew up under the radar and the City's responsibility to the Base was to make sure that the City lives up to the commitment made in adopting the AEOZ. Mrs. Townshend stated that the AEOZ was initially adopted in 2001, so it was in place when Fordham located there. She stated that some people had indicated that there are events on the Base. Mrs. Townshend noted that the APZs are not necessarily just the areas around the Base. Referring to the maps, she explained that the APZs were the pink linear areas off the ends of the runways where there is an increased risk of crash, based on statistics provided by the Air Force. Mrs. Townshend noted that this is something that other military towns with air installations have and felt that a lot of people did not understand the purpose of the zone and, in particular, the locations of the APZs.

In response to Mr. Sudler regarding a related the meeting that was held at the end of June, Mrs. Townshend advised that she was not part of that meeting. She indicated that this was a meeting with the Mayor, Council President, City Manager, and representatives of Fordham, noting that Mr. William Pepper, Deputy City Solicitor, was also in attendance.

Mr. Sudler questioned what kind of staff changes were made that allowed the concern to fall through the cracks. Mrs. Townshend indicated that this matter did not fall through the cracks on the City's end but she believed it fell through the cracks on Fordham's end. She stated that she was not entirely familiar with their staffing changes; however, she knew that the CEO to whom staff talked in December was no longer there by spring; therefore, the person who made the commitment that they were not looking to grow their event business was no longer there. When Mrs. Townshend talked to the director of marketing after staff sent the letter on June 6, 2016, that person relayed to her that the events were a very big part of their business.

Responding to Mr. Sudler, Mrs. Townshend advised that staff had not issued fines and at this point was trying to get things to be compliant. She indicated that staff did not necessarily know when Fordham was having events.

Mr. Neil requested that his memorandum to the Mayor and Council dated July 25, 2016 Re: Airport Overlay Zone (AEOZ) and the Fordham and Dominion Brewery be included in the record. He stated that, in the event of an air accident, there would be a chance that the City could be sued if the City did not insist that the brewery follow what is in the crash zone. Mr. Neil pointed out that there was a second liability issue dealing with the Fire Marshal. He felt this was not entrapment on the City's part, noting that there was evidence of a broken agreement on social media. Mr. Neil stated that no fines had been levied, only counseling. He reiterated that the City could be sued if what was discovered by the Fire Marshal was not enforced. Mr. Neil felt that there was a second issue related to good faith in dealing with the Air Force. He stated that if it was free enterprise, the Air Force Base could leave because the City had broken its agreement with them by not enforcing what is in that zone. Mr. Neil noted that they could pack up and leave, and if they cannot do so, he questioned if this meant the City should break its agreement with them to allow the business to expand without doing anything about it. He questioned if the City could move actively with an ancillary location that is not in the zone to allow them to expand. For example, Mr. Neil noted that the Kent County Tourism wine trail will now be at Harrington. He questioned if the City could acknowledge that Fordham had broken the agreement and the Fire Marshal laws, note that the City had not fined but only counseled Fordham, and take an active step as a Council by turning to the committee that is dealing with economic expansion and find someplace for Fordham away from this zone where they could have their events. He did not feel the City could break faith with the Air Force simply because they cannot pack up and leave.

Mr. Slavin expressed his hope that neither Fordham nor the Air Force Base were being portrayed as the bad guys in this matter, stating that this would be a disservice. He noted that these two (2) entities were simply doing their business and it was evolving. Mr. Slavin stated that the City is growing. He thought that, as a City government, Dover needed to be out of the business of being siloed and make sure that zoning and enforcement are in line with economic development policies, so that

the City does not approach businesses saying that they are wrong and the City wants them to move. Mr. Slavin asked members to imagine being the business owner receiving this news, noting that they may have been a loyal, taxpaying business in Dover for the past 10 years, built up their brand and business and become successful, and now the City wants them to move. He stated that the answer would be that they would move to Milford, Smyrna, or someplace else that is beating the City to the punch on all of the businesses being lost. Mr. Slavin indicated that Dover was not losing to Annapolis or Anaheim but to Smyrna and Milford for this very reason. He felt that these are the moments when Dover can become viable as a City or not. Mr. Slavin stated that this zoning was passed in 2001 and felt that when something is passed and becomes a zone, it is not sacrosanct or unchanged forever. He stated that in the past 15 years, the entire business model for Fordham and Dominion and that industry had changed. Mr. Slavin noted that he is not a defender of their business and understood that they must catch up on some things. Mr. Slavin advised that this industry was no longer just about putting product in bottles and they need the ability to sell it in a very personal way by mixing it with food and the experience of being there. He felt that this is what had made Dogfish Head in Milton so successful, noting that their plant does not just have bottling but has much more. Mr. Slavin felt that there was a need to respect the fact that this had changed since 2001, noting that since 2001 the entire fleet and the types of airplanes that fly in and out of Dover Air Force Base had changed since 2001. When they recently did renovations on their runways, they used temporary flight patterns with airplanes over the City. Mr. Slavin did not recall them coming to the City saying that there was a need to change the zones during that temporary period.

Mrs. Townshend stated that the AEOZ was updated in 2011 after the Air Force adopted their AICUZ study for 2010, so this zoning district had not remained static. The text and maps had been updated based on the most current information provided by the Air Force.

Mr. Slavin stated that the City had shown moments where it could be viable and flexible and take activities, zoning, and enforcement and align them with economic development, for example the Firefly Festival. When Dover Downs wanted to put 80,000 people there listening to rock music, the City found every possible way to make this happen, and Mr. Slavin was glad that this was done. He felt that now there was a desire to snag on a single business in a single location that had dedicated itself to being in Dover. Mr. Slavin advised that, when he spoke to them, they indicated that they were very happy and proud to be in Dover but were at the end of the line with this matter. He stated that picking up and moving and building new infrastructure was not something that they wanted to do. Mr. Slavin suggested that the City should become smart and more nimble, and understand that the City is growing and, as it grows, there is a need to respond to that growth. He felt that the City should not simply hold up a book of ordinances and say sorry, no we can't do that, we are in the enforcement business, period. In his opinion, this was the wrong approach to take.

Responding to Mr. Hare regarding what the zoning was prior to being updated in 2011, Mrs. Townshend stated that the Air Force did not change the APZs, which are the same as they were prior to the update. Based on the change of the fleet, they updated the noise contours, which shrank. She indicated that some areas went from a more restrictive too a less restrictive noise zone, and some came out of the noise zone entirely.

Mr. Hutchison advised that Dover Air Force Base is one of the City's largest employers. He stated that the Base operation is unique and there is no other air base that has the relationship this Base has with Dover's community. He noted that many people work every day with the personnel at Dover Air Force Base, including the leadership team, congressional leaders, governors, and members of the General Assembly, Kent County Levy Court, and the City. Mr. Hutchison stated that the Base has two (2) major missions, including the C5 and the C17, and they are strongly being considered for a third mission involving a tanker unit. Because of the relationship that the City has with the Base and the new addition to the runway, he felt that Dover had an excellent opportunity to have another mission, and he noted that the mortuary is there as well. Looking at the Fordham business, Mr. Hutchison noted that they had a business license and he had no problems being flexible, but when it came to encroachment or perceived encroachment on Dover Air Force Base, he had serious concerns. He hoped that everyone would be very sensitive to this issue moving forward. Mr. Hutchison stated that he feels the City is very open-minded about protecting existing businesses.

Mr. Sudler concurred with Mr. Slavin, stating his concern that at times the book of nos is pulled out but when it comes to major events the answer is yes. He questioned how a yes was pulled out in an agricultural zone area for the Firefly Festival when there are other events that do not have that major restriction and the City finds nos. He felt the need to be consistent with leniency and flexibility when it comes to zoning issues.

Mr. Neil felt that the City should do what was done with the Firefly Festival but do not encroach upon the City's deal with the Air Force Base. He felt that Fordham needed an ancillary base that is not in a crash zone where they can hold their events. In terms of economic development, Mr. Neil believed that the City should consider what can be done to help Fordham that is not in a crash zone that sets up a liability issue for the City, and also in regard to what the Fire Marshal had asked for. He suggested seeing if something can be arranged for them to have their events not in a crash zone. Mr. Neil also believed the City should live up to what they had said to the Base as far as this zone is concerned. He stated the need to develop something outside the box.

Mr. Hare agreed with Mr. Slavin, expressing his belief that a compromise could be reached. Referring to events in the crash zone, Mr. Hare stated that the Air Force Base was extending invitations to set up and have big events in the crash zone. He indicated that they were not just holding events on their property but were being

invited to do events at the Air Force Base where hundreds of people show up. Mr. Hare felt that a happy medium could be reached and that there was a lot more to this than having an event at the brewery in the crash zone, noting that peripheral things go on that needed to be looked at.

Mrs. Townshend advised members that Chapter 10 of the 2008 Comprehensive Plan deals with economic development, and one of the top goals of the plan as it relates to economic development is to protect the viability of the Dover Air Force Base, since it is a major driver of the City's economy. Mrs. Townshend advised that the Planning Office had worked very diligently with the business and the development communities to update ordinances over the last five (5) to seven (7) years so that they are more flexible, more things can happen in the commercial zones, and there are more opportunities for economic development. She noted that this does not necessarily mean saying yes to everything everywhere.

In regard to the issue of consistency raised by Mr. Sudler, Mrs. Townshend indicated that this was one of her biggest concerns about making an administrative decision that she believed would go exactly against what the City committed to the Base in adopting the AEOZ. She noted that other businesses had wanted to locate within this zone and to do things that included public assembly that the City had said no to. Mrs. Townshend stated that people had come to her stating that the City said no to them and questioned why Fordham kept having these events; therefore, this was an issue of consistency. She noted that there are a lot of things in the Zoning Ordinance that are black and white and have a yes or no answer, and staff abides by that; however, there will always be gray areas. When there is gray area, Mrs. Townshend advised that she does her best to work with the applicants to make sure that the gray area is used in a way that benefits the public interest and the applicants. She indicated that there are zoning determinations that do this. Mrs. Townshend stated that many people in the business community would say that she is fair and consistent, and if the flexibility is there, she will use it and if it is not she does not. In this case, Mrs. Townshend did not believe that the Code had given staff flexibility, and she did not believe it was appropriate for her to make an administrative decision that could potentially have a long-term impact on the viability of the Base. She explained that the Zoning Ordinance and State statute set it up that zoning appeals go to the Board of Adjustment. Mrs. Townshend talked to Fordham about this and they did not want to go to the Board of Adjustment. She advised that there was the possibility of them getting a variance to allow that use but not to expand it so that it goes on to other places. Mrs. Townshend indicated that the issue of encroachment starts when there is one incompatible use, and then another down the road, and before you know it there is a Base Realignment and Closure (BRAC) commission that suddenly finds that there has been encroachment. Mrs. Townshend explained that, although members may not think this is a possibility in Dover, from the research staff had done in 2005 when the BRAC Commission looked at bases for closure, the Naval Air Station Oceana in Virginia Beach was not on the Secretary's list for closure. However, the Commission put it on the list simply because there was encroachment of incompatible uses. Mrs. Townshend explained that in order for the base to keep

their military installation, Virginia Beach had to adopt a lot of code amendments and purchase land to eliminate some of the incompatible uses. During the past winter, Norfolk's city council approved a special exception for a banquet hall that would have a capacity of 80 people, which is less than those attending many of the Fordham events. Mrs. Townshend noted that Norfolk is APZ II, which is essentially what Dover was looking at. In Virginia, the person in the cabinet position in charge of military affairs, as well as the mayor of Norfolk, came out stating that the city had made a mistake, and the city had to go back and work with this property owner at the city's expense to relocate this business.

For clarification, Mrs. Townshend indicated that this was not something that she takes lightly or that she is looking at an antiquated zone that does not take into account current priorities. She explained that this was about the commitment the City made to the Base and the long-term economic viability of the Base. If City Council wished to amend the zone, she stated that this was within the purview of the Council. In Mrs. Townshend's determination, the statement she made was that she did not believe that the discretion was there to go beyond where things were. Mrs. Townshend stated that this matter was being looked at based on what the attorney had provided to the City. She reiterated that she did not believe it appropriate for an administrative official to make a decision that was absolutely contrary to the Comprehensive Plan and the adopted Zoning Ordinance.

Referring to Mrs. Townshend's comment that economic development was not to say yes to every opportunity, Mr. Slavin wanted the record to reflect that this was not what he said.

Mr. Hutchison questioned if the City had a temporary agreement with Fordham between now and the end of the year. Responding, Mr. Hare said yes. *(City Clerk's Office Note: Subsequent to the meeting, Mrs. Townshend sent correspondence to the Fordham and Dominion Brewing Company dated August 1, 2016 regarding events at the brewery that included details pertaining to this agreement.)* Mr. Hutchison stated that the concerns had already been addressed to take care of the issue until the end of the year and there was no need to take any action on this; however, between now and the end of the year there would be a need to come to an understanding.

Mayor Christiansen indicated that the agreement was in the vein of compromise to allow Fordham to work with the planner and was not to supercede the requirements of the particular zoning. He stated that, at that point in time, he and the Council President felt it was incumbent upon them to sit down with them and discuss the issue. Mayor Christiansen commented that he had never seen anything that was so dangerous that it could not be talked about. He advised that no carte blanche was given to Fordham and it was still open to discussion and massaging so that they could continue to operate there within the parameters and permitting. Mayor Christiansen indicated that the City emphasized that Fordham has to have permitting to hold any of the events that they wish to have because no person or business in the City should be above the rules and regulations in place.

UTILITY COMMITTEE

The Utility Committee meeting was held with Chairman Cole presiding.

Evaluation of Proposals - Underground Utility Locating Services Contract

Mr. Scott Koenig, City Manager, informed members that the Underground Utility Locating Service Contract would affect both the Public Works and Electric Departments. He advised that, years ago, the City did its own locating services through City staff; however, over the past ten (10) years this had been privatized. Mr. Koenig stated that the current provider is W Locco, LLC and this contract would be coming to an end. Staff issued a Request for Proposals (RFP) through the City's procurement manager for services similar to those currently being received, and two (2) proposals were received, one (1) from Century Engineering, Inc. and one (1) from W Locco, LLC. Based on the staff evaluation, staff recommended W Locco, LLC of Georgetown, Delaware, because they are the current provider and their proposal was lower than Century Engineering, Inc., even with granting Century Engineering local vendor preference. Mr. Koenig noted that the savings would be substantial. He indicated that the estimated expense to this year's budget would be approximately $66,000. Using the average cost over the past three (3) years, it was expected that an amount between $60,320 and $61,495 would be spent, based on evaluation of the proposal.

Staff recommended awarding a one (1) year contract with the option for two (2) one (1) year extensions to W Locco, LLC, as per the proposal submitted in response to RFP #16-0044COD.

In response to Mr. Hare, Mr. Koenig stated that average spending over the last three (3) years for locating services was $61,495.

The Committee recommended acceptance of staff's recommendation to award a one (1) year contract with the option for two (2) one (1) year extensions to W Locco, LLC, as per the proposal submitted in response to RFP #16-0044COD.

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 (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

Dedication of Public Infrastructure - Dover High School Pump Station and Force Main

Mr. Scott Koenig, City Manager, advised members that the Dover High School pump station was constructed in accordance with City specifications with the intent to be turned over as public infrastructure. He explained that this pump station currently serves only the Dover High School facility but was intended and sized to cover extended infrastructure that will serve the Leander Lakes apartment complex, and potentially other areas to be developed in the vicinity of the City. Mr. Koenig indicated that the developer of the pump station had reached a point where they

would like to dedicate the infrastructure. He stated that one (1) Smith and Loveless 4B2B Vacuum Primed Pump Station would be dedicated, as well as approximately 1,512 linear feet of six (6) inch sanitary sewer force main. Mr. Koenig noted that the estimated value based on construction would be $565,070.

Staff recommended acceptance of the pump station and associated force main at the Dover High School, with dedication to include the entire referenced infrastructure. Mr. Koenig advised that, once dedicated, staff would do the maintenance and it would become part of the City's renewals over a very long period of time. Mr. Koenig stated that this was public infrastructure, so the City would have ownership of all the infrastructure dedicated.

Mr. Blakeman questioned if Leander Lakes Apartments would put any money into the pump station or if Dover High School was responsible for building a pump big enough to handle the apartments without being compensated. Responding, Mr. Koenig stated that he had not brought this information; however, he believed that the station was designed and sized for all of it. He indicated that it may have been a matter of changing some of the impellers on the pump, and if this was determined during the construction agreements, Leander Lakes may have paid for a larger pump impeller. Mr. Koenig advised that the station, as currently constructed, was adequate to serve what is currently proposed. He noted that details were worked out early in the construction and he did not have them available. Mr. Koenig indicated that there would not be a payment from them to the City of Dover for any type of infrastructure improvement.

The Committee recommended acceptance of the pump station and associated force main at Dover High School, with dedication to include the entire referenced infrastructure.

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 (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

Discussion of Duties and Assignments of City Personnel

Council President Slavin indicated that the issue of the duties and assignments of City personnel had arisen on a number of occasions and indicated a need for clarification. He advised that, in March 2013, City Council took action to reorganize City government which involved reorganizing the duties assigned to employees in the Public Works, Information Technology, Finance, and Planning Departments.

Mr. Slavin requested that the City Clerk send an excerpt from the minutes of the Regular City Council Meeting of March 25, 2013 to all members of Council, as well as the citizen members of the Legislative, Finance, and Administration Committee. *(City Clerk's Office Note: Subsequent to the meeting, this information was emailed to all members of Council and the civilian members of the Legislative, Finance, and Administration Committee.)* Mr. Slavin advised that the first vote on this matter had not passed and the second vote passed by a vote of five (5) to three (3), with one (1) member absent. He felt it would be worthwhile for members to look at what actions Council took to reorganize City government at that time.

The Committee deferred this matter until members have all the information they need.

Mr. Hare indicated that this matter would possibly be brought back in the second week of August.

Proposal for Dover Public Library to Serve as a Passport Acceptance Facility

Mr. Kirby Hudson, Assistant City Manager, reminded members that during the Regular City Council Meeting of July 25, 2016, members had the opportunity to listen and learn about two (2) major events that the Dover Public Library would be putting on: 1) a Maurice Sendak Exhibit which was anticipated to bring in huge numbers of people, and 2) Dover Comic-Con. Mr. Hudson advised that in the few years that Comic-Con had been held, its numbers had grown exponentially, not by the hundreds but the thousands. Mr. Hudson advised members that everything the library does costs money.

Mr. Hudson reviewed correspondence from Ms. Margery Cyr, Library Director, dated July 11, 2016, RE: Passport Services. He stated that at the end of May or beginning of June, Senator Chris Coons' office contacted the library to let them know that the U. S. State Department was anticipating a major increase in people renewing or requesting passports. Senator Coons wanted the libraries to know that this could be an opportunity for extra revenue. Mr. Hudson explained that the Dover Public Library could meet all of the requirements to become a Passport Acceptance Facility. He reviewed the benefits to the City and to the library, stating his belief that this service would aid an area that is greater than the City. Mr. Hudson indicated that the library would retain a $25 acceptance fee for each passport application, as well as income from any added services, such as passport photos, fees for expediting, etc. He noted that the U. S. Passport Services would provide email and telephone support from their regional offices in Philadelphia and Washington, D.C. Mr. Hudson stated that the hours proposed for passport services were Monday - Friday, 5:00 - 7:00 p.m. and Saturday - Sunday, 1:00 - 4:00 p.m.

Mr. Hudson advised that not all posts offices provide passport service, and although the Dover Post Office does, their hours are very irregular and he been told that they are not convenient. Mr. Hudson indicated that this was one of the reasons that Senator Coons had asked libraries to look at this possibility.

Mr. Hudson explained that Ms. Margery Cyr, Library Director, advised him that when she worked at a public library in central New Jersey in 2008, they were engaged in passport services operating during evening and weekend hours. She indicated that they were easily bringing in over $90,000 per year. Ms. Cyr advised that she was told that eight (8) years later they were pocketing a healthy six (6) figure income, with the service paying for itself since funds did not have to be shared. Mr. Hudson noted that this library has a full-time program that operates 67 hours per week.

Mr. Hudson stated that staff was proposing that two (2) passport agents could come in at the Library Clerk I level, with a hiring preference for veterans. After removing operating expenses, 75% of the funds collected would go to the library and 25% to the General Fund. The library funds would be used for programs such as the Maurice Sendak Exhibit and Dover Comic-Con. Mr. Hudson noted that the library is not short on ideas but does not necessarily have all the funds needed for them. He felt that something like this could bring in dollars to be able to do those sorts of things without having to ask the City for extra funds.

Staff recommended authorizing the City Manager to submit the necessary documentation to provide passport services at the Dover Public Library and incur the necessary expenses to implement and manage the program.

Mr. Sudler felt that these were great, common sense thoughts and stated that he would support the proposal.

Responding to Mr. Sudler regarding the projection for labor costs, Mr. Hudson stated that a Library Clerk I makes $13.40 per hour. At 15 hours per week, the cost would be $201 per week, with an annual cost of $10,452. Mr. Hudson estimated, including FICA and Workers Compensation in the amount of $1,780, that two (2) part-time employees working 15 hours per week would cost $23,000 annually.

Mr. Hudson advised that only 21 states were currently beginning this program and Dover would have the only such program in Delaware and Maryland. Mr. Hudson advised that this could become very busy, explaining that individuals in Maryland and in this area who need these services and do not go to the post office go to Washington, D.C. or Philadelphia. He stated that staff anticipated a lot of traffic and felt this could be a good revenue source for the City.

Mr. Cole questioned if this would be addressed on a year-to-year basis or would be a two (2) or (3) year undertaking. He asked what would happen if the first year did not go as planned. Responding, Mr. Hudson stated that the City could discontinue the service whenever it wanted to. He stated that he and Ms. Cyr wanted to ensure that the individuals hired would know that this is experimental. He noted that this would be the first such program in the State, and staff knew of only one (1) library in New Jersey where this had been done successfully. Mr. Hudson indicated that it had the potential to blossom and that Senator Coons had reached out to other

libraries. Mr. Hudson felt that the Dover Public Library was perfectly suited for it, believing that there was no other larger library, other than perhaps the Wilmington Library.

Mrs. Donna Mitchell, Controller/Treasurer, stated that she did not recall reviewing all of this information.

Mr. Hutchison questioned if a database or filing system would be needed if the City were to issue passports. Responding, Mr. Hudson stated that the library would be a service center that collects information and would not issue passports. Applicants would fill out an application and the agent would use a checklist to ensure that all information is complete. Mr. Hudson indicated that this would be the beginning of the process and the final portion would be taken care of at the Philadelphia or Washington, D. C. regional office. Passports would be shipped directly to the applicant.

Mr. Hosfelt questioned why the City would not start with one (1) additional employee rather than two (2). In response, Mr. Hudson stated that the requirement for two (2) employees was included in the guidelines for eligibility.

Mr. Hosfelt asked if it would make more sense to wait until the new budget year. Responding, Mr. Hudson questioned why this would be necessary. He noted that the supplies would be provided, it was known that the Dover Post Office was not adequately serving the public and, according to the U. S. State Department, an up-tick in people applying for or renewing passports was anticipated. In response, Mr. Hosfelt stated that this item was not budgeted.

Mr. Hudson stated that there would be no funds coming from the City. Responding, Mr. Hosfelt noted that $23,000 in salary expenses were expected. Mr. Hudson presumed that the money collected from all of the business would cover this expense. Mr. Hosfelt indicated that he was not opposed but wondered why this was being considered now.

In response to Mr. Hosfelt regarding whether the budget could absorb a $23,000 change if this proposal did not work out, Mr. Scott Koenig, City Manager, stated that staff desired to apply for the program, and Council's authorization was needed. Mr. Koenig was unsure whether the employees would be new staff members or if existing staff members would be trained. He believed that the thought was to try to make current employees available during passport service hours. Mr. Koenig noted that numbers had not been fine tuned because staff was unsure how detailed this program would be. He advised that staff saw this as a positive service and a potential revenue generator for the library and the City. Mr. Koenig was reluctant to commit to the estimated $90,000 in revenue, stating that he did not believe this would happen the first year. He indicated that he wanted to make the application, tie down the numbers, and report back to Council, stating that staff wanted authorization to go through the process to place the City on the list to become a passport facility.

Mr. Koenig believed that this would be a positive revenue source but stated the need to understand what it takes to exit the program.

Referring to the recommendation that veterans be given preference in the hiring process, Mayor Christiansen stated his understanding that there would be additional personnel. He asked if it would be permissible for these employees to perform other library-oriented work when they are not processing applications. In response, Mr. Hudson stated that he felt they could probably do other things and that he would obtain the information.

Mr. Shevock questioned how the program would be promoted. Responding, Mr. Hudson indicated that the U.S. government would assist with promotion at no additional cost to the City. Mr. Shevock suggested that this service be placed on the City's website.

Mr. Hare questioned if there would be overtime hours if existing staff were used. In response, Mr. Koenig stated that there would not be overtime hours, reiterating his belief that part-time employees at the library would be used and some of the hours would be back-filled. Mr. Koenig stated that all guidelines would be followed and the intent was not to convert an existing part-time person to a full-time person to administer the program but to try to perform the service at the lowest cost possible. He stated that there would be no benefits associated with the part-time Library Clerk I positions credentialed to be passport clerks.

Mr. Hare stated that to break even or a little above, it would be necessary to process 1,000 passports. He indicated that he had no problem with this as a temporary program to see how it goes.

Mr. Neil stated that he was very much in favor of the proposal because it would be very convenient to have this service at the library.

The Committee recommended acceptance of staff's recommendation to authorize the City Manager to submit the necessary documentation to provide passport services at the Dover Public Library and incur the necessary expenses to implement and manage the program.

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 (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

Proposal for Dover Public Library to Adopt a Smoke-Free Policy

Ms. Michelle Hughes, Assistant Library Director, stated that it was proposed to adopt a smoke-free policy for the library grounds. She reviewed a request for the Library property to be designated as a smoke-free area. Ms. Hughes advised that staff often receives complaints from library visitors about people who sit outside and smoke on a continuous basis, and referenced two such complaints received within the past

month. She indicated that another reason for the proposal was that there had been several mulch fires, most recently in June 2016, when the Dover Police cadet on duty used a fire extinguisher to put out a fire. Ms. Hughes stated that staff knows there are people on library property outside of library hours and there is concern about the possibility of significant damage to the building if a mulch fire started when staff was not present to notice it. Ms. Hughes cited several current proposals for smoke-free policies that were under evaluation. She indicated that the Dover Public Library respectfully requested that the Committee recommend the Library grounds be designated as a smoke-free area. A map of the Dover Public Library Proposed Landscape Improvement Plan designating the proposed border of the smoke-free area was displayed.

Mr. Sudler believed that the State of Delaware had a no-smoking policy within 25-feet from any public facility and questioned if the Dover Police Department would be able to issue citations with this law in place. He questioned how this would work in conjunction with what was being asked and felt that if this was in place, the City could be capitalizing on it and giving out citations. Mr. Sudler stated that he agreed with the no-smoking zone for the library.

Mr. Scott Koenig, City Manager, advised that the library has signs indicating that there is no smoking within 25 feet of the building; however, there is no reference in the Code, to his knowledge, that would allow enforcement. He indicated that he was unsure if there was a fine. Mr. Koenig advised that staff's request was to designate the library as a smoke-free campus, and the cadets would enforce the policy under the Dover Code of Ordinances rather than code enforcement staff. He believed that cadets are present during most or all hours of operation of the library. In response to Mr. Hare, Mr. Koenig stated that the cadets have the ability to write tickets for a series of things.

Mr. Hare questioned if this could be expanded to all City property. He noted that there are many people from the Department of Natural Resources and Environmental Control (DNREC) walking across the street to the former library and Weyandt Hall and throwing cigarette butts down. Mr. Koenig advised that this discussion was limited to the library to address very specific issues at the library. He advised that this discussion could be expanded; however, this request was related to the library.

Mr. Slavin stated that he supported the proposal 100%. He indicated that two other pieces were in the proposal's favor: 1) the Clean Indoor Air Act, which prohibits people from smoking within so many feet of an entrance to a public building, and 2) the National Fire Protection Act, which prohibits people from congregating around egress points for a building. Mr. Slavin noted the need to anticipate where smokers would go once they are banned from this campus. He indicated that urns could be set up at certain places; however, he noted that the pictures in the presentation entitled "Dover Public Library - Smoke Free" showed that no one was really paying attention to urns. Mr. Slavin stated that he would also support looking at further banning of smoking on all City property, similar to what the State of Delaware had

done, noting that the State does not allow smoking. He felt that smoking had no place in City parks.

