COUNCIL COMMITTEE OF THE WHOLE
AGENDA

JUNE 28, 2016 - 6:00 P.M.

CITY HALL COUNCIL CHAMBERS
15 LOOCKERMAN PLAZA
DOVER, DELAWARE

PUBLIC COMMENTS ARE WELCOMED ON ANY ITEM AND WILL BE PERMITTED AT APPROPRIATE TIMES. WHEN POSSIBLE, PLEASE NOTIFY THE CITY CLERK (736-7008 OR E-MAIL AT CITYCLERK@DOVER.DE.US) SHOULD YOU WISH TO BE RECOGNIZED.

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

(MEETING WILL CONVENE AT 6:00 P.M. AND WILL NOT EXCEED ONE (1) HOUR AND 15 MINUTES IN LENGTH)

AGENDA ADDITIONS/DELETIONS

1. **PRESENTATIONS**
   - A. **SPEED CONTROL MEASURES - NORTH STATE STREET**
   - B. **PROPOSED SERVICE ROAD BEHIND THE MALL**

2. **REVIEW OF BICYCLE/PEDESTRIAN SUBCOMMITTEE RECOMMENDATIONS - SENATOR BIKEWAY DESIGN CONCEPT**

3. **QUARTERLY UPDATE - BICYCLE/PEDESTRIAN SUBCOMMITTEE**
   (COMMITTEE ACTION NOT REQUIRED)

4. **RE-EVALUATION OF THE NEED FOR THE BLUE LIGHT PHONES IN CITY PARKS**
   (STAFF RECOMMENDS, DUE TO THE SIGNIFICANT INCREASE IN PERSONAL CELL PHONE OWNERSHIP AND USE SINCE 2007, AS WELL AS THE HISTORICAL LOW USE OF THE PHONES, DISCONTINUING THE BLUE LIGHT PHONE PROGRAM IN CITY PARKS)

5. **UPDATES**
   - A. **HAMLET SHOPPING PLAZA**
   - B. **THE ELKS LODGE - 217 NORTH KIRKWOOD STREET**

6. **VIABILITY OF THE SHOTSPOTTER GUNSHOT DETECTION AND LOCATION SERVICE**
   (DURING THEIR MEETING OF MARCH 29, 2016, THE COMMITTEE REFERRED THIS ITEM TO STAFF FOR REVIEW)

7. **ADJOURNMENT OF SAFETY ADVISORY AND TRANSPORTATION COMMITTEE MEETING**

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

(MEETING WILL CONVENE UPON ADJOURNMENT OF THE SAFETY ADVISORY AND TRANSPORTATION COMMITTEE MEETING AND WILL NOT EXCEED 45 MINUTES IN LENGTH)

AGENDA ADDITIONS/DELETIONS

1. **FISCAL YEAR 2015-16 EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM - JOINT GRANT WITH SMYRNA POLICE DEPARTMENT AND KENT COUNTY**
   (STAFF RECOMMENDS APPROVAL OF THE GRANT PROJECT, AS REQUESTED)

2. **DISCUSSION - FISCAL YEAR 2016 AUDIT PROGRAM**
   (COMMITTEE ACTION NOT REQUIRED)

3. **ACTUARY SERVICES CONTRACT - PENSION AND OTHER POST-EMPLOYMENT BENEFITS (OPEB)**
   (STAFF RECOMMENDS AWARDING A FIVE (5) YEAR CONTRACT, TO BEGIN IN FY17 AND END IN FY21, TO NYHART FOR VALUATION SERVICES TOTALING $96,700 AND HOURLY RATES FOR BENEFITS CONSULTING AS QUOTED IN THEIR RESPONSE TO THE CITY OF DOVER RFP #16-0041FN - PENSION AND OTHER POST-EMPLOYMENT BENEFITS ACTUARIAL SERVICES AND BENEFITS CONSULTING)

4. **ADJOURNMENT OF LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE MEETING**

ADJOURNMENT OF COUNCIL COMMITTEE OF THE WHOLE MEETING

/TM
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\COMMITTEE-AGENDAS\2016\06-28-2016 CCW.WPD

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

NORTH STATE STREET
PROPOSED MEDIAN ISLAND CHICANE

EXISTING CONDITIONS



PROPOSED – VIEW 1



NOTES:

- **THE ALTERNATIVE SHOWN IN THE RENDERINGS IS FOR CONCEPTUAL PURPOSES ONLY AND IS NOT INTENDED FOR CONSTRUCTION.**
- **THE DIAGRAM WAS NOT DRAWN TO SCALE. THE EXACT DIMENSIONS WILL NOT BE DETERMINED UNTIL FINAL DESIGN.**

PROPOSED – VIEW 2





DELAWARE
DEPARTMENT OF TRANSPORTATION

The alternatives shown on this map are for conceptual purposes only and are not intended for construction.

PREPARED BY:
RUMMEL, KLEPPER & KAHL, LLP
110 S. POPLAR STREET, SUITE 102
WILMINGTON, DE 19801

RK&K

NOT TO SCALE

DATE	DRAWN BY: MJV
3/1/2016	CHECKED BY:
COUNTY	
KENT	

NORTH STATE STREET
TRAFFIC CALMING

OPTION 1: CHICANE
BETWEEN COLUMBIA AVENUE
AND PENNSYLVANIA AVENUE

FIGURE 1

JUNE 28, 2016 PRESENTATION
TO
CITY OF DOVER TRANSPORTATION COMMITTEE

COLLECTOR-DISTRIBUTOR ROAD MODIFICATION TO THE SCARBOROUGH ROAD INTERCHANGE

I. Background/History

-DelDOT's 2007 U.S. Route 13 Corridor Study

-Continuing Growth & Development in the U.S. Route 13 Corridor is Straining the Existing Roadway Infrastructure

-The Delaware General Assembly's 2015 Bond Bill Directives

II. DelDOT's 2016 Feasibility Study

-The CD Road Modification is Feasible

-The CD Road Modification Will Relieve Congestion, Improve Circulation, and Enhance Traffic Safety

-The CD Road Modification Will Foster and Accommodate Continued Economic Growth and Development

III. Next Steps/Costs/Schedule

-Toll Study to be Conducted

-Wetlands Delineation to be Performed

IV. The City of Dover's Support is Vital

-Dover/Kent County MPO Prioritization

-Tell All of Your Friends!

SPONSOR: Sen. Sokola & Rep. Q. Johnson
Bushweller Potter
Hall-Long Mulrooney
Marshall Mitchell
Hocker Wilson

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 160

A BOND AND CAPITAL IMPROVEMENTS ACT OF THE STATE OF DELAWARE AND CERTAIN OF ITS AUTHORITIES FOR THE FISCAL YEAR ENDING JUNE 30, 2016; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE; APPROPRIATING FUNDS FROM THE TRANSPORTATION TRUST FUND; AUTHORIZING THE ISSUANCE OF REVENUE BONDS OF THE DELAWARE TRANSPORTATION AUTHORITY; APPROPRIATING SPECIAL FUNDS OF THE DELAWARE TRANSPORTATION AUTHORITY; APPROPRIATING SPECIAL FUNDS OF THE STATE; REVERTING AND REPROGRAMMING CERTAIN FUNDS OF THE STATE; DIRECTING THE DEPOSIT OF CERTAIN FUNDS TO THE GENERAL FUND; SPECIFYING CERTAIN PROCEDURES, CONDITIONS AND LIMITATIONS FOR THE EXPENDITURE OF SUCH FUNDS; AND AMENDING CERTAIN STATUTORY PROVISIONS.

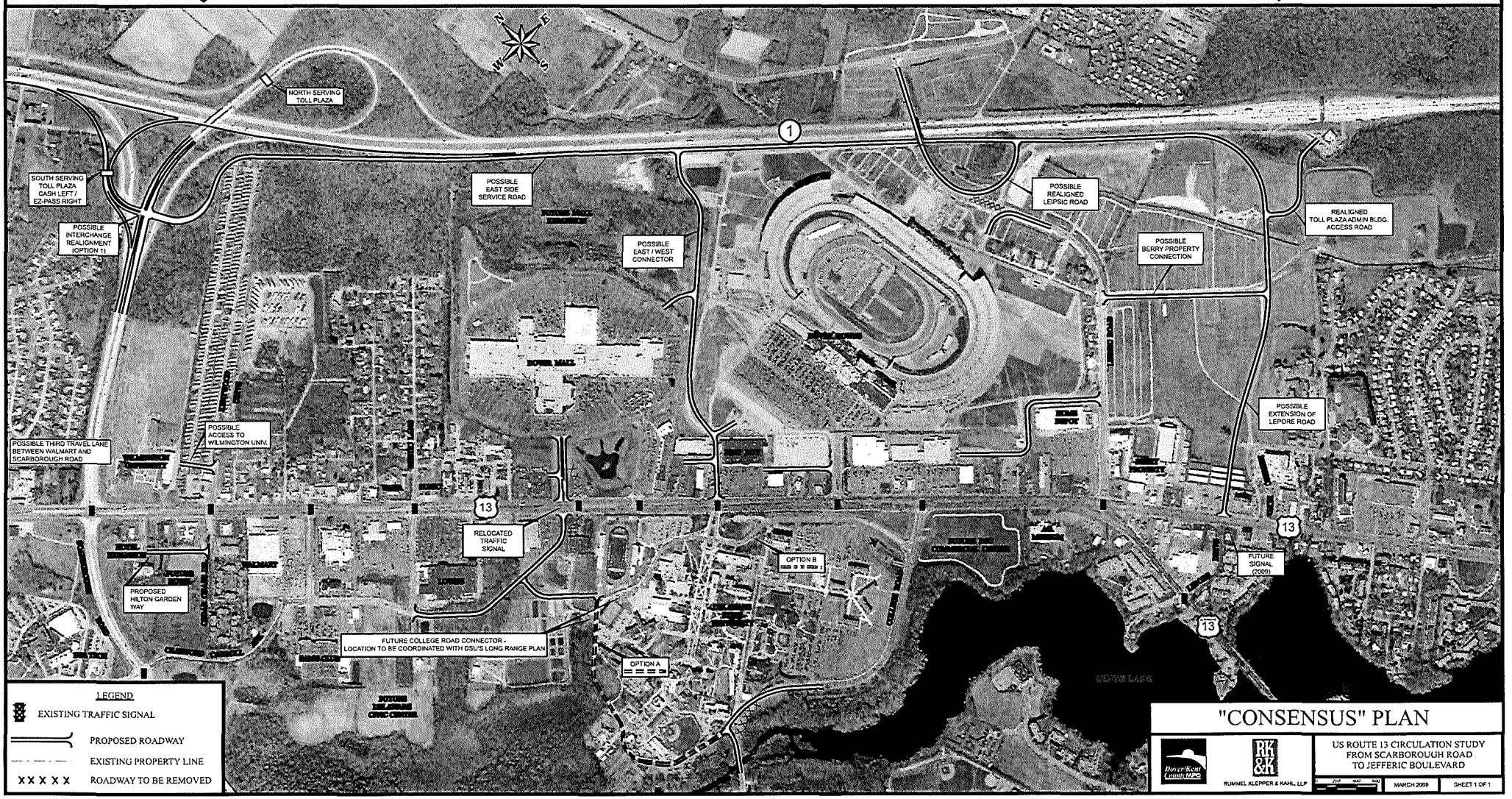
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fourths of all members elected to each house thereof concurring therein):

Section 1. Fiscal Year ~~2015~~ 2016 Capital Improvements Project Schedule Addendum. The General Assembly hereby authorizes the following projects in the following amounts for the purposes set forth in this Section and as described in the Fiscal Year ~~2015~~ 2016 Governor's Recommended Capital Budget and Project Information document. Any authorization balance (excluding Transportation Trust Fund balances) remaining unexpended or unencumbered by June 30, ~~2017~~ 2018, shall be subject to reversion or reauthorization.

