COUNCIL COMMITTEE OF THE WHOLE

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

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

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

Viability of the ShotSpotter Gunshot Detection and Location Service

Deputy Police Chief Marvin Mailey informed members that gunfire is a major concern in the City, noting that the communities most affected are the least likely to report calls to 911, so gunfire is vastly under-reported. He advised that the Police Department had responded to 95 calls for service for shots fired in various areas throughout the City in 2016, stating that people are often gone when they respond. On the rare occasions when someone is hit, the Department conducts an investigation; however, these incidents are largely under-investigated due to lack of evidence. Deputy Chief Mailey explained that the ShotSpotter gunshot detection and location system works by triangulating the noise emitted from gunfire and helping to pinpoint the exact location. He noted that several audio devices or sound listening posts would be located throughout a sector of the City, and they would be able to pick up the noise, report it to a center, de-conflict that noise as a backfire from a car or other device, and report it to the Police Department to determine the location. Deputy Chief Mailey indicated that the current system depends on citizens calling from their residence or cell phone to report gunfire. Officers then respond to the area and conduct a grid search. He stated that the ShotSpotter would allow officers to go to the exact area of the shots. If subsequent shots are fired, they would be able to follow this on a grid map and possibly arrest those firing the shots, locate the handgun, and conduct their investigation in a professional way.

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

being entered into the Integrated Ballistics Identification System (IBIS) so they can be tied back to firearms.

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

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

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

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

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

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

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

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

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

In response to Mr. Slavin regarding any soft costs on the City's end and how information would be received and what the intervention would be, Deputy Chief Mailey stated that the information would go directly to the dispatch center. The information on the dispatchers' display would be sent to the responding officers and they would be given an exact location, rather than an area, to start their search. Deputy Chief Mailey indicated this would be additional information for dispatchers.

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

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

Mr. Hutchison stated that the City of Dover Police Department has a great working relationship with the Dover community. He realized that this equipment could be considered; however, when the

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

Mr. Anderson indicated that Wilmington started testing this program in approximately 2014 in a small area and seemed to like it, so it was very new in Delaware. In regard to a cost/benefit analysis, he would like to evaluate if it fits Dover and not to commit to it. Mr. Anderson believed that there had been incidences when seven (7) or eight (8) calls were received about shots fired, but because of echoes and the way sound carries, it was indicated that gunfire came from different areas. He questioned if this system would have helped in this type of situation. Responding, Deputy Chief Mailey stated that, rather than looking at a sector of a couple of blocks, it would narrow the search to a specific point on a street where the first shot was fired. If several shots were fired during a drive-by shooting, it would tell the direction of vehicle travel and indicate in red dots on a grid map exactly where the first and sequential shots were fired. Deputy Chief Mailey explained that, in general, officers currently go from one (1) block to another and look for shell casings or stop to try to solicit responses from the people on the street. Having been on the street when shots were fired, he noted that sound bounces all over at night. Mr. Anderson advised that he had also been on the street when shots were fired.

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

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

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

Mr. Hutchison moved to defer Viability of the ShotSpotter Gunshot Detection and Location Service for further investigation, seconded by Mr. Anderson and unanimously carried.

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

During the Special Council Meeting - Budget Review held on May 24, 25, and 26, 2016, concern was expressed regarding ambulance service, partially due to the result of the Operational and Administrative Analysis - Dover Fire Department - Final Report - March 2016. Chairman Hosfelt indicated that, at that time, there was discussion about possibly forming a committee or getting a group together to look at the City's ambulance service. He stated that he believed that the City was in its second year of at least a three (3) year ambulance contract, with two (2) possible one (1) year extensions. He advised that he had held preliminary discussions with people in the industry throughout the State and desired to form a committee or at least bring back to Council suggestions regarding a committee to look at the City's ambulance service to see if it is deficient, if there is agreement with the study, and move forward from there. Mr. Hosfelt noted that he did not have knowledge regarding the ambulance service and was unsure if other members did, noting that there may be a couple of members of staff that have more knowledge. He felt that getting a committee of experts throughout the State together may be a good idea to see if the best interests of the citizens are being served.

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

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

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

two (2) people arriving at such a scene in an ambulance sometimes need assistance to lift these people. Mrs. Sass advised that in one such documented case from 2013, the weight of a Kent General Hospital patient was estimated at 465 lbs. and the two (2) people in the ambulance requested assistance. She indicated that if she had more details, she would be able to determine why assistance was needed; however, she had been able to get documentation for only two (2) incidents since 2009.

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

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

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

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

Mr. Hutchison noted that one of Mrs. Sass' duties and responsibilities is to be the personal contact to work with PrimeCare and questioned if she was aware of any problems or issues this year. Responding, Mrs. Sass explained that if any issues come through, she talks them over with the City Manager, contacts PrimeCare and tells them what she has heard or needs information on, and within 24 hours they provide all necessary documentation. She noted that there had been a couple of cases where accusations were made; however, Kent County does a great job of providing information.

Mrs. Sass cited an instance where they were able to provide her with a recorded conversation from an individual who made a complaint, which cleared PrimeCare of any wrongdoing.

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

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

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

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

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

Mr. Scott Koenig, City Manager, questioned if the Committee wanted to form a committee for the Request for Proposals (RFP). He stated that the City had just entered the second year of the contract and the City had approximately 19 or 20 months before the contract ends. Mr. Koenig stated that if Council wants to issue an RFP, staff would be more than happy to. He noted that the operational study indicated that Dover has enough activity and call volume to attract a national carrier. Mr. Koenig stated that the difference between local and national carriers is that a national carrier may not charge the City a standby charge. He estimated that approximately $20,000 to $21,000 per month is paid to PrimeCare as a standby charge and a national carrier would survive on pure billing. He explained that the City pays a monthly fee for the 24/7 unit and a separate bill for the 7/7 unit. Mr. Koenig informed members that a couple of years ago there was discussion about adding a third shift, at a value of approximately $10,000 per month or $120,000 per year. This was compared to making an approximate $15,000 contribution to the volunteer fire departments that are helping the City. Mr. Koenig stated that the volunteer fire department contribution was better financially both for the City and for the companies that were assisting.

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

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

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

Mr. Neil moved to recommend that staff prepare a Request for Proposals (RFP) to look at emergency services. The motion was seconded by Mr. Keller and unanimously carried.

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

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

called the Accident Potential Zone (APZ) II, which does not allow for public assembly. Staff advised that if Fordham was planning to have more events than they had in the past, there would be a need to look at the restrictions. Mrs. Townshend indicated that staff was assured by Mr. Lutz that Fordham did not have any interest in having more than two (2) to three (3) events in a year.

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

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

Mrs. Townshend stated that Fordham's attorney had presented an alternative for the City to look at to modify the City's Zoning Determination and Administrative Policy. She advised that the determination was drawn from the zoning district itself and from the City's Comprehensive Plan. Mrs. Townshend indicated that the purpose of the AEOZ is to protect public safety in the areas around the Base and to protect the viability of the Base. She informed members that one of the City's commitments to the United States Air Force was to protect the areas around the Base from encroachment of incompatible uses. Mrs. Townshend noted that the issue was not that the City was trying to do something to a business but that this business had changed. When they opened in 2004, they were strictly a brewery and did not have any events. Mrs. Townshend advised that a review of

the City's records revealed that the first special event permits were issued in 2012. She indicated that this issue grew up under the radar and the City's responsibility to the Base was to make sure that the City lives up to the commitment made in adopting the AEOZ. Mrs. Townshend stated that the AEOZ was initially adopted in 2001, so it was in place when Fordham located there. She stated that some people had indicated that there are events on the Base. Mrs. Townshend noted that the APZs are not necessarily just the areas around the Base. Referring to the maps, she explained that the APZs were the pink linear areas off the ends of the runways where there is an increased risk of crash, based on statistics provided by the Air Force. Mrs. Townshend noted that this is something that other military towns with air installations have and felt that a lot of people did not understand the purpose of the zone and, in particular, the locations of the APZs.