The Committee recommended authorizing the City Manager to implement a smoke-free policy on the campus and grounds of the Dover Public Library.

Council President Slavin apologized for neglecting to recognize Councilman Sudler during the consideration of the consent agenda and noted his request that item 5-C(3), Proposal for Dover Public Library To Adopt a Smoke-Free Policy, be removed from the consent agenda.

Mr. Sudler moved to approve the Committee's recommendation to authorize the City Manager to implement a smoke-free policy on the campus and grounds of the Dover Public Library with an amendment to include all parks and recs facilities and also City buildings and City facilities as a whole. The motion was seconded by Mr. Neil.

Mr. Slavin asked Mr. Sudler if, by buildings, he meant the inside of the building, which is already prohibited by State law, or if he meant City property surrounding the building. Mr. Sudler responded that he meant surrounding the building, 25 feet from the building.

Mr. Slavin asked if Mr. Sudler meant while on City property. Mr. Sudler responded that he did.

Mr. Slavin asked for clarification if the amendment was to adopt a smoke-free policy for all parks and all City property. Mr. Sudler responded that it was.

Mr. Hutchison asked if, in fact, the matter passes, what the penalties would be when enforced. Mr. Sudler suggested following the State of Delaware's statute regarding the penalties and enforcement.

Mr. Slavin stated that it was his understanding when this question was raised on the public library proposal that it was a Dover City ordinance. Mr. Koenig stated that he believed it could be enforced.

The motion to amend the Committee's recommendation to authorize the City Manager to implement a smoke-free policy on the campus and grounds of the Dover Public Library to include all parks and recs facilities and also within 25 feet of City buildings was unanimously carried.

Mr. Sudler moved to accept the Committee's recommendation to authorize the City Manager to implement a smoke-free policy on the campus and grounds of the Dover Public Library, as amended to include all parks and recs facilities and within 25 feet of City buildings. The motion was seconded by Mr. Neil and unanimously carried.

Request to Solicit Real Estate Services - Garrison Oak Technical Park

Mr. Scott Koenig, City Manager, informed members that staff was requesting authorization to solicit commercial real estate services, primarily for the Garrison Oak Technical Park (GOTP). He noted that one (1) of the shortcomings of that piece of property was that, in discussions over the past two (2) years, some real estate

agents had been reluctant to bring buyers to the City because the property was not listed. Mr. Koenig stated that there was concern that they would be left out of the transaction and not be awarded a commission. One of the ideas discussed to help market the available property at GOTP was to list the available properties with the commercial real estate industry with the understanding that they will be granted a commission.

Mr. Koenig stated that he would like to prepare a one page letter of interest/Request for Proposals (RFP) to be submitted to the City Manager's Office. He advised that the RFP would go out with the required notification and staff would be allowed to evaluate those submissions and select a commercial real estate broker, and the properties would then be listed. Mr. Koenig advised that if Council wanted to review the evaluations, staff would bring them to Council for consideration. He stated that the request was to authorize staff to put out the RFP, evaluate the proposals, and award a listing contract without further Council review.

Staff recommended authorizing the City Manager to solicit interest and proposals for providing real estate services for available property in the Garrison Oak Technical Park and award of the services contract will be delegated to staff unless otherwise requested by City Council.

Responding to Mr. Sudler, Mr. Koenig stated that there would be no direct cost, but there would be the indirect cost of a commission transaction if there was a buyer.

Mr. Hare questioned if this would be given to one commercial realtor. In response, Mr. Koenig advised that the property would be listed by a commercial real estate firm. When listed, all agents from any commercial firm would understand that there is a commission involved. He stated, for example, if Company A was selected to represent the City in commercial services and it was listed with Company B, they would split the commission, similar to a regular real estate transaction.

Mayor Christiansen questioned if selection of the realtor would be approved by the Economic Development Committee. Responding, Mr. Koenig advised that this request came out of staff-related discussions with that Committee; however, that Committee does not have authorization to take official action. Mr. Koenig explained that the official action would be the current request to allow staff to put out the RFP, select the company, and list the property. He noted that the Economic Development Committee would not vote.

Mr. Hosfelt moved to recommend authorizing the City Manager to solicit interest and proposals for providing real estate services for available property in the Garrison Oak Technical Park. The motion was seconded by Mr. Cole.

Mr. Sudler questioned, when the listing is provided to one agency, if that information would be provided to other realtors. Responding, Mr. Koenig stated his belief that

they would use a multi-listing service and it would be picked up electronically by other people.

Mr. Shevock questioned if the City would have to go through the exclusive listing if the economic development group had a major company that was interested in a big portion of the properties. Responding, Mr. Koenig stated that if a prospect came in before the property was listed, that transaction may occur without a commission; however, once it is listed he felt that, ethically, the City would have to go through that person for any transaction.

Mr. Slavin stated that he was supportive of this request. Noting that the Economic Development Committee had no authority to enter into these kinds of agreements, Mr. Slavin strongly encouraged the Economic Development Committee members to draft language granting them a way to act on contracts without further review by a Committee or City Council in order to expedite the process.

Mr. Hare suggested putting an exclusion in the RFP that the commission may be reduced if the City finds the buyer.

Mr. Sudler suggested that this request be referred to the Economic Development Committee. Responding, Mr. Slavin indicated that, because the Economic Development Committee did not have the authority to take any action, the item would come back to the Council Committee of the Whole.

The Committee recommended authorizing the City Manager to solicit interest and proposals for providing real estate services for available property in the Garrison Oak Technical Park.

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 (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

Consideration of Legislative, Finance, and Administration Committee Review and Approval of Any Positions that Remain Open for Over Six (6) Months Without Being Recruited

During the Special City Council Meeting - Budget Review of May 26, 2016, Council referred consideration of whether any position that remains open for six (6) months without being recruited to the Council Committee of the Whole/Legislative, Finance, and Administration Committee.

Mr. Scott Koenig, City Manager referred to the spreadsheet entitled "Positions Open for Six (6) Months or More - July 20, 2016." He advised that most of these positions were being actively recruited and provided an update, as follows:

1) Part-time Customer Service Representative - Collections - This employee left approximately six (6) months ago and

discussions had been held through this morning on recruiting for this position. There was an internal request to recruit differently than is on the posting sheet, and staff was reviewing the request in accordance with policy.

2) Electric Generation Superintendent - This position was created in the last budget and was funded for six (6) months in the FY 16 budget from December through June. This recruitment is out and there were interested applicants. This employee would serve as the bridge between the Electric Department and the City's generation assets. This is a critical function in the long term for the viability of the electric utility. At least one (1) interview was scheduled for later this month with a viable candidate.

3) Key Accounts Representative - This was listed as a new position with a new title since a position in Customer Service was re-titled. The position was being actively recruited and had been vacant approximately 13 months ago beginning in Customer Service, but staff was nearly ready to offer a job, provided that the final interviews go well. This employee would develop significant relations with the City's major customers so that the City can address their needs in the future. The industry is very dynamic and there were discussions about how to accurately project changes in load demands, interactions with customers, and new types of metering and interaction. This employee would be key to making those relationships work.

4) Public Works Operations Manager - This position had been moved in and out of the budget, most recently when several labor grade positions were moved around to obtain funding for this opening. It had now been actively recruited and interviews were tentatively scheduled for August 3rd through August 5th.

5) Motor Equipment Operator II Grounds - Mr. Koenig advised that staff had been playing a lot of leapfrog with some of the labor positions, noting that the hiring of one (1) person can create a cascade effect. This position had been open for eight (8) months, was currently being recruited, and would be open until filled.

6) Crew Leader Grounds - An offer had been made and this employee would start shortly.

7) Utility Maintenance Mechanic II - This is a pump station mechanic, and there had been incredible difficulty filling these positions over the last couple of years. Mr. Koenig advised that this is a technical expertise that people are not running to at this point at the pay the City is offering. Several people had been hired in this capacity who had moved to the electric utility in metering and substations. With these technical skills, there is ability to transfer to the electric utility with a higher rate of pay, so there had been internal pirating of staff with employees in the water/wastewater utility going to the electric utility.

8) Motor Equipment Operator I Water (2) - Two (2) positions were open. Mr. Koenig advised that although the time of vacancy was listed as three (3) years and three (3) months, this was not continuous because one (1) position had been filled and another became vacant; therefore, there had been a revolving vacancy for some time. Mr. Koenig stated that, in addition to the work being difficult, these employees are out in the weather and have on-call requirements, and this dynamic adds difficulty in recruitment. They are sometimes on call once per month for a week.

9) Motor Equipment Operator I Sanitation - This had also been a revolving door. Staff had been recruiting and intended to fill this position to maintain the service.

10) AS400/System Operator - This position had not been recruited due to discussions related to the Enterprise Resource Program (ERP). The AS400 System Operator Program left 13 months ago, and this position was purposely left open due to the desire to develop a clear vision as to what HTE would be replaced with and what skill set is needed for that.

11) Administrative Assistant - IT - This position was also left open so that a vision could be formulated for the future of the ERP system. The AS400/System Operator and Administrative Assistant positions would likely support any transition that happens with that system. Mr. Koenig indicated that at the next committee-level meeting, staff would be making a recommendation on the consulting side of the ERP system to begin that process. This salary will be used shortly thereafter to help support the internal implementation of either a new system or continue to support the existing system.

Mr. Koenig stated that these positions were all important in different aspects to different components of the City. He stated that he was steadfastly behind continuing recruitment for each of the positions and getting them filled so that it could be determined if the City has the right people and skill sets to provide service. Mr. Koenig thought that all departments feel stretched in some ways. Recruitment had been very difficult and there had been a number of retirements and resignations. He stated that it seemed that every time an employee was hired, after a brief period there is a resignation, retirement, or a shift to another department. One higher-level opening can create a cascade effect that, through the normal recruitment process, leaves an opening for quite some time. Mr. Koenig advised that the Human Resources Department had been very active in recruitment, noting that Ms. Corinne Mosher, Human Resources Coordinator, had spent almost all of her time over the past year heavily involved in recruitment. He stated that staff was proud of the people hired, especially those brought in over the past few years, because the markets are seeking good workers. Mr. Koenig explained that there was pressure to fill positions at the equipment and labor levels because there are many people out there simply chasing the dollar and, in some cases, this hurts the City because the benefit package for certain professions and occupations gets overlooked by those who simply look through the paper at the dollar per hour. Mr. Koenig expressed his hope that members would support staff in continuing to recruit all of these positions and get them hired and underway to continue to provide service as indicated in the budget.

Mr. Hosfelt stated that what he hears most often is that the City is not willing to pay enough for the positions to beat the marketplace. He questioned if the City was at the point that Human Resources should do another study. Responding, Mr. Koenig recalled that the last study done by the Management Advisory Group was updated in 2009. He indicated that this is a very sticky question, noting that labor unions had negotiated with the City in good faith and came to agreement on costs. Mr. Koenig stated that the City was being squeezed in a couple of areas where there were concerns; however, doing a full-blown labor study using a disinterested third party is significantly expensive and takes quite some time. Mr. Koenig felt that this would create a massive level of distraction during that timeframe and, at this point, he was not of the opinion that the City should solicit any type of pay study. He believed that they might be surprised at some of the numbers that would come back from the study. Mr. Koenig thought that certain positions in the marketplace were having competitive difficulty. He advised that it is typically found that the City is overpaying for certain positions and underpaying for others. Mr. Koenig indicated that in the labor contracts, for example IBEW, it is recognized that the City posts in-house first, and there is usually a cascading effect up the ladder in the electric utility. System knowledge is important in the electric utility, so they like to hire at the groundworker, entry level and work employees up through the system so they gain all the system knowledge. Mr. Koenig stated that this is also the preference in the water and sewer utility, and in this utility the City is competing with construction companies such as Teal Construction, Inc., where the City typically loses in the dollars per hour area. In regard to sanitation, Mr. Koenig stated that responses come in spurts, and they may

get two (2) people from one (1) advertisement and nobody from another. For this reason, filling some of these positions had been sporadic.

Mr. Koenig stated that the City had held a number of job fairs over the last year, one at the Pitts Center and one at the Dover Public Library. They were well attended and the City had obtained several recruits as a result; however, staff had been on a constant hamster wheel of recruiting over the past year or more and there were still quite a few open positions. Mr. Koenig stated that staff would always know the pulse of the market and what the market was paying; however, in reading any of the magazines, especially at the professional level of recruitment, some of the numbers were getting significantly high. He was not in favor of a salary studying because he did not feel the options had been exhausted at this point.

Mr. Hutchison questioned how long the recruiting process was for the Electric Director position. Responding, Mr. Koenig stated that a headhunter was used with an agreement that the City would pay based on the hiring of a successful candidate. The headhunter brought a number of recruits, some of whom were extremely highly paid, some in the $170,000 plus range. Mr. Koenig advised that there was a struggle to find someone and Mr. Harry Maloney, Electric Director, came to him through a discussion with Mr. Kirk Betts, the City's utility attorney. He stated that the reason the City was able to get Mr. Maloney was because he was retiring from the City of Vineland, New Jersey and had retirement benefits. Because he was dedicated to public power and was willing to give the City of Dover what he hopes is a number of years as both an Electric Director and a teacher of the distribution system discipline. Without Mr. Betts' help and Mr. Maloney's interest in being a teacher, Mr. Koenig did not feel the City would have found the person that it did. When staff came to Council to discuss this recruitment, Mr. Koenig's concern was that it would cost $150,000 or more to hire an Electric Director because that was the low end of the market. The actual market for that type of expertise is significantly higher than what the City is paying.

Mr. Hutchison noted that there were a lot of changes taking place in the electric system while they were seeking an Electric Director. He agreed with Mr. Koenig's approach to getting the director in place to see what their needs were. Many positions in the electric system were on hold until the director was identified so that he could make his own assessment, sit down with the City Manager, and work out a master plan. Mr. Hutchison stated that those positions on hold each have a special skill set in the workplace, noting that this takes a lot of time. He credited the City Manager for his patience in getting staff in place. Although it was slower than Mr. Hutchison liked, he noted the need to work with the market.

Mr. Koenig stated that Mr. Maloney treats the Dover electric system as he treated the Vineland system, which is like a child. Mr. Maloney's requests had been very deliberate and he had made some very good hiring decisions, in some cases taking a non-traditional approach. Some of the hires attracted to the electric utility had basic knowledge and electrical experience, and were learning the positions. Mr. Koenig

stated that he and Mr. Maloney had discussed the need to rebuild the managerial function of the electric system because a number of people had retired and that expertise left with them. He noted that the electric utility had been extremely beneficial for the City of Dover; however, the units are getting older and decisions will have to be made regarding potential replacement. Mr. Koenig advised that replacing capacity in the system requires a great deal of work and the human component is very important. He reminded members that none of this work is done without a human hand touching it and it is important to have the staff expertise.

Mr. Hare stated that Mr. Koenig had commented last year that Mr. Maloney spends a lot of time managing the plant. Responding, Mr. Koenig stated that Mr. Maloney spends a lot of time working hand-in-hand with NAES, who is the plant operator. Mr. Hare questioned why the City was paying NAES $7M per year if Mr. Maloney was going to work hand-in-hand with them. In response, Mr. Koenig stated that this had been previously discussed.

Mr. Hare recalled that during last year's budget discussions it was said that there would be a meeting to review the total picture of the City's electric utility over the next five (5) and 10 years and decide where the City was headed and if plants would be rebuilt. He indicated that this meeting had not been held. In addition, he stated that Mr. Hutchison had brought forward a motion to have the City get better control of its pay system and compare it to the market, the State of Delaware, and towns around Dover and this had not been done. In regard to the Electric Generation Superintendent, Mr. Hare stated that Mr. Koenig could look for this individual; however, it must come back to Council for approval when Mr. Koenig decides that he has the individual. Responding, Mr. Koenig stated that this was one of the reasons that this discussion was being held, noting that he wanted authorization to hire the Assistant Generation Manager position. He stated that this position was placed on hold because a lot of things had been going on.

In response to Mr. Hare regarding the five (5) and 10 year plan, Mr. Koenig stated that every budget includes a five (5) year Capital Investment Plan (CIP). He stated that power supply contracts had been brought before Council over the last year that included the purchase of generation and long-term energy, so these issues were coming before Council as a series of packages rather than in one package. Mr. Koenig advised that when the City renegotiated the NAES contract that was authorized by Council several months ago, one of the reasons that the fee for The Energy Authority (TEA) was reduced, and he believed for the flat contract renewal for NAES, was due to the current active management at the City level that had previously been turned over to the third-party contracts. He stated that the purpose of having the human interaction at the Electric Director and Assistant Generation Manager level was to reduce the outside labor that the City was previously paying for. Mr. Koenig stated that the power plant, especially with a unit that was built in 1961, is a specialty trade and, in his opinion, it was better for the City to privatize the plant operation because they can use whatever means necessary to hire an operator, such as flying someone in from across the country and bringing in expert

talent, because the burden is on them to provide the operators. Mr. Koenig reminded members that the City had a lot of difficulty running the plant efficiently years ago. The purpose of privatization was to help the City get out of the long-term liabilities of employees. He noted that a premium is paid for that in some cases; however, the City would have no long-term liability associated with that plant, other than the contract. Mr. Koenig reiterated that it is specialty work. He noted that Mr. Maloney knows the running of the plant, but the City is not tasked with that. Mr. Koenig stated that the whole purpose of the Assistant Generation Manager position was to rebuild the managerial capacity of the utility, which is the golden goose for the City, referring to the $10M cash transfer, plus an additional $3M - $4M in like services that are part of the utility. He stated that the City would either have the unit for another 10 or 15 years, and may build new units, or the units may be retired over the next 10 or 15 years, but the City would likely have some type of generation asset in the system. Mr. Koenig stated that the Integrated Resource Plan (IRP) was authorized several months ago and that study is underway. He advised that, as recommendations are made from the study, they will be presented to Council. Mr. Koenig stated that the Assistant Generation Manager position and these projects were discussed during the budget authorization and he stated that the only thing that had not been done, which was done internally, was a comparison of pay rates with the State and some other municipalities.

Regarding a salary study, Mr. Koenig noted that it is very difficult, if not impossible, to get an apples to apples comparison because of the way that jobs are formulated in each municipality and there is always subjectivity. He stated that there are cases where Smyrna is hiring entry-level people at a higher rate of pay than Dover and the City would have to address this issue in the future. Mr. Koenig stated that he expects that if a pay study was done, it would come back that the City would need to pay more, and this was his concern, since, in some cases, it may be substantially more. He explained that, when using the recruiter for the electric director, the people being sent to him were not even on the pay scale of the components in the City's current pay scale.

Mr. Hare stated that he felt that the City should get the IRP done before doing anything, stating that the meeting had not been held to discuss what would be done. He noted that the plant was over 50 years old and questioned what would be done in the next five (5) or 10 years and if the City would rebuild this plant. Responding, Mr. Koenig stated that the next five (5) years was laid out in the capital plan.

Mr. Hare questioned if the grid would continue to pay the City in the next five (5) years or if Dover would no longer be needed because of the number of other plants around Dover. He expressed the need to talk about the electric utility and make a decision about what would be done. In response, Mr. Koenig stated that the electric utility had been discussed and Council decided when the system was valued that they wanted to keep the electric utility.

Mr. Hare stated that there were two parts to the issue, the plants and the network. He noted that two (2) plants had been closed and questioned if these plants were getting close to being closed also. Mr. Cole stated that this matter could be discussed at a Utility Committee meeting.

Mr. Hare stated that the positions in IT had been vacant for 13 and 16 months. He indicated that when it is decided to list the positions, they should come back to justify why they were needed. Mr. Koenig requested that they not be required to be presented to the committee and stated that he would abide by whatever Council decides.

Mr. Hare felt that the Electric Generation Superintendent should be put on hold until the IRP was completed and reviewed. Mr. Koenig disagreed.

In response to Mr. Hutchison, Mr. Koenig stated that all positions except the two (2) in IT were currently being recruited. The Assistant Generation Superintendent had been advertised and candidates were being interviewed.

Mr. Hutchison felt that members should support pursuing the positions that Mr. Koenig was already working on.

Mr. Neil moved to recommend acceptance of staff's recommendation to reaffirm the authorization to recruit all open positions as the City Manager deems necessary. The motion was seconded by Mr. Hutchison.

Mr. Sudler concurred with Councilman Hare that further information was needed to determine exactly what would be done. He stated that there had been a lot of discussion in the past, noting that he had only been on Council for one (1) year; however, he felt it would be pertinent to this decision. Responding, to Mr. Sudler, Mr. Hare indicated that two (2) positions had been vacant for 13 and 16 months and the Electric Generation Superintendent was a new position.

Mr. Sudler questioned if there would be any harm to the City to wait another 60 days before filling those positions. Responding, Mr. Koenig stated that if a viable candidate were to seek another position and take a job somewhere in the next 60 days, it could hurt the City.

Mr. Hare mentioned the two (2) positions that had not been filled for 13 and 16 months and noted that Mr. Koenig had indicated that he was waiting to get the ERP report back before filling these positions. He asked why there was a rush to hire them now if they had not been filled for over a year. Responding, Mr. Koenig stated that staff had not rushed into hiring them and the simple request was that the hiring of those positions be left to the City Manager because that is an operational function of the City. He stated that this is what Council hired him for as the Chief Administrative Officer.

Mr. Hare noted that the positions had been left to the City Manager for 13 months and 16 months and had not been filled. In response, Mr. Koenig stated that this was a courtesy that the Finance Director and he had talked about so that they could potentially pool money. Mr. Hare stated that they had been using the funds for those positions for other things. Responding, Mr. Koenig stated that the funds were not used for other things.

The Committee recommended acceptance of staff's recommendation to reaffirm the authorization to recruit all open positions as the City Manager deems necessary.

During the Council meeting, Mr. Hare restated his position that they had gone through two (2) budget hearings and had positions in both budget hearings that had not been filled. If a position goes six (6) months, 12 months, 16 months, and it has not been filled, he thought the position should be presented to the Legislative, Finance, and Administration Committee with justification for filling or eliminating the position. Mr. Hare felt that the position obviously must not be needed if it can remain unfilled for 13 or 16 months.

Mr. Hare moved that any position that has been vacant over six (6) months and has not been recruited be brought back to the Legislative, Finance, and Administration Committee to get permission to recruit or fill the position. The motion was seconded by Mr. Sudler.

Mr. Neil stated his concern that, as mentioned previously in the Council Committee of the Whole meeting, if you have a position that is important, it is difficult to fill. If you have a candidate that is ready to be hired, a delay could result in losing that candidate. Mr. Neil stated that it did not cost anything to have the vacant position; however, removing the position could tie the City Manager's hands.

Mr. Scott Koenig, City Manager, stated that, as he indicated at the Committee meeting, staff had progressed through the hiring process for the Electric Generation Superintendent to conduct interviews and he expected a recommendation for hiring from the Electric Director on this position shortly. He advised that the situation was the same for the Key Accounts Representative. Mr. Koenig indicated that they are progressing through interviews and are expecting a hiring recommendation from the department shortly. The Public Works Operations Manager position is currently being recruited and they have had at least a first round of interviews.

Mr. Koenig advised that the only positions on the list of Positions Open for Six (6) Months or More as of July 20, 2016 that have not been advertised are position 10 - the IT Administrative Assistant and position 11 - the AS400/System Operator. He noted that, although the IT Director has submitted a request to have those positions filled, they are being held pending the evaluation of an Enterprise Resource Planning (ERP) system and other opportunities. Mr. Koenig advised that staff will be making recommendations regarding the potential replacement of the AS400 system. He stated that, until there is a clear understanding of what system they might be gravitating toward, staff has not recommended the hiring of the AS400 Systems Operator position. He reiterated that all of the other positions are being recruited and noted that some have been filled and then become vacant again because of a revolving door at certain levels of the organization. Mr. Koenig noted that transfers to other departments are involved in some cases, and others are related to resignations or retirements.

Mr. Koenig indicated that if staff's recommendation is not approved, there is the potential that whatever offers they may be prepared to make will become stale and the candidates will seek other opportunities. Staff will then be right back in the position of asking to hire these positions that are, in the long run, critical to the utilities and the operation of the City.

Mr. Koenig reminded members that the salary is budgeted and if there is unused salary at the end of the year, it goes to the unfunded liabilities related to Other Post Employment Benefits and Pension. He advised that these are not lost or wasted dollars, and he noted that each of these positions is important in the long run. He requested that the City Manager's office be given the authority to recruit the positions as necessary. Mr. Koenig requested that, if staff's recommendation is not going to be approved, that the matter be tabled until there is a full complement of Council members to vote on the issue of referring vacant positions back to the committee.

Mr. Hare stated that the positions currently being recruited are not in question, it is only the positions that have gone 13 and 16 months without being actively recruited and filled. He reiterated his feeling that if the position has gone a year without being filled, the position may not be needed and should be reviewed by the Legislative, Finance, and Administration Committee prior to being filled.

Mr. Sudler asked how many prospective applicants had been interviewed in the last three (3) months and why he would not wait for the ERP study, since the positions have already been vacant this long. Responding, Mr. Koenig stated that the current discussion was different from the discussion held at the committee level, which focused on the Electric Generation Manager position. He advised that the AS400 Systems Operator position and the part-time IT Administrative Assistant positions are not currently being recruited. Mr. Koenig stated that he had no objection to delaying AS400 Systems Operator and the part-time IT Administrative Assistant positions because he did not plan to recruit for them until after the ERP study was complete.

Mr. Neil requested clarification on the motion, noting that he heard that if the position is not filled or recruited in six months, the position will be eliminated. He stated that there was a difference between being unable to fill an urgent position being recruited in the electrical department and not recruiting for a position.

Mr. Hare restated that the motion was that any position that is vacant for more than six (6) months that is not being actively recruited must be vetted through the Legislative, Finance, and Administration Committee.

Responding to Mr. Neil, Mr. Koenig stated that, as he understood the motion, it would only delay recruitment of the AS400 System Operator position and the Administrative Assistant position in IT. He noted that all other positions are being actively recruited.

Mr. Sudler asked how long the hiring process would be delayed. Responding, Mr. Koenig stated that the Committee process, using the best case scenario, would delay the hiring process by at least 30 days.

The motion that any position that is vacant for more than six (6) months that is not being actively recruited must be vetted through the Legislative, Finance, and Administration Committee was unanimously carried.

Proposed Ordinance #2016-19 Amending Chapter 22 - Buildings and Building Regulations, Chapter 46 - Fire Prevention and Protection, and Chapter 50 - Floods (Consolidation of Construction Code Appeals Committee and Property Maintenance Code Board of Appeals)(Sponsors: Cole, Hutchison, and Neil)

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that this ordinance was drafted by the City Clerk's Office as a result of a number of discussions between the Department of Planning and Inspections and the City Clerk's Office related to the Construction Code Appeals Committee and Property Maintenance Code Board of Appeals. She stated that these are two (2) separate boards that hear appeals of different sections of the building code. The Construction Code Appeals Committee is currently made up of the City Manager and two (2) members of Council and the Property Maintenance Code Board of Appeals is made up of the City Manager, one (1) City resident generally selected as a representative of homeowners, and a representative of the real estate industry. Mrs. Townshend stated that staff proposed that the Code be amended to join these two (2) boards, noting that there is a bit of overlap in the jurisdiction. She indicated that because these are three (3) member boards, there had been a number of cases where there had not been a quorum. Mrs. Townshend explained that the ordinance would take the membership of those two (2) boards and consolidate them into one (1), which would include the City Manager, two (2) members of City Council, a City resident that is generally selected as a representative of homeowners, and a representative of the local real estate industry. This body would hear appeals of building and fire code issues, as well as property maintenance appeals, such as exterior property maintenance, suspension of rental permits, and vacant buildings. Mrs. Townshend stated that staff believed this would improve the functionality of the board and the ability to get a quorum, as well as eliminate the need to comb through the code to decide which of the two (2) boards would hear an appeal.

In response to Mr. Sudler, Mrs. Townshend stated that this would also include an appeal for denial of a construction permit. She indicated that there would be five (5) members on the board, noting that currently there are two (2), three (3) member committees and the City Manager is on both; therefore, it would merge the two (2) compositions together.

As the former Chair of the Construction Code Appeals Committee, Mr. Sudler stated that, although he supported this amendment, he did not feel that Mr. Koenig should be member of this committee due to the fact that code enforcement and planning work closely together. It was Mr. Sudler's opinion that it was a conflict of interest for Mr. Koenig to approve or disapprove of Mrs. Townshend's judgment. He stated that he did not feel this was fair to the appellant because their working relationship creates a conflict of interest.

Mrs. Townshend suggested, if any one (1) of those positions were to come off the committee, that it remain a five (5) member committee; otherwise, there would be challenges with an even number.