Section 131. Five Points Fire Company. Notwithstanding the provisions of 29 Del. C.to the contrary, the Delaware Department of Transportation is hereby authorized to use Community Transportation Funds for a one-time reimbursement to the Five Points Fire Company in the amount of $25,000.00 for sign improvements.

Section 132. Collector-Distributor Road/Modification to Scarborough Road Interchange. The Department of Transportation (the "Department") is hereby directed to take such actions and enter into such contracts as it deems necessary and appropriate for the evaluation and assessment of a possible Collector-Distributor Road modification to the Scarborough Road Interchange (the "C-D Road"), including but not limited to (1) a feasibility study designed to evaluate and assess viability and implications of the C-D Road, (2) a toll study designed to ascertain the volume of traffic likely to utilize the C-D Road and the prospects for generating toll revenues therefrom, and (3) a wetlands delineation to determine whether or not any wetlands mitigation may be required in order to construct the C-D Road; provided, however, that (a) the owner of the property occupied by The Dover Mall (the "Developer") shall pay all of the costs to conduct the aforesaid study, not to exceed $250,000.00; (b) the Department shall conduct the feasibility study in consultation with the Developer; and (c) upon completion of the aforesaid feasibility study, the Department shall report back to the Joint Committee on the Capital Improvement (Bond Committee) Program regarding the feasibility of the C-D Road, before the Department undertakes commencement of the aforesaid toll study and wetlands delineation.

2007 US ROUTE 13 CIRCULATION STUDY



LEGEND

- EXISTING TRAFFIC SIGNAL
- PROPOSED ROADWAY
- EXISTING PROPERTY LINE
- XXXXX ROADWAY TO BE REMOVED

"CONSENSUS" PLAN

Dover/Kent County MPO

RUMMEL KLEPPER & KAHL, LLP

US ROUTE 13 CIRCULATION STUDY
FROM SCARBOROUGH ROAD
TO JEFFERIC BOULEVARD

MARCH 2009

SHEET 1 OF 1

TECHNICAL MEMORANDUM

To: Juanita Wieczoreck, Dover/Kent County Metropolitan Planning Organization

From: Adam Weiser, P.E., PTOE, RK&K

Raymond Harbeson, P.E., RK&K

Date: December 29, 2008

Subject: US 13 Circulation Study – Scarborough Road to Jefferic Boulevard

Background

In 1997, the Dover/Kent County Metropolitan Planning Organization (D/KC MPO) conducted a workshop to generate ideas for improving the appearance and operation of the US 13 and US 113 corridors through the City of Dover. The ideas generated were reviewed, analyzed and refined through an interactive public process culminating in a November 2000 future concept plan for each of the six segments identified in the US 13 and US 113 corridors.

In the northern most segment of US 13, Leipsic Road to Denney's Road, development activity caused the Delaware Department of Transportation (DelDOT) to conduct additional analyses in 2003. Some proposed roadway connections contained in the 2000 Concept Plan were viewed as incompatible with site plans for some properties or ineffective for proposed developments. To support this effort, Rummel, Klepper & Kahl, LLP (RK&K) was contracted by DelDOT to develop a traffic model, using the SYNCHRO/SimTraffic analysis tool, to assist the Department and a local working group in evaluating proposed new development and interconnecting roadways in the north Dover US 13 Corridor. The results of that effort did not produce a consensus regarding the future development of US 13 and the effort was abandoned when certain development proposals were dropped or delayed.

In 2007, the Dover/Kent MPO initiated a new study to reevaluate land use and roadway interconnections in this corridor with the intent of developing a consensus plan for the future development of the north Dover US 13 corridor. RK&K was requested to assist in that effort by updating the 2003 traffic model and then using it to evaluate alternatives developed by the Dover/Kent MPO. In addition to modeling and simulating the traffic flow on US 13 for each of the alternatives, the MPO requested that RK&K prepare graphics and visual aids and assist the MPO staff in conducting meetings on the project to develop an acceptable concept plan for the north Dover US 13 corridor. This Technical Memo documents the procedures followed and the results of the coordination process.

Study Area

The study area for the US 13 North Dover Corridor Study is centered on US 13 and bounded by the US 13/Jefferic Boulevard intersection to the south, the US 13/Scarborough Road intersection to the north, SR 1 to the east and Silver Lake to the west. The study area is shown in Figure 1, at the end of this memorandum.

Analysis of Potential Roadway Connections

The goal of this project is to determine how future development and general traffic growth will affect the operation of the US 13 corridor in north Dover and to develop potential roadway connector options that could be utilized to redistribute traffic in an effort to provide interconnection between adjacent land uses, thereby providing additional alternatives to motorists aside from traveling on US 13. In order to complete this analysis, data was collected regarding existing

intersection turning movement volumes, intersection geometry and signal timings. This data was compiled and input into a traffic model using the SYNCHRO/SimTraffic software package and results of the modeling effort were used to determine the advantages and disadvantages of the proposed roadway connections.

Data Collection Procedures

RK&K reviewed and updated the existing US 13 SYNCHRO Model to reflect 2007 conditions. Intersection traffic counts, taken since the original model was developed, were collected from DelDOT and the MPO. Recent traffic counts from the following intersections were found to be available and were used in updating the model:

- US 13 @ Lepore Road (from the Berry Property Traffic Impact Study)
- US 13 @ State Street (from the Berry Property Traffic Impact Study)
- US 13 @ College Road (from the DSU Commercial Center Traffic Impact Study)
- US 13 @ Dover Downs (from the Berry Property Traffic Impact Study

Critical intersections that had not been counted since the 2003 Model was developed were counted to provide updated information. Traffic counts were taken for 3 hours during the afternoon weekday peak period and 4 hours during the midday Saturday peak period to match the counts taken for the original model. New traffic counts were taken at the following locations:

- US 13 @ Rustic Lane (June, 2007)
- US 13 @ Wal-Mart (June, 2007)
- US 13 @ Scarborough Road (June, 2007)
- Scarborough Road @ Crawford Carroll Boulevard (June, 2007)

Data from the DelDOT permanent traffic counter on US 13 near Dover Downs was collected and used to adjust the base traffic volumes at all other intersections in the corridor. These intersections included the following:

- US 13 @ Delaware State University
- US 13 @ South Entrance to Dover Mall
- US 13 @North Entrance to Dover Mall
- Us 13 @ Kentwood Drive/Cedar Chase Drive

All traffic volumes were adjusted using seasonal adjustment factors provided by DelDOT to reflect seasonal variations in the traffic counts. Additional adjustments were also made to the model to reflect changes since 2003 in roadway geometry, including intersection modifications. Current signal timings used by the DelDOT TMC were also collected and adjustments to the base SYNCHRO Model were made using this information.

Traffic Analysis for Alternatives

RK&K utilized the SYNCHRO traffic model developed for US Route 13 in 2003, with the adjustments discussed previously to reflect current conditions, to evaluate traffic impacts of the various land development and roadway connector alternatives developed by the Dover/Kent MPO. The year 2017 was chosen to establish a 10 year planning horizon to evaluate full development conditions. In consultation with DelDOT, RK&K utilized a 2% per year growth factor for all traffic counts and added specific projected turning movement information for two specific developments, The DSU Commercial Center and the Dover Crossroads Shopping Center. Traffic growth projections were made from historical data to verify the choice of the 2% growth factor. Traffic growth projection charts are provided at the end of this memorandum (Figures 2 – 4).

Following calibration of the model with existing traffic, a 2017 "No Build" SYNCHRO Model was developed as a baseline to measure various build options against. Recommended improvements were then tested under three options:

Option 1 included a minimum number of new roadway connections, including the base network plus the following new connections:

- Extension of Crawford Carroll Boulevard to the south through the Pet Smart/Circuit City Parking lot to the north access road of Dover Mall.
- A new commercial connector road from Jefferic Boulevard through the Berry Property (Dover Crossroads Shopping Center) to Leipsic Road opposite the existing commercial road behind the Home Depot.

Option 2 included the base network, the new roadway connections included in Option 1, plus the following new connections:

- An east side service road connecting the Dover Downs main entrance and Dover Mall to the connecting road from SR 1 to US 13 at Scarborough Road.
- A connecting road from the Walmart signal at US 13 to the new east side service road.

Option 3 included the base network, the new roadway connections included in Options 1 and 2, plus the following new roadway connections:

- Interconnection of the east side service road in Option 2 with the commercial connector road through the Berry Property in Option 1.
- A further extension of Crawford Carroll Boulevard in Option 1 to the south around the west side of Delaware State University connecting to College Road.
- Connection of the hotels on the north end of the corridor to Cedar Chase Drive through an extension of Hilton Garden Way.
- A third travel lane on northbound and southbound US 13 between Scarborough Road and the Wal-Mart intersection. North of the Scarborough Road intersection, the northbound travel lane would be dropped as the right-turn lane at the Denny's Road intersection.

A separate SYNCHRO model was developed for each option and traffic volumes were manually reassigned based on experience, observations and local knowledge. Working with DelDOT, a subset of the Department's traffic demand model (the Peninsula Model) was run for the north Dover US 13 corridor to derive the amount of regional traffic that might divert to the continuous service roads identified in Option 3. Results of the tests for the three options were then compared to the base line conditions for 2017 to develop some conclusions about the effectiveness of the various new roadway connections proposed.

A map showing the full range of roadway connections tested is provided at the end of this memorandum (Option 3).

Results of the SYNCHRO Model Tests

Results of the SYNCHRO model tests were compared to the base line conditions for the year 2017 for each intersection in the study area. Travel time between major intersections along US 13 was used as the measure of effectiveness to determine the impact of each roadway connection option. Additionally, the Level of Service and delay was used as a secondary measure of effectiveness at each signalized intersection within the study area.