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

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

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

Mr. Neil requested that his memorandum to the Mayor and Council dated July 25, 2016 Re: Airport Overlay Zone (AEOZ) and the Fordham and Dominion Brewery be included in the record ***(Attachment #1)***. He stated that, in the event of an air accident, there would be a chance that the City could be sued if the City did not insist that the brewery follow what is in the crash zone. Mr. Neil pointed out that there was a second liability issue dealing with the Fire Marshal. He felt this was not entrapment on the City's part, noting that there was evidence of a broken agreement on social media. Mr. Neil stated that no fines had been levied, only counseling. He reiterated that the City could be sued if what was discovered by the Fire Marshal was not enforced. Mr. Neil felt that there was a second issue related to good faith in dealing with the Air Force. He stated that if it was free enterprise, the Air Force Base could leave because the City had broken its agreement with them by not enforcing what is in that zone. Mr. Neil noted that they could pack up and leave, and if they cannot do so, he questioned if this meant the City should break its agreement with them to allow the business to expand without doing anything about it. He questioned if the City could move actively with an ancillary location that is not in the zone to allow them to expand. For example, Mr. Neil noted that the Kent County Tourism wine trail will now be at Harrington. He questioned if the City could acknowledge that Fordham had broken the agreement and the Fire Marshal laws, note that the

City had not fined but only counseled Fordham, and take an active step as a Council by turning to the committee that is dealing with economic expansion and find someplace for Fordham away from this zone where they could have their events. He did not feel the City could break faith with the Air Force simply because they cannot pack up and leave.

Mr. Slavin expressed his hope that neither Fordham nor the Air Force Base were being portrayed as the bad guys in this matter, stating that this would be a disservice. He noted that these two (2) entities were simply doing their business and it was evolving. Mr. Slavin stated that the City is growing. He thought that, as a City government, Dover needed to be out of the business of being siloed and make sure that zoning and enforcement are in line with economic development policies, so that the City does not approach businesses saying that they are wrong and the City wants them to move. Mr. Slavin asked members to imagine being the business owner receiving this news, noting that they may have been a loyal, taxpaying business in Dover for the past 10 years, built up their brand and business and become successful, and now the City wants them to move. He stated that the answer would be that they would move to Milford, Smyrna, or someplace else that is beating the City to the punch on all of the businesses being lost. Mr. Slavin indicated that Dover was not losing to Annapolis or Anaheim but to Smyrna and Milford for this very reason. He felt that these are the moments when Dover can become viable as a City or not. Mr. Slavin stated that this zoning was passed in 2001 and felt that when something is passed and becomes a zone, it is not sacrosanct or unchanged forever. He stated that in the past 15 years, the entire business model for Fordham and Dominion and that industry had changed. Mr. Slavin noted that he is not a defender of their business and understood that they must catch up on some things. Mr. Slavin advised that this industry was no longer just about putting product in bottles and they need the ability to sell it in a very personal way by mixing it with food and the experience of being there. He felt that this is what had made Dogfish Head in Milton so successful, noting that their plant does not just have bottling but has much more. Mr. Slavin felt that there was a need to respect the fact that this had changed since 2001, noting that since 2001 the entire fleet and the types of airplanes that fly in and out of Dover Air Force Base had changed since 2001. When they recently did renovations on their runways, they used temporary flight patterns with airplanes over the City. Mr. Slavin did not recall them coming to the City saying that there was a need to change the zones during that temporary period.

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

Mr. Slavin stated that the City had shown moments where it could be viable and flexible and take activities, zoning, and enforcement and align them with economic development, for example the Firefly Festival. When Dover Downs wanted to put 80,000 people there listening to rock music, the City found every possible way to make this happen, and Mr. Slavin was glad that this was done. He felt that now there was a desire to snag on a single business in a single location that had dedicated itself to being in Dover. Mr. Slavin advised that, when he spoke to them, they indicated that they were very happy and proud to be in Dover but were at the end of the line with this matter. He stated that picking up and moving and building new infrastructure was not something that they wanted to do. Mr. Slavin suggested that the City should become smart and more nimble, and understand that the City is growing and, as it grows, there is a need to respond to that growth. He felt that the City

should not simply hold up a book of ordinances and say sorry, no we can't do that, we are in the enforcement business, period. In his opinion, this was the wrong approach to take.
Responding to Mr. Hare regarding what the zoning was prior to being updated in 2011, Mrs. Townshend stated that the Air Force did not change the APZs, which are the same as they were prior to the update. Based on the change of the fleet, they updated the noise contours, which shrank. She indicated that some areas went from a more restrictive too a less restrictive noise zone, and some came out of the noise zone entirely.

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

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

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

Mr. Hare agreed with Mr. Slavin, expressing his belief that a compromise could be reached. Referring to events in the crash zone, Mr. Hare stated that the Air Force Base was extending invitations to set up and have big events in the crash zone. He indicated that they were not just holding events on their property but were being invited to do events at the Air Force Base where hundreds of people show up. Mr. Hare felt that a happy medium could be reached and that there was a lot more to this than having an event at the brewery in the crash zone, noting that peripheral things go on that needed to be looked at.

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

In regard to the issue of consistency raised by Mr. Sudler, Mrs. Townshend indicated that this was one of her biggest concerns about making an administrative decision that she believed would go exactly against what the City committed to the Base in adopting the AEOZ. She noted that other businesses had wanted to locate within this zone and to do things that included public assembly that the City had said no to. Mrs. Townshend stated that people had come to her stating that the City said no to them and questioned why Fordham kept having these events; therefore, this was an issue of consistency. She noted that there are a lot of things in the Zoning Ordinance that are black and white and have a yes or no answer, and staff abides by that; however, there will always be gray areas. When there is gray area, Mrs. Townshend advised that she does her best to work with the applicants to make sure that the gray area is used in a way that benefits the public interest and the applicants. She indicated that there are zoning determinations that do this. Mrs. Townshend stated that many people in the business community would say that she is fair and consistent, and if the flexibility is there, she will use it and if it is not she does not. In this case, Mrs. Townshend did not believe that the Code had given staff flexibility, and she did not believe it was appropriate for her to make an administrative decision that could potentially have a long-term impact on the viability of the Base. She explained that the Zoning Ordinance and State statute set it up that zoning appeals go to the Board of Adjustment. Mrs. Townshend talked to Fordham about this and they did not want to go to the Board of Adjustment. She advised that there was the possibility of them getting a variance to allow that use but not to expand it so that it goes on to other places. Mrs. Townshend indicated that the issue of encroachment starts when there is one incompatible use, and then another down the road, and before you know it there is a Base Realignment and Closure (BRAC) commission that suddenly finds that there has been encroachment. Mrs. Townshend explained that, although members may not think this is a possibility in Dover, from the research staff had done in 2005 when the BRAC Commission looked at bases for closure, the Naval Air Station Oceana in Virginia Beach was not on the Secretary's list for closure. However, the Commission put it on the list simply because there was encroachment of incompatible uses. Mrs. Townshend explained that in order for the base to keep their military installation, Virginia Beach had to adopt a lot of code amendments and purchase land to eliminate some of the incompatible uses. During the past winter, Norfolk's city council approved a special exception for a banquet hall that would have a capacity of 80 people, which is less than those attending many of the Fordham events. Mrs. Townshend noted that Norfolk is APZ II, which is essentially what Dover was looking at. In Virginia, the person in the cabinet position in charge of military affairs, as well as the mayor of Norfolk, came out stating that the city had made a mistake, and the city had to go back and work with this property owner at the city's expense to relocate this business.

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

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

Mr. Hutchison questioned if the City had a temporary agreement with Fordham between now and the end of the year. Responding, Mr. Hare said yes. *[City Clerk's Office Note: Subsequent to the meeting, Mrs. Townshend sent correspondence to the Fordham and Dominion Brewing Company dated August 1, 2016 regarding events at the brewery that included details pertaining to this agreement* ***(Attachment #2)****.]* Mr. Hutchison stated that the concerns had already been addressed to take care of the issue until the end of the year and there was no need to take any action on this; however, between now and the end of the year there would be a need to come to an understanding.

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

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

Meeting adjourned at 7:14 p.m.

UTILITY COMMITTEE

The Utility Committee meeting was held with Chairman Cole presiding.

AGENDA ADDITIONS/DELETIONS

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

Evaluation of Proposals - Underground Utility Locating Services Contract

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

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

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

Mr. Sudler moved to recommend acceptance of staff's recommendation to award a one (1) year contract with the option for two (2) one (1) year extensions to W Locco, LLC, as per the proposal submitted in response to RFP #16-0044COD. The motion was seconded by Mr. Blakeman and unanimously carried.