The Committee recommended adoption of Proposed Ordinance #2016-19, as amended to change the composition of the members by replacing the City Manager with an elected City official, due to the close working relationship between the City Manager's Office and the Planning Department. *(The First Reading of the ordinance will take place during the latter part of the meeting)*.

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 (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

By consent agenda, Mr. Neil moved for approval of the Council Committee of the Whole Report, seconded by Mr. Hare and carried by a unanimous roll call vote (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

MONTHLY REPORTS - JUNE 2016

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

City Assessor's Report
City Manager's Report
City Planner's Report
Controller/Treasurer's Budget Report (Pre-Audit)
Fire Chief's Report
Police Chief's Report

QUARTERLY REVIEW OF CAPITAL INVESTMENT PLAN (CIP) (APRIL, MAY, AND JUNE) (PRE-AUDIT)

Members were provided the Quarterly Report for the Capital Investment Plan (CIP) as of June 30, 2016.

By consent agenda, Mr. Neil moved for acceptance of the Quarterly Report for the Capital Investment Plan (CIP) as of June 30, 2016. The motion was seconded by Mr. Hare and carried by a unanimous roll call vote (Mr. Anderson, Mr. Cole, and Mr. Lewis absent).

EVALUATION OF BIDS - NORTH STATE STREET GRAVITY SEWER REPAIR

Members were advised that the Fiscal Year 2017 Capital Improvement Plan includes an Inflow/Infiltration Removal project created to repair existing infrastructure to reduce the impacts of a failing sanitary sewer main. Staff identified this project through physical sinkholes in State Street. The sewer main was also investigated with a camera, which showed breaks in the pipe, allowing ground water to enter the system. The work includes the removal of existing 12" sanitary sewer main, re-lining of existing 18" sanitary sewer main and relocation of existing sanitary sewer laterals.

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 #16-0045PW.

Mr. Scott Koenig, City Manager, advised that the project area is between Cecil Street and Mary Street. He noted that staff has been evaluating the existing infrastructure, and there have been a number of sinkholes that have developed in the center of State Street due to failure of an underground pipe. Mr. Koenig stated that the work includes the removal of the existing 12-inch sanitary sewer main, realigning of an 18-inch sanitary sewer main in the same general vicinity, and then the relocation of laterals that were connected to the 12-inch sanitary sewer main into the realigned 18-inch sanitary sewer main.

Mr. Koenig advised that there is a significant amount of traffic control related to this project because it includes traffic diversion and management on North State Street. He noted that parts of the project will involve some night work due to the traffic volume in the area. For this reason, Mr. Koenig stated that the cost of the project is substantially high.

Mr. Koenig advised that two (2) bids were received and one (1) was deemed non-responsive.

Mr. Koenig stated that the project schedule would be adjusted to accommodate a number of parades and things that are scheduled for North State Street in the coming months, and that staff would be reaching out to property owners. He noted that they would have a more definitive schedule for construction once the bids are authorized; however, he did not anticipate the start date to be before the NASCAR parade scheduled for September. Mr. Slavin requested Mr. Koenig to also check with Wesley College, Delaware State University, and the high schools regarding their homecoming parade schedules. Responding, Mr. Koenig stated that staff would be working with all entities on scheduling, noting that construction would not be likely to start until late October and would probably take 60 days to complete.

Referencing the overnight work, Mr. Slavin requested that the neighbors be notified of the work well in advance. Mr. Koenig stated that staff would be reaching out to the residents and having several public meetings with the neighbors to talk about the impacts and timing of the project. Mr. Slavin also mentioned contacting the two (2) businesses owners on North State Street and Mary Street.

Staff recommended awarding the contract to Eastern States Construction Services, Incorporated, for the City of Dover North State Street Gravity Sewer Repair Project, Bid #16-0045PW, for the amount of $335,470.00.

Mr. Hare moved for approval of staff's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Mr. Anderson, Mr. Lewis, and Mr. Cole absent).

FIRST READING - PROPOSED ORDINANCE #2016-19 WITH COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE AMENDMENT #1 (CCW/LF&A #1)

Council President Slavin reminded the public that copies of the proposed ordinance are 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. Final

action by Council on the proposed ordinances will take place during the Council Meeting of August 22, 2016.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised that the proposed amendments would consolidate the Property Maintenance Code Board of Appeals and the Construction Code Appeals Committee. She noted that both Boards are established under Chapter 22 - Buildings and Building Regulations of the Dover Code.

Mrs. Townshend noted that the Property Maintenance Code Board of Appeals is made up of the City Manager, a representative of the local real estate industry association, and a resident generally selected as a representative of homeowners. The Construction Code Appeals Committee is made up of two (2) elected City officials and the City Manager. Mrs. Townshend advised that the consolidation of these two (2) boards, based on the amendment that was approved at the Committee level, would include three (3) members of Council, one (1) representative of the local real estate industry association, and a resident generally selected as a representative of the homeowners. She noted that the consolidation would improve the efficiency and clarity of the code and aid in achieving a quorum for the appeals committees.

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

> PROPOSED ORDINANCE #2016-19 WITH CCW/LF&A#1 AMENDING CHAPTER 22 - BUILDINGS AND BUILDING REGULATIONS, CHAPTER 46 - FIRE PREVENTION AND PROTECTION, AND CHAPTER 50 - FLOODS (CONSOLIDATION OF CONSTRUCTION CODE APPEALS COMMITTEE AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS)

CITY MANAGER'S ANNOUNCEMENTS

Mr. Scott Koenig, City Manager, stated that he had sent an email out earlier in the day related to notification they had received regarding a problem with a sanitary sewer manhole on the southbound lanes of duPont Highway, US-13, immediately south of Division Street. Although he had not been out to look at the problem, it was his understanding that there is a problem with some of the brick collar disintegrating under the traffic load. Mr. Koenig advised that a contractor would begin work as early as that evening.

Mr. Koenig advised that staff has been progressing through a number of issues related to projects and encouraged everyone to be conscious of the construction equipment, both at the City level and the contractor levels, because there is significant construction activity throughout the city.

COUNCIL MEMBERS' ANNOUNCEMENTS

Mr. Sudler announced that the Solid Rock Baptist Church in the Fourth District contacted him and Councilman Anderson regarding extreme flooding in that area when there is excessive rain. He requested the City Manager to continue to be mindful of that situation.

Mr. Sudler announced that Mount Zion AME Church, located at 101 North Queen Street, is having their back to school community fair, and they have reached out to the Mayor and City Council members about being celebrity cooks. He requested members to contact the City Clerk's Office to let them know whether or not they would be participating. Mr. Sudler stated that Councilmen Neil and Cole will be participating. He also advised that cooking bibs and things with their district will be provided to those who participate, in addition to Roy Sudler's ribs.

Mr. Hutchison noted that Council President Slavin's birthday was August 10th and wished him a happy birthday.

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

Meeting adjourned at 8:15 p.m.

TRACI A. McDOWELL
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Regular Meeting of August 8, 2016, are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

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Exhibits

Exhibit #1 - Ordinance #2016-16 Amending Chapter 22 - Building and Building Regulations; Chapter 26 - Businesses; Chapter 50 - Floods; Chapter 66 - Manufactured Homes and Trailers; Chapter 102 - Taxation; Chapter 106 - Traffic and Vehicles; Chapter 110 - Utilities; Appendix B - Zoning, Articles 2, 3, 4, 5, 6, 7, and 12; and Appendix F - Fees and Fines

CITY OF DOVER ORDINANCE #2016-16

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

That Chapter 22 - Building and Building Regulations, Article X - Rental Dwellings, Division 1 - Generally, Section 22-331 - Purpose; applicability; definitions; compliance, (c) - Definitions, (5) - Single-family dwellings of the Dover Code be amended to read as follows:

(5) *Single-family dwellings* means dwelling units operated singly, and separated from other units. In general, this definition shall apply to single-family detached dwellings; mobile homes and manufactured homes; and attached units, including duplexes and townhouses.

BE IT FURTHER ORDAINED:

That Chapter 26 - Businesses, Article II - Licenses, Section 26-31 - Definitions of the Dover Code be amended by deleting the definitions for mobile home park and trailer park, recreational vehicle park and tenting recreation park and inserting the definition for land lease community operator in the correct alphabetical order, as follows:

Land Lease Community Operator includes every person engaged in the business of providing home sites and facilities, for rent or lease, to owners of separately owned dwellings, including owners of mobile homes and manufactured homes.

BE IT FURTHER ORDAINED:

That Chapter 50 - Floods, Article III - Requirements in All Special Flood Hazard Areas, Section 50-36 - Recreational Vehicles of the Dover Code be amended to read as follows:

Sec. 50-36. - Recreational vehicles.

(a) Recreational vehicles in special flood hazard areas shall be fully licensed and ready for highway use, and shall be placed on a site for less than 180 consecutive days.

(b) Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, are prohibited in special flood hazard areas.

BE IT FURTHER ORDAINED:

That Chapter 66, Manufactured Homes and Trailers, of the Dover Code be amended to read as follows:

CHAPTER 66 - MANUFACTURED HOMES, MOBILE HOMES, AND LAND LEASE COMMUNITIES

Sec. 66-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Land lease community means a residential development typified by single ownership of the land within the development, with the landowner retaining the rights of ownership. Home sites or individual lots within the community are leased to individual homeowners, who retain customary leasehold rights.

Manufactured home means a factory-built housing unit designed and constructed to meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code. A manufactured home is built on a chassis that supports the structural integrity of the home and to allow transport to the site. Factory-built units built to meet the HUD Code and constructed after the code took effect on June 15, 1976 are classified as "manufactured homes."

Mobile home means a factory-built housing unit constructed on a chassis and completed before June 15, 1976. Prior to the HUD code, mobile homes were not subject to uniform construction or safety standards.

Owner of a manufactured home or mobile home means the person designated in the vehicle title of the manufactured home or mobile home, whether the title is issued by this state or by some other state.

Owner of a permanently placed manufactured home means the person designated in the vehicle or real property title of the permanently placed manufactured home, whether the title is issued by this state or by some other state.

Permanently placed manufactured home means a factory-built housing unit designed and constructed to meet the Manufactured Home Consturction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code, and that has also been placed upon a permanent, unmovable foundation.

(Ord. of 2-23-1970, § 2; Code 1981, § 12-1; Ord. of 11-10-1986, § 1)

Sec. 66-2. - Licenses.

(a) *Required fee*. The owner of a mobile home or manufactured home that is not to be permanently placed shall obtain an annual license for it and shall pay a fee for such license as provided for in Appendix F-Fees and Fines.

(b) *Payment; penalties*. Such license shall be obtained and the license fee paid by August 1 of each year and if such fee is not paid before September 1 of such year, then, in addition to any penalty incurred pursuant to Appendix F-Fees and Fines, a penalty fee of ten percent per month shall accrue on the unpaid balance of the license fee.

(c) *Moving into city*. Upon the moving of a manufactured home into the city, if the manufactured home requires a license it shall be obtained and the license fee paid within seven days. Payment of such license fee shall be prorated on a quarterly basis for each fractional part of

a year during which the manufactured home is in the city.

(d) *Required fee for landowners*. The owner of any land leased out as part of a land lease community shall obtain an annual land lease community operator business license under the provisions of Chapter 26 - Businesses.

(Ord. of 2-23-1970, § 2; Ord. of 5-24-1976; Ord. of 3-27-1980; Code 1981, § 12-2; Ord. of 8-8-1988; Ord. of 3-22-1993; Ord. No. 2009-09, 6-22-2009)

Sec. 66-3. - Real property taxes.

A permanently placed manufactured home as defined in section 66-1, and the lot upon which it is located shall be considered as being real property for purposes of valuation, assessment and taxation in accordance with section 47 of the Charter.

(Code 1981, § 12-2.1; Ord. of 11-10-1986, § 2)

Sec. 66-4. - Placement permit.

Every owner of a manufactured home, shall apply for and obtain from the city planner or his/her authorized agent a placement permit for such manufactured home. The city planner or his/her authorized agent shall issue no placement permit until the license fee required in this chapter is paid in full.

(Ord. of 2-23-1970, §§ 3, 6; Ord. of 5-24-1976; Code 1981, § 12-3)

Sec. 66-5. - Duties of land lease community owners and operators.

(a) The following regulations shall apply to owners and operators of all land lease communities:

i. Private road access. It shall be the responsibility of land lease community owners and operators to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including but not limited to potholes, snow piles, and debris.

ii. Debris clearance. It shall be the responsibility of land lease community owners and operators to ensure that all facilities and common areas within the community are kept in good repair and maintained in such a manner as to prevent the accumulation of materials which could cause a fire hazard or would cause insect or rodent breeding and harborage.

iii. Landscaping. All trees, shrubbery, lawns, and other landscaping features within the community shall be maintained by the land lease community operator to be in healthy condition at all times.

iv. Utilities. All water, sewer, electric, and gas lines and connections intended to serve common areas or the private property of tenants within the community shall be kept in good repair at all times by the land lease community operator. Stormwater

management facilities shall be maintained so as to be free of blockage and to prevent the accumulation of standing water. Community owners shall coordinate with the City of Dover regarding utility services and equipment.

v. Office hours. The land lease community operator shall be present on site at a minimum during regular business hours, so as to facilitate communication between tenants of the community and the owner, and a 24-hour emergency contact shall be available to residents.

vi. Receipt for lot payment. The Land Lease community operator shall provide a written receipt or electronic receipt at the time rent payment has been made, regardless of the form of payment.

(b) The following regulations shall additionally apply to owners and operators of land lease communities leasing land to manufactured homes:

i. Documents to manufactured home owners. Copies of this chapter and placement permit application forms shall be furnished to each land lease community owner, who shall give a copy of the same to every manufactured home owner who moves a manufactured home into the community, before the 15th day of the next succeeding month after placement of the manufactured home.

ii. Enforcement. It shall be the responsibility of land lease community owners and operators to ensure that all mobile homes and manufactured homes placed on their land maintain a current license under Section 66-2.

iii. Lease record; report. Land lease community owners who lease land to two or more persons for siting manufactured homes shall maintain a lease record, which shall be open for inspection at all reasonable times by the city planner. Before June 1 of each year, the land lease community owner shall report to the city planner the names and addresses of all persons having manufactured homes on his land.

iv. Sale of home. Before a home is sold by the homeowner, home owner's estate, foreclosure, eviction or other means, the City of Dover must be notified and all delinquent taxes, fees, or other charges must be paid.

v. The land lease community owner must notify the City of Dover if the community is placed for sale.

(c) The following shall be considered appropriate methods of redress if the duties outlined in this section are not fulfilled:

i. Any land lease community owner found to be in violation of the provisions of this section, regardless of corrective actions taken, shall be assessed a fine as provided for in Appendix F- Fees and Fines. Any such fine shall be in addition to any charges imposed upon the violator in accordance with subsection (c)(ii) below.

ii. If required, the City of Dover may perform maintenance in the owner's stead

following official notice, and place a lien on the property to recover costs, including a 15% administrative charge.

iii. Repeated failure to perform the required duties shall be cause to take action upon an owner's land lease community operator license in accordance with the provisions of Chapter 26 - Businesses, Article II, Section 26-59.

Sec. 66-6. - Anchoring and skirting.

Prior to the issuance of a certificate of occupancy for any manufactured home not placed on a permanent foundation, the manufactured home shall be firmly anchored to the ground and the open space beneath the unit shall be skirted with approved material in accordance with the requirements of the building inspector.

(Ord. of 9-13-1976; Code 1981, § 12-5)

Sec. 66-7. - Use of city utilities.

The owner or occupant of any mobile home or manufactured home shall not be entitled to receive city utilities until the license fee required in this chapter is paid in full, and city personnel shall refuse to provide sewage, water and electricity to the mobile home or manufactured home until satisfactory proof is furnished that such license fee has been paid.

(Ord. of 7-28-1975; Code 1981, § 12-6)

Sec. 66-8. - Exemptions.

This chapter shall not apply to:

(1) *Dealers*. Unoccupied manufactured homes located on a dealer's display lot; or

(2) *Manufactured homes in transit*. Unoccupied manufactured homes temporarily occupying the public right-of-way prior to placement on a lot or home site.

(Ord. of 2-23-1970, § 8; Code 1981, § 12-7)

BE IT FURTHER ORDAINED:

That Chapter 102 - Taxation, Article III - Realty Transfer Tax, Section 102-71 - Definitions, (a)(1)s of the Dover Code be amended to read as follows:

s. Any conveyance of a "mobile home" or “manufactured home” as defined in 25 Del. C. § 7003;

BE IT FURTHER ORDAINED:

That Chapter 106 - Traffic and Vehicles, Article III - Stopping, Standing and Parking, Division 1 - Generally, Section 106-123 - Vehicle Parking Time Limited Where Carrying Capacity Is in Excess

of One Ton and Section 106-128 - Parking Mobile Homes, etc. of the Dover Code be amended to read as follows:

Sec. 106-123. - Vehicle parking time limited where carrying capacity is in excess of one ton, and trailer and recreational vehicle parking.

(a) It shall be unlawful for any person to park any vehicle with a carrying capacity of more than one ton, any trailer, which includes, but is not limited to, boat, utility, construction or one that is used to carry goods regardless of weight capacity and is designed to be towed or pulled by another vehicle, or any vehicle or trailer on the city streets for a period longer than two consecutive hours.

(b) It shall be unlawful for any person to park any commercial vehicle with a carrying capacity of more than one ton, any trailer, which includes, but is not limited to, utility, construction or one that is used to carry goods regardless of weight capacity and is designed to be towed or pulled by another vehicle, or any vehicle or trailer combination thereof, in any residential zone in the city except for temporary parking for immediate deliveries, pickups, and/or service calls to residences or for construction work on residential properties. A commercial vehicle shall be one which is used or maintained for the transportation of persons or property for hire, compensation or profit, except taxicabs.

(c) It shall be unlawful for any person to park a trailered boat under 25 feet on the streets of Dover for a period longer than 12 consecutive hours. For any trailered boat 25 or greater, refer to subsection (a).

(d) It shall be unlawful for any recreational vehicle to park on any residential street for a period longer than 12 consecutive hours without a permit. A resident owner of a recreational vehicle may request a parking permit from the city to park on a residential street in the vicinity of their residence for a period not to exceed 72 hours. The permit would be made available at no cost to the resident. The parking permit shall be displayed in the front window of the vehicle visible from the street. A resident may only request such a permit three times in any 12-month period.

(e) Nonresidents are exempt from subsection (d) for a period of up to seven days as long as their recreational vehicle does not create a safety hazard or interfere with traffic in the residential area that they are parked in.

(f) All parking allowed in this section only applies to streets that can accommodate parking in compliance with appendix A, article VI, section A.

(Code 1981, § 13-30.2; Ord. of 2-22-1982; Ord. of 9-10-1990; Ord. of 12-11-1995; Ord. of 7-25-2005)

Sec. 106-128. - Occupancy of recreational vehicles, etc.

It shall be unlawful and a nuisance to keep, either as owner, tenant or possessor, any recreational vehicle, bus, motor vehicle, or vehicle of any kind adapted for long-term occupancy, except while it is being used as a business office in connection with the construction of a permanent building or

structure on the same premises. The person desiring to park and use the vehicle as a construction business office shall first obtain a permit therefor from the city manager, and the permit shall be effective for no more than six months, but in no event for longer than the period of construction.

(Code 1968, § 17-62; Code 1981, § 13-35)

BE IT FURTHER ORDAINED:

That Chapter 110 - Utilities, Article III - Water Service, Division 3 - Water Impact Fees, Section 110-207 - Establishment of Equivalent Dwelling Units, (a)(1) of the Dover Code be amended to read as follows:

(a) *Determination for residential dwellings*. Whenever by ordinance or by contract the city imposes or assesses water charges or fees on the basis of EDUs, an EDU shall be determined in the same manner as wastewater collection charges or fees and as defined in the most recent impact fee ordinance adopted by Kent County Levy Court. An EDU for a residential dwelling shall be determined as follows:

(1) Houses, dwellings, mobile homes, manufactured homes, and apartments with one kitchen and one or more baths and bedrooms separate from the kitchen .....1.0 EDU

(2) Efficiency unit or cottage having a living space in one room and having one bath .....1.0 EDU

(3) Dwelling with one kitchen and one or more baths and bedrooms separate from the kitchen and attached to other dwellings or structures .....1.0 EDU

BE IT FURTHER ORDAINED:

That Chapter 110 - Utilities, Article IV - Sanitary Sewer Service, Division 3 - Wastewater Collection Impact Fees, Section 110-282 - Establishment of Equivalent Dwelling Units, (a)(1) of the Dover Code be amended to read as follows:

(a) Determination for residential dwellings. Whenever by ordinance or by contract the city imposes or assesses wastewater collection and transmission charges or fees on the basis of EDUs, an EDU shall be determined as defined in the most recent impact fee ordinance adopted by the Levy Court of the county. An EDU for a residential dwelling shall be determined as follows:

(1) Houses, dwellings, mobile homes, manufactured homes, and apartments with one kitchen and one or more baths and bedrooms separate from the kitchen .....1.0 EDU

(2) Efficiency unit or cottage having a living space in one room and having one bath .....1.0 EDU

(3) Dwelling with one kitchen and one or more baths and bedrooms separate from the kitchen and attached to other dwellings or structures .....1.0 EDU

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 2 - Zoning Ordinance and Zoning Map, Section 1 - List of Zones of the Dover Code be amended by replacing mobile home park zone....MHP with the following:

Manufactured housing zone .....MH

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 3 - District Regulations, Section 8 - Mobile Home Park Zone (MHP) of the Dover Code be amended to read as follows:

Section 8. - Manufactured Housing Zone (MH).

8.1 *Uses permitted*. In a manufactured housing zone, no building or premises shall be used, and no building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any uses, except the following:

8.11 Manufactured homes on individual lots, held in any type of ownership.

8.12 Multiple manufactured homes on a lot, provided that:

(a) The lot is operated as a condominium; or

(b) The lot is operated as a land lease community; and

(c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a manufactured home.

8.13 One-family detached homes on individual lots, held in any type of ownership.

8.2 *Conditional uses*. Conditional uses shall be consistent with those conditionally permitted in the One-Family Residence Zones.

8.3 *Accessory uses*. Accessory uses shall be consistent with those permitted in the One-Family Residence Zones, with the following additions and exceptions:

8.31 Management facilities. The following shall be permitted accessory to lots providing home sites for multiple manufactured homes:

(a) Management offices with rooms for the usual office furniture and supplies, limited to one per lot;

(b) Storage space for utility connection supplies in quantity, manufactured home accessories and maintenance materials and

equipment;

(c) Laundry facilities equipped with washing machines and dryers;

(d) Community building facilities, including indoor recreation areas;

(e) Commercial establishments consistent with uses permitted in the C-1 Neighborhood Commercial Zone, limited to one such establishment per lot;

(f) One-family detached homes intended for the use of a manager or caretaker, limited to one such dwelling per lot.

8.32 Accessory home occupations. Accessory home occupations shall be permitted consistent with the conditions outlined for home occupations in the One-Family Residence Zones, with the exception that no home occupation shall be permitted if not also permitted by the owner of the lot on which the home is sited.

8.4 *Uses prohibited*. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22 - Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.5 *Minimum occupation length*. No lot or home site within the Manufactured Housing Zone reserved for occupation by a manufactured home shall be leased or occupied for residential use except for periods of 30 consecutive days or more.

8.6 *Land Lease Communities*. The following regulations shall apply to land lease communities within the MH zone:

8.61 The entire land area occupied by a land lease community, regardless of the number of home sites or individual lots therein, shall be maintained in single ownership, or if in multiple ownership, under the provisions of the laws of the State of Delaware dealing with unit properties and condominiums.

8.62 Changes to site plan. After initial site development plan approval of a land lease community, reapproval for the entire community shall not be required prior to the issuance of building permits for alterations to individual manufactured homes, or

their accessory buildings such as storage areas and patios, which, in the judgement of the city planner, do not materially alter the site development plan approval by the planning commission and are requested as adjustments to the individual manufactured home sites or lots leased by an individual family and designed for the convenience and comfort of the individual lessee.

8.7 *Performance Standards*. All uses are subject to performance standards as set forth in article 5, section 8.

8.8 *Site development plan approval*. Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

8.81 For purposes of preparing a site development plan for approval by the planning commission, and all subsequent improvements, alterations or additions, the applicant shall conform to current submission requirements and site development standards as set forth by the National Fire Protection Association publication 501A,"Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities." Where applicable, the approving authority shall be the Fire Marshal's Office.

8.82 No site development plan proposing the siting of a manufactured home outside of a land lease community shall be approved unless the plan shows the manufactured home is to be permanently placed, as defined in the Dover Code of Ordinances, Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities.

8.9 *Maximum density*. The gross residential density in an MH zone shall not exceed six dwelling units per acre.

8.10 *Signs*. Signs shall meet the regulations found in Article 5 - Supplementary Regulations, Section 4 - Supplementary Sign Regulations.

(Ord. of 10-13-1981; Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); Ord. No. 2010-29, 1-10-2011)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 3 - District Regulations, Section 22 - Airport Environs Overlay Zone (AEOZ), Subsection 22.6 - Land Use Compatibility Table - Residential of the Dover Code be amended by inserting the following in the correct alphabetical order:

Manufactured homes	N	N	N	N	N	N	N

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 3 - District Regulations, Section 24 - Planned Neighborhood Design Option [(PND)], Subsection 24.3 - Permitted Uses of the Dover Code be amended to read as follows:

24.3 Permitted uses:

(a) Any use permitted in one-family residence zones;

(b) Any other residential use, including one-family lot line dwelling units, duplexes, multiplexes, townhouses, patio houses, garden apartments, and mid-rise apartments, but not including high-rise apartments, mobile homes, or manufactured homes;

(c) Accessory dwelling units may be proposed in conjunction with detached single-family houses if approved by the planning commission as an integral part of planned neighborhood design;

(d) Commercial uses accessory to the development as a whole in accordance with the standards of the C-1A zone;

(e) Under the senior citizen housing option, all housing types, and including congregate housing structures and uses, assisted living residences, and nursing homes. All such housing units and/or property shall be deed restricted to require that the head of household for each housing unit be at least 55 years of age or older.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 4 - Zoning Bulk and Parking Regulations, Section 4.12 - Mobile Home Park (MHP) Zone of the Dover Code be amended to read as follows:

Section 4.12. - Manufactured Housing (MH) zone.

[(a)] Bulk and parking regulations for the manufactured housing (MH) zone are as follows:

	Manufactured Home Community (≥ 15 home sites per lot)	Individual Single-Wide Unit Lots	Individual Double-Wide Unit Lots	All Other Individual Unit Lots
Minimum required:				
Lot area	15 acres	4,000 sq. ft.	5,000 sq. ft.	6,000 sq. ft.
Lot width (ft.)	200	40	55	60
Front yard (ft.)	40	25	25	25
Side yard (ft.)	25	8	8	8
Rear yard (ft.)	25	11	11	11
Off-street parking space	2	2	2	2
(a) Per home/home site	2	2	2	2
(b) Per 300 sq. ft. of floor area in permanent management office facility	1			
Maximum permitted:				
Building height				
Stories	2	2	2	2
Feet	30	30	30	30

[(b)] Special requirements for corner lots with frontage on two streets, public or private, shall be as follows:

1. Minimum lot width for a single-wide unit lot shall be 54 feet, minimum lot width for a double-wide unit lot shall be 68 feet, and minimum lot width for any other

individual unit lot shall be 75 feet.

2. The minimum setback for any structure from the edge of the cartway of either street shall be 22 feet.

3. Off-street parking shall not be permitted within 30 feet of the corner of the lot at the street intersection.

[(c)] Special requirements for lots accessed by cul de sac streets shall be as follows:

1. The minimum lot frontage at the edge of the street cartway shall be 16 feet.

2. The minimum lot width at the building setback and for the full depth of the lot behind the building setback line shall be 40 feet for a single-wide unit lot area and 55 feet for a double-wide unit lot. (Ord. of 4-28-1986)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 4 - Supplementary Sign Regulations, Subsection 4.7 - Permitted Signs of the Dover Code be amended to read as follows:

4.7 *Permitted signs*. Signs are permitted in all zones in accordance with the following table, which is a list of permitted sign types by use, proximity to residential uses and road classification.