The results of the traffic analysis showed that travel time on northbound US 13, between Jefferic Boulevard and Scarborough Road, would increase from approximately 6 minutes to approximately 13 minutes between existing (2007) and no-build (2017) conditions. In the

southbound direction, within the same section, travel time would increase from approximately 6 minutes to almost 14 minutes between existing (2007) and no-build (2017) conditions. The section of US 13 between Dover Downs and the north entrance to Dover Mall would see the most dramatic increase in travel time, especially in the southbound direction. Providing the connections proposed in Option 3 (including those for Options 1 and 2), the travel time would be approximately 9 minutes in the northbound direction and 12 minutes in the southbound direction, an improvement over no-build conditions. However, the section between Dover Downs and the north entrance to Dover Mall would still experience travel times in excess of 5 minutes. A comparison of travel times for the 2007 existing conditions, the full development 2017 "No Build" conditions and the full development, full build (Option 3) conditions is provided in Tables 1A and 1B, at the end of this memorandum. A comparison the Levels of Service at each signalized intersection for existing, no-build and the full build (Option 3) is provided as Table 2 at the end of this memorandum.

Based on the results of the SYNCHRO Model tests, the conclusion of the MPO and the study team was that the full set of proposed new roadway connections (Option 3), nor either subset (Options 1 or Option 2) from previous studies, could reasonably mitigate the traffic impacts of the anticipated traffic growth and planned development in the US 13 corridor. Additional adjustments in the proposed roadway network would need to be made to maintain reasonable traffic operations on US 13 in the future.

Public Coordination Process

The results of the traffic modeling effort and a map of the proposed roadway connections were presented to business and development community leaders in the north Dover US 13 corridor, the City of Dover, Kent County and DelDOT in a workshop on February 28, 2008. A history of the traffic growth in a north/south direction through Dover was presented along with the specific connectors studied. In summary, the group was shown that the connectors proposed from past studies would not sufficiently support future traffic growth plus all planned development and the travel time would be unacceptable when all development was complete. Business leaders also pointed out that some of the connections proposed through their properties, even if they had worked to mitigate traffic impact, would cause internal operational problems within their sites and would not be acceptable as shown.

The MPO then agreed to meet with individual businesses and agencies to revise and add roadway connections to areas more acceptable to the business community and to locations which might provide greater traffic benefit to US 13. The goal of the process was to develop a "Consensus Plan" agreeable to the business community and more efficient in providing traffic benefits to US 13. Individual meetings with businesses and agencies were conducted from March 2008 through June 2008.

The result of the meetings with the businesses and agencies was the development of a revised set of interconnections. The new or realigned interconnections were placed in locations viewed by the businesses as being compatible with their current and future site plans and site operations. In addition the new and realigned interconnections were placed in locations where it was felt they would help mitigate future impacts at the most congested points on US 13. Consideration was also given to the mitigation of traffic impacts caused by the two annual NASCAR races held at Dover Downs. A map of the "Consensus Plan", developed through this process, is provided at the end of this memorandum.

"Consensus Plan" Analysis

Based on the results of the initial meeting with the business and development communities and the subsequent individual meetings with business owners, a "Consensus Plan" was developed for the US 13 corridor. The plan consists of the following elements:

- On the west side of US 13:

  - Extension of Crawford Carroll Boulevard to the south, through the west side of the Delaware State University property to College Road. The western portion of College Road would be realigned to form a three-legged intersection with the extended Crawford Carroll Boulevard and the eastern portion of College Road.
  - An east/west connector between extended Crawford Carroll Boulevard and US 13 through the Pet Smart / Circuit City parking lot. The proposed roadway would tie into US 13 approximately 160 feet north of the existing signalized intersection for the northern Dover Mall access.
  - Connection of the hotels on the north end of the corridor to Cedar Chase Drive through an extension of Hilton Garden Way.

- On the east side of US 13:

  - A north/south roadway (East Side Connector), parallel to US 13 and SR 1, located just west of the SR 1 alignment. This road would extend south from Scarborough Road, under existing Leipsic Road and then turn to the west and intersect US 13 opposite Lepore Drive. The intersection of the East Side Connector with the Scarborough Road connector would require modifications to the existing Denny's Road interchange with SR 1 and would require the construction of a signalized intersection on the connecting road from the north Dover interchange with SR 1 to US 13. Two options for interchange modifications were considered and will be discussed later in this memorandum.
  - Where existing Leipsic Road crosses over SR 1, the roadway would be curved to the east to tie into the proposed East Side Connector. Existing Leipsic Road from Dover Downs to US 13 would become a service road for Dover Downs, Dover Crossroads (Berry Property) and the Home Depot store. A connection between the Leipsic Road service road and the East Side Connector would also be provided.
  - Interconnection from Kentwood Drive into the Wilmington University property.
  - An east/west connector roadway from the Best Buy entrance to the proposed East Side Connector. Access to the Dover Mall would be provided on this roadway and access to Dover Downs would be accommodated if desired in the future.
  - Interconnection from the Best Buy entrance to Dover Litho.
  - Relocation of the north entrance to Dover Mall, approximately 160 feet to the north, to line up with the proposed connector road from the west side of US 13. The north Dover Mall access would be modified to provide for all turning movements. A left-turn lane would be provided on the access road to Dover Mall to allow left-turns into the Volkswagen dealership.
  - Interconnection from relocated Leipsic Road into the Dover Crossroads Shopping Center (the Berry Property).
  - Improved interconnection from the Dover Downs entrance behind Denny's, Boston Market and Atlantic Books.

In addition to the roadway connections discussed above, a third lane is proposed for northbound and southbound US 13 between Scarborough Road and the Wal-Mart entrance. A figure displaying all of the proposed road connections is provided at the end of this Technical Memorandum ("Consensus Plan").

The proposed roadway connections discussed above were input into the traffic model and traffic was manually reassigned based on experience, observations and local knowledge of the roadway system. The results of the modeling effort were compared to values for existing (2007) conditions and no-build (2017) conditions. The results indicate that travel time will increase by 32% in the northbound direction (6 minutes versus 8 minutes) and 48% in the southbound direction (6 minutes versus 9 minutes) over existing conditions with the construction of the proposed connector roads for the "Consensus Plan". Comparing no-build to the "Consensus" option, travel

times will decrease on the order of 41% (13 minutes versus 8 minutes) in the northbound direction and 34% (14 minutes versus 9 minutes) in the southbound direction, indicating that the proposed connector roads will provide some future relief on US 13. In addition, Levels of Service and delay should be improved at the majority of the signalized intersections on US 13. This can be attributed to the provision of interconnection between adjacent land uses, the reduction in the number of U-turns and left-turns at signalized intersections and improved regional connectivity.

Denny's Road Interchange Modifications

The proposed East Side Connector road will create an intersection on the Scarborough Road connector between US 13 and the Denny's Road interchange with SR 1. Provision of an intersection on the Scarborough Road connector has been opposed by DelDOT throughout the entire process of this study. Concerns over unexpected stopping conditions, additional weaving and high speeds have prompted DelDOT's concerns. RK&K evaluated two options for connecting the East Side Connector to the Scarborough Road connector. The options are as follows:

- Interchange Option 1 creates a four-legged signalized intersection just east of the existing toll plaza on the Scarborough Road connector. The East Side Connector would create the southern leg of the intersection. The southbound off-ramp from SR 1 would be modified to allow for a split in traffic so that motorists wanting to get to the East Side Connector would be able to stop at the traffic signal and motorists wanting to continue on the Scarborough Road connector to get to US 13 would be able to continue freely as they do today. This option would also require a new southbound on-ramp that would be part of the northern leg of the intersection and then loop to the east and tie into SR 1.
- Interchange Option 2 creates a three-legged intersection with limited movements on the Scarborough Road connector, located approximately half way between the interchange and US 13. The East Side Connector would create the southern leg of the intersection. The only movements that would be allowed at this intersection are the right-turn movement from the East Side Connector onto the Scarborough Road connector and the left-turn movement from the Scarborough Road connector onto the East Side Connector. Additionally, the southbound off-ramp from SR 1 is proposed to be modified to allow traffic to split just beyond the gore area. Traffic wanting to go to the Dover Mall, Dover Downs or other points south within Dover could utilize a new flyover ramp that connects directly to the East Side Connector. Provision of the flyover ramp would greatly reduce weaving in the westbound direction at the new signalized intersection.

Conceptual layouts of both interchange/intersection options are provided as attachments at the end of this memorandum.

Due to DelDOT's concerns for the two options presented, RK&K completed additional traffic analyses to determine the length of queues at the proposed signals and to determine the Level of Service and delay that would be expected at the proposed signal locations. In order to complete this analysis, traffic counts were collected on each of the ramps at the Denny's Road interchange for a period of one week between November 18, 2008 and November 26, 2008. The counts were tabulated and the directional split of traffic was utilized to develop turning movements at the proposed signalized intersection for each interchange option. The results of the analysis indicate the following:

- For Interchange Option 1, the signalized intersection is proposed to operate at LOS B with approximately 16 seconds of overall delay. The worst movement at the intersection would be the left-turn movement from the northbound off-ramp onto the East Side Connector. This movement could operate at LOS D with delay of approximately 42 seconds per vehicle. The 95th-percentile queue length for this movement is expected to be approximately 105 feet long. Additionally, the eastbound left-turn movement (traffic turning left to utilize the southbound

on-ramp) could operate at LOS D with delay of approximately 42 seconds per vehicle. The 95th-percentile queue length of this movement is expected to be approximately 250 feet long.

- For Interchange Option 2, the limited movement signalized intersection is proposed to operate at LOS A with approximately 6 seconds of overall delay. As in Option 1, the worst movement at this intersection would be the left-turn movement onto the East Side Connector. This movement could operate at LOS F with delay of approximately 80 seconds per vehicle. The 95th-percentile queue length for this movement is expected to be approximately 140 feet long. Additionally, the eastbound movements between US 13 and the proposed signal could experience some weaving issues due to the volume of traffic turning onto the Scarborough Road connector from southbound US 13.

Based on the results of the analysis for the two interchange/intersection options associated with the East Side Connector, it is recommended that Option 1 move forward as the preferred option. Even though some movements in Option 2 operate with slightly less delay and better Levels of Service than Option 1, both options operate at an acceptable overall Level of Service. The significant additional cost to provide the overpass for Option 2 simply cannot be justified. Additionally, Option 1 provides a greater safety benefit over Option 2 because less weaving is required in Option 1. The distance between the proposed signal in Option 2 and the existing signal at the intersection of US 13 and Scarborough Road would not provide an adequate weaving distance, especially in the eastbound direction, which could create a significant safety problem for motorists turning from northbound US 13, trying to get to northbound SR 1. Option 1 would be more economical and would provide for safer movements at the proposed signal.