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

Mr. Scott Koenig, City Manager, advised members that the Dover High School pump station was constructed in accordance with City specifications with the intent to be turned over as public infrastructure. He explained that this pump station currently serves only the Dover High School facility but was intended and sized to cover extended infrastructure that will serve the Leander Lakes apartment complex, and potentially other areas to be developed in the vicinity of the City. Mr. Koenig indicated that the developer of the pump station had reached a point where they would like to dedicate the infrastructure. He stated that one (1) Smith and Loveless 4B2B Vacuum Primed Pump Station would be dedicated, as well as approximately 1,512 linear feet of six (6) inch sanitary sewer force main. Mr. Koenig noted that the estimated value based on construction would be $565,070.

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

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

Mr. Sudler moved to recommend acceptance of the pump station and associated force main at Dover High School, with dedication to include the entire referenced infrastructure. The motion was seconded by Mr. Hutchison and unanimously carried.

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

Meeting adjourned at 7:21 p.m.

LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

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

AGENDA ADDITIONS/DELETIONS

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

Discussion of Duties and Assignments of City Personnel

Council President Slavin indicated that the issue of the duties and assignments of City personnel had arisen on a number of occasions and indicated a need for clarification. He advised that, in March 2013, City Council took action to reorganize City government which involved reorganizing the duties assigned to employees in the Public Works, Information Technology, Finance, and Planning Departments. Mr. Slavin requested that the City Clerk send an excerpt from the minutes of the Regular City Council Meeting of March 25, 2013 ***(Attachment #3)*** to all members of Council, as well as the citizen members of the Legislative, Finance, and Administration Committee. *(City Clerk's Office Note: Subsequent to the meeting, this information was emailed to all members of Council and the civilian members of the Legislative, Finance, and Administration Committee.)* Mr. Slavin advised that the first vote on this matter had not passed and the second vote passed by a vote of five (5) to three (3), with one (1) member absent. He felt it would be worthwhile for members to look at what actions Council took to reorganize City government at that time.

Mr. Hosfelt moved to defer this matter until members have all the information they need. The motion was seconded by Mr. Sudler and unanimously carried.

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

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

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

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

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

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

Mr. Hudson stated that staff was proposing that two (2) passport agents could come in at the Library Clerk I level, with a hiring preference for veterans. After removing operating expenses, 75% of the funds collected would go to the library and 25% to the General Fund. The library funds would be used for programs such as the Maurice Sendak Exhibit and Dover Comic-Con. Mr. Hudson noted that the library is not short on ideas but does not necessarily have all the funds needed for them. He

felt that something like this could bring in dollars to be able to do those sorts of things without having to ask the City for extra funds.

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

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

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

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

Mr. Cole questioned if this would be addressed on a year-to-year basis or would be a two (2) or (3) year undertaking. He asked what would happen if the first year did not go as planned. Responding, Mr. Hudson stated that the City could discontinue the service whenever it wanted to. He stated that he and Ms. Cyr wanted to ensure that the individuals hired would know that this is experimental. He noted that this would be the first such program in the State, and staff knew of only one (1) library in New Jersey where this had been done successfully. Mr. Hudson indicated that it had the potential to blossom and that Senator Coons had reached out to other libraries. Mr. Hudson felt that the Dover Public Library was perfectly suited for it, believing that there was no other larger library, other than perhaps the Wilmington Library.

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

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

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

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

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

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

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

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

Mr. Hare questioned if there would be overtime hours if existing staff were used. In response, Mr. Koenig stated that there would not be overtime hours, reiterating his belief that part-time employees at the library would be used and some of the hours would be back-filled. Mr. Koenig stated that all guidelines would be followed and the intent was not to convert an existing part-time person to a full-time person to administer the program but to try to perform the service at the lowest

cost possible. He stated that there would be no benefits associated with the part-time Library Clerk I positions credentialed to be passport clerks.

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

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

Mr. Sudler moved to recommend acceptance of staff's recommendation to authorize the City Manager to submit the necessary documentation to provide passport services at the Dover Public Library and incur the necessary expenses to implement and manage the program. The motion was seconded by Mr. Hutchison and unanimously carried.

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

Ms. Michelle Hughes, Assistant Library Director, stated that it was proposed to adopt a smoke-free policy for the library grounds. She reviewed a request for the Library property to be designated as a smoke-free area. Ms. Hughes advised that staff often receives complaints from library visitors about people who sit outside and smoke on a continuous basis, and referenced two such complaints received within the past month. She indicated that another reason for the proposal was that there had been several mulch fires, most recently in June 2016, when the Dover Police cadet on duty used a fire extinguisher to put out a fire. Ms. Hughes stated that staff knows there are people on library property outside of library hours and there is concern about the possibility of significant damage to the building if a mulch fire started when staff was not present to notice it. Ms. Hughes cited several current proposals for smoke-free policies that were under evaluation. She indicated that the Dover Public Library respectfully requested that the Committee recommend the Library grounds be designated as a smoke-free area. A map of the Dover Public Library Proposed Landscape Improvement Plan designating the proposed border of the smoke-free area was displayed ***(Attachment #4)***.

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

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

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

Mr. Slavin stated that he supported the proposal 100%. He indicated that two other pieces were in the proposal's favor: 1) the Clean Indoor Air Act, which prohibits people from smoking within so many feet of an entrance to a public building, and 2) the National Fire Protection Act, which prohibits people from congregating around egress points for a building. Mr. Slavin noted the need to anticipate where smokers would go once they are banned from this campus. He indicated that urns could be set up at certain places; however, he noted that the pictures in the presentation entitled "Dover Public Library - Smoke Free" showed that no one was really paying attention to urns. Mr. Slavin stated that he would also support looking at further banning of smoking on all City property, similar to what the State of Delaware had done, noting that the State does not allow smoking. He felt that smoking had no place in City parks.

Mr. Neil moved to recommend authorizing the City Manager to implement a smoke-free policy on the campus and grounds of the Dover Public Library, seconded by Mr. Hosfelt and unanimously carried.

Request to Solicit Real Estate Services - Garrison Oak Technical Park

Mr. Scott Koenig, City Manager, informed members that staff was requesting authorization to solicit commercial real estate services, primarily for the Garrison Oak Technical Park (GOTP). He noted that one (1) of the shortcomings of that piece of property was that, in discussions over the past two (2) years, some real estate agents had been reluctant to bring buyers to the City because the property was not listed. Mr. Koenig stated that there was concern that they would be left out of the transaction and not be awarded a commission. One of the ideas discussed to help market the available property at GOTP was to list the available properties with the commercial real estate industry with the understanding that they will be granted a commission.

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

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

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

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

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

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

Mr. Sudler questioned, when the listing is provided to one agency, if that information would be provided to other realtors. Responding, Mr. Koenig stated his belief that they would use a multi-listing service and it would be picked up electronically by other people.

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

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

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

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

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

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

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

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

1) Part-time Customer Service Representative - Collections - This employee left approximately six (6) months ago and discussions had been held through this morning on recruiting for this position. There was an internal request to recruit differently than is on the posting sheet, and staff was reviewing the request in accordance with policy.

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

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

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

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

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

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

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

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

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

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

Mr. Koenig stated that these positions were all important in different aspects to different components of the City. He stated that he was steadfastly behind continuing recruitment for each of the positions and getting them filled so that it could be determined if the City has the right people and skill sets

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

Mr. Hosfelt stated that what he hears most often is that the City is not willing to pay enough for the positions to beat the marketplace. He questioned if the City was at the point that Human Resources should do another study. Responding, Mr. Koenig recalled that the last study done by the Management Advisory Group was updated in 2009. He indicated that this is a very sticky question, noting that labor unions had negotiated with the City in good faith and came to agreement on costs. Mr. Koenig stated that the City was being squeezed in a couple of areas where there were concerns; however, doing a full-blown labor study using a disinterested third party is significantly expensive and takes quite some time. Mr. Koenig felt that this would create a massive level of distraction during that timeframe and, at this point, he was not of the opinion that the City should solicit any type of pay study. He believed that they might be surprised at some of the numbers that would come back from the study. Mr. Koenig thought that certain positions in the marketplace were having competitive difficulty. He advised that it is typically found that the City is overpaying for certain positions and underpaying for others. Mr. Koenig indicated that in the labor contracts, for example IBEW, it is recognized that the City posts in-house first, and there is usually a cascading effect up the ladder in the electric utility. System knowledge is important in the electric utility, so they like to hire at the groundworker, entry level and work employees up through the system so they gain all the system knowledge. Mr. Koenig stated that this is also the preference in the water and sewer utility, and in this utility the City is competing with construction companies such as Teal Construction, Inc., where the City typically loses in the dollars per hour area. In regard to sanitation, Mr. Koenig stated that responses come in spurts, and they may get two (2) people from one (1) advertisement and nobody from another. For this reason, filling some of these positions had been sporadic.