SIGN TABLE									
Use		Road Type	Permitted Signs						
Specific			Sign Type	Number Permitted	Max. Size	Max. Height	Percentage of Total Wall Area	Setback (R.O.W.)	Exclusion Zone
Residential Uses and Nonresidential Uses in Residential Districts	Single-Family Detached/ Semi-Detached	All Streets	Signs permitted in § 4.5 only						
	Professional Office	All Streets	Post or Monument	1/entrance	12 S.F.	7 feet	N/A	5 feet	20 feet
			Wall	1/frontage	16 S.F.	N/A	≤ 15%	N/A	N/A
	Subdivisions Multi-Family Residential Uses	All Streets	Wall	1/frontage	32 S.F.	N/A	≤ 15%	N/A	N/A
	Manufactured Housing Communities		Monument or Post and Panel	2/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
Nonresidential Uses Adjacent to Residential Districts or Uses	Places of Worship Daycare Centers Approved Conditional Uses Educational/Institutional All Other Approved Nonresidential Uses	Urban Principal Arterial	Wall	2/frontage	32 S.F.	N/A	≤ 15%	N/A	N/A
			Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	10 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	5 feet

			Pylon*	1/frontage	32 S.F.	30 feet	N/A	30 feet	50 feet
		Urban Minor Arterial	Wall	2/frontage	32 S.F.	N/A	≤ 15%	N/A	N/A
			Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
		Urban Local/ Collector	Wall	2/frontage	32 S.F.	N/A	≤ 15%	N/A	N/A
			Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
Nonresidential Uses in Nonresidential Districts	Nonresidential Uses	Urban Principal Arterial	Wall	2/frontage	No max	N/A	≤ 15%	N/A	N/A
			Monument or Post and Panel	1/entrance	100 S.F.	10 feet	N/A	10 feet	20 feet
			Pylon OR *	1/frontage	100 S.F.	30 feet	N/A	15 feet	50 feet
			Pylon*	1/frontage	150 S.F.	30 feet	N/A	31 feet	50 feet
		Urban Minor Arterial	Wall	2/frontage	64 S.F.	N/A	≤15%	N A	N/A
			Monument or Post and Panel OR	1/entrance	64 S.F.	7 feet	N/A	5 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet
		Urban Local/ Collector	Wall	2/frontage	32 S.F.	N/A	≤ 15%	N/A	N/A
			Monument or Post and Panel OR	1/entrance	32 S.F.	7 feet	N/A	5 feet	20 feet
			Post**	1/frontage	16 S.F.	7 feet	N/A	5 feet	10 feet

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.

(Ord. of 9-12-1983; Ord. of 1-10-1996; Ord. of 11-13-2007)

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 7 - Nonconforming Buildings and Uses, Section 1 - Nonconforming Buildings and Uses, Subsection 1.51 of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

1.5 Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district, and blight the proper and orderly development and general welfare of such district and the city to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this ordinance; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.

1.51 In any residence zone, any nonconforming use of open land, including such uses as a parking lot, junkyard, or open storage yard for materials or equipment, may be continued for three years after the effective date of this ordinance, or after annexation of the property into the City of Dover, provided that, after the expiration of that period, such nonconforming use shall be terminated (see also article 6, section 1.12). Any “mobile home” as that term is defined in article 12 hereof, that was located within the limits of the City of Dover at the effective date of this ordinance [November 22, 1976], or that was in place on any land subsequently annexed into the City of Dover, shall constitute a nonconforming use and shall be permitted to be maintained as a nonconforming use indefinitely. However, such mobile home shall be required to connect to city sewer and water mains, if available, and such mobile home shall be subject to and shall comply with all other city codes and ordinances applicable to structures and residences.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 12 - Definitions of the Dover Code be amended by inserting the following new definitions in the correct alphabetical order:

Condominium: A form of property ownership providing for individual ownership of a dwelling unit together with an individual interest in land or parts of a building held in common with other owners. Condominiums follow the provisions of the laws of the State of Delaware dealing with unit properties and condominiums.

Land Lease Community: A residential development typified by single ownership of the land within the development, with the landowner retaining the rights of ownership. Home sites or individual lots within the community are leased to individual homeowners, who retain customary leasehold rights.

Mobile home: A factory-built housing unit constructed on a chassis and completed before June 15, 1976. Prior to the HUD code, mobile homes were not subject to uniform construction or safety standards.

Modular Home: A factory built housing unit constructed to the standards of the Dover Code of Ordinances, Chapter 22 - Buildings and Building Regulations.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 12 - Definitions of the Dover Code be amended by deleting the definition of "mobile home."

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 12 - Definitions, Dwelling unit of the Dover Code be amended to read as follows:

Dwelling unit: A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boarding[house] or roominghouse, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging, nursing, or other similar home, travel trailer, recreational vehicle, or other similar structures or vehicles shall not be deemed to constitute a dwelling unit.

BE IT FURTHER ORDAINED:

That Appendix F - Fees and Fines, Chapter 26 - Businesses, Article II - Licenses, Section 26-35 - License Required; Fees, Subsection (d)(1) - Businesses Licensed of the Dover Code be amended to read as follows:

		Fees and Fines
Chapter 26 - Businesses, Article II - Licenses		
Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.		
Sec. 26-35 - License required; fees		
	Subsec. (d)(1) - Businesses licensed	
	Advertising agency	$95.00
	Amusement operator	$157.00
	Architect	$250.00
	Attorney-at-law	$313.00
	ATM machines (third-party or off bank premises)	$50.50
	Auctioneer	$157.00
	Automobile race operator	$375.00
	Bank, or loan and trust company	$313.00
	Barber	$63.00
	each additional chair over two	$4.00
	Beautician	$63.00
	each additional chair over two	$4.00
	Broadcasting station	$313.00
	Broker	$157.00
	Car wash	$188.00
	Certified public accountant	$250.00
	Cesspool cleaner	$125.00
	Chiropractor	$313.00
	Clinical social worker	$96.00
	Coin-operated amusement machine owner	$3.00 Per machine
	Coin-operated vending machine owner	$3.00 Per machine
	Coin-operated electronic video machine	$125.00 Per machine
	Commercial sign business	$125.00

	Computer-related services	$125.00
	Consultant	$50.50
	Day care operator:	
	Center or home provider with greater than six children	$50.50
	Dentist	$313.00
	Distributor	$63.00
	Dray person or mover	$125.00
	Eating establishment and/or eating establishment operator	$125.00
	Employment agency	$125.00
	Entertainer:	
	One - three entertainers per group	$50.50
	Four - nine entertainers per group	$95.00
	Ten or more	$125.00
	Entertainment agent	$188.00
	Finance or small loan agency	$250.00
	Fitness trainer	$69.00
	Funeral director	$250.00
	Gaming position	$155.00
	Gas, light, power, cable TV and telephone company	$938.00
	General repairman	$63.00
	Health spa or health club	$188.00
	Home day care operator	$25.50
	Hotel:	
	Per room	$9.50
	Per suite	$12.50
	Income tax consultant	$188.00
	Incorporator	$125.00
	Insurance adjustor office	$125.00
	Itinerant merchant, per event	$100.00
	Janitorial and cleaning service:	
	One - three employees	$50.50
	Four - nine employees	$95.00
	Ten or more employees	$125.00
	Land lease community operator, per home site within community	$25.00

	Landscape service company:	
	One - three employees	$50.50
	Four - nine employees	$95.00
	Ten or more employees	$125.00
	Laundry service operator:	
	Primary facility	$125.00
	Additional drop-off locations	$50.50
	Linen supplier	$125.00
	Manicurist	$32.00
	Manufacturer's agent or representative	$125.00
	Mercantile agency or collection agency	$125.00
	Motel, per room	$7.00
	Motion picture theater	$188.00
	Motor vehicle serviceman	$95.00
	Nursing, rest or convalescent home	$188.00
	Open market operator:	
	First 20 spaces, per rented space	$22.50
	21st - 50th space, per rented space	$11.50
	Each space over 50, per rented space	$6.00
	Outdoor tables, per table	$6.00
	Optometrist	$313.00
	Pawnbroker	$188.00
	Pest control services	$95.00
	Pharmacist	$188.00
	Photographer	$125.00
	Physical therapist	$188.00
	Physician and/or surgeon	$313.00
	Plant nursery and florist	$95.00
	Podiatrist	$313.00
	Pool table operator, per table	$63.00/ Maximum fee $189.00
	Printer	$125.00
	Private investigator agency	$188.00
	Professional counselor	$63.00
	Professional engineer	$250.00
	Professional land surveyor	$250.00

	Psychologist	$313.00
	Public accountant	$188.00
	Public stenographer	$38.00
	Publisher	$313.00
	Real estate broker, appraiser, and manager	$157.00
	Real estate development corporation	$344.00
	Real estate property manager:	
	One - three units managed	$50.50
	Four - ten units managed	$125.00
	Ten + units managed	$125.00
	Real estate salesperson or associated broker	$50.50
	Rental service	$125.00
	Sales representative	$50.50
	School and educational service (nonvocational)	$63.00
	School and educational service (vocational)	$125.00
	Scientific laboratory	$250.00
	Scrap and waste material service	$125.00
	Secondhand dealer of precious metals	$125.00
	Security service	$188.00
	Self-service laundry or dry cleaner	$125.00
	Shoe repairman	$50.50
	Sound truck, per hour	$33.00
	Tailor and garment service	$50.50
	Taxicab or bus operator:	
	First vehicle	$26.00
	Each additional vehicle	$26.00
	Tourist home, per room	$7.00
	Travel agency	$125.00
	Veterinarian	$313.00
	Warehouseman	$250.00
	Wholesale news agency	$63.00
	All other businesses not listed:	
	One - three employees	$50.50
	Four - nine employees	$95.00
	Ten - 50 employees	$125.00
	51 - 100 employees	$313.00

BE IT FURTHER ORDAINED:

That Appendix F - Fees and Fines, Chapter 66 - Manufactured Homes and Trailers of the Dover Code be amended to read as follows:

		Fees and Fines
Chapter 66 - Manufactured Homes Mobile Homes, and Land Lease Communities		
Sec. 66-2 - Licenses		
	Subsec. (a) - Required fee	$45.00 each license
	Subsec. (b) - Payment; penalties	A fine of not less than $50.00 and a penalty fee of ten percent per month shall accrue on the unpaid balance of the license fee
Sec. 66-5 - Duties of Land Lease Community Owners and Operators		
	Subsec. (c)(i) - Failure to perform required duties	A fine of not less than $50.00 in addition to any charges imposed to cover cost of maintenance by the City
	Subsec. 66-5 (c)(ii) - Cost of maintenance by the City	$75.00 per hour for such work that must be done to render the property in compliance with this article, plus a 15% administrative charge

ADOPTED: AUGUST 8, 2016

S:\ORDINANCES\2016\ADOPTED\Proposed Ordinance #2016-16 - Manufactured Housing w SA#1-ADOPTED 08-08-2016.wpd

SYNOPSIS

The proposed ordinance updates the standards and terminology throughout the Dover Code as they relate to manufactured homes. The proposed ordinance also implements standards for management and maintenance of land lease communities. (SPONSORS: NEIL, SLAVIN, AND COLE)

Actions History

08/08/2016 - Public Hearing/Final Reading - City Council
07/18/2016 - Public Hearing - Planning Commission
06/27/2016 - First Reading - City Council
06/14/2016 - Introduction - Council Committee of the Whole/Legislative, Finance, and Administration Committee

SPECIAL COUNCIL MEETING

A Special Council Meeting was held on August 9, 2016 at 5:41 p.m. with Council President Slavin presiding. Members present were Mr. Hare, Mr. Hosfelt, Mr. Hutchison, and Mr. Neil. Mr. Anderson, Mr. Cole, Mr. Lewis, and Mr. Sudler were absent. Mayor Christiansen was also present.

Council staff members present were Mr. Koenig, Mrs. Mitchell, and Mrs. McDowell. Other staff members present were Mr. Hudson and Police Chief Bernat.

ADOPTION OF AGENDA

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

Mr. Neil moved to recess into Executive Session pursuant to 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 (§10002 (l)(1) Any personnel, medical or pupil file, the disclosure of which would constitute an invasion of personal privacy, under this legislation or under any State or federal law as it relates to personal privacy). The motion was seconded by Mr. Hutchison and unanimously carried.

The Special Council Meeting recessed into Executive Session at 5:41 p.m. and reconvened at 5:51 p.m.

ACTION RESULTING FROM THE EXECUTIVE SESSION

Request for Approval of Extension of Pay Benefits

During the Executive Session, members of Council considered a request for approval of an extension of 100% pay for Corporal Thomas Hannon, in accordance with Section 12, On-the-Job Injury, of the Fraternal Order of Police (FOP) contract.

Mr. Hare moved to extend 100% pay for Corporal Hannon through August 17, 2016 when he will return to light duty. The motion was seconded by Mr. Hosfelt and unanimously carried.

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

The Special Council Meeting adjourned at 5:52 p.m.

TRACI A. McDOWELL, CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Special Meeting of August 9, 2016 are hereby approved.

ROBIN R. CHRISTIANSEN, MAYOR

/TM

COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole Meeting was held on August 9, 2016 at 6:00 p.m., with Council President Slavin presiding. Members of Council present were Mr. Sudler, Mr. Neil, Mr. Hosfelt, Mr. Hare (departed at 6:57 p.m. and returned at 7:07 p.m.), and Mr. Hutchison. Mr. Anderson, Mr. Lewis, and Mr. Cole were absent. Mayor Christiansen was also absent. Civilian members present for their Committee meetings were Mr. Caldwell and Mrs. Horsey (*Parks, Recreation, and Community Enhancement*), Ms. Arndt and Mr. Blakeman (*Utility*), and Mr. Shevock and Ms. Stewart (*Legislative, Finance, and Administration*).

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

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

Review of Active Recreation Area Plan - Planned Neighborhood Design: Senior Citizen Housing Option - The Grande - 90 Saulsbury Road (Clubhouse and Pool) (Planning References C-15-04 and C-16-04)

During the Council Committee of the Whole/Parks, Recreation, and Community Enhancement Committee Meeting of July 12, 2016, members considered a Review of Active Recreation Area Plan (Request for Cash-in-Lieu) - The Grande, Building 4: Planned Neighborhood Design - Senior Citizen Housing Option (Planning Reference C-15-04). During the Regular Council meeting of July 25, 2016, City Council approved the Committee's recommendation for acceptance of a $22,914 cash-in-lieu of recreation area construction donation.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, referred to the Site Plan for The Grande - 90 Saulsbury Road, stating that the cash-in-lieu donation was still in the process; however, the site plan would be reviewed by the Planning Commission the following week and, if approved, would replace the cash-in-lieu donation. She noted that The Grande, formerly known as Dove View, was preparing to construct a fourth building. Mrs. Townshend advised that there were currently three (3) buildings of senior apartments and there would be a total of 192 units at the corner of Saulsbury Road and Route 8 behind the TD Bank. She explained that the applicant wanted to build a pool and clubhouse for residents' use.

Staff recommended approval of the Active Recreation Area Plan with the comments and suggestions provided.

Mr. Neil moved to recommend approval of the Active Recreation Area Plan, as recommended by staff. The motion was seconded by Mr. Caldwell and unanimously carried.

Proposed Land Swap - Capitol Baptist Church/Mayfair Park

Mr. Scott Koenig, City Manager, stated that a request had been received from Pastor Terri Moore of the Capitol Baptist Church located at 401 Kesselring Avenue. He indicated that he met with Mr. Moore more than six (6) months ago to talk in general terms about potential access across the back edge of the Mayfair Park property into land owned by the church to the north. He advised that the church would like access to additional parking and to potentially expand their venues to undeveloped land.

Mr. Koenig explained that in the intervening months, concerns had been raised about the former basketball court at Mayfair Park and the long-term disposition of the park. He advised that staff was seeking direction from Council regarding engaging with Capitol Baptist Church, and potentially expending funds, to determine if a land swap to allow them access to the undeveloped land and to potentially modify the boundary of Mayfair Park in a mutually beneficial manner is feasible. Mr. Koenig noted that the amount of land that would potentially be swapped had not yet been determined because there had not been a detailed discussion about whether there is a 20-foot-wide or 24-foot-wide driveway across the edge of the property. Given the discussions that had occurred and correspondence that was received, staff was looking for direction from City Council as to whether members would like for staff to expend City resources to try to facilitate the land swap or if they would like to defer or reject the request.

Staff recommended authorizing the City Manager and other City staff to negotiate a proposed land swap which is mutually beneficial to the property owners and the City of Dover. This authorization will include any necessary research and legal expenses necessary to determine the terms and conditions of a potential land swap that involves the public open space known as Mayfair Park.

Responding to Mr. Caldwell regarding issues between Mayfair Park and the Capitol Baptist Church, Mr. Koenig stated that the issues he was aware of mostly related to claims of illegal activity in the park. He advised that he had not heard of any issues with the church using the park. Referring to the excerpt from the minutes of the City Council meeting of September 13, 1971, he informed members that the City had worked with the church years ago to improve the parking lot to provide parking to visitors to the church and the park. Mr. Koenig indicated that he was unaware of this condition until the issue was recently researched.

Mr. Koenig advised that one of the concerns with modifying the park was that federal funds were used to improve the park and any modification would require assurance that the conditions of obtaining those funds were not violated. He stated that he preferred not putting the City in a position of having to repay the funds.

Mr. Neil, noting that this park is not heavily used, questioned if the park area would be expanded and, if so, if it would allow for the City to replace the basketball court or make other improvements. Referencing the map of the Outdoor Recreation, Parks and Trails Program - Formerly known as Delaware Land and Water Conservation Trust - LWCF 10-001 42 Park improvements (1988), Mr. Koenig explained that the land that he discussed with Pastor Moore was the pointed end to the left. He noted that Mayfair Park touches City-owned land where a substation is located and that an improvement was constructed at the west end of the park adjacent to the church.

Mr. Koenig explained that the discussion he had with Capitol Baptist Church related to adjusting the property lines of the triangular area at the end so that a drive isle could be constructed to allow access to the land that the church owns immediately to the north. He noted that this area is depicted as grass on the map. Mr. Koenig advised that modification to the top property line would be required to swap a specific number of square feet of land with land that the church currently owns. He stated that the dimensions had not been determined and the discussion had been only conceptual to this point. Mr. Koenig explained that the church would have to go through the required site planning process and build according to zoning, building, public works, and utility codes.

Referring to the basketball court, Mr. Koenig stated that it was his understanding that the rims and posts had been removed from the basketball courts and only a macadam area remained at this point. He stated that, although the playground to the west is used, the park is otherwise rather passive and not used by many people.

Mr. Hare stated that the basketball courts had been a constant problem for the neighbors living around the park, noting that people had been playing basketball at 1:00, 2:00, or 3:00 a.m. and cars would double-park along Alder Road with people hanging around the cars making noise. Mr. Hare stated that the police would come and everyone would leave and then return. He stated that it was a drug dealer's haven. Mr. Hare stated that, for this reason, it was decided to take the basketball poles and baskets down toward the end of April. He advised that he and Mr. Slavin had discussed this, stating that they would address complaints when they were received; however, they heard no complaints and plenty of praise. Mr. Hare felt that, to maintain the park, the macadam should be removed because water builds up there and it was becoming infested by bugs.

In regard to the land swap, Mr. Hare explained that he had not been aware that when the playground equipment was installed, it was placed in that corner so that the church's school would have access to the equipment. He noted that the City had repaved the parking lot, with the understanding that citizens could park there and use the equipment, as long as it did not interfere with church activities, which were basically on Wednesday evenings and Sundays. Mr. Hare stated that he had been told that the church was telling people that they could not park there. He indicated that Pastor Moore may not have been aware of this situation since he was relatively new. Noting that the City had paid to pave the parking lot, Mr. Hare suggested that something, such as an easement, be put in place. He stated that he felt the equipment could then be moved a little more inland.

Mr. Slavin requested that Mrs. Ann Marie Townshend, Director of Planning and Community Development, comment on the potential future for the park, which was largely unprogrammed space. Mrs. Townshend advised that staff was planning a community meeting with the neighbors to determine what they would like to see in the park and develop a plan based on their comments. She noted that there was currently a backstop and Little League practices or pick-up baseball-type games are held at the park; however, other than the playground, there was no heavy use of the park. Mrs. Townshend stated the need to enter into discussion with the neighbors about what they want in the park. She indicated that everyone seems to want trails, stating there might be an opportunity for a multi-use path that could connect one side to another for a nice walking loop. Mrs. Townshend stated that some people had also mentioned dog parks, so there were a lot of things that could be done once it is determined what the community wants.

Responding to Mr. Hutchison, Mrs. Townshend advised that the current zoning was ROS (Recreation and Open Space), which would allow for parks and recreation uses. She indicated that if there were a change, it could require rezoning and may require a minor amendment to the City's Comprehensive Plan. Mrs. Townshend stated that this could be addressed if there was a land swap. She noted that apartments could not go in the ROS zone and that the vacant property owned by the church was zoned R-10, which is a One-Family Residence Zone. In response to Mr. Hare, Mrs. Townshend advised that houses could be built on individual lots in the land beyond the park.

Mr. Sudler asked Mrs. Townshend if the proposal was financially conducive or feasible for the City and what modifications she would make knowing all of the variables and facts presented. Responding, Mrs. Townshend indicated that, at this point, what was being considered was whether or not City Council wanted staff to proceed with investigating a land swap, which could expend legal and other resources. She noted that there would have to be discussion with the Delaware Department of Natural Resources and Environmental Control (DNREC) Division of Parks and Recreation to determine the process for a land swap. Mrs. Townshend stated that looking into a land swap would certainly be feasible, stating that if this occurred, the City could absorb the expenses in the existing budgets. If there was additional development to the park, it would be a future capital project.

In response to Mr. Sudler, Mrs. Townshend advised that no discussions had been held with the church or its leaders regarding sharing the cost of legal resources, DNREC fees, or other fees that the transition would cost City taxpayers, since the first step was to bring this matter forward to City Council. Mr. Sudler requested that staff note that this may be something to consider.

Mr. Neil stated that he would like to hear from those who were present to address the issue. He stated that he did not see a problem with this proposal, except for the cost.

Mr. Hare stated that members did not know what land they were looking for. He stated that he had no problem with the easement; however, if this were to come to fruition, he did not believe there should be a cost for the City because the City does not care if this happens or not. Mr. Hare felt that any expenses should be paid by those who wanted to have it done.

Mrs. Horsey questioned what the City would get from the church and if Council would take on this study. She stated her thought that a swap would involve land for land. Responding, Mr. Koenig stated that the church would need to give the City a conceptual or dimensional plan showing how much land they need to build a drive access. At that point, the City would have to determine whether it should be a land swap, easement, or whatever would be the best fit. Mr. Koenig advised that the church had proposed a swap, and if they needed a specific amount of square feet and there was a one-to-one swap, a property line would have to be modified. He stated that if it were only an easement, a simple easement document would have to be drafted and recorded, although there may be associated legal research to make sure that the City does not violate any of the covenants of the grants. Mr. Koenig advised that the number of hours of legal research had not been specified; however, he stated that he preferred that staff not complete hours of work if Council was not in favor of the concept. He noted that, if Council was in favor, they could allow staff time to be expended but not out-of-pocket resources unless they are reimbursed by the church, and this would be a condition that staff could work with. Mr. Koenig indicated that, other than the letter received from the church and the discussion that occurred more than six (6) months ago, he did not have a concrete

concept of what the church would like to do. He stated that there had been at least one (1) and possibly two (2) community meetings where the park was discussed, and that was why this was brought forward. Mr. Koenig reiterated that he did not want to see staff spending a lot of time coming up with a concept and have it not even remotely favored by the Committee or Council.

Pastor Terri Moore, Capitol Baptist Church, informed members that, over the years, the church had experienced a lot of problems because of the location and setup of the park. He indicated that there were issues like those already mentioned, including hanging out and late hours, noting that most of the activity was coming from the south side of the church. Pastor Moore pointed out the entrance to the park on Alder Avenue to the east of the two (2) homes next to the church. He stated that he did not understand the idea of paving the parking lot to let people use the park because the City, along with the church, had put up a fence there that did not have an entrance, meaning that people would have to climb over the fence.

Pastor Moore explained that people were coming through the three (3) properties, not only the church but the other two (2) as well. He noted that there was evidence of drugs use and sexual activity in the park. Pastor Moore advised that the fence had been repeatedly destroyed, noting that the fence that was in place when he got there was four (4) feet tall and it was crushed. The church teamed up with the City to put in a higher fence, and the church and the City each paid for half of the fence. Pastor Moore indicated that the church and the two (2) properties had been experiencing a lot of damage to fences and to their vehicles, noting that people come through when they have services, often to get to the basketball court. He stated that both the church and the neighbors who they spoke to at community meetings believe there are two (2) contributors to this problem. The first was the current, L-shaped layout of the park, which had an entrance at the corner on the map that was labeled "Alder." Pastor Moore noted the other contributor is that the portion tucked behind the church is hard for police to monitor, and the basketball courts and other activity cannot be seen from Kesselring Avenue. He felt that the layout needed to be changed and the design made more conducive to more desirable activities.

Pastor Moore advised that the church wanted to be a help to the community, noting that this would also help the church in that they own nine (9) acres near the park. He indicated that they would like to expand their parking lot, if possible. Pastor Moore thought, in order to solve the whole problem, that perhaps they could take the park behind the church and make it more square so that it would be possible to see right into it. The church would have access and the City could redesign the park. Pastor Moore reiterated that the current layout had caused this park to be a nuisance to many because of what was going on there. He felt that it was not doing what it was designed to do, which was to be a nice place to take families and enjoy time with kids, etc. Pastor Moore stated that the church would be open to changes and working with some of the costs, which could be negotiated. They felt that removing the L shape would help the two (2) houses to the east also, which would take care of a bad design that tucks people behind and makes it hard to get to things.

Referring to the Outdoor Recreation, Parks and Trails Program - Formerly known as the Delaware Land and Water Conservation Trust Fund - DTF 05-004 Playground installation (2005) depicting Park Improvements, Mr. Slavin indicated that this map showed the boundary of the park.

Pastor Moore reiterated his belief that the design of the park was creating the problem. He noted that there had been discussion at community meetings about problems related to traffic cutting through. Pastor Moore reiterated that they had worked with the City to put the six-foot fence up, but it was destroyed by people tearing it open to get into the park He noted that they had repaired the fence many times.

Responding to Mr. Sudler, Pastor Moore advised that the church had absorbed the cost of the fence repair. In response to whether they had made this known to the City, Pastor Moore advised that they were in a quandary because they are a church that wants to reach and work with the community, and not to be known as complainers who do not want anyone coming through. He noted, however, that they did not want their fence torn up.

Mr. Sudler stated that he would think that the City would be willing to absorb or help the church absorb the cost of repairing the fence, since it is part of the City's responsibility. He expressed the desire to have a healthy park that is conducive to the constituents of the City of Dover and the neighbors, stating that the City would work with the church as much as possible.

Pastor Moore stated that he understood, because of the grants and all that was given to the park, that the area of the park had to stay the same so as to affect the funds. He indicated that the church was there to work with the City to solve the problems that were taking place in Mayfair Park, and if the land swap would help everyone, including the neighbors, it seemed to be the best solution.

Ms. Janice Sibbald, Blue Beach Drive, Crossgates, advised that she had been living on Blue Beach Drive, just four (4) houses from the edge of the park, since 1968, so she was well aware of the activity in the park. Ms. Sibbald indicated that Pastor Moore neglected to inform members that there was an entrance to the park still in use in the high corner, so there is not just one (1) entrance. She pointed out that the 1971 grant to pave the church's parking lot was a help to both the City park and the church, because the church had to agree to allow the public to go through that parking lot to enter the park, except during the church activities. Ms. Sibbald advised that she had pictures of Mayfair Park area ***(Attachment # 1)*** depicting what the church had been doing since that agreement was made. She explained that, since 1971 when this arrangement was made, church people had tried to discourage people from going through their property to get to and from the park. Ms. Sibbald indicated that she did not know that parking was supposed to be allowed there. She stated that when people had gone into the park and gone to use the playground equipment, church teachers had told them that they could not use the park when the school was using it. Ms. Sibbald indicated that the school did not have to have a playground because they had use of the City park, which saved the church a lot of money. She noted that the City had maintained all of that property and the church had benefitted from this arrangement for 45 years and had discouraged the use of the park by others. Ms. Sibbald stated that the Parks Department got another grant in 2005 to replace the equipment and it was again placed by the church so that small children would not be injured by anybody playing softball in the park.

Ms. Sibbald indicated that there used to be frequent use of the basketball court, and a lot of people walk their dogs and take their children there to walk and run around. She noted that the church also uses the park frequently for their school children to exercise on. Ms. Sibbald felt that the church had

benefitted far more than the City ever did by putting out $2,500 to pave that parking lot, and this fact was totally being ignored. She reiterated that the church had stopped people from using it.

Ms. Sibbald stated that she did not feel that the City should be in the position of taking public property to provide parking lots for churches, noting that there was supposed to be a separation of church and state. She stated that she did not like the idea of setting a precedent by deciding to do something that the church wanted and changing the park, which she felt could be used for other things, especially since the basketball court was no longer in use.