Conclusions and Recommendations

Traffic volumes on the US 13 corridor between Scarborough Road and Jefferic Boulevard will continue to grow as development along the corridor continues. Since this corridor is at the center of the planned growth area in Dover and central Kent County, the growth is desired by all State and local planning agencies. In order to accommodate additional traffic growth and not have to widen US 13, additional roadway connections between adjacent land uses, parallel to US 13 to the east and the west, need to be provided. The analyses conducted as part of this study show that travel times on US 13 will increase dramatically if no improvements are implemented. Implementing the roadway connections from the "Consensus Plan" should control the increase in travel time in the US 13 corridor, making it more manageable by giving motorists alternative route choices for getting from one property to another, from one side of US 13 to the other or from one end of the corridor to the other.

The following elements of the "Consensus Plan" should be moved forward for further consideration by the Dover/Kent MPO, the City of Dover and the Delaware Department of Transportation and should be included in the MPO's Long Range Plan, the City of Dover's Comprehensive Plan and DelDOT's planning for the US 13 corridor:

- On the west side of US 13:
    - Extension of Crawford Carroll Boulevard to the south, through the west side of the Delaware State University property to College Road. The western portion of College Road would be realigned to form a three-legged intersection with the extended Crawford Carroll Boulevard and the eastern portion of College Road.
    - An east/west connector between extended Crawford Carroll Boulevard and US 13 through the Pet Smart / Circuit City parking lot. The proposed roadway would tie into US 13 approximately 160 feet north of the existing signalized intersection for the northern Dover Mall access.
    - Connection of the hotels on the north end of the corridor to Cedar Chase Drive through an extension of Hilton Garden Way.

- On the east side of US 13:

    - A north/south roadway (East Side Connector), parallel to US 13 and SR 1, located just west of the SR 1 alignment. This road would extend south from Scarborough Road, under existing Leipsic Road and then turn to the west and intersect US 13 opposite Lepore Drive. The intersection of the East Side Connector with the Scarborough Road connector would require modifications to the existing Denny's Road interchange with SR 1 and would require the construction of a signalized intersection on the connecting road from the north Dover interchange with SR 1 to US 13. Two options for interchange modifications were considered and will be discussed later in this memorandum.
    - Where existing Leipsic Road crosses over SR 1, the roadway would be curved to the east to tie into the proposed East Side Connector. Existing Leipsic Road from Dover Downs to US 13 would become a service road for Dover Downs, Dover Crossroads (Berry Property) and the Home Depot store. A connection between the Leipsic Road service road and the East Side Connector would also be provided.
    - Interconnection from Kentwood Drive into the Wilmington University property.
    - An east/west connector roadway from the Best Buy entrance to the proposed East Side Connector. Access to the Dover Mall would be provided on this roadway and access to Dover Downs would be accommodated if desired in the future.
    - Interconnection from the Best Buy entrance to Dover Litho.
    - Relocation of the north entrance to Dover Mall, approximately 160 feet to the north, to line up with the proposed connector road from the west side of US 13. The north Dover Mall access would be modified to provide for all turning movements. A left-turn lane would be provided on the access road to Dover Mall to allow left-turns into the Volkswagen dealership.
    - Interconnection from relocated Leipsic Road into the Dover Crossroads Shopping Center (the Berry Property).
    - Improved interconnection from the Dover Downs entrance behind Denny's, Boston Market and Atlantic Books.

- In addition, a third travel lane should be provided on northbound and southbound US 13 between Scarborough Road and the Wal-Mart entrance.
- Interchange option 1 should be carried forward as the preferred interchange/intersection alternative associated with the East Side Connector.

As development plans come into DelDOT for review and approval, requirements should be placed on the developers to incorporate pieces of the "Consensus Plan". Those pieces that cannot be funded and constructed by developers should become part of the Department of Transportation's Capital Transportation Program and should be prioritized in an effort to have the pieces in place to accommodate future growth within the study area.

(http://doverkentmpo.delaware.gov)

Dover/Kent County MPO

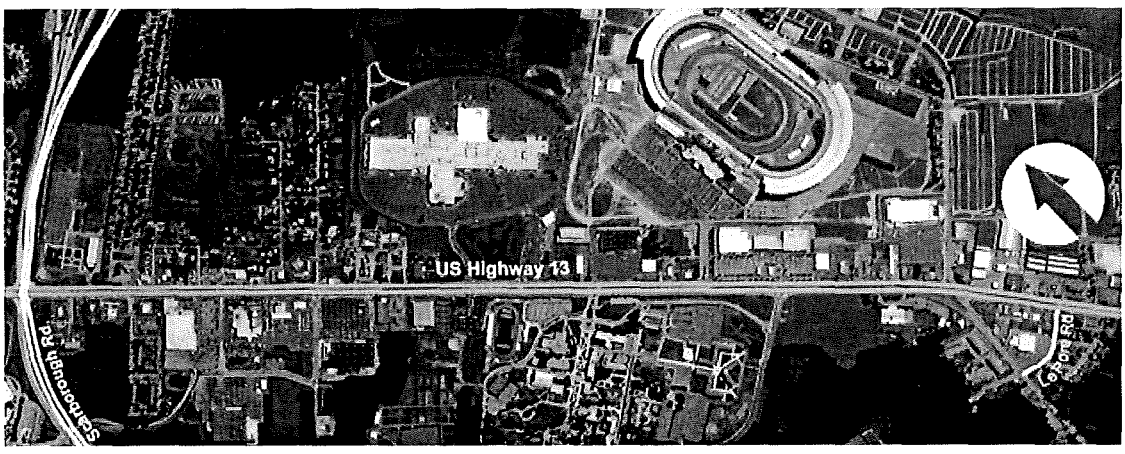
KENT COUNTY DELAWARE

(http://doverkentmpo.delaware.gov)

North Dover Study

The purpose of this project is to address land use and infrastructure considerations in a changing future by evaluating various alternative development scenarios and transportation plans. The project includes the identification of future transportation connections and services that can be implemented as existing institutions, businesses and residential communities expand or change and the area develops and redevelops. The plan area is bounded by Lepore Road/Jeffric Blvd. to the south, Scarborough Rd. to the North, SR 1 to the east and became the St. Jones River and Silver Lake to the west. The goal of the re-development plan is to provide a picture of how the area can change yet remain economically vital and residentially desirable; it is intended to help state, county and city officials and planners make the best possible decisions.

The final product of this project was a technical memorandum describing the evaluated scenarios, the evaluation process and a presentation of the recommended transportation systems. The project was completed as a joint effort of the Dover/Kent County MPO (MPO staff), the City of Dover, Kent County, and the Delaware Department of Transportation. The Central Delaware Chamber of Commerce provided assistance with disseminating information and facilitating communications with businesses, if needed. The firm of RK&K Engineers LLP served as a technical analysis consultant.



Bicycle & Pedestrian Subcommittee Quarterly Update June 2016

What have we been up to in 2016?

Working together with local community partners such as the Kent County MPO, Delaware Department of Transportation's Bicycle and Pedestrian Coordinators, we have put together an agenda full of items that are geared to find and resolve gaps in the bicycle/pedestrian routes around Dover.

Ride of Silence



Using the feedback received from the American League of Bicyclists, we have made strides in partnerships with Wesley College and the Capital School District. Members representing these entities have begun attending meetings to share on how we can work to improve routes for students on their campuses.

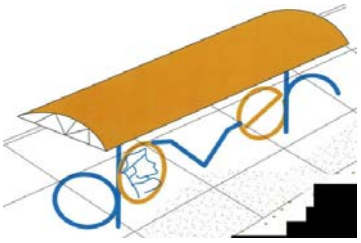
We've provided feedback on the Senator Bike Way and heard a concept of a Rt 13 Multiuse pathway.

The Walk Friendly Community and the Bike Friendly Community Applications were both reviewed by the committee. At this time, the committee believes more work needs to be done before submitting for these prestigious designations. Work will continue so that when we apply in the future, our application can't be denied.

Safety curriculum was prepared for the Capital School District. We feel educating children at a younger age will be the start of a good foundation.

Fit for the First State Bike Rack Contest

Seeing a need for additional bike racks in key City of Dover locations, the group embarked on a Fit for the First State Bike Rack Contest.
With the contest details all set, they offered this opportunity to school aged children for submitting an affordable bike design that would be durable. After the subcommittee entry review (all of which were quite good), the Capital School District's CAD 3 Class won the award with their rendition of "Dover" with the Senator logo within the design. We are seeking fabrication costs and hope to move forward with installing one (or more) of these soon!



Members

James A. Hutchison, III, Chair

Chris Asay

Kathy Doyle *(kindly resigned June 2016)*

Pat Gallagher *(kindly resigned May 2016)*

Jayce Lesniewski

Dave Moses

Andy Siegel

Created in 2012 by the Safety Advisory & Transportation Committee. They have been tasked with identifying gaps in the bicycle and pedestrian network in Dover and identifying areas where the city can work together with local partners to improve the atmosphere for bicyclists & pedestrians.

Events

Dover Duathlon 71

A new run/bike/run sprint event held at Dover Park. 71 registrations for our 1st time out.

Bike to Work Day 15

Our 4th year, and the weather could have been a little better. Only 15 chose to Bike to Work.

Ride of Silence 32

In our 2nd year, we grew! More than 30 rode, bringing awareness to cyclists who have perished.

Fun Ride 5

Partnering with DelDOT, ride with us on the 4th Thursday each month this summer. Only 5 rode with us the first time out.

ACTION FORM

PROCEEDING: Safety Advisory and Transportation Committee
DEPARTMENT OF ORIGIN: City Manager's Office **DATE SUBMITTED**: June 22, 2016
PREPARED BY: Scott D. Koenig, P.E., City Manager
SUBJECT: Re-Evaluation of the Need for Blue Light Phones in City Parks
REFERENCE: N/A
RELATED PROJECT: N/A
APPROVALS: Scott D. Koenig, P.E., City Manager
EXHIBITS: Summary Information – Calls for Service (Dover Police Department)
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Removal of the system will occur within ninety (90) days if Council authorizes discontinuing the program.
RECOMMENDED ACTION: Due to the significant increase in personal cell phone ownership and use since 2007 as well as the historical low use of the phones, staff recommends discontinuing the Blue Light Phone program in City parks.