Mr. Koenig stated that the City had held a number of job fairs over the last year, one at the Pitts Center and one at the Dover Public Library. They were well attended and the City had obtained several recruits as a result; however, staff had been on a constant hamster wheel of recruiting over the past year or more and there were still quite a few open positions. Mr. Koenig stated that staff would always know the pulse of the market and what the market was paying; however, in reading any of the magazines, especially at the professional level of recruitment, some of the numbers were

getting significantly high. He was not in favor of a salary studying because he did not feel the options had been exhausted at this point.

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

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

Mr. Koenig stated that Mr. Maloney treats the Dover electric system as he treated the Vineland system, which is like a child. Mr. Maloney's requests had been very deliberate and he had made some very good hiring decisions, in some cases taking a non-traditional approach. Some of the hires attracted to the electric utility had basic knowledge and electrical experience, and were learning the positions. Mr. Koenig stated that he and Mr. Maloney had discussed the need to rebuild the managerial function of the electric system because a number of people had retired and that expertise left with them. He noted that the electric utility had been extremely beneficial for the City of Dover; however, the units are getting older and decisions will have to be made regarding potential replacement. Mr. Koenig advised that replacing capacity in the system requires a great deal of work and the human component is very important. He reminded members that none of this work is done without a human hand touching it and it is important to have the staff expertise to do it.

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

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

In response to Mr. Hare regarding the five (5) and 10 year plan, Mr. Koenig stated that every budget includes a five (5) year Capital Investment Plan (CIP). He stated that power supply contracts had been brought before Council over the last year that included the purchase of generation and long-term energy, so these issues were coming before Council as a series of packages rather than in one package. Mr. Koenig advised that when the City renegotiated the NAES contract that was authorized by Council several months ago, one of the reasons that the fee for The Energy Authority (TEA) was reduced, and he believed for the flat contract renewal for NAES, was due to the current active management at the City level that had previously been turned over to the third-party contracts. He stated that the purpose of having the human interaction at the Electric Director and Assistant Generation Manager level was to reduce the outside labor that the City was previously paying for. Mr. Koenig stated that the power plant, especially with a unit that was built in 1961, is a specialty trade and, in his opinion, it was better for the City to privatize the plant operation because they can use whatever means necessary to hire an operator, such as flying someone in from across the country and bringing in expert talent, because the burden is on them to provide the operators. Mr. Koenig reminded members that the City had a lot of difficulty running the plant efficiently years ago. The purpose of privatization was to help the City get out of the long-term liabilities of employees. He noted that a premium is paid for that in some cases; however, the City would have no long-term liability associated with that plant, other than the contract. Mr. Koenig reiterated that it is specialty work. He noted that Mr. Maloney knows the running of the plant, but the City is not tasked with that. Mr. Koenig stated that the whole purpose of the Assistant Generation Manager position was to rebuild the managerial capacity of the utility, which is the golden goose for the City, referring to the $10M cash transfer, plus an additional $3M - $4M in like services that are part of the utility. He stated that the City would either have the unit for another 10 or 15 years, and may build new units, or the units may be retired over the next 10 or 15 years, but the City would likely have some type of generation asset in the system. Mr. Koenig stated that the Integrated Resource Plan (IRP) was authorized several months ago and that study is underway. He advised that, as recommendations are made from the study, they will be presented to Council. Mr. Koenig stated that the Assistant Generation Manager position and these projects were discussed during the budget authorization and he stated that the only thing that had not been done, which was done internally, was a comparison of pay rates with the State and some other municipalities.

Regarding a salary study, Mr. Koenig noted that it is very difficult, if not impossible, to get an apples to apples comparison because of the way that jobs are formulated in each municipality and there is

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

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

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

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

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

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

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

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

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

Mr. Sudler concurred with Councilman Hare that further information was needed to determine exactly what would be done. He stated that there had been a lot of discussion in the past, noting that he had only been on Council for one (1) year; however, he felt it would be pertinent to this decision.

Responding, to Mr. Sudler, Mr. Hare indicated that two (2) positions had been vacant for 13 and 16 months and the Electric Generation Superintendent was a new position.

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

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

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

Mr. Hutchison reminded members that there was a motion and a second on the floor.

Mr. Hutchison called for the question. The motion was seconded by Mr. Cole and carried by a roll call vote of seven (7) yes (Neil, Cole, Hosfelt, Hutchison, Slavin, Shevock, and Stewart), two (2) no (Sudler and Hare), and one (1) absent (Lewis).

The motion to recommend acceptance of staff's recommendation to reaffirm the authorization to recruit all open positions as the City Manager deems necessary was carried with Mr. Sudler and Mr. Hare voting no.

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

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that this ordinance was drafted by the City Clerk's Office as a result of a number of discussions between the Department of Planning and Inspections and the City Clerk's Office related to the Construction Code Appeals Committee and Property Maintenance Code Board of Appeals. She stated that these are two (2) separate boards that hear appeals of different sections of the building code. The Construction Code Appeals Committee is currently made up of the City Manager and two (2) members of Council and the Property Maintenance Code Board of Appeals is made up of the City Manager, one (1) City resident generally selected as a representative of homeowners, and a representative of the real estate industry. Mrs. Townshend stated that staff proposed that the Code be amended to join these two (2) boards, noting that there is a bit of overlap in the jurisdiction. She

indicated that because these are three (3) member boards, there had been a number of cases where there had not been a quorum. Mrs. Townshend explained that the ordinance would take the membership of those two (2) boards and consolidate them into one (1), which would include the City Manager, two (2) members of City Council, a City resident that is generally selected as a representative of homeowners, and a representative of the local real estate industry. This body would hear appeals of building and fire code issues, as well as property maintenance appeals, such as exterior property maintenance, suspension of rental permits, and vacant buildings. Mrs. Townshend stated that staff believed this would improve the functionality of the board and the ability to get a quorum, as well as eliminate the need to comb through the code to decide which of the two (2) boards would hear an appeal.

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

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

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

Mr. Sudler moved to recommend adoption of Proposed Ordinance #2016-19, as amended to change the composition of the members by replacing the City Manager with an elected City official *(Attachment #5)*, due to the close working relationship between the City Manager's Office and the Planning Department. The motion was seconded by Mr. Slavin and unanimously carried.

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

Meeting adjourned at 8:41 p.m.

By unanimous consent, the Council Committee of the Whole meeting was adjourned at 8:41 p.m.

Timothy A. Slavin
Council President

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Attachments

Attachment #1 - Memorandum from Councilman Neil dated July 25, 2016 Re: Airport Overlay Zone (AEOZ) and the Fordham and Dominion Brewery

Attachment #2 - Correspondence to the Fordham and Dominion Brewing Company from Mrs. Ann Marie Townshend dated August 1, 2016

Attachment #3 - Excerpt from the Minutes of the Regular City Council Meeting of March 25, 2013

Attachment #4 - Map of the Dover Public Library Depicting the Proposed Border of the Smoke-Free Area

Attachment #5 - Proposed Ordinance #2016-19 with CCW/LF&A Amendment #1

July 25, 2016

To: Members of the Dover City Council
cc: Mayor Robin Christensen, Scott Koenig, City Management and Ann Marie Townshend, Director of Planning and Community Development

From: Fred Neil, 3rd District

Re: Airport Overlay Zone (AEOZ) and the Fordham and Dominion Brewery

Frankly, I am not certain where we stand in regards to the expanded events program as proposed by the Brewery. I know that our friends in the State Legislature have expressed their support for those additional events. Unfortunately, they do not share the liability issues we face.

My concerns are as follows:

1. Our relationship with the Dover Air Force Base is at stake. As I understand it, the AEOZ was created with the information provided by the Air Base's Air Installation Compatible Use Zone.

Do we really wish to break faith with the Air Base by pushing the limits agreed upon, particularly since this Base or the role of this Air Base can be down graded or lost entirely as the military is shrunk? I believe we need to tread carefully.

2. How does this affect other businesses that may wish to operate in the Zone? Have we already had others who have been turned down? Are we to deny them the right to locate in the zone and have public events beyond what is currently permitted?

3. In addition to the Good Faith the City has developed with the Air Base, what liability does the city have in the event a disaster does occur? We can not deny we were aware of the possibility of an accident or the high level of noise, which can be a health hazard. Will the brewery sign off on a liability agreement protecting the City? Will their patrons or the patrons' family sign off each time they attend an event?