Ms. Sibbald stated that she did not feel it was the park's fault that people had been misusing it, stating the need for the City to address the problems occurring there. It was her opinion that people should be reporting these things so the police could go in and take care of them. She noted that people around the park would like to continue using it and that many things could be done, such as a bocce ball park, tennis courts, or other enhancements. It did not make sense to Ms. Sibbald to give away property and try to redesign a park. She indicated that this had been going on for six (6) months and no one in her neighborhood had been contacted about it, noting that she did not find out until the day of the meeting at the church that there was going to be a meeting. Ms. Sibbald stated that she and others did not know that the meeting would address the problem. She expressed concern that all of this work had already been done by the City without addressing whether or not those in the neighborhood thought it was a good idea. Ms. Sibbald asked that the City not set a precedent like this. She noted that there were churches downtown that did not have enough parking and questioned if the City would get into helping them as well.

Mr. Hare stated that this matter had not been in the works for six (6) months, nothing had been planned, and no work or drawings had been done. He noted that the City Planner's Office had existing drawings and advised that there had only been some contact with the City Manager's Office, which he had not even been aware of.

Mr. Slavin asked if the parking lot had been repaved since 1971. He stated that he felt that this was part of the due diligence that the City would have to understand. Mr. Slavin commented that the agreement was for the initial paving of the parking lot, and once it was paved, depending on who paid for it, that agreement may have been invalidated.

Mr. Slavin stated his understanding that the City Manager was simply asking for authorization to proceed with doing due diligence and that anything else further would have to come back through the Committee and then Council. Responding, Mr. Koenig stated that he met with representatives of the church and discussed a concept, recalling that he had one (1) meeting and it was left with the church to submit something in writing if they wished to proceed. He stated that the date of the church's letter was roughly the date that staff received this information. Mr. Koenig indicated that, because there had been other discussions about the park, he wanted some clear direction from the Committee and Council as to whether they would like City staff to engage this concept and move forward. Mr. Koenig stated that he believed that if this matter moves forward, the City would have to go through the process of declaring a certain amount of land as excess and then authorizing a land swap. He stated that it would be Council's decision to do a land swap versus an easement. Mr. Koenig explained that current consideration was the first step in moving forward if Council and the Committee wished to do so. If they do not wish to move forward, the City would respond to

Pastor Moore's letter stating that it was discussed during this meeting and the City was not interested in pursuing the concept.

Ms. Sandy Kinkus, 365 Fiddlers Green, advised that she had been a resident of Crossgates since 1970. She advised that, over the years, she had heard the statement that the playground equipment was moved back as a safety issue because there was a lot of baseball being played at that time. Ms. Kinkus noted that a statement was made that before the City moves forward to study this, they must have approval from Council; however, she noted that the cost of the research was not known. She felt that the cost could be thousands of dollars or $500, and she did not think that the City should be paying any of the cost. In addition, Ms. Kinkus indicated that she was unclear about what would be swapped and she would like to know more about that. She stated her understanding that, with what the church wants, the playground equipment would have to be moved, which would be an expense, and she questioned who would pay for the equipment to be moved. Ms. Kinkus stated that the City had paid most of the money, believing that the cost of the parking lot was $2,500, $300 of which the church paid and the City paid the rest in around 1970. She acknowledged that the park was not being used the way it had been because of dynamics in the neighborhood, and because children were busy on iPads and electronics instead of playing outside like they used to. Ms. Kinkus stated that she believed that there was still a viable park there, noting that younger families with younger children were moving in because it is still a pretty good neighborhood with affordable houses. She stated that, due to the fact that the playground was back there and use of the parking lot had been denied, it was not easily accessible. Ms. Kinkus also noted that the back lot is not mowed.

Ms. Kinkus expressed concern about the precedent that a land swap would set, reminding members that Dover is the capital of Delaware and the major city in Kent County; therefore, a precedent would be set not only for them but, more or less, for Kent County, and Dover would be the example. Ms. Kinkus stated that, in order for the park to be used, something must be done with it.

Ms. Kimberly Latch, 1315 New Burton Road, recommended that the City look into the land swap because it was likely that the people that attend the church are also residents of the City of Dover and they are looking for a land swap to access their property. Ms. Latch indicated that she personally knew what it was like to be landlocked, noting that this was not a nice feeling and there are not a lot of options. Ms. Latch stated that she was not advising the City to absorb the expense, indicating that she was sure that the church would absorb part or most of it. She stated that, if the playground equipment had to be moved, she thought that the church would be agreeable so that they could access their property and build a parking lot for their parishioners. Ms. Latch acknowledged that there were residents there; however, there was also a church there that was in her backyard. She noted that she prefers having a church in her backyard, which is part of a community and makes a strong community.

Mr. Simon Lowe,140 Blue Beach Drive, advised that he had resided at that address since 1996. He stated that he felt that there was not enough information about a land swap. Mr. Lowe informed members that he was getting a picture that the park would be straightened out and the playground might be moved further behind the houses. He indicated that he would like to see a proposal so that they could speak to what is proposed, noting that there may be several proposals. Mr. Lowe requested to see more information before deciding whether he would be for or against a land swap.

Mr. Brad Schmidt, 375 Alder Road, advised that he and his wife, Sunny, have resided in the house closest to the park, where the park cuts off to go into the basketball court, since 2003 when they moved here with the military. After listening to what people had to say, it seemed to Mr. Schmidt that the problems mentioned by some of the residents who had lived there since the inception and construction of the neighborhood, related to $2,500 from 1971. He stated that they failed to realize that, over the last 13 years that he had lived there, people had accessed that park illegally at night after dark. They had trashed the place, graffiti'd the Schmidt's home, and broken into their cars. In Mr. Schmidt's opinion, if the church wanted half of the land and wished to do a land swap, it would be better for him as a homeowner to get people out from behind his home. He stated that it would also get rid of the basketball court pad that was still there, where there was standing water and mosquitos. Noting that the softball field had been mentioned, Mr. Schmidt advised that the softball field had been used maybe once or twice this entire year. He failed to see how anyone who did not live by the park and did not pay attention on a routine basis could stand there and say that the land swap was a bad idea. In Mr. Schmidt's opinion, the church should be given what they want if they were willing to help out with the cost, stating that this would benefit the residents of the community, especially those who own their own homes behind the church and in front of the basketball court.

Mr. Schmidt noted that, since the basketball poles were removed, the area is quiet, there are no cars on the road, no one double parked, no illegal trafficking, and people are not there past dark. People walk their dogs, pick up after them, and pick up after their kids. Mr. Schmidt stated that this was great as it had been turned back to the community instead of the people that came there to play basketball.

Ms. Elaine Kesselring stated that she had lived across from the property, off New Burton Road, for years and noted that Mr. Larry Kesselring had lived there since he was three (3) years old and was now 76. She indicated that they had seen all this develop. Ms. Kesselring stated that she could not see a problem with what the church was asking, stating that she sits out on their screened porch and nobody uses that property. She advised that, once in awhile, when the playground equipment was not as worn is it is now, the kids were using the equipment; however, she was unsure if it was the church school kids or kids from the neighborhood. Ms. Kesselring indicated that she would much rather have a church in her backyard than the other things that could be there if the church decided to sell their property and build a church someplace else outside the City. She indicated that she had seen this develop and is the resident that sees all of this because everyone else has fences.

Ms. Lani Lowe, 140 Blue Beach Drive, agreed with those who preferred to have a church in their backyard; however, she stated her concern as a resident about not having enough information. She advised that she would prefer to see a drawing of the proposed layout and what could potentially be behind their house. She expressed sympathy for the frustration of other residents and requested being given an actual picture of what they want to do with the swap.

Mr. Hare stated that he agreed with Mr. and Mrs. Lowe that more concrete information was needed, such as options from the church, and expressed the need to see something in terms of projected costs. He stated that he felt that this concept would benefit the church and that the costs should be incurred by those who wanted it. Mr. Hare suggested deferring this matter until there was more information.

Mr. Hosfelt stated that, by approving staff's request, members would be giving staff approval to start looking at this, design something, and come back with recommendations. He felt it would benefit some of the homeowners to be able to see the proposal. Mr. Hosfelt stated that, to get to that point, staff's recommendation to authorize the City Manager and other City staff to negotiate a proposed land swap which is mutually beneficial to the property owners and the City of Dover, including any necessary research and legal expenses necessary to determine the terms and conditions of a potential land swap that involves the public open space known as Mayfair Park, must be approved.

Mr. Slavin moved to recommend approval of staff's recommendation with four (4) caveats, as follows: 1) that staff would come back and present at least three (3) alternatives on the proposed land swap that include maps and drawings; 2) that there would be commentary from the Parks and Recreation Department on what the potential effect would be on the future uses of the park for the land swap; 3) that it would include an estimate of costs, and a proposed cost sharing arrangement with the church would be identified, and 4) that staff was not authorized to expend any funds at this point without further approval. The motion was seconded by Mr. Caldwell.

In regard to staff's recommendation, Mr. Hutchison asked if, when this came back, it would include both the request from the church itself and input from the neighborhood so that members would obtain a clear understanding of what the needs were.

Mr. Hare questioned if the motion would authorize staff to negotiate a proposed land swap or would just authorize them to come back with proposals and costs, and that nothing concrete would happen prior to the Committee's review.

For clarification, Mr. Slavin explained that this matter would come back to the Committee and he hoped that everyone else would come back as well.

The motion to recommend approval of staff's recommendation with four (4) caveats, as follows: 1) that staff would come back and present at least three (3) alternatives on the proposed land swap that include maps and drawings; 2) that there would be commentary from the Parks and Recreation Department on what the potential effect would be on the future uses of the park for the land swap; 3) that it would include an estimate of costs, and a proposed cost sharing arrangement with the church would be identified, and 4) that staff was not authorized to expend any funds at this point without further approval.

Proposed Mural - Kirkwood/Division Street Park

Members were informed that the Restoring Central Dover Resident Engagement Work Group had requested that a wooden fence be installed along the east boundary of Kirkwood Street Park (at the corner of Division and Kirkwood Streets) and painted with a mural. Staff recommended acceptance of the proposal to allow the Restoring Central Dover Resident Engagement Work Group to install a wood panel fence, as proposed, and paint a mural.

Mr. Joshua Nobiling, Visiting Assistant Professor of Art, Wesley College, advised that the mural was proposed through collaboration between Wesley College and Restoring Central Dover. He reviewed pictures depicting the site where the mural was proposed, stating that there was an existing chain link fence that, although in a bit of disrepair, was structurally all there. Mr. Nobiling proposed

replacing this fence with an approximate six-foot privacy fence. He noted that there would be collaboration with members of the community to decide what they would like to see on the mural. Mr. Nobiling indicated that they planned to use the Philadelphia Mural Project process, which gets the surrounding community involved in every stage of the mural creation process. Mr. Nobiling advised that the community would determine what imagery would be used, if there were any individuals to be commemorated, etc. He indicated that he would be working closely with the students using Wesley College facilities to teach them how to design and paint the mural. Mr. Nobiling advised that they would be painting the mural on separate panels housed at Wesley College, rather than on the fence itself, so that it could be completed in a timely manner without having the weather dictate their progress. He indicated that the project would take until approximately the beginning of December, to coincide with the Wesley College semester and a freshman seminar mural painting class. Mr. Nobiling advised that the project would get students out into the community and engaged in the project.

Mrs. Horsey noted that wood fences can deteriorate over the years and suggested that if the chain link fence was in fairly good repair, they might want to consider adhering the wood panels in front of the chain link fence, rather than removing the fence. Responding, Mr. Nobiling stated that it was a valid point.

Ms. Maggie Cook-Pleasant, Housing Development Specialist with NCALL (National Council on Agricultural Life & Labor Research Fund, Inc.), stated that the fence was not tall enough. Responding, Mrs. Horsey suggested placing the wood in front of the chain link fence to make it taller, noting that this might strengthen the fence as well, depending on how the poles are installed. Ms. Cook-Pleasant indicated that this could be assessed. Mr. Nobiling stated that he liked the idea, noting that it would just be a different mechanism for attaching the mural panels.

Responding to Mr. Hosfelt, Ms. Cook-Pleasant stated that the project would be supported by monies from the Wells Fargo grant or NCALL, as well as through volunteers. Mr. Nobiling noted that, since Wesley College was using this as a course, they would provide the paint and supplies.

Responding to Ms. Cook-Pleasant, Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that she was unsure if the chain link fence was owned by the City, noting that it is right at the property line. She advised that staff would reach out to the adjacent property owner to determine ownership.

In response to Mr. Sudler, Mrs. Townshend stated her belief that the fence was right at the property line; however, since staff did not have a survey that showed exactly where the fence was located, they would research it to be sure. Responding to Mr. Sudler, Mrs. Townshend indicated that the height of the fence, beyond the front setback, would be a maximum of 6.5 feet.

In response to Mr. Sudler regarding how feedback would be solicited from the community regarding the mural, Mr. Nobiling stated that he usually goes door-to-door in the immediate surrounding area as well as using flyers. He indicated that a meeting would be held at Wesley College in the studio space after generating some interest. Mr. Nobiling advised that people could come by some afternoon, discuss the project, and brainstorm to generate some ideas. He indicated that he would not want to have more than three (3) such sessions, since most of the time would be needed to execute the mural and do the painting.

Ms. Cook-Pleasant explained that there is a Resident Engagement Committee that has approximately 15 people who live in the Kirkwood Street, Queen Street, New Street, and Governors Avenue area, and that committee would also be part of getting the rest of the community involved and deciding what should be on the mural.

Mr. Sudler questioned what the process would be for determining what would be on the mural, and if votes would be tallied to see if people would like former City Council members Reuben Salters, John Pitts, or Sophia Russell; former Mayor Crawford Carroll; or other individuals to be portrayed. Ms. Cook-Pleasant stated that she did not feel that there would be a problem of not including the community, given the size of the fence, which Mr. Nobiling stated was around 85 feet. Mr. Nobiling indicated that there would definitely be voting with the individuals who comprise the group. He advised that, once they hone in on a final design, they would like to present it to the Committee.

Mr. Sudler stated that he was in support of the initiative; however, his biggest concern was the process and the integrity of the process.

Mr. Neil advised that the sample murals were more abstract and, rather than depicting individuals, he suggested painting an abstract or something meaningful to the City of Dover, noting that the 300th anniversary of the City of Dover was coming up in 2017. Mr. Neil stated that the theme would be their decision and he felt that whether or not City figures were included was not terribly important; however, he felt that the times could be a theme.

Ms. Cook-Pleasant advised that they would be meeting at the Solid Rock Center with the neighborhood watch groups for the Simon Circle and Kirkwood Street areas. She noted that they would also meet with former Councilman Reuben Salters' group, so there would be a lot of input. Ms. Cook-Pleasant noted that if anyone on Council wanted to provide the input, they would be welcome, especially since she just learned that this would be Dover's 300th anniversary.

Responding to Mr. Sudler, Ms. Cook-Pleasant advised that she was not part of the neighborhood watch groups and would have to email him regarding the dates of these meetings. She explained that she is part of resident engagement, but not neighborhood watch.

Mr. Neil moved to recommend acceptance of the proposal to allow the Restoring Central Dover Resident Engagement Work Group to install a wood panel fence as proposed, and paint a mural, as recommended by staff. The motion was seconded by Mrs. Horsey and unanimously carried.

Update - Residential Appeal Process and Non-Compliant/Non-Conforming Uses/Review of Physical Data (53% completed)

During the Regular Council Committee of the Whole/Parks, Recreation, and Community Enhancement meeting of June 14, 2016, members were reminded that the Planning Office was creating an inventory of all non-conforming uses in residential zones within the City using a mobile Geographical Information Systems (GIS) application to collect data on the non-conforming use locations.

Mrs. Ann Marie Townsend, Director of Planning and Community Development, advised that staff had checked 2,287 of the 4,333 parcels that they needed to evaluate and found 113 non-conforming uses. She noted that most of these were multi-family and two-family homes in the downtown area where they are no longer permitted. Mrs. Townshend indicated that there were six (6) retail and office, four (4) homes that were manufactured or mobile homes, and two (2) parking lots. In some cases, the parking lots were associated with an adjacent church, which may be able to be addressed through parcel consideration. Mrs. Townshend stated that one (1) property had a stand alone shed, which also may be brought into conformance by consolidating parcels. She noted that there was one (1) membership club that did not meet the provisions of a membership club within the residential zones. Mrs. Townshend indicated that 124 uses were identified as permitted as conditional uses in the zone but may or may not have gone through the process.

Mrs. Townshend recommended leaving those uses that were permitted as conditional uses alone until such time that they wish to expand. In regard to those that are not permitted by the zoning district, a notice would be sent to the owners of non-residential, non-conforming uses, informing them that they have a non-conforming use that would expire December 31, 2016. She indicated that, in some cases, they may end up applying for rezoning, but there would need to be some way of complying by December 31, 2016. In relation to residential, non-conforming uses, which would be conversions of single-family homes into multi-family, Mrs. Townshend advised that staff would issue notice to those that are registered as vacant that they cannot re-establish the multi-family use. She explained that there are a couple such properties that have active permits, and there would be less ability to sunset them; however, if they were registered as vacant and sitting vacant, they could be sunsetted. Mrs. Townshend noted that occupied residential uses would be phased out as they become vacant. She stated that this was her recommended strategy, noting that staff was continuing to collect data and would go through a similar process when the remaining 47% of the properties were complete.

Mr. Slavin stated his understanding that a path forward had been identified with non-conforming uses and the conditions that would provide an opportunity to become either conforming or something other than conditional. He noted that some thriving businesses had been caught in this process, noting that Mrs. Townshend had mentioned one (1) of them to him that he would not mention by name. Mr. Slavin questioned the path forward for a good business that had been active in the community serving the local area. Mrs. Townshend stated that there were two (2) locations where there were such active businesses on corner lots in the RG-1 zone and noted, in regard to those cases, that the C-1 zone is a neighborhood commercial zone that is allowed in the areas identified as residential in the Comprehensive Plan. She believed that there were three (3) cases of existing businesses where a letter would be sent out laying out options for conforming, and one (1) of those options would be to apply for rezoning.

In response to Mr. Slavin, Mrs. Townshend advised that the cost for this option would depend on the acreage and, based on the small size of these properties, she estimated the fee may be $500.

Mr. Slavin advised that this may be something that Council may want to know before the letters go out, noting that Council may consider waiving the fee. Mr. Slavin felt that Council may be inviting trouble, noting that someone who had been a good neighbor and was doing everything that they thought they were supposed to do would be suddenly told that they must pay $500 to stay in business and that their zoning would be changed.

Mrs. Townshend informed members that there would be a public notice requirement, noting that she could not administratively say that the City would perform the public notice or waive the fee; however, if Council wanted to do so, staff could take care of the public notice for those identified in this process who need to apply for rezoning.

Responding to Mr. Slavin regarding how close staff was to sending letters out to residents, Mrs. Townshend advised that this could be done at any time, noting that she had been waiting until this meeting because she wanted to be sure she was going down the right path.

Mr. Slavin mentioned the need to do due diligence to make sure that businesses that may be affected by this are identified to head off any problems. He felt that things would be missed and there would be noise, so he requested that members bear with the process. Mr. Slavin encouraged members to work with Mrs. Townshend, her office, and the property owner to get through this. He stated that the goal was to clean things up; not to harm anyone.

Responding to Mr. Hutchison, Mrs. Townshend confirmed that 53% of the properties were completed. In regard to the timetable for full completion, Mrs. Townshend anticipated that it would take less time for the area yet to be canvassed, which included places like Fox Hall and more suburban areas of town. She explained that the downtown area was the toughest area because there were a lot of parcels close together and staff had to go look at how many electric meters were there. Mrs. Townshend felt that the more labor intensive portion was over and she expected that this would be finished before the end of the year. She stated that the second batch would be done shortly after the beginning of the year, and a similar amount of time would be given to comply.

Mr. Sudler asked how the Dover Elks Lodge would be affected, stating that dissatisfaction had been expressed by constituents in the Fourth District regarding non-conforming use activity from that business. Mrs. Townshend advised that this property was identified as a non-conforming use and they would be receiving a letter. She noted that some of the businesses were located on corners and rezoning to a C-1 zone could be easily justified; however, the Elks Lodge use would not be permitted in the C-1 zone and Mrs. Townshend believed they would have fewer options than some of the other property owners.

Responding to Mr. Sudler, Mrs. Townshend anticipated that staff would work on the letters and have them ready to go out on September 23, 2016, the day after Council's approval of this report; therefore, they would have a letter in hand in three (3) weeks. She indicated that they would be advised that they are non-conforming and would have until December 31, 2016 to come into conformance with the Zoning Ordinance. Mrs. Townshend did not believe that rezoning would necessarily help the Elk's Lodge property.

Mr. Slavin moved to recommend providing some direction for Mrs. Townshend and that any existing business not be unduly affected by a potential rezoning so that the application fee would be waived and the public notice requirement would be conducted by the Planning Office. The motion was seconded by Mr. Hosfelt and unanimously carried.

Review of New Castle County Disorderly Premises Ordinance
By motion of Mr. Hutchison, seconded by Mr. Neil, this item was deferred due to time constraints.

Discussion of Survey Results Regarding Programs, Activities, and New Building at Dover Park
By motion of Mr. Hutchison, seconded by Mr. Neil, this item was deferred due to time constraints.

Community Development Block Grant (CDBG) Program Quarterly Update (April, May, and June)
By motion of Mr. Hutchison, seconded by Mr. Neil, this item was deferred due to time constraints.

By unanimous consent, the Parks, Recreation, and Community Enhancement Committee meeting adjourned at 7:20 p.m.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS
Noting that there were individuals present for the Legislative, Finance, and Administration Committee meeting, Mr. Hare advised that this meeting would be held prior to the Utility Committee meeting to accommodate these individuals.

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

Disposal of Excess Property

Silver Lake Drive (East Lake Gardens)
During the Regular City Council Meeting of July 27, 2015, City Council considered the Disposal of Excess Property - Silver Lake Drive (East Lake Gardens), at which time Council approved the Committee's recommendation that a certain portion of right-of-way adjacent to property located at 107 Silver Lake Drive in the East Lake Gardens Subdivision, owned by Bruce and Della Parham, be determined to be excess property, and that the City Manager be authorized to convey the excess property in accordance with Exception C of the Procedures for Sale and Disposition of Real Property, provided local property owners were surveyed and there were no problems.

Mr. Scott Koenig, City Manager, advised members that a follow-up to the request initially received and discussed last year had been received from Dr. Bruce Parham and Mrs. Della Parham. The Parhams requested that the City consider disposal of the excess right-of-way. Referring to the map depicting the area, Mr. Koenig advised that the area in red was discussed last year. He stated that Dr. Parham returned after last year's discussion and indicated that he was interested in pursuing the full potential disposal of the right-of-way south of Lake View Drive, shown in the highlighted area.

Mr. Koenig stated that the City Manager's Office delivered notices to property owners but not to the entire subdivision, noting that nine (9) notices were mailed out, eight (8) notices were delivered by hand, and one (1) property was undeveloped so it was impossible to post the property by hand. He explained that the request related to Mr. Parham's interest in expanding his lot and potentially his house.

Mr. Koenig informed members that initial discussions were about expanding a garage; however, there was currently a garage under construction on the other side of the property. From a City maintenance standpoint, he indicated that the area cross-hatched in red and the highlighted area were rights-of-way that the City did not intend to improve over time, noting there were no plans to extend Silver Lake Drive to the lake or build a dock or boat ramp. Mr. Koenig stated that, from a transportation standpoint, the City did not need the right-of-way. He explained that, from a utility standpoint, the overhead and water/sewer lines were existing, and there was a storm sewer line running through the middle of the highlighted area; therefore, if the disposal moved forward, this would have to be encumbered with an easement.

Mr. Koenig explained that, if Council wished to dispose of this property under the disposal methods because it was not a buildable lot, he would propose that the red area be granted to the Parhams. It would become part of their deed once the deed is modified and the land is surveyed. Mr. Koenig advised that the highlighted area would be split down the middle, with half going to the Parhams and the other half to the property known as Swetland at 6 Lakeview Drive through the City's disposal process. Mr. Koenig advised that it would be up to the property owners to have surveys done and the legal deeds prepared, with a caveat that utility easements would be secured for the existing infrastructure. Mr. Koenig reiterated that notices were handed out and mailed, and he had received feedback from several people, including Mr. Bill Webb, whose mailing address is Hazlettville Road and who owns the property at the inside corner of Silver Lake Drive and Lake Drive. Mr. Koenig believed that this was the property labeled as Lot 13 on the map. Mr. Koenig read into the record Mr. Webb's comments from his email dated August 8, 2016 RE: East Lake Gardens - Disposal of Excess Property ***(Attachment #2)*** and comments from Mr. Ivan Yoder from an email dated August 6, 2016 RE: Property Disposal ***(Attachment #3)***.

Mr. Koenig advised that he also had an email inquiry from Ms. Della Burks, 482 Sunset Drive, who did not make a specific statement to be read into the record. Mr. Koenig noted that he tried to call Ms. Burks before he left the office and had to leave a voice message, so he did not have formal comments from her.

Mr. Koenig informed members that there was some discussion that there may be a reference to the right-of-way in deeds. He stated that he briefly reviewed a few electronic deeds provided by the Tax Office and did not see such a reference in those deeds; however, if there was such a reference, the City would not be able to vacate and dispose of the property. Mr. Koenig reiterated that, from the City's standpoint, there was no intent to improve the area beyond its existence today or build any parking or access to the lake beyond the grass access there now. The City had no interest in keeping the property from an ownership standpoint; however, if Council wanted to maintain any or all of this area, Mr. Koenig stated it would be understandable based on the testimony received. He requested that the floor be opened for public comment to see if a compromise position could be reached on the request. Mr. Koenig advised that Dr. and Mrs. Parham were not available to attend since they were

out of town, noting that they spend their time between Dover and New York, where they work. He explained that another option would be to defer this matter, after public comment, to a night when they could be present to articulate their request.

Staff recommended: 1) determining that the property is excess property, and 2) authorizing the City Manager to convey the excess property in accordance with Exception C of the Procedures for Sale and Disposition of Real Property.

Mr. Neil advised that a copy of the deed was given to him by the neighbors. He read from the deed dated August 24, 1979 between George William and Constance Marie Farrell and Samuel A. and Anne K. Swierc ***(Attachment #4)*** as follows:

> "It is understood that parties of the second part, their heirs, executors, administrators and assigns, shall have perpetual access to Silver Lake, in common with other owners of lots comprising East Lake Gardens development, by and through what is known as a continuation of Lake View Drive, lying between Lots Nos. 58 and 59."

Mr. Neil thought there may be a legal question, stating that advertisements back in that era basically stated that there were lake privileges for homes in this area with a dock on a 90-foot beach, which are no longer there. He believed there was a considerable question about the legality if there were no access, whether the area is owned by the City or someone else. Mr. Neil also questioned if this land would be sold or given away, noting that members had already been accused of giving away or swapping land. Responding, Mr. Koenig advised that he had not seen the referenced language, stating that if Council desired to vacate any of this property, a five (5) or 10-foot strip could be left to give perpetual access. He did not believe the language described the access as being 10, 25, or 30 feet wide and he felt it could be modified. Mr. Koenig stated that he was unsure where Lot 58 was located.

Responding to Mr. Koenig, Mr. Neil stated that the deed referenced Lake View Drive.

Mr. Koenig advised that there had been changes to the plat in this area over time, with the development of East Lake Gardens, and there was also a vacation of right-of-way years ago at the end of Garden Lane that was considered by Council.

Mr. Hare noted, after going out and looking around, it was not a grassy field. He advised that trees had been torn out and it was a big mud pit. Responding, Mr. Koenig noted that they had cleared the property. Mr. Hare questioned if they had permission to clear property that they do not own. In response, Mr. Koenig indicated that he had given them permission to clear the right-of-way, noting that they had not cut down any major trees or shrubs, to his knowledge. Mr. Hare suggested that Mr. Koenig ride out and look at the property, which Mr. Koenig indicated he had done. Mr. Hare stated that a lot of trees were removed. Mr. Hare noted there were some trees along the lake, but before getting there, it was just one big dirt pit.