BACKGROUND AND ANALYSIS

Over Memorial Day Weekend, the City experienced problems with one of the Blue Light Phones in Silver Lake Park. The phone was repeatedly dialing 911 and could not be reset. The Electric Department used on-call staff to cut the power to the phone to prevent it from dialing 911. These phones were installed in 2006 and 2007 and have not be serviced since installation according to the manufacturer. Staff expects the system will need repairs and/or replacement in the coming years due to the age of the technology that was installed years ago. There are a total of five (5) phones. The Police Department has provided the summary of calls for service as indicated in the exhibit. Since 2007, there have been a total of five (5) legitimate calls for service. All of the calls are from Silver Lake Park. Three (3) are from the beach area and two (2) are from the boat ramp area. The total costs for these phones ranges between $950.00 - $1,050.00 per year depending upon the amount of minutes used.

Due to the significant increase in personal cell phone ownership and use since 2007 as well as the historical low use of the phones, staff recommends discontinuing the Blue Light Phone program in City parks.

Total Calls for Service

	302-387-3422	302-531-6613	302-531-7110	302-632-5825	302-632-2247
	Shutte Park - Pitts Center	Whiteoak Park - playground area	Whiteoak Park - Soccer Field area	Silver lake - boat ramp area	Silver Lake - beach area
2016	0	0	0	0	5
2015	0	0	0	0	18
2014	0	0	0	0	18
2013	0	0	0	0	10
2012	0	0	0	0	13
2011	0	0	0	0	0
2010	0	0	0	2	3
2009	0	0	0	4	1
2008	0	0	0	1	0
2007	0	0	0	1	0

Total Calls for Service - hang up/malfunction

	302-387-3422	302-531-6613	302-531-7110	302-632-5825	302-632-2247
	Shutte Park - Pitts Center	Whiteoak Park - playground area	Whiteoak Park - Soccer Field area	Silver lake - boat ramp area	Silver Lake - beach area
2016	0	0	0	0	**5**
2015	0	0	0	0	18
2014	0	0	0	0	17
2013	0	0	0	0	9
2012	0	0	0	0	13
2011	0	0	0	0	0
2010	0	0	0	1	2
2009	0	0	0	4	1
2008	0	0	0	1	0
2007	0	0	0	0	0

Silver Lake - Beach Area only one call logged for a hang up/malfunction - even if there is 50 calls

Total Calls for Service - legitimate calls

	302-387-3422	302-531-6613	302-531-7110	302-632-5825	302-632-2247
	Shutte Park - Pitts Center	Whiteoak Park - playground area	Whiteoak Park - Soccer Field area	Silver lake - boat ramp area	Silver Lake - beach area
2016	0	0	0	0	0
2015	0	0	0	0	0
2014	0	0	0	0	1
2013	0	0	0	0	1
2012	0	0	0	0	0
2011	0	0	0	0	0
2010	0	0	0	1	1
2009	0	0	0	0	0
2008	0	0	0	0	0
2007	0	0	0	1	0

Silver Lake - beach area:

2014 - subject on ground (poss medical)

2013 - beathing difficulties (medical)

2010 -3 subjects walking w/mace

Silver Lake - boat area:

2010 - lost 4 year old child

2007 - subj pulled a knife on another subj

BLUE LIGHT PHONES - HISTORICAL COSTS

PARK AREA	Schutte Park JW Pitts Center	White Oak Park Playground	White Oak Park Soccer Field	Silver Lake Park Beach	Silver Lake Park Boat Ramp		
Date Installed	5/29/08	2/16/08	2/16/08	7/19/06	7/19/06		
Phone Number	302-387-3422	302-531-6613	302-531-7110	302-632-2247	302-632-5825	Cost	Mins
FY16 YTD TOTALS (Jul 15 - Apr 16)			**Average Number of Lines**	**5.00**		**795.19**	**25**
FY15 TOTALS			**Average Number of Lines**	**5.00**		**953.54**	**63**
FY14 TOTALS			**Average Number of Lines**	**5.00**		**952.79**	**53**
FY13 TOTALS			**Average Number of Lines**	**5.00**		**946.15**	**35**
FY12 TOTALS			**Average Number of Lines**	**5.00**		**1,124.20**	**17**
FY11 TOTALS			**Average Number of Lines**	**5.00**		**1,009.38**	**13**
FY10 TOTALS			**Average Number of Lines**	**5.00**		**1,032.17**	**48**
FY09 TOTALS			**Average Number of Lines**	**5.00**		**1,058.64**	**87**
FY08 TOTALS			**Average Number of Lines**	**2.75**		**842.66**	**84**
FY07 TOTALS			**Average Number of Lines**	**1.83**		**454.41**	**73**

Sec. 22.02.006. - Disorderly premises.

A. It shall be unlawful for any owner, owner's agent, manager, caretaker or person occupying a premises to allow, suffer or permit in any residence or upon any premises occupied by himself or herself any conduct which causes public inconvenience, annoyance, alarm to a reasonable person, or disrupts the quiet and good order of adjoining and surrounding properties including, but not limited to, engaging in fighting or in violent, tumultuous, or threatening behavior, making unreasonable noise or an offensively coarse utterance, gesture or display or addressing abusive language to any person present, obstructing vehicular traffic or pedestrian traffic, or creating a hazardous or physically offensive condition which serves no legitimate purpose. Any person who fails to obey the order of a Police Officer to dispel and disperse or otherwise discontinue the disturbing activity may be cited for an additional violation of this Section.

B. In the event that the owner, owner's agent, manager or caretaker of a house, dwelling, or premises where the violation of Subsection A hereof has occurred does not occupy or reside at the property, such individual shall be presumed to allow, suffer or permit such conduct after receiving notice that such conduct has occurred and shall be in violation of this Section if a further violation of Subsection A occurs within one hundred eighty (180) days of receiving said notice.

C. It shall be deemed that notice is properly served upon an owner, owner's agent, manager or caretaker if a copy of such notice is delivered to the owner, owner's agent, manager or caretaker personally or to the registered office of the owner, owner's agent, manager or caretaker or by leaving such notice at the usual place of abode, in the presence of a family member of suitable age and discretion who shall be informed of the contents of such notice or by certified mail addressed to the owner, owner's agent, manager or caretaker at the last known address of such owner, owner's agent, manager or caretaker or the mailing address of the owner of the subject premises as recorded on the County Assessment Records or the Residential Rental Property Registration System. After service of notice such owner, owner's agent, or manager or caretaker shall make a good faith effort to develop a plan of action with the County Law Department and the New Castle County Police Department to prevent further violation of Subsection A.

D. Any person convicted of a violation of this Section shall be fined no more than one thousand dollars ($1,000.00) for any offense but no less than one hundred dollars ($100.00) for the first offense, no less than three hundred dollars ($300.00) for the second offense, and no less than five hundred dollars ($500.00) for each subsequent like offense. In any prosecution for an offense under this Section, it shall be an affirmative defense, which must be proved by the preponderance of the evidence, that the occupant has been evicted and is no longer on the premises, or if there is pending at the time of trial an eviction action against the occupant of the premises which action is being pursued in good faith. Otherwise the fines imposed under this Subsection shall not be suspended.

E. This Section shall be enforced by the Police Department.

(Ord. No. 98-050, § 1(22-31), 5-26-1998; Ord. No. 07-101, § 1, 11-27-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-021, § 1, 4-9-2013)

Part IV
Special Proceedings
Chapter 71
CRIMINAL NUISANCE ABATEMENT

§ 7101 Short title.

This chapter shall be known as and may be cited as the "Criminal Nuisance Abatement Act".

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 2.)

§ 7102 Purpose; construction.

(a) This chapter shall be liberally construed and applied so as to promote its underlying purposes, which are:

(1) To authorize temporary and permanent abatement relief and other remedies to abate any criminal nuisance as defined herein;

(2) To eliminate locations that otherwise attract criminals, violence and the threat of violence associated with either illegal drug trade or any of the other nuisances defined herein;

(3) To abate drug nuisances and illegal drug activity as well as the other nuisances defined herein that otherwise reduce property values, injure legitimate businesses and commerce and erode the quality of life for law-abiding persons working or residing in or near these locations;

(4) To ensure that the civil actions and remedies authorized by this chapter be heard by the courts on a priority basis to expeditiously identify and abate all nuisances, particularly those involving illegal drug trade or activity; and

(5) To encourage owners, landlords, operators and managers of buildings, places or premises (hereinafter referred to as "premise") to take the affirmative steps necessary to prevent violations on their properties involving any of the above nuisances, particularly those involving illegal drug trade or activity.

(b) Any action brought pursuant to this chapter, regardless of the remedy or remedies sought or ordered, is intended to be by the General Assembly and shall be deemed to be an action for abatement of a criminal nuisance.

(c) Any action brought on the basis of a criminal nuisance defined at § 7103(5)b. of this title is intended to abate the criminal nuisance existing on those properties where illegal firearms exist and those who use illegal firearms congregate. It is not intended to interfere with the right to lawful possession or use of firearms by law abiding citizens.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 3-7.)

§ 7103 Definitions.

As used in this chapter, unless the context indicates differently:

(1) "Adverse impact" means the presence of 1 or more of the following conditions:

a. Diminished real property value related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances in or near the property;

b. Increased fear of residents to walk through or in public areas, including sidewalks, streets, and parks, due to the presence of nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

c. Increased volume of vehicular and pedestrian traffic to and from the property that is related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

d. An increase in the number of police calls to the property that are related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

e. Bothersome solicitations or approaches by persons wishing to engage in prostitution or to sell controlled substances or drug paraphernalia on or near the property;

f. The presence, use, or display or discharge of illegal firearms at or near the property;

g. Investigative purchases of controlled substances or drug paraphernalia, or investigative actions relating to prostitution by undercover law-enforcement officers at or near the property;

h. Arrests of persons on or near the property for criminal conduct relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

i. Search warrants served or executed at the property relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

j. A substantial number of complaints made to law-enforcement and other government officials regarding nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

k. Increased number of housing or health code violations relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

l. Any other impact the Court deems to be relevant and consistent with safeguarding the public health, safety, and welfare of the community.

(2) "Controlled substance," "manufacture," "distribution," "sale," "trafficking," and "possession with intent to sell or distribute" shall have the same meaning as those terms are used in Chapter 47 of Title 16.

(3) "Court" means the Superior Court of the State of Delaware.

(4) "Criminal gangs" means any criminal street gangs or youth gangs as defined in §§ 616-617 of Title 11. "Pattern of criminal gang activity" shall have the same meaning as defined in § 616(a)(2) of Title 11.