4. Adding to the risk and Good Faith Issues with the Air Force Base, and the zoning liability issues, there is the Fire Marshall liability issue. Does the Brewery meet the basic requirements of the facility being used by large crowds for egress? Have they already broken the law in the past with events if the building does not meet the requirements set by the Fire Marshal?

I think we all want to see the businesses located in Dover be successful and wanting to expand. If there is a way to help them with an auxiliary facility, I am for it. However, until we resolve these issues, the Fordham and Dominion Brewery issue can't be a done deal.

City of Dover

August 1, 2016

Dan Louder
Fordham and Dominion Brewery Company
1284 McD Drive
Dover, DE 19901

Dear Mr. Louder:

On June 6, 2016, I sent you a letter regarding the temporary events at the Fordham and Dominion Brewery. Fordham and Dominion Brewery is located within the Airport Environs Overlay Zone – Accident Potential Zone (AEOZ-APZ II), which restricts public assemblies and other people intensive uses. In my letter, I referenced a zoning interpretation and administrative policy that would limit the number of public events at the brewery to five per year. This is based on the *Zoning Ordinance*'s limit of five days for temporary uses.

Mark Dunkle submitted an alternative proposal on behalf of Fordham and Dominion Brewery, and on June 29, 2016, representatives from Fordham and Dominion Brewery met with representatives of the City of Dover. The following individuals were present at that meeting: Mayor Robin Christiansen, Council President Tim Slavin, City Manager Scott Koenig, Deputy City Solicitor William Pepper, Fordham Marketing Director Ryan Telle, and attorney Mark Dunkle.

As I understand, at that meeting that a compromise position was reached that would allow for 40 hours of events (five "8-hour" days) for the remainder of 2016, and that Mayor Christiansen and Council President Slavin would propose ordinance amendments to address the issue of events in this area on a more permanent basis.

I have shared this direction with the Department of Planning and Inspections staff, and to date, they have approved nine hours of events on July 8, August 5, and August 18. They will continue to monitor the total hours as event permit applications are received.

As previously shared with brewery staff by the Fire Marshal's Office, small tours and tastings are permitted as incidental to the brewery use. This number of people to meet this threshold will be governed by the occupant load of the tasting room. As there is no posted occupant load, the Fire Marshal's Office will measure the tasting room and provide an occupant load to be posted. Any event that exceeds this number is subject to a special event permit.

If you have any questions, please contact me at (302) 736-7196.

Sincerely,

Ann Marie Townshend

Ann Marie Townshend, AICP
Director, Planning & Community Development

cc: Scott D., Koenig, P.E., ICMA-CM, City Manager
The Honorable Robin R. Christiansen, Mayor
Members of Dover City Council
Mark Dunkle

REGULAR COUNCIL MEETING

The Regular Council Meeting was held on March 25, 2013 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mr. Dixon, Mr. Lynn, Mr. Perza, Mr. Bonar, Mr. Hare, and Mr. Hutchison. Mrs. Williams was absent.

Council staff members present were Police Chief Hosfelt, Mrs. Mitchell, Mr. Koenig, Mrs. Townshend, Fire Chief West, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

Mr. Anderson requested that Item #5A - Legislative, Finance, and Administration Committee Report - March 11, 2013 - Permanent Assignment of Duties Associated with Interim Managerial Plan and Organizational Changes be removed from the Consent Agenda.

Mr. Bonar moved for approval of the consent agenda as amended, seconded by Mr. Dixon and carried by a roll call vote of seven (7) yes (Anderson, Dixon, Lynn, Bonar, Hare, Hutchison, and Leary), one (1) no (Perza), and one (1) absent (Williams).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - MARCH 11, 2013

The Legislative, Finance, and Administration Committee met on March 11, 2013 with Chairman Lynn presiding.

Permanent Assignment of Duties Associated with Interim Managerial Plan and Organizational Changes

Mr. Scott Koenig, City Manager, reminded members that in December of 2011, he requested and implemented a number of organizational changes related to several staff vacancies and the changing needs of the City's organization. He noted that since that time, a number of staff positions had been filled while others had been vacated through resignation or retirement.

Mr. Koenig reviewed and requested support of permanent changes to staff assignments, salary and organizational structure, as follows:

Public Works

Under the original Interim Plan, Ms. Sharon Duca, P.E. was elevated to the position of Interim Public Works Director. Since that time, Ms. Duca has been offered and accepted the position of Public Works Director. One of her tasks has been to review the organizational structure of the reformed Public Works Department. In June 2012, the Public Utilities Operations/Construction Manager resigned from his position. Instead of filling this position, which supervised the City's construction crew in addition to other duties, the staff members that formerly reported to the position were placed under the supervision of the Water/Wastewater Maintenance Supervisor, Mr. Ralph McDougall. Originally, their assignments were related mostly to general maintenance items. In February 2013, the construction crew aspect of their duties was re-activated to begin construction of a new water line to support the Garrison Farm Development. New projects will continue to be assigned to this crew under the supervision of Mr. McDougall. Since the construction crew was not formerly the responsibility of the Water/Wastewater Maintenance Supervisor, the

Director of Public Works had requested a review of the position to ensure internal equity in pay with respect to other positions given the new duties. The Water/Wastewater Maintenance Supervisor position is a Labor Grade 122. Human Resources completed an internal review of this position related to other positions within the Department of Public Works. They also reviewed the salary range with respect to a similar position at Kent County. Based upon this review, staff recommended that the salary for this position be increased from $54,576 to $61,000. This is an increase of $6,424 or 11.77%. The effective date of this salary change should be retroactive to February 1, 2013.

Mr. Koenig advised members that currently, there is still one (1) remaining position in the Department of Public Works that is receiving a managerial bonus related to the Interim Plan from December 2011. Due to recent retirements, a formal recommendation will be forthcoming in the next several months regarding this position and others within the department.

Information Technology

Mr. Koenig advised members that upon his appointment as Interim City Manager, he was informed of the capacity that Mr. Andy Siegel was serving in the Information Technology Department. In August 2010, Mr. Siegel was temporarily upgraded to the position of Interim Information Technology Director by the former City Manager. His salary was placed at the entry level value of $76,314 for the grade of the Director's position. Earlier this year, Mr. Koenig decided to offer Mr. Siegel the position of Information Technology Director, thus removing the interim label; however, no adjustment to his salary was made. Upon review of the circumstances, he was made aware that he had made no consideration for the roughly 2.5 years that Mr. Siegel served as the Interim Director. If Mr. Siegel had been credited with 2.5 years of experience in the salary offer for the Director's position, the salary offer would have been $82,059; therefore, he recommended that his salary be increased from $76,314 to $82,059, an increase of $5,745 or 7.53%. He felt that the recommended salary should be retroactive to the date of promotion to the Director's position.

Finance

Since becoming the City Manager, Mr. Koenig advised members that a large bulk of the responsibility of preparing the City's Annual Budget had been shifted to the staff in the Finance Department. This was an effort to reduce duplication of effort and centralize budgeting efforts. With the retirement of the former Senior City Administrator in the City Manager's office, it would have been necessary to hire additional staff to assist with the budget preparation and management. The transfer of the budget preparation function to the Finance Department has made it unnecessary to hire additional staff in the City Manager's office. The Controller personally assumed much of the budget functions in prior years and opted to not accept compensation for these additional duties. Instead, the Controller offered a portion of the proposed managerial bonus to the Financial Reporting and Accounting Manager (Labor Grade 125), Mrs. Tracey Lisiecki, in the amount of $175 per month. This was done on a temporary basis and the bonus ceased in October 2012. The Human Resources Director has reviewed the position based on internal equity within the organization. Staff recommended the salary for this position be increased from $68,835.24 to $71,600. This is an increase of $2,764.76 or 4.01%.

Planning

In 2011 as part of the Interim Plan, the Director of Planning and Community Development, Mrs. Ann Marie Townshend, accepted the managerial responsibilities for the following divisions: Life Safety, Building Inspections, and Economic Development. These areas represented ten (10) positions and were in addition to her regular permanent responsibilities for Planning, Community Development and Code Enforcement. A managerial bonus of $350 per month was implemented to compensate Mrs. Townshend for these additional responsibilities. Her current salary ($91,775) plus the monthly managerial bonus ($350) equates to annual compensation of $95,975.