Mr. Thomas Webb, 959 Hazlettville Road, stated that although his mailing address is in Hartly; he lives next to Wild Quail. He indicated that his son owns the corner lot, and Mr. Webb's wife's father built the second house constructed in East Lake Gardens, so this community had always been a

tender spot in their hearts. Mr. Webb stated that when the corner lot opposite this right-of-way became available, his son immediately bought it, as well as the house behind it, which he had since sold. It was his understanding that when Mr. Webb's father-in-law built his house, it was originally set up by Judge Keith that there was supposed to be a right-of-way for all the people in the community to have a way to the water. Mr. Webb explained that there was a small dock there that they used to swim off for the beach; however, it was not maintained since no one thought it was their responsibility. Mr. Webb stated that they would prefer not to have it subdivided, broken up, and done away with. He stated that he thought that most of the people do not realize that they have a connection to this and he suggested that a homeowners association be created with a small fee to maintain and fix up that piece of property so they could all enjoy it. He indicated that they opposed the request.

Ms. Della Burks, 482 Sunset Drive, stated that she also opposed the current proposal. She advised that when she went to settlement on her property, it was her understanding that she had lake access, and she remembered reading that language and knew it existed; however, she noted that the information had been packed away for many years and she would have to root around in some boxes to find it. She indicated that she was able to find information from 2015 regarding this issue and several things stood out. Ms. Burks questioned whether the community had been canvassed to see how they felt, noting that, to her knowledge, it had not. She advised that when she arrived home Thursday evening last week, she found a document taped to her door and she received another in the mail on Friday. When she asked some of the neighbors immediately around her, no one had received notification and she was under the impression that she was the only one. As far as the actual property and information from 2015, the only thing Ms. Burks could find regarding this issue was that a garage was to be constructed. She suggested that the City afford some sort of exception, rather than giving away actual property that belongs to the community to enlarge their property. In addition, Ms. Burks advised that they walk their grandchildren down in this area and enjoy seeing the water and ducks. She stated that for them to enforce their property right, it would mean that at some point they would have to violate the law and trespass for something that was supposed to be their property rights. Ms. Burks indicated that they were opposed to the request, noting that this is an entry to Silver Lake and once it is gone and becomes privately owned, there will be no other access on that side of the lake since this was the final little parcel. She stated that anybody who had lived there longer than them had remembered that it was a beachy area with sand and a dock, which had already been lost to a massively ugly tube that juts out to drain water now. She noted that something had already been lost, and felt that to now make it private property and lose the ability to walk to the lake would be pushing it a little bit.

Ms. Elisa Vassas, 478 North East Avenue in East Lake Gardens, stated that she had mentioned during the Regular City Council Meeting of August 8, 2016 that her mother purchased the house that she lives in now and had lived in since 1968. Ms. Vassas advised that she had just learned of the request from Ms. Burks at the end of last week and had not received any kind of letter. She was rather upset that she found out this discussion started with some folks that do not live in the area and are very seldom at that house. Ms. Vassas understood that they work in New York; however, she felt it upsetting that they came into the community and thought they were going to buy or take access from those who had lived there for 40 plus years. She indicated that she tried to get out and walk to as many neighbors as she could to see if anyone had a letter, and no one else did. Ms. Vassas was unsure if people that do not spend much time there were randomly selected to receive a letter;

however, the neighbors that she ran into before yesterday's meeting did not know about it and were definitely opposed, and some questioned whether they needed to prepare a petition or something to that effect. Ms. Vassas stated that they remembered what it was like and what had been taken from them, expressing her hope that this small parcel would not be taken away. She stated that she had offered the copy of the deed from one of the neighbors, which she stated mentioned the residents.

Mr. Joseph Swiski, 481 Sunset Drive, stated that, like the other presenters, he did not receive notice either by mail or on his door and he found out about the request from Ms. Burks, who lives across the street. He felt that the tree removal looked disgusting, stating that they formerly walked by and there were beautiful trees lining the side of the lake, and all of a sudden it was devastated and they were gone. Mr. Swiski was now finding that it was agreed that the City would allow them to remove the trees and this would be open space. He felt it sounded like the decision was already made that it would be their property and he hoped this was not the case. Mr. Swiski viewed this as taking away one of the pleasures he has of walking down to the lake and enjoying it in order to provide them the ability to expand their home. He did not think this was a fair trade and felt that a 10-foot pathway was not a good idea, thinking that it would be lined with fencing since there would be no other way to make sure that people do not step on their property. Mr. Swiski stated that he was vehemently opposed to the request.

Mr. Neil suggested that this matter be tabled because the deed, which had been handed to him, had to be verified. If the deed was valid, he did not see how someone could be allowed to have the land, whether through a giveaway or a sale. Mr. Neil stated that he believed that promises made should be kept, whether made by the City or someone else, unless there was some earthshattering reason to go back on their word. Mr. Neil stated that the promise that access would be there had to be carried on as the houses are sold.

Mr. Neil moved to table this matter so that the deed could be verified, seconded by Mr. Slavin.

Mr. Slavin stated that as long as there was one (1) deed that guaranteed access to the lake, Council's duty was to protect and preserve that access, believing that this was Council's role as elected officials. He felt that there may be a need to investigate if the previous action taken by Council was legal, given that there were deed restrictions in that area.

Mr. Koenig advised that the previous action by Council was never completed and the deeds were not modified; therefore, the deeds as they exist today are the same as before the original request was made. Mr. Slavin stated that members, as a Council, may need to go back and undo that action.

Mr. Koenig expressed his belief that the original action was contingent upon notification of everybody and getting comment back. Noting that people were indicating that they did not receive notice, Mr. Koenig advised that the notices were delivered to the two (2) parcels that abut the lake, the four (4) parcels that include Ms. Burks, Mr. Yoder, Mr. Webb, and a fourth property in the corner, and two (2) properties going north on Sunset Avenue. The east side of Sunset Avenue was not noticed.

Mr. Shevock stated that he believed that when this area was developed, one of the stipulations was that those who bought a lot would be guaranteed access to the lake. It was his feeling that if each of these properties were researched, that language would be found in the deed, stating that access could not be given away and would be there for life.

Mr. Hosfelt stated that if the City made the mistake and the adjoining property owner had removed some trees, then the City would bear the responsibility to try to put the area into the condition it was before to help the neighborhood, noting that it was a comment rather than a motion.

Responding to Mr. Sudler regarding the notification process, Mr. Koenig stated that, to his knowledge, there was no prescriptive process in the code. A letter was hand delivered to eight (8) of the nine (9) properties, and there was a mailing to nine (9) properties, which were the most immediate properties around the area that was being discussed. Mr. Koenig indicated that there was a hand delivery taped to the door and a mailing.

Mr. Hare questioned what Dr. Parham was told about the property and if he was permitted to start tearing down trees. Responding, Mr. Koenig stated he thought that Dr. Parham sent him an email requesting permission to clean up the property. Mr. Koenig was unsure if the wording referred to trees or small trees, stating that he would have to go back and look. Mr. Hare stated that he would like to see what that entailed.

Mr. Hare stated that there was a motion to table until the deed could be verified.

The motion to table this matter pending verification of the deed was unanimously carried.

Mr. Slavin requested that the residents of East Lake Garden be notified if this matter appears on a Council agenda.

106 and 110 South New Street - Offer from NCALL Research, Inc.

Mr. Scott Koenig, City Manager, informed members that the properties at 106 and 110 South New Street, on the west side of South New Street, were part of a purchase and donation related to the House of Pride in 2015. He noted that these properties are currently vacant lots. Mr. Koenig advised that the City had been approached by NCALL Research to sell them the properties for $10,000 each, explaining that the City did not intend to improve them and would like to see them go back on the tax rolls. Mr. Koenig explained that NCALL intended to build owner-occupied housing for low and moderate income households on this area. He stated that the City had $21,902.75 in expenses for the property at 106 South New Street and $37,015.50 for 110 South New Street, noting that these expenses related to demolitions of prior structures on the properties. Assuming that the City received an offer price of $10,000 per property, the City would be taking a loss of approximately $39,000 for the two (2) properties; however, this would put them back on the tax rolls with owner occupied housing. Mr. Koenig noticed that this was a goal of Restoring Central Dover, as well as a goal of City Council, for the downtown area. He indicated that the City would be very close to recovering the assessed land value of $13,100 for 106 South New Street and $11,600 for 110 South New Street, which staff believed was a good proposal for Council to consider.

Staff recommended: 1) determining that these properties are excess properties; and 2) authorizing the City Manager to complete a final agreement of sale to NCALL Research, Inc. For $10,000 per property.

In response to Mr. Shevock, Mr. Koenig advised that the assessed values provided were strictly the values of the land. In regard to the value of the properties once the houses are built, Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised that the houses that Habitat for Humanity had built on South Kirkwood Street had appraised for $160,000 and it was expected that these houses would be in the same range.

Mr. Sudler expressed concern that the City would still be taking a loss, stating his opinion that, if sold to NCALL, the properties should at least be sold for approximately $13,100 for 106 South New Street and $11,600 for 110 South New Street. Mr. Sudler questioned if consideration had been given to putting the land on the market for feedback from potential buyers apart from NCALL.

Mr. Koenig reiterated that the assessed values, according to the Tax Assessor's Office, were $13,100 for 110 South New Street and $11,600 for South New Street. He advised that the City had not put those properties for sale on the market and did not have a market bid on the properties; however, the transactions with Habitat for Humanity ranged from as low as $7,500 to as high as $15,000. He felt that the $10,000 offer seemed reasonable from what staff had seen from the non-profit sector.

Mr. Slavin stated that the City had partnered with NCALL and Habitat for Humanity, who had proven that they were good partners, turning bad places in the City into good places and doing this quickly. He felt that if the City went to the open market to allow people to purchase these properties, they would run the risk of ending up with empty lots and bad places in the City. Mr. Slavin stated that he appreciated Mr. Sudler's concern about the bottom line; however, his own bottom line was not about dollars but about getting families living in these neighborhoods and getting the streets back.

Mrs. Townshend wished to add to the record how this proposal would fit in with some of the other things happening in the immediate area. She indicated that Habitat for Humanity had purchased a lot at 67 South Queen Street, believing that the City received $7,500 for this lot, and NCALL or Habitat had ownership of 101 South Queen Street, noting that those properties back up to the properties being discussed. Mrs. Townshend advised that NCALL has 112 South New Street under contract, which is just south of the property at 110 that is owned by the Downtown Dover Partnership (DDP), and 108 South New Street, located between 106 and 110 South New Street. She explained that this transaction would take both the Queen Street and New Street sides of the block that have had a lot of problems over the years and put this block in the hands of organizations that are going to build homes that will be owner occupied. Mrs. Townshend stated that these organizations would bring in homeowners, noting that home ownership was a goal. She reminded members that this is was an area of the City with a rental rate that is higher than what is needed for the community. She stated that she felt this proposal was very much in line with all the plans for downtown, whether they were for the Downtown Development District, City of Dover Consolidated Plan, or Restoring Central Dover.

Mr. Hutchison stated that he very strongly supported staff's recommendation and appreciated the efforts of the City Manager and City Planner in working with NCALL and Habitat for Humanity. He stated that identifying and putting people in homes in the target area means they are there to stay and it spoke well of their commitment.

Mr. Neil moved to recommend: 1) determining that these properties are excess properties; and 2) authorizing the City Manager to complete a final agreement of sale to NCALL Research, Inc. for $10,000 per property. The motion was seconded by Mr. Hutchison and unanimously carried.

Consulting Services for Enterprise Resource Planning (ERP) Technology Upgrades

Members were advised that the Finance Department solicited proposals for consulting services to assist the City with an Enterprise Resource Planning (ERP) project and eight (8) proposals were received. Mrs. Donna Mitchell, Controller/Treasurer, explained that the project would consist of two (2) phases, with the first phase consisting of an ERP needs assessment, software Request for Proposal (RFP) development, vendor selection, and contract negotiations. She advised that this would be a 32-week process and it was hoped that Phase I would be complete just before the budget process in 2017, when staff should be able to provide a cost/benefit analysis for moving forward and an estimated timeline for completion.

Referring to the FY 2017 Capital Investment Plan (CIP) project sheet for the ERP Solution, Mrs. Mitchell stated that, at this time, staff should also be able to provide an idea if the current cost estimate for the project would have to change. She advised that, based on the schedule provided by the consultant, it would be necessary to stay as closely to the schedule as possible in order to provide the cost estimate in time for the budget.

Mrs. Mitchell stated that the City Manager had suggested that there be assistant project managers, noting that there were quite a few staff members that are close to retirement and it is important to have institutional knowledge regarding the project. Mrs. Mitchell explained that a team was being put together on that basis.

Staff recommended that the Controller/Treasurer be authorized to enter into a contract with Barry Dunn McNeil & Parker, LLC (Barry Dunn) for Phase I of an Enterprise Resource Planning (ERP) needs assessment, software development, vendor selection, and contract negotiations.

Responding to Mr. Hosfelt, Mrs. Mitchell stated that the project was budgeted in the CIP in the electric fund with an allocated contribution coming from the Water/Sewer and General Funds.

Mr. Slavin stated that this would be a very important project, noting that getting the right information into the hands of the right people would be like making sure that there is oxygen in the building. He also noted that the ERP is important to what will be done in the City and that switching over systems would be a critical moment. Mr. Slavin questioned what types of business practices would need to change in order to avoid modifications to the system and whether they would include such things as modification speed, cost overruns, and project scheduling problems. In response, Mrs. Mitchell indicated that she did not know at this time; however, she felt the needs assessment that would be conducted should indicate what business practices may need to be changed.

Mr. Slavin felt that someone on the City's team must be the guardian of the project and recommended that someone be the gatekeeper for the changes and modifications and it must be someone who can say "no" a lot. Mrs. Mitchell advised that she is the project lead, as recommended, so she felt these bases would be covered, stating that she has five (5) assistants under her and that staff was trying to ensure the success of the the project.

Mr. Slavin moved to recommend authorizing the Controller/Treasurer to enter into a contract with Barry Dunn McNeil & Parker, LLC (Barry Dunn) for Phase I of an Enterprise Resource Planning (ERP) needs assessment, software development, vendor selection, and contract negotiations, as recommended by staff. The motion was seconded by Mr. Hosfelt and unanimously carried.

By unanimous consent, the Legislative, Finance, and Administration Committee meeting adjourned at 8:04 p.m.

UTILITY COMMITTEE

The Utility Committee meeting was held with Mr. Hutchison presiding in the absence of Mr. Cole.

AGENDA ADDITIONS/DELETIONS

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

Request for Street Abandonment (Improved) - Topaz Circle Stub Street - Council Committee of the Whole/Safety Advisory and Transportation Committee Recommendation of April 26, 2016

Mr. Scott Koenig, City Manager, advised members that, during the Regular Council meeting of June 27, 2016, City Council waived the normal process for street abandonment and initiated a request to abandon the Topaz Circle stub street located in the Emerald Pointe subdivision. He noted that it had been the subject of discussion at committee meetings and other venues earlier in the year.

Mr. Koenig advised that the abandonment was reviewed by staff and Ms. Marie Anne Florendo, the property owner at 402 Topaz Circle, expressed interest in participating in the abandonment request.

Mr. Koenig advised that, for at least the last two (2) decades of City Planning, the City had encouraged the interconnection of developments through the planning and engineering processes. He explained that the Emerald Pointe subdivision has two (2) stub streets, one to the south leading to College Road, known as Topaz Circle, and one to the west known as Opal Place. He stated that a number of City subdivisions, such as the Village of Westover, Village of Cannon Mill, Lexington Glen, and Independence Village were planned with the requirement of interconnection, noting that Pin Oak Drive in Hidden Oaks is stubbed to potentially connect to undeveloped land north of it. Mr. Koenig advised that the City's subdivision code indicates that multiple points of access are required beyond 20 lots, and this is a component of planning for residential subdivisions. He stated that, from a planning and engineering standpoint, this had been a successful component of

development in the City; however, the City is sometimes challenged on the issue of interconnectivity and the discussion of potential cut-throughs.

Mr. Koenig stated that the undeveloped property to the south known as The Arbors had come before the Planning Commission as many as three (3) times over the past 10 or more years, and each time there had been a discussion of a stub street connecting to College Road as a component of the development. There had been discussions many times at the Planning Commission level, and probably at the conceptual subdivision levels, about interconnectivity and staff's interest in interconnectivity to give people multiple options to get into developments and allow them to traverse from one development to another by car, bicycle, and walking path. Mr. Koenig stated that in the staff review, every department recommended maintaining interconnectivity for very different reasons: from the engineering standpoint, for safety and utility purposes; from the Fire Marshal for emergency response and multiple accesses to different areas; from planning, and as the basis of good community planning.

Staff recommended that the subdivision code be kept intact and that this stub street not be abandoned due to emergency vehicle access to the Emerald Pointe Subdivision. If the Utility Committee and/or City Council is in favor of proceeding with the proposed abandonment, the following actions were recommended: 1) the abandonment be conditional upon utility easements that would be recorded with the deed modifications; and 2) that City Council adopt a resolution setting a public hearing regarding the proposed abandonment for September 12, 2016.

Mr. Koenig advised that if the overwhelming community response and Council's request was that the stub street be abandoned, staff felt the need to make everyone aware of the potential consequences of abandonment. He noted that interconnection would also have potential consequences, including the potential for people cutting through the development; however, from the overarching premises of community planning, staff supported the interconnection. Mr. Koenig stated that the Public Works Department recommended, if it is abandoned, that the utility easements be recorded correctly with any deed modifications. Mr. Koenig indicated that if it is abandoned, the question would become whether the street that had been constructed would have to be removed at some point in the future. Mr. Koenig indicated that the big issue was whether multiple points of access, emergency access, and community planning were being weighed at the legislative level with the negative reaction of the community to interconnectivity, and he questioned which of those arguments would carry the weight. He reiterated that staff supported the stub street ultimately being connected to the proposed development and that a thruway be allowed. Mr. Koenig stated that, in reality, the people who live in the subdivision have a right to make decisions on this subdivision; however, that if those who bought into the subdivision looked at the overall plat, the stub streets were shown and were actually constructed almost to the property line when the curb lines were put in, not included as a future right of way. Mr. Koenig advised that it is done that way so that people would see it as a potential future interconnection to something when they are evaluating the residence. The people who are evaluating whether they want to live there typically know that there is potential for that street to be connected to either the next community or the next street at some point.

Mr. Sudler questioned if this was the same issue that was discussed when over 30 community members came from Emerald Pointe and stated that they did not want this interconnection.

Responding, Mr. Koenig stated that he did not have a number, but there were people who came in and spoke against it, commenting that these were the same people that bought into a subdivision that had that interconnectivity constructed to the property line. He indicated that this was certainly true for the people who bought in the back area, since the curb lines were put in when they were laying out the roads in each section of the subdivision.

Mr. Sudler advised that the minutes would reflect that members voted not to provide the interconnection that Mr. Koenig was advocating and had said that they would find another avenue to do this. Mr. Sudler was disturbed that the same proposal was coming back when they said they would find another way to do this. He felt this undermined the constituents of the First and Fourth Districts, since Emerald Pointe is in the First District and is next to College Road, which is in the Fourth District. Mr. Sudler felt it was not right to come back with the same suggestion.

Mr. Koenig explained that Council listened to what was being said and then asked staff to go through the process, which is to abandon the right of way. Staff was recommending that it not be abandoned because of community planning and the other things that had to be laid aside to do this. Mr. Koenig advised that if Council felt that the residents' request overrides the subdivision code and the pre-recorded plats for this subdivision, and makes the recommendation to abandon the right of way, staff was requesting that there be a reservation of easements. Staff also requested that Council adopt a resolution setting a public hearing for the abandonment for September 12, 2016. Mr. Koenig stated that it was completely up to the Committee and Council to make that recommendation.

Noting the Fire Marshal's concerns about safety and only one way in and out of the neighborhood, Mr. Hosfelt questioned if there were any recorded incidents in Dover where this had been an issue. Responding, Mr. Koenig indicated that while there had been a significant number of runs for Robbins Hose Company, there had not been a significant number of front page accidents or tragedies to report. He knew of no examples where there was an accident in the throat of a subdivision and emergency services could not get in.

Mr. Blakeman advised that he lives in a neighborhood with one (1) access. He explained that there was an accident at the entrance and no one could get in or out for four (4) hours, noting that they would have been stuck if there had been an emergency. Mr. Blakeman stated that he realized that people on the stub street do not want traffic going by; however, he stated that their houses may catch fire. He indicated that he sat for a half hour to 45 minutes trying to get past that development, noting that emergency responders would have difficulty getting in. He felt that abandonment would put the whole development at risk and expressed 100% support for not abandoning the right of way.

Mr. Hosfelt stated that this was similar to an old argument about not having speed bumps because fire apparatus has to respond, noting that he had heard the argument for years from the Fire Department. He informed members that he had driven an emergency vehicle for over 34 years and never had a problem getting into a development with one (1) access and one (1) entry control point. Mr. Hosfelt stated that he believed the greater safety point was the children and the residents of the neighborhood that would have to put up with all the traffic that usually uses College Road. As soon as it is learned that this is a shortcut to McKee Road and Route 1, he could not imagine what they would go through, and what members would go through when they have to hear about it.

Mr. Hosfelt moved to recommend moving forward with the abandonment of the Topaz Circle stub street, taking into consideration the request to follow the actions listed in staff's recommendations that the abandonment be conditional upon utility easements and that Council adopt a resolution setting a public hearing regarding the proposed abandonment for September 12, 2016. The motion was seconded by Mr. Sudler.

Referring to Mr. Blakeman's comments, Mr. Koenig stated that if Mr. Blakeman's subdivision had been built out completely, it would have had two (2) accesses, because the farm that represents the other side of the planned subdivision was bought and put into preservation. He believed that a stub street was constructed to the actual property line of Cranberry Run.

In regard to the issue that Councilman Hosfelt alluded to, Mr. Koenig stated that, years ago, when planning the Village of Westover, the entrance and the exit were made wide because of discussion about the possibility of an accident in the entrance that would prevent or close one (1) side of it. He noted that the opposite side was built wide enough for two-way traffic on a temporary basis. Mr. Koenig indicated that this was prior to the construction of the Village of Cannon Mill, and this was the only discussion he could recall on this issue.

Mr. Sudler stated that if it is believed that one (1) entrance access is not sufficient, Councilpersons or constituents should recommend that planning and zoning no longer approve having only one (1) entrance, but require emergency access, such as a road that is only used for emergencies and not for general traffic. He stated that he felt that both views were valid; however, since Emerald Pointe was not even 10 years old and was approved for only one (1) entrance, he believed that the City should allow it. Mr. Sudler stated that if there was a second entrance, it should be for emergency access only and not public traffic.

Mr. Neil expressed concern about the distance that a fire engine would have to go around if there was no access to the entrance. He stated that the residents do not want the additional access, and if they did have a problem with firemen getting in or getting in on time, it would be on the residents. Mr. Neil noted that he would vote for the motion because it still has a process to go through where members can express second thoughts.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that, in regard to multiple accesses on a major road, most of the major roads in the City of Dover are Delaware Department of Transportation (DelDOT) roads. Access to those roads is granted by DelDOT in accordance with their subdivision regulations. Mrs. Townshend explained that DelDOT would not grant multiple accesses directly to a road because their subdivision regulations also rely on interconnection. She indicated that how DelDOT governs access to roads, as well as the engineering practices and planning practice throughout all of staff's collective professions, relies on interconnections and limited access points to the major roads. Mrs. Townshend explained that the reason for this is to ensure that there are not too many access points to primary roads, which causes congestion and safety issues. She stated that this was planned with one (1) access to Scarborough Road, but also two (2) stub streets, with the anticipation that these properties would develop. Mrs. Townshend advised that those stub streets were seen as additional access points to public roads, and they helped the development to comply with the subdivision regulations. Mrs. Townshend stated that members could proceed as they wish; however, she reiterated that the land planning

process is very much intertwined with the State and DelDOT's regulations for road access, and this changes how some of those dynamics work.

Mr. Hare noted that one (1) of the properties was zoned R-20 and one (1) RG-2 and questioned if there were proposed communities going in there. Responding, Mrs. Townshend indicated that an active development application on the RG-2 property spurred this issue, because this application was to build senior apartments on that property. She stated that a road was dedicated during a previous application that would be built and would connect with the Topaz Circle stub street, and that is what brought this matter forward. Mrs. Townshend explained that the R-20 property was wooded and, to her understanding, was very wet and likely not developable. She noted that if a development application for this area is received at some point in the future, staff would review it.

Mr. Hare questioned if the Pin Oak Drive development would continue to have one (1) entrance and exit. Mrs. Townshend stated that it may, stating that she did not know if a wetland delineation had been done on the R-20 property, reiterating that it is very wet.

In response to Mr. Hare, Mrs. Townshend advised that one (1) 48-unit senior apartment building was proposed for the RG-20 property.

Mr. Blakeman stated that if the stub street was not allowed, another 48-unit development with single access would be created, two (2) developments would be isolated, and the people who want to buy there may not be happy about it. He believed that if the other parcel was developed, the same neighbors would come back saying that they do not want that stub street abandoned because this is what happened the first time. Responding, Mr. Blakeman advised that any possibility of secondary access would be eliminated to at least two (2) developments, and maybe three (3). He felt that members would have a hard time denying others if this was approved.

Mr. Hare stated that this would not be any different from some of the other apartment complexes all over the City, and Mr. Blakeman concurred; however, he stated that the planning scenario indicates that the City should not be doing this.

The motion to recommend moving forward with the abandonment of the Topaz Circle stub street, taking into consideration the request to follow the actions listed in staff's recommendations that the abandonment be conditional upon utility easements and that Council adopt a resolution setting a public hearing regarding the proposed abandonment for September 12, 2016 was carried by a roll call vote of six (6) yes (Sudler, Neil, Hosfelt, Hare, Hutchison, and Arndt) and two (2) no (Slavin and Blakeman).

(City Clerk's Office Note: In accordance with the City's Procedure for Street and Alley Abandonments, Resolution No. 2016-08 setting a Public Hearing ***(Attachment #5)*** *will be presented to Council for consideration.)*

Electric Department Federal Regulatory Audit Report (Informational Only)

Mr. Scott Koenig, City Manager, advised that the City of Dover Electric Department underwent a mandated compliance audit between April 18 - 29, 2016. This audit was performed by Reliability First (RF) and was evaluated using applicable North American Electric Reliability Corporation (NERC) Standards for the City of Dover's current registration as a Distribution Provider (DP). Mr. Koenig informed members that this was a complex technical audit with industry experts who come and look at the system, processes, and documentation. He advised that the last audit was completed in 2010.

Mr. Koenig informed members that, based on the summarization letter dated July 15, 2016, there were no violations noted by RF, and only one (1) prior Open Enforcement Action was in place when they did the audit; however, Open Enforcement Action was directly related to a mitigation plan that was active while the Audit Report was still active. Mr. Koenig advised that the mitigation plan was completed and approved on May 31, 2016; therefore, this Open Enforcement Action was cleared.

Mr. Koenig stated that, based on the outcome of this audit, the City of Dover was in compliance and no fines will be imposed on the City of Dover relating to this compliance audit. Additionally, no fines were imposed for the previously Open Enforcement Action related to the mitigation plan.

Mr. Koenig explained that Mr. Harry Maloney, Electric Director, and his staff worked diligently to get the City into compliance with the standards. He expressed pride in the work that they did to get to this point, and, on behalf of the City Manager's Office, he thanked them for their efforts.

Mr. Koenig noted the importance of maintaining the standards and audit compliance because public power is important to all.

Quarterly Review of Utility Related Capital Investment Plan (CIP) (Electric and Water/Wastewater) (April, May, and June) (Pre-Audit)

Mr. Scott Koenig, City Manager, stated that he had no additional comments regarding the Quarterly Review of the Utility Related Capital Investment Plan and offered to respond to any questions.

Mr. Blakeman stated that there were projects that had not been completed in the previous four (4) years that totaled approximately $14M. He questioned if these funds were rebudgeted in the current budget year or retained in an account to be paid out when the projects are completed. Responding, Mr. Koenig stated that there are projects, such as the Denney's Road water tower, that have a project budget that carries forward and the expenses for that project are paid from the current year.

Mr. Blakeman asked if the money was in the budget or if it is money that has been budgeted and retained to pay the expenses when they are incurred. Mr. Koenig responded that when the first budget ordinances are prepared, any projects that have not been started that have a project budget that will continue are rebudgeted as part of the budget ordinance.

Mr. Neil moved for adjournment of the Utility Committee meeting, seconded by Mr. Hutchison and unanimously carried.

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

Meeting adjourned at 8:34 p.m.

