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
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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.

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-----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****.*

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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
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Department: Public Works GIS
City of Dover, Delaware