In June of 2012, the Dover City Council voted to assign the oversight of the Economic Development Office and its three (3) employees to the Mayor. Also in June of 2012, Mr. Zachary Carter elected to retire from the City. Mr. Carter served as the Director of Parks and Recreation. Upon Mr. Carter's retirement, the Library function became a direct report to the City Manager. In addition, discussions between the City Manager and Mrs. Townshend resulted in the temporary assignment of managerial oversight for the Parks and Recreation staff to Mrs. Townshend. Mrs. Townshend has been serving as the Department Head for the Parks and Recreation function since July 1, 2012. Mr. Koenig provided a summary of the Parks and Recreation functions.

Mr. Koenig advised members that the assignment of these duties to Mrs. Townshend has allowed the City to eliminate the Parks and Recreation Director position from the budget. This amounts to an annual salary savings of roughly $81,000 per year. The City also has realized a saving in benefit load over and above the $81,000 in annual salary. Mrs. Townshend has requested consideration of the following annual salary: Current Salary ($91,775) + Current Managerial Bonus ($4,200) + Parks and Recreation Function ($11,340) = $107,315. Based on a business case review, the salary request of $11,340 to continue the managerial oversight of the Parks and Recreation Division is the lowest cost option. The City cannot hire managerial staff for less than $11,340 in salary. In viewing the current organizational structure of the City, the Parks and Recreation function cannot be easily assigned to another manager and the facts support that the assignment to the Director of Planning and Community Development has been a benefit to the City. Since the Director of Planning and Community Development is a Council-appointed position, the City Council must endorse the transfer of the managerial responsibilities as well as the proposed salary. The total increase from $91,775 to $107,315 is $15,540 or 16.93%. Currently, Mrs. Townshend's position is the sixth highest paid position in the City. If the request is approved, the position will become the fourth highest paid position in the City.

Summary

As a follow up to the December 2011 Interim Managerial Plan which saved the City an estimated $215,000 in annual salary, Mr. Koenig requested salary increases for those positions served by specific members of City staff who have taken on additional duties or permanent assignments since the Interim Managerial Plan was placed into action, as follows:

Percent

Position	Current	Adjusted	Difference	Increase
Water/Wastewater Supervisor	$54,576	$ 61,000	$ 6,424	11.77
Information Technology Director	$76,314	$ 82,059	$ 5,745	7.53
Fin. Reporting & Acct. Manager	$68,835	$ 71,600	$ 2,765	4.01
Director of Planning & Insp.	$91,775	$107,315	$15,340	16.93

Mr. Koenig indicated that the salary increases total $30,274. Total budgetary impact would be salary plus 40% load, which is roughly $42,383.60. Funding for these increases would need to be covered by unused salary in the current year and would need to be budgeted for in FY-2014.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, read the following statement into the record:

"Thank you for the opportunity to explain my compensation proposal. The details of the proposal are in the packet, so I will not go over each and every detail, but I would like to highlight and clarify a few items.

- *Throughout my seven years with the City of Dover, I have been a devoted employee and have always worked hard to make sure that my efforts and those of my staff are in the best interest of the City. This is my home too, and I am firmly committed to making Dover a great place to live and work.*

- *As outlined in the proposal, there have been added responsibilities to my position over the years that I have enthusiastically accepted, including the addition of economic development responsibilities in 2008, and again in 2011; and the management of the City's Municipal Storm Sewer Permit and reversing the City's non-compliance with the permit.*

- *In December 2011, I was officially assigned oversight of Building Inspections, Licensing and Permitting, and Fire Marshal's Office and compensated with a $350/month bonus, total of $4,200 annually. I had been providing oversight for these areas without added compensation since Mr. Koenig was appointed interim City Manager in June 2011.*

- *In July 2012, I gladly accepted oversight of the Recreation Division following Zach Carter's retirement. I indicated that I did not believe it necessary to delay the responsibilities until compensation could be worked out because I was well aware of the City's fiscal challenges, and I wanted to get a sense of what the demands of the new responsibilities would be.*

- *For the last eight months, I have managed the Recreation Division, working closely with staff to evaluate the business operations, to reverse the declining revenues and to improve our programming – as stated at a recent seminar I attended, to make better best. We have had great success.*

- *We have restructured the City's summer camp program so that it will make money instead of lose money – while making the program better for meeting the needs of working families by adding extended day camp. Our prices are still far less than many other camps, but we will make money instead of lose money on the program.*
- *We have improved our outreach with the schools regarding our programming and seen an increase in participation.*
- *We have adjusted our field rental fee schedule.*
- *I have given staff the support needed to try new ideas and see if they work, including offering birthday party packages at the Pitts Center, and improving partnerships with other sports and recreation providers in the region.*

- *All the while, I have continued working with the business community to modernize and simplify our zoning ordinance; continued our tough approach to code enforcement and addressing vacant and dangerous buildings; worked with the Police Department to develop our proposed Safe Communities program; worked with the Capital School District and DelDOT to address safe pedestrian access to the new High School; worked closely with Planning and Inspection staff to ensure that our business operation remains strong and improved it in a number of areas; and taken on many other projects and issues.*

- *The City does not have to hire a Parks and Recreation Director, which is a savings of a minimum of $72,000 per year plus associated benefits. And our Recreation programs are thriving.*

- *For me personally, this has meant more hours put in to get the job done, including many evenings and weekends.*

- *What is the value of this to the City? The savings of eliminating the department head position (nearly $100,000 when benefits are factored in) combined with the business improvements we are implementing.*

- *My request is for $11,340 annual salary for the Recreation function and $4,200 annual salary (my existing bonus amount) for the oversight of Licensing and Permitting, Fire Marshal's Office, and Building Inspection, for total of $15,540. And yes, technically speaking it is a 16.9% salary increase, but if the bonus is factored in, the increase is 11.8% over my current compensation."*

Responding to Mr. Shevock, Mr. Koenig stated that the salaries for the vacated positions were eliminated from the FY2013 Budget; therefore, there was no unused salary for the Senior City Administrator or the Parks and Recreation Director.

In response to Mr. Hare regarding salary comparisons for the positions, Mr. Koenig stated that the Water/Wastewater Supervisor position was compared to the City of Dover Water Production Supervisor, who is paid slightly higher but the technical requirements differ. He indicated that Kent

County salary ranges were reviewed and were similar to the salary increases that staff recommended. In regard to the IT Director position, he explained that when the employee was assigned to the Interim IT Director position, he was paid the minimum amount; however, if the City had actually recruited to fill the IT Director's position and the employee had been selected within the four (4) to six (6) months, the salary would have been appropriate. He explained that there was a 2½ year lapse between the time the employee began serving as the Interim IT Director and when he was actually offered the permanent Director's position. As a result, this employee acquired 2½ years experience serving as a Director that he was not credited for in the salary calculation. He further explained that if a person had been selected from outside the City's employment to fill the position and that individual had 2½ years of experience serving as an IT Director, the City would credit the individual for this experience as a Director in developing their salary.

Referring to the IT Director, Mr. Hare suggested that the employee be provided a one-time bonus ($5,500-$6,000), noting that his salary was considerably less than $76,000 2½ years ago, and he questioned if his salary would have been set at the higher level if this individual had been selected at that time. Responding, Mr. Koenig stated that in every other instance when an employee is promoted, their years of experience are considered and salaries are offered accordingly. In the case of the IT Director, this did not occur and the recommendation would correct this error.

The Committee recommended approval of staff's recommendation for the permanent assignment of duties as outlined by the City Manager.

During the Council meeting, Mr. Hare reiterated his feeling that action regarding this matter should be deferred until the City's budget was approved and that any increase in compensation should be accomplished through some form of a bonus system until that time.

Mr. Lynn moved for approval of the Committee's recommendation, seconded by Mr. Anderson.

Mr. Anderson indicated that he concurred with Mr. Hare and, therefore, would not support the Committee's recommendation. Mr. Bonar advised members of his concurrence in this regard as well.

The motion to approve the Committee's recommendation for the permanent assignment of duties as outlined by the City Manager failed by a roll call vote of five (5) no (Anderson, Dixon, Perza, Bonar, and Hare), three (3) yes (Lynn, Hutchison, and Leary), and one (1) absent (Williams).

Mr. Lynn suggested that the recommendations of the City Manager be considered individually.

Mr. Anderson moved to reconsider the recommendations of the City Manager individually, seconded by Mr. Perza and carried by a roll call vote of five (5) yes (Anderson, Lynn, Perza, Hutchison, and Leary), three (3) no (Dixon, Bonar, and Hare), and one (1) absent (Williams).