Timothy A. Slavin
Council President

TAS/TM/js/dd/tm
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Committee-Minutes\2016\08-09-2016 CCW.wpd

Attachments

Attachment #1 - Photographs of Mayfair Park provided by Ms. Janice Sibbald
Attachment #2 - Email from Mr. Bill Webb dated August 8, 2016 RE: East Lake Gardens - Disposal of Excess Property
Attachment #3 - Email from Mr. Ivan Yoder dated August 6, 2016 - Property Disposal
Attachment #4 - Deed dated August 24, 1979 between George William and Constance Marie Farrell and Samuel A. and Anne K. Swierc
Attachment #5 - Resolution No. 2016-08 Setting a Public Hearing Regarding the Abandonment of Topaz Circle Stub Street


CHURCH
PARKING
ONLY


CHURCH
PARKING
ONLY


NO
PARKING
CHURCH
PARKING
ONLY

Stein, Jody

From: Koenig, Scott
Sent: Tuesday, August 09, 2016 8:52 AM
To: Bill Webb
Cc: City Clerks Office
Subject: RE: East Lake Gardens-disposal of excess property.

Good Morning Mr. Webb:

I am in receipt of your comments. These comments will become part of the public record for this issue. Both the committee and City Council will consider your comments as the request is reviewed.

Best Regards,

Scott D. Koenig, P.E., ICMA-CM
skoenig@dover.de.us
City Manager
City of Dover
P.O. Box 475
Dover, DE 19903
302-736-7005 (Voice)
302-736-7002 (Fax)

"Engineering isn't about perfect solutions; it's about doing the best you can with limited resources" - Randy Pausch
p. X - Introduction to The Last Lecture.

This email, including attachments, is confidential and intended only for the designated recipient(s). If you are not an intended recipient, please delete this email. The unauthorized use, dissemination, distribution or reproduction of this e-mail, including attachments, is prohibited and may be unlawful.

-----Original Message-----
From: Bill Webb [mailto:electricalassociates@verizon.net]
Sent: Monday, August 08, 2016 9:04 PM
To: Koenig, Scott
Subject: East Lake Gardens-disposal of excess property.

Dear Scott Koenig,
I'm in receipt of your letter dated August 3, 2016. I have concerns with the city disposing of this unimproved partial of ground. My family was one of the original houses that started the development, in the day. When the corner building lot came available, I was very excited to learn I had been successful in purchasing the ground. With hopes to build on the corner lot across from the property in question. One reason I purchased this ground was because of the right of way was controlled by the City and knew this partial would allow acessability to walk to the lake. If we just turn it over to the property owner at 107, I could loose this option. I'd like to see the City remain in ownership, if not I'd like the option to take over ownership also. Unfortunately, I can not make tomorrow evenings meeting, but my father will be there on my behalf. I'll try to contact you by phone tomorrow to review a little more in detail.
Thank you for your time,

Bill Webb

Electrical Associates Incorporated
Post Office Box 381
Camden, DE 19934
phone 302-678-1068
fax 302-678-1858

Stein, Jody

From: Koenig, Scott
Sent: Tuesday, August 09, 2016 8:48 AM
To: Ivan Yoder
Cc: City Clerks Office
Subject: RE: property disposal

Good Morning Mr. Yoder:

I am in receipt of your comments and I will make these comments part of the public record for this issue. Thank you.

Best Regards,

Scott D. Koenig, P.E., ICMA-CM
skoenig@dover.de.us
City Manager
City of Dover
P.O. Box 475
Dover, DE 19903
302-736-7005 (Voice)
302-736-7002 (Fax)

"Engineering isn't about perfect solutions; it's about doing the best you can with limited resources" *- Randy Pausch*
p. X - Introduction to ***The Last Lecture****.*

This email, including attachments, is confidential and intended only for the designated recipient(s). If you are not an intended recipient, please delete this email. The unauthorized use, dissemination, distribution or reproduction of this e-mail, including attachments, is prohibited and may be unlawful.

From: Ivan Yoder [mailto:iyey70@gmail.com]
Sent: Saturday, August 06, 2016 3:52 PM
To: Koenig, Scott
Subject: property disposal

to whom it may concern:
I am writing concerning request to dispose of "right of way" located on Silver Lake Dr. in East Lake Gardens subdivision.
We own the property at 492 Sunset Dr., and think it will decrease the value of our property by not having access to the lake from there, as well as the inconvenience of having to go elsewhere to gain access to the lake.
I am told there is some drug activity going on there, which the city should address .Perhaps if the area would be more closely monitored, that would not continue, and the homeowners would not seek to close the street.

thanks for hearing me .Ivan Yoder

THOMAS J. ROMAN, ESQUIRE
1305 King Street
Wilmington, Delaware 19801

Tinkley

East Lower Hundred.

SUBMITTED TO THE BOARD
OF ASSESSMENT 8/27/79
Board of Assessment
D.S.

DEED

GEORGE WILLIAM FARRELL and
CONSTANCE MARIE FARRELL,
his wife,

- A N D -

SAMUEL A. SWIERC and
ANNE K. SWIERC, his wife

Received for Record

A. D., 19

Recorder

Fee for Recording, &c., $

520 N. East Avenue
Dover, Delaware

State of Delaware,

KENT **County,** } ss.

INDEXED

Recorded in the office for the Recording of Deeds, &c., at Dover,
Delaware *in and for the said county of* Kent
in Deed Record ; E *Vol.* 34 *Page* 79 *&c.*
the 24th *day of* August *A. D. 19* 79

WITNESS my Hand and the Seal of said office.

Recorder

ATTACHMENT #4
Council Committee of the Whole Meeting of 08/09/2016

(No. 44-B) DEED-TYPEWRITER
Printed and Sold by Hugh A. George Co., Stationers, 880 Tatnall St., Wilmington, Del.

This Deed, Made this

24th *day of* August *in the year of*

our LORD one thousand nine hundred and seventy-nine

BETWEEN,

GEORGE WILLIAM FARRELL and CONSTANCE MARIE FARRELL, his wife, of Dover, Kent County and State of Delaware, parties of the first part,

- A N D -

SAMUEL A. SWIERC and ANNE K. SWIERC, his wife, of Dover, Kent County and State of Delaware, parties of the second part,

Witnesseth, *That the said parties of the first part, for and in consideration of the sum of* THIRTY-NINE THOUSAND NINE HUNDRED AND 00/100 [$39,900.00] DOLLARS *lawful money of the United States of America, the receipt whereof is hereby acknowledged, hereby grant and convey unto the said parties of the second part,* their heirs and assigns, as tenants by the entirety,

ALL that certain lot, piece or parcel of land with the improvements thereon erected, situate in the City of Dover, Kent County and State of Delaware, lying at the southwest intersection of Garden Lane and East Avenue; being bounded on the east by East Avenue, on the south by Lot #20, on the west by a fifteen (15) foot alley, and on the north by Garden Lane; and being all of Lot #19 as plotted in the East Lake Garden Subdivision, and being more particularly bounded and described according to a recent survey by Charles C. Brown Assoc., dated August 2, 1979, as follows, to-wit:

BEGINNING at a pipe at the intersection of the south line of Garden Lane with the west line of East Avenue; thence, running from said point of BEGINNING with said west line of East Avenue, South 30° 45' 00" East, 54.73 feet to a pipe at a corner for this lot and for Lot #20; thence running with said Lot #20 South 58° 32' 00" West 150.00 feet to a pipe at a corner for this lot and for said Lot #20 in the east line of a 15 foot alley; thence running with the east line of said alley North 30° 51' 00" West 55.59 feet to a pipe in the south line of Garden Lane; thence running with the south line of said Garden Lane, North 58° 51' 43" East 150.08 feet to the place of beginning, be the contents thereof what they may.

This conveyance is made expressly subject to the following conditions and restrictions:

1. Nothing but residential building and accessories thereto, such as garages, shall be built upon said lot, piece and parcel of land hereinbefore described.
2. No business shall be conducted from or upon said lot, piece and parcel of land.
3. Any building to be erected shall cost at least Five Thousand and 00/100 ($5,000.00) Dollars, detached garages excepted.
4. No building shall be constructed on said lot, piece and parcel of land within thirty-five (35) feet of East Avenue.
5. It is understood that the parties of the second part, their heirs, executors, administrators and assigns, shall have perpetual access to Silver Lake, in common with other owners of lots comprising East Lake Gardens development, by and through what is known as a continuation of Lake View Drive, lying between Lots Nos. 58 and 59.
6. The restrictions herein set forth shall be and are hereby made binding upon the heirs, executors, administrators and assigns of the parties of the second part.
7. The keeping of livestock or farm animals on said premises is forbidden with the exception of pets.
8. Not more than one single residence can be erected on each of the lots as plotted.

BEING the same lands and premises which WILLIAM J. FARRELL and LENA E. FARRELL, his wife, by Indenture dated the 26th day of October, A.D., 1964, and recorded in the Office of the Recorder of Deeds in and for Kent County and State of Delaware, in Deed Record R Volume 23, Page 460, did grant and convey unto GEORGE WILLIAM FARRELL and CONSTANCE MARIE FARRELL, his wife, in fee.

P.T. 03J435 State of Delaware STATE TAX DEPT. KENT REALTY TRANSFER TAX AUG 24'79 735.00

RECEIVED FOR RECORD
AUG 24 2 32 PM '79
ROBERT [illegible]HAWAY
RECORDER OF DEEDS
KENT COUNTY, DELAWARE

In Witness Whereof, *the said part* ies *of the first part have hereunto set* their *hand*s *and seal*s *, the day and year aforesaid.*

Sealed and Delivered in the Presence of

George William Farrell SEAL
GEORGE WILLIAM FARRELL

Constance Marie Farrell SEAL
CONSTANCE MARIE FARRELL

State of Delaware,

KENT **County,** } ss.

this 24th *day of* August **Be It Remembered,** *That on in the year of our LORD, one thousand nine hundred and* seventy-nine, *personally came before me,* the Subscriber,

GEORGE WILLIAM FARRELL and CONSTANCE MARIE FARRELL, his wife,

part ies *to this Indenture, known to me personally to be such, and* they *acknowledged this Indenture to be* their Act & *Deed.*

GIVEN under my Hand and Seal of office, the day and year aforesaid.

[illegible] H. NICHOLS NOTARY PUBLIC STATE OF DELAWARE 1978

Notary Public

City of Dover

MAYOR AND COUNCIL

DRAFT PROPOSED COUNCIL RESOLUTION NO. 2016-08

A RESOLUTION PROPOSING THE VACATING AND ABANDONMENT OF A CERTAIN IMPROVED STUB STREET SITUATED IN THE CITY OF DOVER.

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

Section 1. The Council of the City of Dover favors the vacating and abandoning of Topaz Circle stub street, as specified below:

Adjacent to 402 Topaz Circle (ED-05-067.01-01-24.00)
Being a portion of that certain piece or parcel of land situated in the City of Dover, Kent County, State of Delaware, being an unimproved public dead end portion of Topaz Circle lying to the southeast of the intersection of Topaz Circle and Aquamarine Court and to the northwest of lands now or late of Richard B. McKee, said portion of Topaz Circle beginning at a point in line of said McKee lands and the southern property corner of Parcel No. ED-05-067.01-01-24.00; thence running South 50 degrees 40 minutes 20 seconds West 30.03 feet along the southerly line of the 30' wide dead end street to a point in the center of said street; thence running North 36 degrees 48 minutes 41 seconds West 111.46 feet parallel to the westerly property line of Parcel No. ED-05-067.01-01-24.00 to a point; thence running North 53 degrees 11 minutes 19 seconds East 55.00 feet to a point of curvature in the southerly line of Topaz Circle, said point being the northerly end of a 25 foot radius junction curve joining the southerly and easterly lines of Topaz Circle; thence running along said junction curve by the arc of a circle curving to the left, with a radius of 25.00 feet, a distance of 39.27 feet to a point of tangency in the easterly line of Topaz Circle; thence running South 36 degrees 48 minutes East 85.15 feet to a point in the line of said McKee lands and the southern property corner of Parcel No. ED-05-067.01-01-24.00, being the point and place of beginning and containing 0.14 acres (6,071.98 square feet) of land be the same more or less.

Adjacent to 2 Aquamarine Court (ED-05-067.01-01-25.00)
Being a portion of that certain piece or parcel of land situated in the City of Dover, Kent County, State of Delaware, being an unimproved public dead end portion of Topaz Circle lying to the southeast of the intersection of Topaz Circle and Aquamarine Court and to the northwest of lands now or late of Richard B. McKee, said portion of Topaz Circle beginning at a point in line of said McKee lands and the southeastern property corner of Parcel No. ED-05-067.01-01-25.00; thence running North 50 degrees 40 minutes 20 seconds East 30.03 feet along the southerly line of the 30' wide dead end street to a point in the center of said street; thence running North 36 degrees 48 minutes 41 seconds West 111.46 feet parallel to the easterly property line of Parcel No. ED-05-067.01-01-25.00 to a point; thence running South 53 degrees 11 minutes 19 seconds West 55.00 feet to a point of curvature in the southerly line of Aquamarine Court, said point being the northerly end of a 25 foot radius

junction curve joining the southerly line of Aquamarine Court and the westerly line of Topaz Circle; thence running along said junction curve by the arc of a circle curving to the right, with a radius of 25.00 feet, a distance of 39.27 feet to a point of tangency in the westerly line of Topaz Circle; thence running South 36 degrees 48 minutes East 87.78 feet to a point in the line of said McKee lands and the southeastern property corner of Parcel No. ED-05-067.01-01-25.00, being the point and place of beginning and containing 0.08 acres (3,478.06 square feet) of land be the same more or less.

Section 2. The streets and infrastructure of the above described parcels of land have not been accepted by the City of Dover. The above described parcels of land shall be considered public utility easements, reserving the rights of the City of Dover, their agents or assigns to free access for ingress and egress to these premises and every part thereof at all times for purpose of installing, maintaining and operating its existing public utilities.

Section 3. The Council of the City of Dover will sit on Monday, September 12, 2016, at 7:30 p.m., in the Council Chambers at City Hall, Dover, Delaware, to hear the objections of such residents of the City or owners of the property affected as shall attend, in accordance with the provisions of Section 27 of the Charter of the City of Dover (Chapter 130, Volume 77, Laws of Delaware).

Section 4. The Clerk of Council is hereby directed to post copies of this Resolution in five or more public places in the City of Dover.

ADOPTED: *

S:\RESOLUTIONS-PROCLAMATIONS-TRIBUTES\2016\DRAFT\RESOLUTION NO 2016-08 - SETTING A PUBLIC HEARING - ABANDONMENT OF TOPAZ CIRCLE STUB STREET\Resolution No. 2016-08 Resolution Setting a Public Hearing for the Abandonment of Topaz Circle Stub Street.wpd

ROBIN R. CHRISTIANSEN	TIMOTHY A. SLAVIN
MAYOR	COUNCIL PRESIDENT

Actions History:
August 22, 2016 - Introduced at City Council

Draft

Exhibit A

Topaz Circle
Proposed Stub Street Abandonment



0 75 150 300 Feet

N

Legend

- Dover Parcels
- Storm Sewer Inlet
- Storm Sewer Manhole
- Hydrants
- Storm Sewer Pipe
- Water Main
- Hydrant Line
- Overhead Electric Pole
- Underground Electric Lines
- Overhead Electric Lines
- Sanitary Sewer Manholes
- Sanitary Sewer Line
- Topaz_Cir_Stub

Date Printed: July 26, 2016
File: m:\gis_data\projects\tech_mxds
\jason_lyon_maps\caf_maps
\caf_topaz_cir_abandonment
Department: Public Works GIS
City of Dover, Delaware

ACTION FORM

PROCEEDING: City Council	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Public Works	**DATE SUBMITTED**: 8/12/16
PREPARED BY: Sharon Duca, P.E., Public Works Director / City Engineer	
SUBJECT: Evaluation of Bids – East Water Street Brick Project (Sidewalk Replacement Adjacent to Christ Church)	
REFERENCE: N/A	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller	
EXHIBITS: Attachment A – Aerial Map	
EXPENDITURE REQUIRED: $80,700	**COMMUNITY TRANSPORTATION FUNDS**: $80,700
FUNDING SOURCE: Community Transportation Funds ($65,000 in Community Transportation Funds from Agreement # 07-P-PROG-08, $6,500 has been received and the balance will be reimbursed after construction. An additional $16,700 in Community Transportation Funding will be requested from area legislators so the project can be 100% funded using the CTF program.	
TIME TABLE: Notice to proceed to be issued within thirty (30) days of Council approval. The contract duration is ninety (90) calendar days.	
RECOMMENDED ACTION: Award the contract to Sam's Construction LLC for the East Water Street Brick Project, Bid #17-0001PW, for the amount of $80,700.00.	

BACKGROUND AND ANALYSIS

The need for upgrading the existing sidewalk and retaining wall located along the south side of East Water Street, adjacent to Christ Church, was identified a number of years ago. Community Transportation Funding (CTF) was requested for the project from area legislators. The existing sidewalk and retaining wall are currently in disrepair and in need of replacement due to age and settlement. The work under this project generally consists of mobilization and demobilization to the site, establishment of maintenance of traffic, establishment of sediment and erosion controls, as well as the removal, disposal and replacement of approximately 114 linear feet of brick faced retaining wall, brick sidewalk and concrete curb. This project will provide pedestrians within the City of Dover a safer means of egress along East Water Street. East Water Street is a state maintained right-of-way so there are additional construction controls in place during the project.

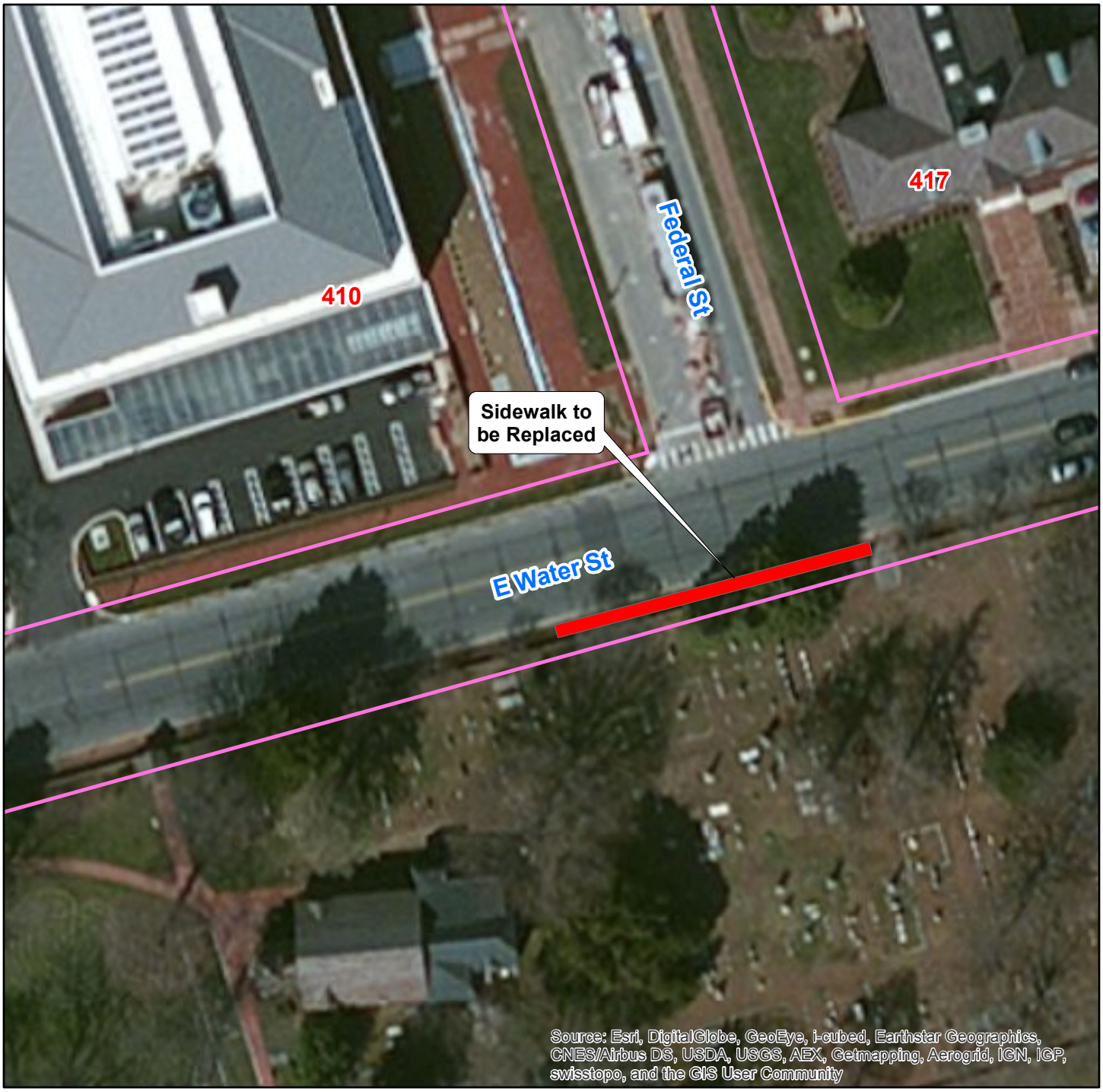
The bid was advertised to the public as an Invitation to Bid in accordance with the City's purchasing policy by the City's Purchasing Agent under ITB #17-0001PW. Bids were opened on August 9, 2016. The City of Dover received one (1) bid shown in the table below:

CONTRACTOR	LOCATION	BASE BID
SAM'S CONSTRUCTION LLC	**WILMINGTON, DE**	**$80,700.00**

City staff reviewed the submission and found that Sam's Construction LLC's bid met all requirements for the qualifications of the project. The staff recommends awarding the contract to Sam's Construction LLC in the amount of $80,700 for the East Water Street Brick Project.

ATTACHMENT A

Sidewalk to be Replaced
East Water Street



0 25 50 100 Feet

N

Date Printed: August 15, 2016
File: m:\gis_data\projects\tech_mxds
\sidewalk_e_water_st
Department: Public Works GIS
City of Dover, Delaware

Legend

- Sidewalk to be Replaced
- Dover Parcels

ACTION FORM

PROCEEDING: City Council	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Public Works	**DATE SUBMITTED**: 8/12/16
PREPARED BY: Sharon Duca, P.E., Public Works Director/City Engineer	
SUBJECT: Evaluation of Bids – South New Street Water Main Replacement	
REFERENCE: CIP- Water Quality Improvement	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller	
EXHIBITS: Exhibit A – Aerial Map	
EXPENDITURE REQUIRED: $292,500.00	**ORIGINAL FY 2017 BUDGET**: $645,800
FUNDING SOURCE (Dept./Page in CIP & Budget): Department of Public Works - Water Management, CIP Project #WQ1701, 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 ninety (90) calendar days.	
RECOMMENDED ACTION: Award the contract to Teal Construction, Inc. for the City of Dover New Street Water Main Replacement Project, Bid #17-0002PW, for the amount of $292,500.00.	

BACKGROUND AND ANALYSIS

The Fiscal Year 2017 Capital Improvement Plan includes a project called Water Quality Improvements. Staff identified the need for upgrading the existing four-inch (4") water main located in South New Street, between Loockerman Street and Water Street. The existing undersized main was installed in approximately 1960 and is made of unlined cast iron pipe. This project will replace this main with a new eight-inch (8") cement lined ductile iron pipe water main. The new water main 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 #17-0002PW. Bids were opened on July 27, 2016. The City of Dover received two (2) bids shown in the table below:

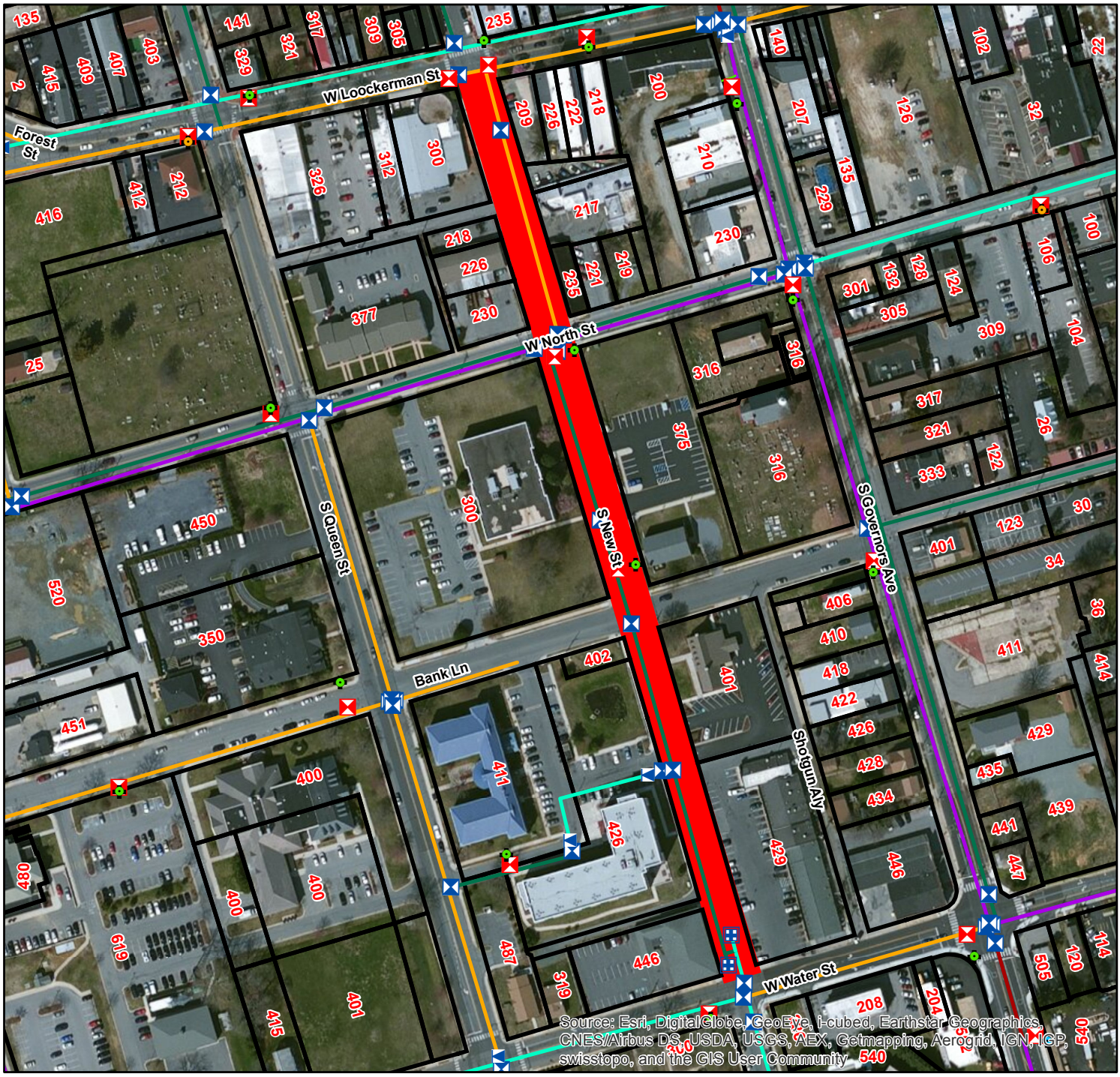
CONTRACTOR	LOCATION	BASE BID
AZTECH CONTRACTING, INC.	DOVER, DE	$206,088.66*
TEAL CONSTRUCTION, INC.	**DOVER, DE**	**$292,500.00**

** = Aztech Contracting, Inc., did not submit the necessary documents for the bid, and as such, are deemed non-responsive and cannot be awarded the bid. (All contractors submitting bids were to include an acceptable experience record, acceptable equipment schedule, references, and business documentation as identified in the Statement of Qualifications contained within the Bid Specifications.)*

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 $292,500 for the New Street Water Main Replacement Project.

Exhibit A

South New Street
Water Main Replacement



0 50 100 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: August 11, 2016
File: m:\gis_data\projects\tech_mxds
\jason_lyon_maps\caf_maps
\caf_s_new_st_water_replacement
Department: Public Works GIS
City of Dover, Delaware

ACTION FORM

PROCEEDING: City Council	**AGENDA ITEM**:
DEPARTMENT OF ORIGIN: Public Works/Parks and Recreation	**DATE SUBMITTED**: August 8, 2016
PREPARED BY: Ann Marie Townshend, AICP, Director of Planning & Community Development	
SUBJECT: Evaluation of Bids – Mallard Pond Multi Use Path	
REFERENCE: Mallard Pond Park Plan	
RELATED PROJECT:	
APPROVALS: City Manager, Controller	
EXHIBITS: Aerial Maps	
EXPENDITURE REQUIRED: $62,465.40	**AMOUNT BUDGETED**: $100,000.00
FUNDING SOURCE (Dept./Page in CIP & Budget): Multiple Funding Sources: $50,000 Delaware Land and Water Conservation Trust Fund; $50,000 Community Transportation Funds.	
TIMETABLE: Notice to Proceed to be issued within 60 days of Council approval. Project anticipated to be completed in 90 calendar days from Notice to Proceed issuance, weather permitting.	
RECOMMENDED ACTIONS: Award a unit price contract, based upon Bid #17-0003PW for the Mallard Pond Multi Use Path to Diamond Materials LLC based on the Without Prevailing Wage unit prices for each work item submitted. Work will be performed in strict accordance to the Bid Specifications.	