(5) "Criminal nuisance" means any real property at which:

a. An illegal drug event has occurred within the period of 1 year prior to the commencement of the civil action under this chapter; or

b. The illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, storing or delivery of ammunition or firearms has occurred, or any act or acts which constitute any felony set forth in subpart E of subchapter VII of Chapter 5 of Title 11 or an unlawful attempt or conspiracy to commit such an act; or

c. Prostitution is promoted, facilitated or permitted in violation of §§ 1342-1344 and 1351-1356 of Title 11; or

d. Criminal gangs are engaging in a pattern of criminal gang activity; or

e. An act that would constitute a violent felony, as defined by § 4201(c) of Title 11, has occurred within the period of 1 year prior to the commencement of the civil action under this chapter; or

f. A material annoyance, inconvenience, discomfort, or a tangible injury occurs to neighboring properties or persons, and which a court considers objectionable under the circumstances, or any other public nuisance defined by state or municipal codes or Delaware law.

(6) "Firearm" shall have the same meaning as that term is used in § 222 of Title 11. "Ammunition" shall have the same meaning as that term is used in § 1448(c) of Title 11.

(7) "Illegal drug events" means the unlawful manufacture, distribution, trafficking, sale or possession with intent to distribute, sell or deliver a controlled substance, or any act or acts which constitute any felony set forth in Chapter 47 of Title 16, or an unlawful attempt or conspiracy to commit such an act.

(8) "Landlord" shall have the same meaning as that term is defined in § 5141 of Title 25.

(9) "Owner" means any person in whom is vested the ownership and title of property, and who is the owner of record. "Owner" shall include any local, city, county, state or federal governmental entity.

(10) "Person" means a human being who has been born and is alive, and, where appropriate, a public or private corporation, a trust, a firm, a joint stock company, a union, an unincorporated association, a partnership, a government or a governmental instrumentality.

(11) "Place," "site" or "premises" includes any building, structure, erection, or any separate part or portion thereof, whether used as a residence, for commercial purposes or a house of worship, or the ground itself.

(30 Del. Laws, c. 234, § 1; Code 1935, § 5272; 10 Del. C. 1953, § 7101; 53 Del. Laws, c. 360; 69 Del. Laws, c. 248, §§ 1, 2; 72 Del. Laws, c. 31, §§ 1, 2; 72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, §§ 1-7; 78 Del. Laws, c. 161, § 8.)

§ 7104 Maintaining a criminal nuisance.

Any person, including but not limited to any owner, agent, employee or lessee, who uses occupies, establishes, promotes, permits, facilitates, or conducts a criminal nuisance, or aids or abets therein, shall be liable for maintaining a criminal nuisance and shall be enjoined as provided in this chapter.

(30 Del. Laws, c. 234, § 2; Code 1935, § 5273; 10 Del. C. 1953, § 7102; 72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, § 8; 78 Del. Laws, c. 161, § 9.)

§ 7105 Action to abate criminal nuisance.

(a) Whenever a criminal nuisance exists and it adversely impacts the community, the Attorney General may bring an action to abate a criminal nuisance under this title to obtain temporary and permanent abatement relief under §§ 7111 and 7113 of this title and to seek civil penalties provided under § 7126 of this title.

(b) Any other person, as defined in § 7103 of this title, may bring an action to abate a criminal nuisance under this title on behalf of the Attorney General in the name of the State, provided the person serves the State Solicitor with a copy of the complaint within 5 days of filing. The Attorney General may elect to intervene and proceed with the action after it receives a copy of the complaint. If the Attorney General reviews the complaint and determines that there is insufficient evidence to support the claim, the Attorney General may dismiss the complaint.

(30 Del. Laws, c. 234, § 3; Code 1935, § 5274; 10 Del. C. 1953, § 7103; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 10.)

§ 7106 Jurisdiction; complaint; notice of lis pendens.

(a) Any action under this chapter shall be brought in the Superior Court of the county in which the property is located.

(b) At or before the commencement of the action a verified complaint alleging the facts constituting the criminal nuisance shall be filed in the office of the prothonotary of Superior Court, together with a notice of the pendency of the action, containing the names of the parties, the object of the action, and a brief description of the property affected thereby. Such notice of lis pendens shall be immediately recorded by the prothonotary.

(c) The Court shall have in rem jurisdiction over the premises alleged to be a criminal nuisance, and the complaint initiating the civil action pursuant to this chapter shall name as a defendant the premises involved, describing it by block, lot number and street address, or by such means as are appropriate in the circumstances.

(30 Del. Laws, c. 234, § 4; Code 1935, § 5275; 10 Del. C. 1953, § 7104; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 11, 12.)

§ 7107 Affirmative defenses.

It shall be an affirmative defense for the owner or landlord to establish, by a preponderance of the evidence, that said owner or landlord attempted to abate the alleged criminal nuisance prior to receiving notice in writing of the State's intent to bring a criminal nuisance abatement action regarding the premises. Examples of actions that are indicia of attempts to abate alleged criminal nuisances include but are not limited to:

(1) Sending or delivering a notice pursuant to § 5513 of Title 25 that the conduct of the tenant, or their guests or invitees, breaches a rule or covenant that is material to the rental agreement;

(2) Sending or delivering a termination notice pursuant to § 5513(a) or (b) of Title 25;

(3) Filing an action for summary possession of the rental unit;

(4) Seeking police intervention to have those responsible for the action prosecuted and actively assisting the police in efforts to prosecute those responsible for the actions or activities being complained of by the complainants.

(72 Del. Laws, c. 484, § 1; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 158, § 9; 78 Del. Laws, c. 161, § 13.)

§ 7108 Notice to interested parties.

(a) A complaint initiating an action pursuant to this chapter shall be personally served and notice to all in personam defendants shall be provided in the same manner as serving complaints in civil actions. Where the in personam defendant is an owner or landlord, notice shall also be served by leaving a copy of the complaint at the landlord's address as set forth in the lease or as otherwise provided by landlord with an adult person residing therein, or with an agent or other person in the employ of the owner or landlord whose responsibility it is to accept such notice. If the owner or landlord is an artificial entity pursuant to Supreme Court Rule 57, service of the notice or process may be made by leaving a copy thereof at its office or place of business as set forth in the lease with an agent authorized by appointment or by law to receive service of process. Where the in personam defendant is a tenant, notice shall also be served by leaving a copy of the complaint at the person's rental unit or usual place of abode with an adult person residing therein. After filing an affidavit that personal service cannot be had after due diligence on 1 or more in personam defendants, within 20 days after the filing of the complaint, the plaintiff may serve a copy of the complaint by registered or certified mail or first class mail as evidenced by a certificate of mailing postage-prepaid, addressed to the owner or landlord at the owner or landlord's business address as set forth in the lease or as otherwise provided by the owner or landlord, or if the owner or landlord is an artificial entity, pursuant to Supreme Court Rule 57, at its office or place of business, or if the defendant is a tenant, to said tenant at the leased premises. The return receipt of the notice, whether signed, refused or unclaimed, sent by registered or certified mail, or the certificate of mailing if sent by first class mail, shall be held and considered to be prima facie evidence of the service of the notice or process. The plaintiff shall also cause a copy of the complaint to be affixed conspicuously to the premises alleged to be the site of a nuisance. Service shall be deemed completed 5 days after filing with the court proof of such mailing and an affidavit that a copy of the complaint has been affixed to the premises.

(b) All tenants or residents of any premises which is used in whole or in part as a business, home, residence or dwelling, other than transient guests of a guest house, hotel, or motel, who may be affected by any order issued pursuant to this chapter shall be provided such reasonable notice as shall be ordered by the court and shall be afforded opportunity to be heard at all hearings.

(72 Del. Laws, c. 484, § 1.)

§ 7109 Substitution of plaintiff.

(72 Del. Laws, c. 484, § 1; repealed by 78 Del. Laws, c. 161, § 14, eff. Aug. 3, 2011.)

§ 7110 Delay and dismissal of actions.

(a) All actions brought pursuant to this chapter shall be heard by the Court on an expedited and priority basis. The Court shall not grant a continuance except for compelling and extraordinary reasons, or upon the application of the Attorney General for good cause shown.

(b) The Court shall not stay the civil proceedings pending the disposition of any related criminal proceeding except for compelling and extraordinary reasons or except upon the application of the Attorney General for good cause shown.

(c) The Court shall not dismiss an action brought pursuant to this chapter for want of prosecution unless the Court is clearly convinced that the interests of justice require such dismissal. In that event and upon such a finding, the dismissal shall be without prejudice to the right of the plaintiff to re-institute the action.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 15.)

§ 7111 Temporary abatement hearing; order; procedure.

(a) To bring a civil action for abatement relief pursuant to this chapter, the Office of the Attorney General, or any other person authorized, may file a complaint seeking temporary relief by alleging that the premises constitute a criminal nuisance which adversely impacts the community. Upon receipt of the complaint, the Court, on application of the plaintiff, may issue an ex parte temporary abatement order prohibiting the defendants and all other persons from committing or permitting any act or acts of waste to the premises, or to the personal property and contents thereof, and from knowingly tampering with any evidence likely to be used by any party in any judicial proceeding until the decision of the Court granting or refusing the temporary abatement order thereon. Absent such ex parte relief by the Court, the Court shall order a preliminary hearing which shall be held no later than 10 days from the date upon which service upon all parties was completed, unless otherwise agreed to by the parties. In the event that service cannot be completed in time to give the owners or tenants the minimum notice required by this subsection, the Court may set a new hearing date.

(b) A copy of the complaint together with a notice of the time and place of the hearing of the application for a temporary abatement order shall be served upon the defendants at least 5 days before the hearing. If the hearing be then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

(c) Each defendant so notified shall serve upon the complainant, or the complainant's attorney, a verified answer on or before the date fixed in the notice for the hearing and such answer shall be filed with the prothonotary's office wherein the cause is triable, but the Court may allow additional time for so answering, providing such extension of the time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be denied without further pleading.

(d) If the Court finds:

(1) That the premises constitute a criminal nuisance that adversely impacts the community,

(2) That at least 10 days prior to the filing of the complaint seeking temporary abatement relief, the owner or the owner's agent (or tenant, where such is an in personam defendant) had been notified by certified letter of the criminal nuisance, and

(3) That the public health, safety or welfare immediately requires a temporary closing order and unless the owner or the owner's agent shows to the satisfaction of the Court that the criminal nuisance complained of has been sufficiently abated, or that such person proceeded forthwith to enforce his or her rights under this chapter as more fully set forth herein,

the Court shall issue a temporary abatement order to close the premises involved, the portions appropriate in the circumstances, or any other temporary abatement remedy requested by the Attorney General's Office. The order shall direct actions necessary to physically secure the premises, or appropriate portions thereof, against use for any purpose. The temporary abatement order may also prohibit the defendant and all persons from removing or in any manner interfering with the furniture, fixtures and movable or personal property located on or within the premises constituting the criminal nuisance. Where a tenant is a defendant, the Court may issue a closing order prohibiting him or her from residing at or having contact with the premises.