In response to Mr. Perza, Mr. Koenig stated that of the four (4) positions identified in the recommendation, only (1) was currently receiving a bonus. He stated that, under the proposal, all four (4) salaries would be adjusted and there would be no more bonus payments. He explained that

the only bonus paid was to the Planning Director, as a result of her taking on an additional division on December 11, 2012.

Responding to Mr. Hare, Mr. Koenig explained that the proposal was being recommended since it had been demonstrated that the total amount of funding for salaries that would be cut from the budget for these positions would exceed $300,000, plus the overhead load. In addition, it was his feeling that this proposal would resolve a fairness and equity issue that he would prefer to resolve now rather than later during the budget consideration.

Responding to Council President Leary, Mr. Koenig confirmed that 345 full-time employees were proposed for the next fiscal year, compared to an estimated 370 five (5) years ago. He indicated that this recommendation would reduce the employee head count as well as salary and benefit costs. Council President Leary reminded members that one (1) of the positions was formerly occupied by an individual who retired at a salary level of approximately $80,000 plus benefits, and that the individual who assumed those duties had realigned contracts, found internal cost savings, and would be provided an increase of approximately $1,000 per month. Council President Leary noted that the savings from contract re-negotiations and the Human Resources issues more than exceeded the proposed increase in salary over a one (1) year period. As a result, he felt that if the proposal were approved, the City would be ahead $80,000.

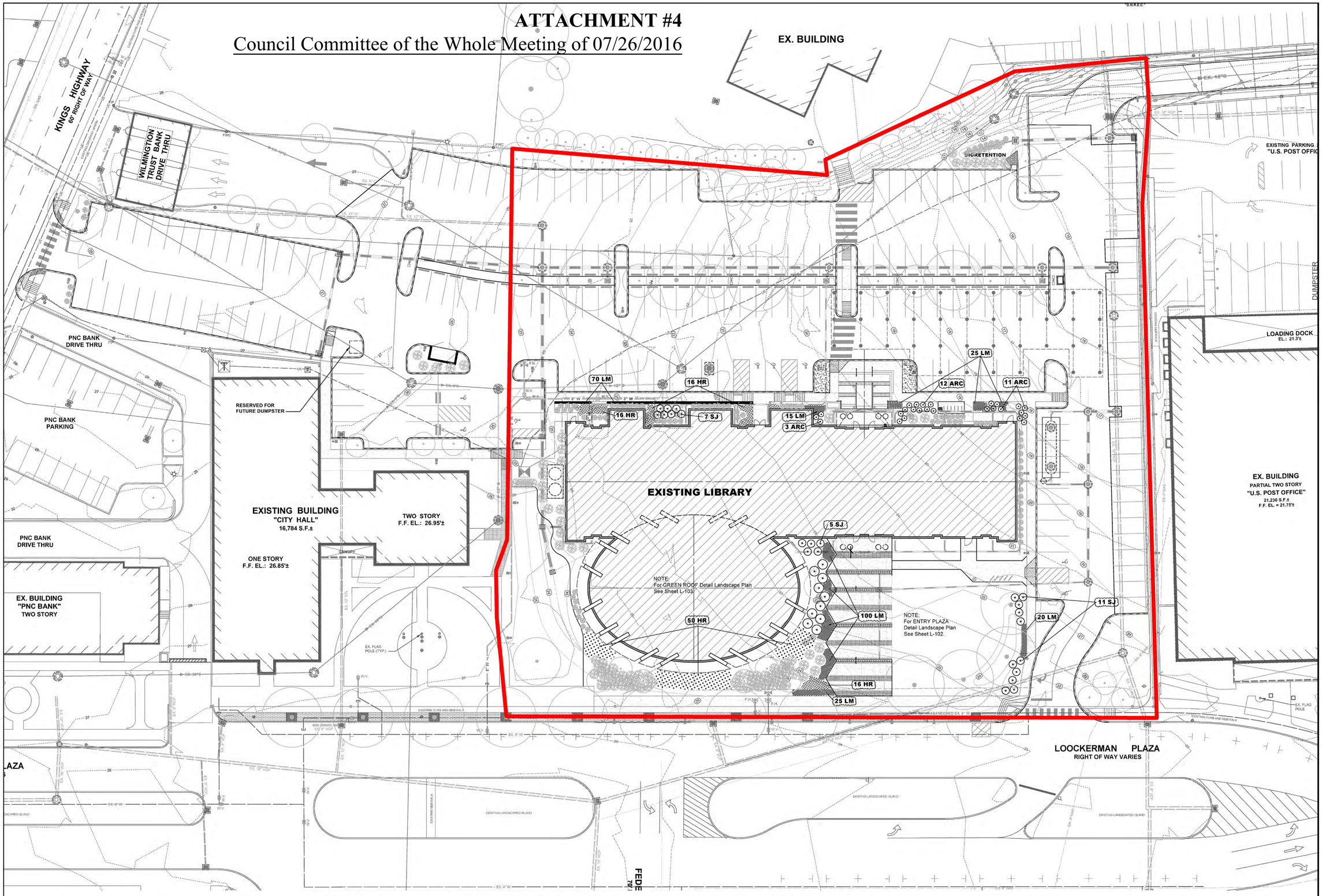
Concurring, Mr. Lynn stated that his support was not offered in an effort to rush to spend money but rather to realize a bargain. He also noted that, as mentioned in the material provided, there were some exemplary issues of employee selflessness. As an example, he stated that there were instances of department heads being given an opportunity for extra earnings and declining in order to protect other employees, and others who had assumed additional department head responsibilities. He reiterated that there was an equity and fairness issue and cautioned members that the City could not afford to lose talent, which had recently occurred in the Electric Department.

Mr. Perza explained that the City sets salaries based on what the City can afford to pay and if an employee were to leave the City's employment, several individuals would be in line to fill the position. Although it was not the City's desire to lose an employee and this would not be the intent if salary increases were not provided, he stated that the City must live within the financial reality of the current economy. After further discussions with the City Manager, he agreed that it would be beneficial for the City to approve staff's recommendation since it would save the City additional funds in the near future, explaining his preference would be to consolidate the positions rather than hire additional people at this time.

Mr. Perza moved for approval of the Committee's recommendation, rather than voting on each recommendation individually, as a result of the additional information provided by the City Manager. The motion was seconded by Mr. Bonar and carried by a roll call vote of five (5) yes (Lynn, Perza, Bonar, Hutchison, and Leary), three (3) no (Anderson, Dixon, and Hare), and one (1) absent (Williams).

ATTACHMENT #4

Council Committee of the Whole Meeting of 07/26/2016



GRAPHIC SCALE

40 0 20 40

1 inch = 20 ft.

LEGEND

- Proposed Shrubs
- Proposed Ground Cover
- Existing Shrubs to Remain
- Existing Trees to Remain
- Proposed Smoke Free Zone

Landscape Improvements 2016

NOTE: In the event that there is a discrepancy between the quantity of plant material on the Plan Drawing and the quantity in the Plant List, the quantity of plant material on the Plan Drawing shall govern.

KEY	COMMON NAME	QUANTITY	SIZE	REMARKS
ARC	Abelia X 'Rose Creek'	36	#3	Container
HR	'Happy Returns' Yellow Daylilly	98	1 Quart	30" ALT Center
LM	Variegated Lilly Turf	255	1 Quart Cont.	18" O.C. Border
SJ	'Neon Flash' Dwarf Spirea	23	#3 Cont.	Container

STATEMENT OF ACCURACY

I, MATTHEW SPONG, HEREBY STATE THAT I AM A REGISTERED LANDSCAPE ARCHITECT IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF REPRESENTS GOOD LANDSCAPE ARCHITECTURAL PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

DATE MATTHEW T. SPONG #126-E

SHEET # 1

LANDSCAPE ARCHITECTURAL SERVICES, L.L.C. IS NOT RESPONSIBLE FOR ANY MODIFICATION MADE TO THIS PLAN AND/OR CAD FILE WITHOUT ITS WRITTEN AUTHORIZATION.

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Kevin Kennaday, A.S.L.A.

PROPOSED LANDSCAPE IMPROVEMENT PLAN

May 31, 2016

DOVER PUBLIC LIBRARY

DOVER, DELAWARE

PROJECT #:
CDMX #:
DATE: 5-30-2016
Drawn: ZC Designed By: MTS Checked By: MTS
REVISION: Proposed Landscape Improvements

CITY OF DOVER PROPOSED ORDINANCE #2016-19
WITH COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE AMENDMENT #1 (CCW/LF&A#1)
(CCW/LF&A#1 indicated in green text)

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

That Chapter 22 - Buildings and Building Regulations, Article I - In General, Section 22-1 - Construction Code Appeals Committee of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 22-1. - ~~Construction code appeals committee~~ Construction and property maintenance code board of appeals.