BACKGROUND AND ANALYSIS

In concurrence with the City of Dover's plans for improvements at Mallard Pond Park, the Public Works Department developed bid specifications for an 8-foot-wide multi-use path to connect from the sidewalk that enters the park off North Caroline Place and extends south to the southern boundary of the park near the end of Marsh Creek Lane.

Bids were opened on Thursday, July 28, 2016. Six (6) contractors submitted unit price bids for the proposed work to be performed. Based on the proposed quantities, the estimated contract values are as follows:

CONTRACTOR	LOCATION	AMOUNT OF BID (WITHOUT PREVAILING WAGES)
GATEWAY CONSTRUCTION INC.	CLAYTON, DE	$67,329.60
KENT CONSTRUCTION CO INC.	SMYRNA, DE	$103,671.36
MITTEN CONSTRUCTION CO	DOVER, DE	$89,232.00
SAM'S CONSTRUCTION LLC	WILMINGTON, DE	$194,688.00
GRASSBUSTERS LANDSCAPING CO. INC	NEWARK, DE	$113,568.00
DIAMOND MATERIALS LLC	NEWPORT, DE	$62,462.40

Without prevailing wage, Diamond Materials is the low bidder and their previous work with the City was found to be satisfactory. It is staff's opinion that the bid represents fair market value and their qualifications are in accordance with the requirements of this project. In conclusion, staff recommends awarding a construction contract to Diamond Materials LLC for the Mallard Pond Multi Use Path, with total quantities for each contractor

to be based upon progress and quality of work, in the amount of $62,462.40.


PLAYGROUND
MULTI-USE
TRAIL
PARKING LOT

ACTION FORM

PROCEEDING: City Council
DEPARTMENT OF ORIGIN: Electric - Power Plant (NAES) **DATE SUBMITTED**: 8/17/2016
PREPARED BY: Don Mordus - Plant Manager (NAES)
SUBJECT: Evaluation of Bids – McKee Run Unit 3 Stack Repairs (Project # EG1613)
REFERENCE: N/A
RELATED PROJECT: N/A
REVIEWED BY: City Manager, Controller/ Treasurer, Electric Director
EXHIBITS: Pages 159 & 195 of FY-2016 Operating Budget; Bid Evaluation Summary from NAES
EXPENDITURE REQUIRED: $223,852.00 **AMOUNT BUDGETED**: $485,000 (FY-2016) **FUNDING SOURCE (Dept./Page in CIP & Budget)**: Power Plant; Acct. # 487-8101-591-40-31
TIMETABLE: Work to be done beginning October 3, 2016 upon Council approval
RECOMMENDED ACTION: Staff recommends approving award of contract to NAES Power Contractors – Chimney Division in the amount of $223,852.00 per the attached documentation. McKee Run Unit 3 Stack repairs are to begin on October 3, 2016 and be completed on or before November 16, 2016.

BACKGROUND AND ANALYSIS

This request is being made to approve the work for the McKee Run Unit 3 Stack Repairs (Project # EG1613) to allow the performance of the outlined stack work per the bid specifications. The stack lining was inspected in 2012 and determined to be deteriorating and in need of repair and/or replacement. Submissions were completed by five (5) chimney repair companies and the best qualified contractor was selected to be awarded the stack repair contract. A brief summary of the work to be performed includes: the exterior of the Unit 3 will be prepped and painted with the same color scheme presently on the stack. The stack liner will be removed and completely replaced with a gunite lining similar to the one currently installed on the stack in accordance with the specifications for the Unit 3 stack requirements. A new cap angle will be installed and replacement gunite prepared and applied in multiple layers to achieve the required thickness lining for the stack by an experienced Chimney Repair Company. The project, once approved by council is scheduled to begin on October 3, 2016 and be completed on or before November 16, 2016. Our recommendation for the award of the repair work for Unit 3 Stack is for NAES Power Contractors – Chimney Division. The bid comparison sheet provides a summary comparison of the competing bids and contractor safety records for our decision.

McKee Run Unit #3 Stack Repairs EG1613

Evaluation of Bids

Company Names	Construction Turnaround Services	Gerard Chimney Company	NAES Power Contractors - Chimney Division	National Chimney & Stack	Structural Preservation Systems, Inc.
Unit #3 Stack Cleaning / Painting (External Work)	$136,560.00	$123,000.00	$42,700.00	$280,353.00	$155,250.00
Unit #3 Stack Angle Replacement	$22,620.00	$5,750.00	$9,260.00	$5,500.00	$34,800.00
Unit #3 Stack Gunite Removal / Replacement	-$547,195.13	$190,000.00	$162,362.00	$592,063.00	$321,705.00
Additonal Costs for Temperature Control for Gunite Curing if Needed	$0.00	$0.00	$9,530.00	$0.00	$0.00
Firm Bid Pricing: Total Repair Costs	**$706,375.13**	**$318,750.00**	**$223,852.00**	**$877,916.00**	**$511,755.00**
Mobilization / Demobilizaton Cost	$0.00	$595.00	$0.00	$0.00	$0.00
Final Costs With Mobilizaton Cost	$706,375.13	$319,345.00	$223,852.00	$877,916.00	$511,755.00
Evaluated Price Rating	(2.28)	1.71	2.69	(4.05)	(0.28)
Attended Required Pre-Bid Meeting	Yes	Yes	Yes	Yes	Yes
Ability to start on October 3, 2016 - Fall Outage Date	Yes	Yes	Yes	Yes	Yes
Schedule time frame.	Yes - (2) 10 hr shifts / day 6 days / week. (40 days)		Yes - (1) shift 10 hrs / 5 days / week.		
Detailed Schedule in MS Project or NAES approved format	Yes	No	Yes - start date 10/03/16, finish dated 11/16/16.	No	No
Completion of new vendor package.	Yes	Will be completed	Yes - Has performed work at site previously	Yes	Yes
Proposed work schedule.	Yes	Yes	Yes	Yes	Yes
Proposed Liner Material	Moldit® D GG Gun Mix (Vesuvius)				

SMP-26 Safety Information	Yes but not signed.	Yes - EMR High @ 1.36	Yes - EMR 0.67.	Yes - EMR 0.64.	
Certificate of Insurance	Yes	Yes - will provided waiver of subrogation if awarded work. However in miscellaneous section it states that any coverage beyond their basic coverage is at cost + 10%.	Yes but no waiver of subrogation on current certificate. - Rcv'd ammended insurance form w/subrogation clause as required.	Yes.	Yes.
Supply T&M rate sheets.	Yes	Yes	Yes	Yes	Yes
Vendor Minority Owned	No	No	No	No	No
Local Vendor	No	No	No	No	No
Notification of RFQ	Responded to advertisement - in house contact.	Responded to advertisement - in house contact.	Responded to advertisement - in house contact.	Responded to advertisement - in house contact.	Responded to advertisement - in house contact.
Clarifications and Exemptions	Section "C" of proposal.	See Logistics Summary	See proposal.	See proposal.	None
Payment Terms	20% Upon Award, 20% Upon Approved Material Purchases, 60% Upon Completion	Monthly progess billing. Net 15 day. All subcontractors are billed at cost + 10%.	Couldn't locate in proposal.	Net 30.	Net 30.
Previous Job References	Yes		Yes	Yes	Yes
Evaluation of Proposal Content Rating	4.75	4.50	4.50	4.50	4.50

Rating Scale = 1 - 5 whereby 1 is Lowest and 5 is Highest rating

Rating Summary

Criteria	**Construction Turnaround Services**	**Gerard Chimney Company**	**NAES Power Contractors - Chimney Division**	**National Chimney & Stack**	**Structural Preservation Systems, Inc.**
Price	-2.28	1.71	2.69	-4.05	-0.28
Proposal Content	4.75	4.25	4.50	4.75	4.50
Weighted Values					
Criteria	**Construction Turnaround Services**	**Gerard Chimney Company**	**NAES Power Contractors - Chimney Division**	**National Chimney & Stack**	**Structural Preservation Systems, Inc.**
Price	-2.05	1.54	2.42	-3.65	-0.25
Proposal Content	0.48	0.43	0.45	0.48	0.45
Total	**-1.58**	**1.96**	**2.87**	**-3.17**	**0.20**
Recommendation to award bid to:					

Weight

0.90
0.10

City of Dover, Delaware

FY 2016 Capital Investment Plan

FY 16 thru FY 20

PROJECTS BY DEPARTMENT

Department	Project#	Priority	FY 16	FY 17	FY 18	FY 19	FY 20	Total
Electric Engineering								
Horsepond to Cartanza 69 kV Rebuild	*EE1500*	n/a	255,500					*255,500*
Townpoint Development ~ Distribution Feeders	*EE1513*	n/a	350,000	350,000	350,000	350,000		*1,400,000*
Transmission Line Maintenance Program	*EE1603*	7	75,000	75,000	75,000	75,000	75,000	*375,000*
Lighting Project and Rehabilitation	*EE1604*	4	67,000	50,000	50,000	50,000	50,000	*267,000*
69 kV Cable Replacement North Street	*EE1605*	n/a	50,000	480,700				*530,700*
Distribution Capacitors and Controls	*EE1606*	10	50,000	50,000	50,000	50,000	50,000	*250,000*
Horsepond Road URD ~ Distribution Feeders	*EE1607*	n/a	67,000					*67,000*
Frazier 900 Circuits	*EE1610*	n/a	10,000	10,000	10,000	10,000	10,000	*50,000*
Dover Air Force Base Substation Rebuild	*EE1612*	n/a	30,000	500,000				*530,000*
Oak Grove Trailer Park - Distribution Upgrade	*EE1617*	1	78,500					*78,500*
Lakeland Laurel Point - Distribution Upgrades	*EE1618*	4	63,000					*63,000*
RT 8 / Mifflin Road Crossing - Dist. Upgrade	*EE1619*	5	51,500					*51,500*
Route 8 Taps - Distribution Upgrade	*EE1620*	7	38,500					*38,500*
Townsend Brothers - Distribution Upgrade	*EE1621*	6	14,500					*14,500*
Persimmon Tree Apartments - Dist. Upgrade	*EE1622*	3	62,000					*62,000*
Dover East Estates - Distribution Upgrade	*EE1627*	2	130,000					*130,000*
Reed Street Building Roof Repair/Replacement	*EE1630*	n/a	201,800					*201,800*
North Street OH to UG (Governors to Queen)	*EE1631*	n/a	100,000					*100,000*
System Automation	*EE1702*	n/a	0	150,000	150,000	150,000	150,000	*600,000*
Distribution Upgrades	*EE1810*	1	0	0	300,000	600,000	600,000	*1,500,000*
Electric Engineering Total			**1,694,300**	**1,665,700**	**985,000**	**1,285,000**	**935,000**	***6,565,000***
Electric T & D								
New Developments	*EE1616*	1	2,279,000	2,500,000	2,500,000	2,500,000	2,500,000	*12,279,000*
DNREC R&R Metering ~ New Development	*EE1623*	n/a	41,000					*41,000*
Public Works Wetland Project	*EE1625*	8	78,000					*78,000*
Washington Street Lights - New Development	*EE1626*	9	40,000					*40,000*
NBR Properties, LLC - New Development	*EE1628*	n/a	19,000					*19,000*
Tall Pines Condos - New Development	*EE1629*	n/a	43,000					*43,000*
Electric T & D Total			**2,500,000**	**2,500,000**	**2,500,000**	**2,500,000**	**2,500,000**	***12,500,000***
Power Plant								
McKee Run Building Equipment Replacement	*EG1601*	8	42,000	59,000	99,000	27,000	66,000	*293,000*
McKee Run Unit 3 Boiler Systems	*EG1604*	1	42,000	382,000	0	299,000	80,000	*803,000*
McKee Run Unit 3 Auxiliary System Components	*EG1607*	2	135,000	128,000	261,000	277,000	213,000	*1,014,000*
McKee Run & VanSant CEMS Upgrade	*EG1608*	3	89,000					*89,000*
Van Sant Unit 11 Component Replacements	*EG1609*	4	21,000	89,000	0	0	305,000	*415,000*
Plant Systems Safety & Compliance Improvements	*EG1610*	6	157,000	112,000	37,000			*306,000*
McKee Run & VanSant - Preservation of Structures	*EG1611*	9	215,000	261,000	0	200,000	0	*676,000*
Unit 3 Cooling Water Line Repairs	*EG1612*	5	469,000					*469,000*
McKee Run Unit 3 Stack Repairs	*EG1613*	7	485,000					*485,000*
Van Sant Unit 11 Major Overhaul	*EG1701*	n/a		400,000	1,948,000	0	150,000	*2,498,000*
McKee Run Unit 3 Hydrogen Purity Analyzer	*EG1704*	10	0	85,000				*85,000*
McKee Run Units 1 & 2 Component Repairs	*EG1705*	n/a		21,000	0	0		*21,000*

FY 2016 Capital Investment Plan

FY 16 *thru* FY 20

City of Dover, Delaware

Project # EG1613

Project Name McKee Run Unit 3 Stack Repairs

New Project: No

Account Number: 487-8101-591.40-31

Time-Line:

Department Power Plant
Contact Power Plant Manager
Type Maintenance
Useful Life Unknown
Category Electric
Priority 7 --
Status Active
Total Project Cost: $485,000

Description

An internal and external inspection was performed by an outside consultant in 2012. From this inspection a work scope has been developed to incorporate repairs required to extend the life of the stack for 10 to 15 yrs. Complete replacement of the stack lining will be made in order to allow continued operation of Unit 3.

Justification

Extensive deterioration of the stack lining was found during the fall 2012 planned inspection of the stack. This will require significant repair and replacement of the stack lining.

Delaying necessary repairs could lead to more costly repairs in the future and possible unplanned forced outage on Unit 3. Earnings from the sale of capacity may also be affected.

Expenditures	FY 16	FY 17	FY 18	FY 19	FY 20	Total
Construction/Maintenance	485,000					485,000
Total	**485,000**					**485,000**

Funding Sources	FY 16	FY 17	FY 18	FY 19	FY 20	Total
Electric Revenue	485,000					485,000
Total	**485,000**					**485,000**

Budget Impact/Other

City of Dover

MAYOR AND COUNCIL

PROPOSED COUNCIL RESOLUTION NO. 2016-09

A RESOLUTION FORMALLY ESTABLISHING THE ECONOMIC DEVELOPMENT COMMITTEE

WHEREAS, during the Special Council Meeting - Budget Review of May 26, 2016, City Council dissolved the City's Economic Development Office and created an Economic Development Committee within the City, with the Mayor to serve as the Committee Chair and the other members to consist of the City Manager, or the City Manager's designee, the Chair of the Legislative, Finance, and Administration Committee, the Chair of the Utility Committee, a designee of the Downtown Dover Partnership (DDP), and the City Planner; and

WHEREAS, a strong and robust local economy is essential to the quality of life of all residents of the City of Dover and its surrounding community. It is vital that the City pursue sound and innovative strategies to promote growth, attract investment, create and protect jobs, and support existing businesses and enterprises; and

WHEREAS, the Mayor and Council wish to develop a collaborative, targeted, and effective approach to economic development in the City of Dover.

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DOVER HEREBY FORMALLY ESTABLISH THE CITY OF DOVER ECONOMIC DEVELOPMENT COMMITTEE, WHICH SHALL:

1. Promote the economic interests of the City of Dover, formulate recommendations to Council and staff, and coordinate with staff, other government bodies and institutions, the business community, and the public on economic development matters.

2. Provide monthly reports to City Council.

ADOPTED: *

S:\RESOLUTIONS-PROCLAMATIONS-TRIBUTES\2016\DRAFT\RESOLUTION NO. 2016-09 - FORMALLY ESTABLISHING THE ECONOMIC DEVELOPMENT COMMITTEE\Resolution No. 2016-09 Formally Establishing the Economic Development Committee.wpd

ROBIN R. CHRISTIANSEN	TIMOTHY A. SLAVIN
MAYOR	COUNCIL PRESIDENT

Actions History

08/22/2016 - Scheduled for Introduction - City Council

08/16/2016 - Discussion - Economic Development Committee

Draft

ACTION FORM

PROCEEDING: City Council	**MEETING DATE:** 08/22/16
DEPARTMENT OF ORIGIN:	**DATE SUBMITTED**: 08/18/2016
PREPARED BY: Traci A. McDowell, City Clerk on behalf of Council President Slavin	
SUBJECT: Clarification of Council Action of August 8, 2016 - Proposal for Dover Public Library to Adopt a Smoke-Free Policy	
RELATED PROJECT: N/A	
APPROVALS: City Council	
EXHIBITS:	
EXPENDITURE REQUIRED: $ N/A **AMOUNT BUDGETED**: $ N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A	
TIMETABLE:	
RECOMMENDED ACTION:	

BACKGROUND AND ANALYSIS

During the Regular Council Committee of the Whole/Legislative, Finance, and Administration Committee meeting of July 26, 2016 members considered the following item: Proposal for Dover Public Library to Adopt a Smoke-Free Policy.

The Committee recommended authorizing the City Manager to implement a smoke-free policy on the campus and grounds of the Dover Public Library.

During the Regular Council meeting of August 8, 2016 the Proposal for Dover Public Library to Adopt a Smoke-Free Policy was removed from Consent Agenda for discussion. Following is a verbatim transcript of the discussion:

Mr. Slavin: I'm going to apologize. I neglected to recognize Councilman Sudler during the consideration of the consent agenda and his request that item 5C3 be pulled off the consent agenda. Is that correct, Councilman Sudler?

Mr. Sudler: Yes, Council President.

Mr. Slavin: We'll go to agenda item 5C3. Councilman Sudler? I'm sorry, Councilman Hare, do you want to introduce this item before Councilman Sudler speaks? As the chair of Legislative, Finance, and Administration?

Mr. Hare: This was on the Legislative, Finance, and Administration Committee, a proposal for the Dover Public Library to adopt a smoke-free policy, and I'll leave it to Mr. Sudler.

Mr. Sudler: I want to ask that my Council colleagues please consider a friendly amendment to adopt staff recommendations with a friendly amendment to include all parks and recs facilities and also city

buildings, city facilities as a whole.

Mr. Neil: Second.

Mr. Slavin: Moved by Councilman Sudler, seconded by Councilman Neil to amend the proposed policy to include all city parks and city buildings. Questions on the motion? By buildings, do you mean the inside of the building, which is already prohibited by state law, or do you mean City property surrounding the building as well?

Mr. Sudler: Surrounding the building, 25 feet from the building.

Mr. Slavin: While on city property?

Mr. Sudler: Yes.

Mr. Slavin: The amendment is to ban, to adopt a smoke-free policy for all parks and all city property?

Mr. Sudler: Yes, sir.

Mr. Neil: I accept the changes.

Mr. Slavin: Discussion on the motion? Councilman Hutchison?

Mr. Hutchison: A question. If, in fact, this matter passes, where do we stand on the enforcement side? And what would the penalties be?

Mr. Slavin: Councilman Sudler?

Mr. Sudler: I would suggest that we follow the State of Delaware's statute in regards to the penalties and enforcement code.

Mr. Slavin: My understanding was when this question was raised on the public library proposal that it was a Dover City ordinance, correct? A DCO? Mr. Koenig?

Mr. Koenig: I believe so. I did not bring the reference with me, but I believe this is something that the cadets can enforce on the library property.

Mr. Slavin: Other questions? All in favor of the amendment, signify by saying "aye."

Group: Aye.

Mr. Slavin: Opposed? Motion carries unanimously. Now we need a motion to accept the item Proposal for the Dover Public Library to Adopt a Smoke-Free Policy. I need a motion to accept the Committee's recommendation as amended.

Mr. Sudler: So moved.

Mr. Neil: Second.

Mr. Slavin: Moved by Councilman Sudler, seconded by Councilman Neil. All in favor, signify by saying "aye."

Group: Aye.

Slavin: Opposed? Motion carries unanimously.

/tm
S:\CAFS\08-22-2016 COUNCIL - Clarification of Council Action of August 8, 2016 - Proposal for Dover Public Library To Adopt a Smoke-Free Policy.wpd

FINAL READING

CITY OF DOVER PROPOSED ORDINANCE #2016-19
WITH COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE AMENDMENT #1 (CCW/LF&A#1)
(CCW/LF&A#1 indicated in green text)

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

That Chapter 22 - Buildings and Building Regulations, Article I - In General, Section 22-1 - Construction Code Appeals Committee of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 22-1. - ~~Construction code appeals committee~~ Construction and property maintenance code board of appeals.

(a) Established; composition; appointment. There shall be a committee to be referred to as the **~~"construction code appeals committee,"~~ "construction and property maintenance code board of appeals,"** consisting of **~~three~~ five (5)** members**~~, one of whom shall be the city manager~~. The council president shall appoint ~~and the other~~ ~~two (2)~~ three (3) ~~being~~** elected city officials **and the mayor shall appoint one (1) city resident generally selected as a representative of homeowners and one (1) representative of the local real estate industry association**. **~~The city officials shall be appointed by the city council president at the council annual meeting.~~ Members shall serve one-year terms unless sooner removed. All appointments are subject to confirmation by the city council at its second regular meeting in May. The construction and property maintenance code board of appeals shall elect one of its members as chairperson.**

(b) *Appeals*. Whenever any person is aggrieved by a decision of the building inspector with respect to the provision of this chapter, it is the right of that person to appeal to the **~~construction code appeals committee~~ construction and property maintenance code board of appeals**. Such appeal must be filed, in writing, within 30 days after the determination by the building inspector.

(c) *Notice; hearing*. Upon receipt of such an appeal, the **~~construction code appeals committee~~ construction and property maintenance code board of appeals** shall set a time and place in not less than ten, nor more than 30 days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the **~~construction code appeals committee~~ construction and property maintenance code board of appeals** shall be final in all cases.

(Code 1981, § 5-3; Ord. of 4-25-1994)

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61 - Adopted, Subsection (a) - International Building Code adopted, Section 113 - Board of Appeals of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Section 113 BOARD OF APPEALS. See Chapter 22-Buildings and Building Regulations, Article I-In General, Sec. 22-1 ~~Construction code appeals committee~~ **Construction and property maintenance code board of appeals**.

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61 - Adopted, Subsection (b) - International Residential Code Adopted, Section R112 - Board of Appeals of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

SECTION R112 BOARD OF APPEALS See Chapter 22 - Buildings and Building Regulations, Article I - In General, Sec. 22-1 ~~Construction code appeals committee~~ **Construction and property maintenance code board of appeals**.

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article VII - Property Maintenance Code, Section 22-221 - Adopted, Subsection (a), Section 111 - Means of Appeal of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

SECTION 111 MEANS OF APPEAL See Chapter 22 - Buildings and Building Regulations, ~~Article VII - Property Maintenance Code, Sec. 22-225 Property maintenance code board of appeals~~ **Article I - In General, Sec. 22-1 Construction and property maintenance code board of appeals**.

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article VII - Property Maintenance Code, Section 22-225 - Property Maintenance Code Board of Appeals of the Dover Code be amended by deleting it in its entirety, as follows:

~~**Sec. 22-225. - Property maintenance code board of appeals.**~~

~~**There shall be a board to be referred to as the "property maintenance code board of appeals," consisting of three members, one of whom shall be the city manager, one a resident generally selected as a representative of homeowners, and one representative of the local real estate industry association. The members shall be appointed by the mayor, subject to confirmation of a voting majority of the city council at its annual meeting. Decisions of the board shall be final.**~~

(Code 1981, § 10-5; Ord. of 7-10-1989; Ord. of 4-10-2000)

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article XII - Vacant Buildings, Section 22-406 - Appeals of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 22-406. - Appeal~~s~~ of the 25 percent over market rate.

~~**(a) Any appeal of the building inspector's decision must be made in writing within 30 days of the decision. The appeal would be heard by the property maintenance code board of appeals.**~~

~~(b)~~ An appeal of the 25 percent over market rate (from the actively for sale or lease definition) can be considered through an appraisal using accepted appraisal standards to determine market rate. The owner has the option of asking the city tax assessor to perform the appraisal or having one performed (using accepted appraisal standards) at their own expense.

(Ord. of 6-26-2006; Ord. No. 2013-03, 3-11-2013)

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-125 - Construction Code Appeals Committee of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 46-125. - ~~Construction code appeals committee~~ Appeal; hearing.

~~(a) Composition; appointment. There shall be a committee to be referred to as the "construction code appeals committee," consisting of three members, one of whom shall be the city manager and the other two being elected city officials. The city officials shall be appointed by the city council president at its annual meeting.~~

~~(b)~~ Appeal; hearing. Whenever any person is aggrieved by a decision of the fire marshal with respect to the provisions of this chapter, it is the right of that person to appeal to the ~~construction code appeals committee~~ **construction and property maintenance code board of appeals, as provided for in Chapter 22 - Buildings and Building Regulations, Article I - In General, Section 22-1 - Construction and property maintenance code board of appeals**. Such appeal must be filed, in writing, within 30 days after the determination by the fire marshal. Upon receipt of such appeal, the ~~construction code appeals committee~~ **construction and property maintenance code board of appeals** shall set a time and place, in not less than ten or more than 30 days, for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the ~~construction code appeals committee~~ **construction and property maintenance code board of appeals** shall be final in all cases.

(Code 1981, § 7-60; Ord. of 5-10-1982; Ord. of 11-22-1993)

BE IT FURTHER ORDAINED:

That Chapter 50 - Floods, Article IV - Variances, Section 50-46 - Variances of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 50-46. - Variances.

The City of Dover ~~Construction Code Appeals Committee~~ **construction and property maintenance code board of appeals, as provided for in Chapter 22 - Buildings and Building Regulations, Article I - In General, Section 22-1 - Construction and property maintenance code board of appeals,** shall have the power to authorize, in specific cases, such variances from the requirements of these regulations and the flood load and flood load and flood-resistant construction of the building code, not inconsistent with federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) *Application for a variance.*

Draft

a. Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the floodplain administrator.

b. At a minimum, such application shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in section 50-46(2) and the limitations and conditions of section 50-46(3).

(2) *Considerations for variances*. In considering variance applications, the City of Dover ~~**Construction Code Appeals Committee**~~ **construction and property maintenance code board of appeals** shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

a. The danger that materials may be swept onto other lands to the injury of others.

b. The danger to life and property due to flooding or erosion damage.

c. The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.

d. The importance of the services provided by the proposed development to the community.

e. The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.

f. The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.

g. The compatibility of the proposed use with existing and anticipated development.

h. The relationship of the proposed use to the comprehensive plan for that area.

i. The safety of access to the property in times of flood for ordinary and emergency vehicles.

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3) *Limitations for variances*.

a. An affirmative decision on a variance request shall only be issued upon:

1. A showing of good and sufficient cause. A "good and sufficient" cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.

2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.

3. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.

4. A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.

5. A determination that the granting of a variance will not result in additional threats to

public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.

6. A determination that the structure or other development is protected by methods to minimize flood damages.

7. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Upon consideration of the individual circumstances, the limitations and conditions, and the purposes of these regulations, the City of Dover ~~**Construction Code Appeals Committee**~~ **construction and property maintenance code board of appeals** may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

c. The City of Dover ~~**Construction Code Appeals Committee**~~ **construction and property maintenance code board of appeals** shall notify any applicant in writing to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements only, and that the cost of federal flood insurance will be commensurate with the increased risk.

(Ord. No. 2014-09, 6-9-2014)

ADOPTED: *

S:\ORDINANCES\2016\DRAFT\ORDINANCE #2016-19 CONSOLIDATION OF PROPERTY MAINTENANCE & CONTRUCTION CODE BOARDS OF APPEAL\Proposed Ordinance #2016-19 Amending Ch 22; Ch 46; and Ch 50 with CCW-LF&A#1-FINAL READING.wpd

SYNOPSIS

The proposed ordinance would consolidate the Construction Code Appeals Committee and the Property Maintenance Code Board of Appeals. This consolidation will put appeals related to Chapters 22, 46, and 50 under one committee consisting of five members instead of three **and change the composition of the members by replacing the City Manager with an elected City official**. The plan is to create the Construction and Property Maintenance Code Board of Appeals with the sitting members of the existing groups. The appointments will continued to be shared by the Mayor and Council President.

(SPONSORS: COLE, HUTCHISON, AND NEIL)

Actions History

08/22/2016 - Scheduled for Final Reading - City Council
08/08/2016 - First Reading - City Council
07/26/2016 - Introduction - Council Committee of the Whole/Legislative, Finance, and Administration Committee

Draft