(e) To determine whether the health, safety, or welfare of the community immediately requires a temporary abatement order, the Court shall consider any relevant evidence presented concerning any attendant circumstances, including but not limited to:

(1) The extent and duration of the criminal nuisance and severity of the impact on the community;

(2) The proximity of the property to other residential structures;

(3) The number of times the owner or tenant has been notified of criminal nuisance related problems at the property;

(4) The prior efforts, or lack of efforts, by the defendant to abate the criminal nuisance;

(5) The involvement of the owner or tenant in the criminal nuisance;

(6) The costs incurred by the jurisdiction or community based organizations in investigating or attempting to correct the criminal nuisance;

(7) Whether the criminal nuisance is continuous or recurring;

(8) Whether the criminal nuisance involves the use or threat of violence; or

(9) Any other factor the Court deems relevant and in the interests of the public health, safety, or welfare of the community.

(f) If the Court finds that the premises constitute a criminal nuisance but that immediate closing of the premises is not required pursuant to subsection (d) of this section, the Court may abate the criminal nuisance by issuing an order prohibiting the defendants and all other persons from conducting, maintaining, aiding, abetting or permitting events constituting the criminal nuisance, or from otherwise having contact with the premises. Additionally, the Court may issue an order appointing a temporary receiver to manage or operate the premises or order that any defendant take immediate actions including, but not limited to, the remedies listed in § 7113(c)(7) of this title. A temporary receiver shall have such powers and duties specifically authorized pursuant to § 7113 of this title.

(g) Notwithstanding the Delaware Rules of Evidence, any police report concerning the premises, and any witness statements contained therein, may be admitted into evidence in determining the existence of a criminal nuisance or whether any form of temporary abatement relief is appropriate.

(h) The abatement order shall be served pursuant to the procedures set forth in § 7108 of this title, and by both such delivery and posting. The officer serving such abatement order shall forthwith make and return into Court an inventory of the personal property and contents situated in and used in conducting or maintaining the criminal nuisance. The parties may enter into a consent order in relation

to or with respect to temporary abatement relief or permanent abatement relief. Any such order must be approved by the Court. Any violation of such abatement order shall be a contempt of court, and where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided such posted order contains thereon or therein a notice to that effect.

(i) The temporary abatement order shall remain in place until a permanent abatement hearing. Any violation of the Court's temporary abatement order shall be contempt of court, to be punished as provided in this chapter.

(j) The owner or owners of any real or personal property so closed or prohibited, or to be closed or prohibited, may petition the Court for an expedited schedule for the permanent abatement hearing.

(k) The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law.

(30 Del. Laws, c. 234, § 4; Code 1935, § 5275; 10 Del. C. 1953, § 7105; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, §§ 10-15; 78 Del. Laws, c. 13, § 2; 78 Del. Laws, c. 161, § 16.)

§ 7112 Enforcing ex parte and temporary abatement orders.

(a) Upon order of the Court, ex parte closing orders and temporary abatement orders shall be enforced by the appropriate police agency having jurisdiction over the area where the premises are located.

(b) The officers serving an ex parte closing order or a temporary abatement order shall file with the Court an inventory of the personal property situated in or on the premises closed and shall be allowed to enter the premises to make the inventory. The inventory shall provide an accurate representation of the personal property subject to such inventory including, but not limited to, photographing of furniture, fixtures and other personal or movable property.

(c) The officers serving an ex parte closing order shall, upon service of the order, demand all persons present in the premises closed, to vacate such premises or portion thereof forthwith unless the Court orders otherwise. The premises or portion thereof shall be securely locked and all keys shall be held by the agency closing the premises.

(d) Upon service of an ex parte closing order or a temporary abatement order, the officer shall post a copy thereof in a conspicuous place or upon 1 or more of the principal doors at entrances of the premises. In addition, where an ex parte closing order has been granted, the officers shall affix, in a conspicuous place or upon 1 or more of the principal entrances of such premises, a printed notice that the entire premises or portion thereof have been closed by court order, which notice shall contain a legend "Closed by Court Order" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises. The printed notice shall also include the date of the order, the Court which issued the order and the name of the office or agency posting the notice. In addition, where a temporary abatement order has been granted, the officer shall affix, in the same manner, a notice similar to the notice provided for in relation to an ex parte closing order except that the notice shall state that certain activity is prohibited by court order and that removal of furniture, fixtures or other personal or movable property is prohibited by court order.

(e) Any person who knowingly or purposely violates any ex parte closing order or temporary abatement order issued pursuant to this chapter shall be subject to civil contempt as well as punishment for criminal contempt pursuant to §§ 1271-1272 of Title 11 and § 7129 of this title.

(72 Del. Laws, c. 484, § 1.)

§ 7113 Permanent abatement for all criminal nuisance actions; hearing; admissible evidence.

(a) An action, when brought under this chapter, shall be noticed for trial at a time to be fixed by the Superior Court.

(b) In the action evidence of the general reputation of the place, or an admission, or finding of guilt of any person under the criminal laws at any such place, shall be admissible for the purpose of proving the existence of the criminal nuisance, and shall be prima facie evidence of such criminal nuisance and of knowledge of and of acquiescence and participation therein on the part of the person charged with maintaining the criminal nuisance as defined in this chapter.

(c) If the existence of the criminal nuisance is established upon the trial, the Court shall grant permanent abatement relief which perpetually prohibits the defendants and any other person from further maintaining the criminal nuisance at the place complained of, and the defendants from maintaining such criminal nuisance elsewhere within the State and shall issue such other orders as are necessary to abate the criminal nuisance and to prevent to the extent reasonably possible the recurrence of the criminal nuisance. The Court's order may include, but need not be limited to all of the following:

(1) Directing the sheriff or other appropriate agency to seize and remove from the premises all material, equipment and instrumentalities used in the creation and maintenance of the criminal nuisance, and directing the sheriff to sell the property in the manner provided for the sale of property under execution in accordance with the general rules of civil procedure. The net proceeds of any such sale, after the deduction of all lawful expenses involved, shall be paid pursuant to § 7114 of this title.

(2) Authorizing the plaintiffs, subsequent to an order granting plaintiffs the right to seize the property in question, to make repairs, renovations and construction and structural alterations or to take such other actions necessary to bring the premises into compliance with all applicable housing, fire, zoning, health and safety codes, ordinances, rules, regulations or statutes. Such repairs, renovations or construction shall only be undertaken after the appropriate regulatory agency has first inspected the property in question, determined

that code, ordinance or statutory violations exist and has reported same to the Court. If no order of seizure is granted and the owner or owners of the property remain in possession, the Court may order said owner or owners to make the appropriate repairs as set forth herein following the inspection and determination of violations by the appropriate regulatory agency. Expenditures by the plaintiffs pursuant to this paragraph may be filed as a lien against the property.

(3) Directing the closing of the premises, or appropriate portion thereof, to the extent necessary to abate the criminal nuisance, and directing the officer or agency enforcing the closure order to post a copy of the judgment and a printed notice of such closing order conforming to the requirements of § 7111 of this title. The closing directed by the judgment shall be for such a period of time as the Court may direct but, subject to the provisions of § 7121 of this title, shall not be for a period of more than 1 year from the posting of the judgment provided for in this subsection.

(4) Suspending or revoking any business, operational, rental or liquor license.

(5) Suspending or revoking any lease.

(6) Ordering the suspension of any state, city or local governmental subsidies payable to the owners of the property, such as tenant assistance payments to landlords, until the criminal nuisance is satisfactorily abated.

(7) Appointing a temporary receiver to manage or operate the premises for such a time as the Court deems necessary to abate the nuisance. A receiver appointed pursuant to this section shall have such powers and duties as the Court shall direct, including but not limited to:

a. Collecting, holding and dispersing the proceeds of all rents from all tenants;

b. Leasing or renting portions of the premises involved;

c. Making or authorizing other persons to make necessary repairs or to maintain the property;

d. Hiring security or other personnel necessary for the safe and proper operation of the premises;

e. Retaining counsel to prosecute or defend suits arising from his or her management of the premises;

f. Bringing actions for summary possession of any premises; and

g. Expending funds from the collected rents in furtherance of the foregoing powers.

(8) A receiver appointed by the Court pursuant to this section or § 7111 of this title shall upon entering upon his or her duties be sworn and shall affirm faithfully and fairly to discharge the trust committed to him or her. In addition, the receiver may be required to post a bond in an amount to be fixed by the Court making the appointment, to ensure that such receiver will faithfully discharge his or her duties.

(9) If the existence of a criminal nuisance as defined in this chapter is admitted or established in an action under this chapter, the Court may, in addition to the aforementioned remedies or sanctions, order the removal from the place of the criminal nuisance all personal property and contents used in conducting the criminal nuisance and not already released under authority of the Court as provided in § 7111 of this title, and shall further direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution.

(d) Owners of unsold personal property and contents so seized must appear and claim same within 10 days after such order of abatement is made. The burden shall be on the owner to show, to the satisfaction of the Court, lack of any knowledge of the use thereof, and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the place. If such innocence be so established, such unsold personal property and contents shall be delivered to the owner; otherwise it shall be sold as provided in this chapter.

(e) If any person breaks and enters, or uses a place so directed to be closed, that person shall be punished as for contempt as provided in this chapter.

(f) For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as that officer would for levying upon and selling like property on execution, and for closing the place and keeping it closed, a reasonable sum shall be allowed by the Court.

(g) The Court may impose any or all of the foregoing remedies in combination with each other.

(30 Del. Laws, c. 234, § 5; Code 1935, § 5276; 10 Del. C. 1953, § 7106; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 17.)

§ 7114 Duty of Attorney General; proceeds of sale in all criminal nuisance actions.

(a) In case the existence of facts, circumstances and/or conditions that would constitute any criminal nuisance is established in a criminal proceeding in any court of competent jurisdiction, the Attorney General shall proceed promptly to enforce the provisions and penalties of this chapter, and the finding of the defendant guilty in such criminal proceedings, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the criminal nuisance.

(b) All moneys collected under this chapter, including but not limited to proceeds of the sale of personal property, as provided in § 7113 of this title, shall first be applied in payment of the costs of the action and abatement and then in payment of reasonable attorney fees. In the event the action is brought by the Attorney General, all moneys collected in excess of costs and reasonable attorney fees

shall be paid to the Special Law Enforcement Assistance Fund, as established in §§ 4110-4116 of Title 11. In actions brought under this chapter by a county or municipality, all moneys collected in excess of costs and reasonable counsel fees shall be paid to said county or municipality. In all actions brought under this chapter by a person or persons other than noted above, all moneys collected in excess of costs, reasonable attorney fees and damage awards shall be paid to the Special Law Enforcement Assistance Fund.

(30 Del. Laws, c. 234, § 7; Code 1935, § 5278; 10 Del. C. 1953, § 7108; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 18.)

§ 7115 Lease void if building used for criminal nuisance.