(a) Established; composition; appointment. There shall be a committee to be referred to as the **~~"construction code appeals committee,"~~ "construction and property maintenance code board of appeals,"** consisting of **~~three~~ five (5)** members**~~, one of whom shall be the city manager~~. The council president shall appoint ~~and the other~~ ~~two (2)~~ three (3) ~~being~~** elected city officials **and the mayor shall appoint one (1) city resident generally selected as a representative of homeowners and one (1) representative of the local real estate industry association**. **~~The city officials shall be appointed by the city council president at the council annual meeting.~~ Members shall serve one-year terms unless sooner removed. All appointments are subject to confirmation by the city council at its second regular meeting in May. The construction and property maintenance code board of appeals shall elect one of its members as chairperson.**

(b) *Appeals*. Whenever any person is aggrieved by a decision of the building inspector with respect to the provision of this chapter, it is the right of that person to appeal to the **~~construction code appeals committee~~ construction and property maintenance code board of appeals**. Such appeal must be filed, in writing, within 30 days after the determination by the building inspector.

(c) *Notice; hearing*. Upon receipt of such an appeal, the **~~construction code appeals committee~~ construction and property maintenance code board of appeals** shall set a time and place in not less than ten, nor more than 30 days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the **~~construction code appeals committee~~ construction and property maintenance code board of appeals** shall be final in all cases.

(Code 1981, § 5-3; Ord. of 4-25-1994)

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61 - Adopted, Subsection (a) - International Building Code adopted, Section 113 - Board of Appeals of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Section 113 BOARD OF APPEALS. See Chapter 22-Buildings and Building Regulations, Article I-In General, Sec. 22-1 ~~Construction code appeals committee~~ **Construction and property maintenance code board of appeals**.

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article III - Building Code, Section 22-61 - Adopted, Subsection (b) - International Residential Code Adopted, Section R112 - Board of Appeals of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

SECTION R112 BOARD OF APPEALS See Chapter 22 - Buildings and Building Regulations, Article I - In General, Sec. 22-1 ~~Construction code appeals committee~~ **Construction and property maintenance code board of appeals**.

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article VII - Property Maintenance Code, Section 22-221 - Adopted, Subsection (a), Section 111 - Means of Appeal of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

SECTION 111 MEANS OF APPEAL See Chapter 22 - Buildings and Building Regulations, ~~Article VII - Property Maintenance Code, Sec. 22-225 Property maintenance code board of appeals~~ **Article I - In General, Sec. 22-1 Construction and property maintenance code board of appeals**.

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article VII - Property Maintenance Code, Section 22-225 - Property Maintenance Code Board of Appeals of the Dover Code be amended by deleting it in its entirety, as follows:

~~**Sec. 22-225. - Property maintenance code board of appeals.**~~

~~**There shall be a board to be referred to as the "property maintenance code board of appeals," consisting of three members, one of whom shall be the city manager, one a resident generally selected as a representative of homeowners, and one representative of the local real estate industry association. The members shall be appointed by the mayor, subject to confirmation of a voting majority of the city council at its annual meeting. Decisions of the board shall be final.**~~

(Code 1981, § 10-5; Ord. of 7-10-1989; Ord. of 4-10-2000)

BE IT FURTHER ORDAINED:

That Chapter 22 - Buildings and Building Regulations, Article XII - Vacant Buildings, Section 22-406 - Appeals of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Draft

Sec. 22-406. - Appeals of the 25 percent over market rate.

~~(a) Any appeal of the building inspector's decision must be made in writing within 30 days of the decision. The appeal would be heard by the property maintenance code board of appeals.~~

~~(b)~~ An appeal of the 25 percent over market rate (from the actively for sale or lease definition) can be considered through an appraisal using accepted appraisal standards to determine market rate. The owner has the option of asking the city tax assessor to perform the appraisal or having one performed (using accepted appraisal standards) at their own expense.

(Ord. of 6-26-2006; Ord. No. 2013-03, 3-11-2013)

BE IT FURTHER ORDAINED:

That Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-125 - Construction Code Appeals Committee of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 46-125. - ~~Construction code appeals committee~~ Appeal; hearing.

~~(a) Composition; appointment. There shall be a committee to be referred to as the "construction code appeals committee," consisting of three members, one of whom shall be the city manager and the other two being elected city officials. The city officials shall be appointed by the city council president at its annual meeting.~~

~~(b)~~ Appeal; hearing. Whenever any person is aggrieved by a decision of the fire marshal with respect to the provisions of this chapter, it is the right of that person to appeal to the ~~construction code appeals committee~~ **construction and property maintenance code board of appeals, as provided for in Chapter 22 - Buildings and Building Regulations, Article I - In General, Section 22-1 - Construction and property maintenance code board of appeals**. Such appeal must be filed, in writing, within 30 days after the determination by the fire marshal. Upon receipt of such appeal, the ~~construction code appeals committee~~ **construction and property maintenance code board of appeals** shall set a time and place, in not less than ten or more than 30 days, for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the ~~construction code appeals committee~~ **construction and property maintenance code board of appeals** shall be final in all cases.

(Code 1981, § 7-60; Ord. of 5-10-1982; Ord. of 11-22-1993)

BE IT FURTHER ORDAINED:

That Chapter 50 - Floods, Article IV - Variances, Section 50-46 - Variances of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the blue text, as follows:

Sec. 50-46. - Variances.

The City of Dover ~~Construction Code Appeals Committee~~ **construction and property maintenance code board of appeals, as provided for in Chapter 22 - Buildings and Building Regulations, Article I - In**

General, Section 22-1 - Construction and property maintenance code board of appeals, shall have the power to authorize, in specific cases, such variances from the requirements of these regulations and the flood load and flood load and flood-resistant construction of the building code, not inconsistent with federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) *Application for a variance.*

a. Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the floodplain administrator.
b. At a minimum, such application shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in section 50-46(2) and the limitations and conditions of section 50-46(3).

(2) *Considerations for variances*. In considering variance applications, the City of Dover ~~Construction Code Appeals Committee~~ **construction and property maintenance code board of appeals** shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and the following factors:

a. The danger that materials may be swept onto other lands to the injury of others.
b. The danger to life and property due to flooding or erosion damage.
c. The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.
d. The importance of the services provided by the proposed development to the community.
e. The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
f. The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
g. The compatibility of the proposed use with existing and anticipated development.
h. The relationship of the proposed use to the comprehensive plan for that area.
i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3) *Limitations for variances*.

a. An affirmative decision on a variance request shall only be issued upon:

1. A showing of good and sufficient cause. A "good and sufficient" cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal

characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.

2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.
3. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
4. A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
5. A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
6. A determination that the structure or other development is protected by methods to minimize flood damages.
7. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

b. Upon consideration of the individual circumstances, the limitations and conditions, and the purposes of these regulations, the City of Dover ~~**Construction Code Appeals Committee**~~ **construction and property maintenance code board of appeals** may attach such conditions to variances as it deems necessary to further the purposes of these regulations.

c. The City of Dover ~~**Construction Code Appeals Committee**~~ **construction and property maintenance code board of appeals** shall notify any applicant in writing to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements only, and that the cost of federal flood insurance will be commensurate with the increased risk.

(Ord. No. 2014-09, 6-9-2014)

ADOPTED: *

S:\ORDINANCES\2016\DRAFT\ORDINANCE #2016-19 CONSOLIDATION OF PROPERTY MAINTENANCE & CONTRUCTION CODE BOARDS OF APPEAL\Proposed Ordinance #2016-19 Amending Ch 22; Ch 46; and Ch 50 with CCW-LF&A#1-Attachment to 07-26-2016 CCW minutes.wpd

SYNOPSIS

The proposed ordinance would consolidate the Construction Code Appeals Committee and the Property Maintenance Code Board of Appeals. This consolidation will put appeals related to Chapters 22, 46, and 50 under one committee consisting of five members instead of three **and change the composition of the members by replacing the City Manager with an elected City official**. The plan is to create the Construction and Property Maintenance Code Board of Appeals with the sitting members of the existing groups. The appointments will continued to be shared by the Mayor and Council President.

(SPONSORS: COLE, HUTCHISON, AND NEIL)

Actions History

07/26/2016 - Introduction - Council Committee of the Whole/Legislative, Finance, and Administration Committee