Notwithstanding any law, rule or regulation to the contrary, if a tenant or occupant of a building or tenement, under a lawful title, is found after a hearing at which the tenant or occupant has appeared to have used such place for a criminal nuisance-related purpose, such use makes void the lease or other title under which the tenant or occupant holds, at the option of the owner, and, without any act of the owner, causes the right of possession to revert to vest in such owner.

(59 Del. Laws, c. 257, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 19, 20.)

§ 7116 Civil penalty.

(59 Del. Laws, c. 257, § 1; 72 Del. Laws, c. 484, § 1; repealed by 78 Del. Laws, c. 161, § 21, eff. Aug. 3, 2011.)

§ 7117 Immunity.

(59 Del. Laws, c. 257, § 1; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 484, § 1; repealed by 78 Del. Laws, c. 161, § 22, eff. Aug. 3, 2011.)

§ 7118 Notification and provision of treatment resources.

(a) The officers serving a closing order involving a criminal nuisance as defined in § 7103(5)(a) of this title shall provide outreach information and referral materials to all residents present on how to obtain alcohol and other drug treatment.

(b) In any case in which the Court orders the removal of any person from any dwelling pursuant to this chapter, the Court shall cause notice to be provided to the local alcohol and drug agency, the Division of Family Services, and other appropriate social services agencies.

(c) A 1-page summary of such information and materials shall be posted next to any ex parte closing order or temporary abatement order posted in accordance with § 7112 of this title.

(d) The State Division of Substance Abuse and Mental Health or its designee shall prepare all materials described in subsections (a) and (b) of this section, and shall disseminate them to all which are empowered to enforce closing orders under this chapter.

(72 Del. Laws, c. 484, § 1; 73 Del. Laws, c. 41, § 1; 78 Del. Laws, c. 161, § 23.)

§ 7119 Premises involving multiple residences or businesses.

(a) Where the premises constituting the criminal nuisance includes multiple residences, dwellings or business establishments, a temporary or permanent closing order issued pursuant to any provision of this chapter shall, so far as is practicable, be limited to that portion of the entire premises necessary to abate the criminal nuisance and prevent its recurrence.

(b) In addition to any other relief expressly authorized by this chapter, the Court may order a defendant who actually knew or, based on information provided to said defendant, had reason to know of, the criminal nuisance, to provide relocation assistance to any tenant ordered to vacate a premises pursuant to this chapter, provided that the Court determines that such tenant was not involved in the criminal nuisance or any criminal nuisance constituting the criminal nuisance and did not knowingly aid in the commission of any such criminal nuisance. Relocation assistance shall be in the amount necessary to cover moving costs, security deposits for utilities and comparable housing, any lost rent, and any other reasonable expenses the Court may deem fair and reasonable as a result of the Court's order to close a premises or any portion thereof pursuant to this chapter.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 24-26.)

§ 7120 Defense application to vacate or modify closing order prior to trial.

(72 Del. Laws, c. 484, § 1; 70 Del. Laws, c. 186, § 1; repealed by 78 Del. Laws, c. 161, § 27, eff. Aug. 3, 2011.)

§ 7121 Presumption against closure; vacating closure after abatement of nuisance and proof nuisance is not likely to occur.

(a) Where the Court after trial determines that a premises or appropriate portion or portions thereof pursuant to § 7111 of this title constitutes a nuisance, the Court shall order the closure of the premises. No such closure shall be granted unless, in the totality of the circumstances, no less onerous penalty is likely to provide for the abatement of the nuisance. Further, no order of closure shall occur if the Court is clearly convinced that any vacancy resulting from the closure would exacerbate rather than abate the nuisance or would otherwise be extraordinarily harmful to the community or the public interest. In determining whether closure is the least onerous penalty, the Court shall consider:

(1) Whether any previously agreed upon abatement plan, consent order, or other steps taken by a defendant have abated the nuisance;

(2) The duration that any nuisance has existed on the premises and whether any court has previously found the existence of a nuisance on the premises;

(3) The severity of the nuisance;

(4) Whether the defendant has the ability to control the conduct on the premises or the ability to abate the nuisance;

(5) The impact of the continuation of the nuisance upon any neighborhood or community organization; and

(6) The position of any community or civic association which represents the communities in which the premises are located.

(b) The Court at any time after trial may vacate the provisions of the judgment that direct the closing of the premises or any portion thereof provided that the defendant submits clear and convincing proof to the Court that the nuisance has been satisfactorily abated and is not likely to recur. In determining whether the nuisance has been satisfactorily abated and is not likely to recur, the Court shall consider the nature, severity and duration of the nuisance and all other relevant factors, including but not limited to those factors set forth in § 7113 of this title.

(72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, § 17.)

§ 7122 Standard of proof.

Except as may otherwise be expressly provided, the civil causes of action established in this chapter shall be proved by a preponderance of the evidence.

(72 Del. Laws, c. 484, § 1.)

§ 7123 Admissibility of evidence to prove criminal nuisance.

(a) In any action involving any criminal nuisance, evidence of the general reputation of the place or an admission or finding of guilty of any person under the criminal laws at any such place is admissible for the purpose of proving the existence of said criminal nuisance and is prima facie evidence of such criminal nuisance and of knowledge of and of acquiescence and participation therein on the part of the person charged with maintaining said criminal nuisance.

(b) In any action brought pursuant to this chapter, any evidence of any prior efforts or lack of efforts by the defendant to abate the criminal nuisance shall be admissible, and shall be considered by the court in its decision as to what, if any, remedies or penalties shall be imposed.

(c) Where a criminal prosecution or juvenile delinquency proceeding results in a criminal conviction or adjudication of delinquency, such conviction or adjudication shall create a rebuttable presumption that the criminal nuisance occurred. Any evidence or testimony admitted in the criminal or juvenile proceedings, including transcripts or a court reporter's notes of the transcripts of the adult or juvenile criminal proceedings, whether or not they have been transcribed, may be admitted in the civil action brought pursuant to this chapter.

(d) In the event that the evidence or records of a criminal proceeding which did not result in a conviction or adjudication of delinquency have been sealed in accordance with § 10002(l) of Title 29, § 4322(a) of Title 11, and §§ [former] 1001 [now repealed], 1002 and 1063 of this title, the Court, in a civil action brought pursuant to this chapter may, notwithstanding any other provision of this chapter, order such evidence or records to be unsealed if the Court finds that such evidence or records would be relevant to the fair disposition of the civil action.

(e) If proof of the existence of the criminal nuisance depends, in whole or in part, upon the affidavits or testimony of witnesses who are not peace officers, the Court may upon a showing of prior threats of violence or acts of violence by any defendant or any other person, issue orders to protect those witnesses including, but not limited to, the nondisclosure of the name, address or any other information which may identify those witnesses.

(f) A law-enforcement agency may make available to any person or entity seeking to secure compliance with this chapter any police report, or edited portion thereof, or forensic laboratory report, or edited portion thereof, concerning the alleged criminal nuisance on or within the premises involved. A law-enforcement agency may also make any officer or officers available to testify as a fact or expert witness in a civil action brought pursuant to this chapter. The agency shall not disclose such information where, in the agency's opinion, such disclosure would jeopardize an investigation, prosecution or other proceeding, or where such disclosure would violate any federal or state statute.

(72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, § 19; 78 Del. Laws, c. 161, §§ 28-32; 78 Del. Laws, c. 382, § 1.)

§ 7124 Relationship to criminal proceedings.

A civil action may be brought and maintained pursuant to this chapter, and the Court may find the existence of a criminal nuisance, notwithstanding that an event or events used to establish the existence of the criminal nuisance have not resulted in an arrest, prosecution, conviction or adjudication of delinquency.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 33.)

§ 7125 Release of premises upon inspection or repair.

(a) Unless the Court expressly orders otherwise, no premises or portion thereof ordered to be closed pursuant to any provision of this chapter shall be released or opened unless it has been inspected by the appropriate license and inspection authority or agency and found

to be in compliance with applicable local or state housing, building, fire, zoning, health and safety codes, ordinances, rules, regulations or statutes. Where the inspection reveals violations of any such code, ordinance, rule, regulation or statute, the Court shall issue such orders or grant such relief as may be necessary to bring the premises or portion thereof into compliance. In that event, the Court may order the premises or portion thereof to remain closed pending such necessary repairs or modification, notwithstanding that the order of closure may exceed the 1-year time limit prescribed in § 7113 of this title.

(b) The Court may authorize any person or government official to enter a premises or portion thereof closed pursuant to this chapter for the purpose of conducting an inspection or making any repairs or modifications necessary to abate the criminal nuisance or to bring the premises or portion thereof into compliance with any applicable housing, building, fire, zoning, health or safety code, ordinance, rule, regulation or statute.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 34, 35.)

§ 7126 Penalties.

(a) Where the Court after trial finds that a premises is a criminal nuisance, the Court in addition to granting appropriate abatement relief shall impose a civil penalty against a defendant who knowingly conducted, maintained, aided, abetted or permitted the criminal nuisance. The Court shall order civil penalties in the amount of $25,000 or the Court, at its discretion, may order a civil penalty up to $1,000 for each day the criminal nuisance exists, whichever is greater, unless imposition of such penalty would constitute a miscarriage of justice under the totality of the circumstances. In such case, it may lower the penalty amount to the extent necessary to avoid such miscarriage of justice.

(b) For the purpose of imposing a civil penalty pursuant to this section, the following shall be prima facie evidence that the defendant knowingly permitted the criminal nuisance:

(1) The defendant failed to initiate an eviction action pursuant to the provisions of this chapter or a summary possession action pursuant to Chapter 57 of Title 25 or against a tenant after being notified by certified or registered mail of the facts pertaining to the tenant's alleged illegal activities constituting a criminal nuisance committed on the leased premises which would in turn cause a reasonable person to believe the allegations are likely to be true; or

(2) A closure order was vacated under § 7121 of this title within 2 years before the occurrence of the instant criminal nuisance; or

(3) The defendant furthered, conspired as to, or participated in the commission of a crime on the premises.

(c) The Court at any time shall waive, suspend or revoke any unpaid civil penalty imposed pursuant to this section where it is satisfied that:

(1) The defendant against whom the penalty has been imposed has not violated any order issued pursuant to any provision of this chapter; and

(2) The defendant has transferred title to the plaintiff, a government agency or any other neighborhood or community organization approved by the Court, provided that the recipient is a nonprofit incorporated organization or association which is exempt from taxation under 26 U.S.C. § 501(c) and which is authorized by its corporate charter or bylaws to rehabilitate, restore, maintain, manage or operate any commercial or residential premises. Unless otherwise agreed to by the recipient organization, the defendant shall personally retain all state and local tax liability and the obligation shall attach to any other real property in the county owned by the defendant.

(72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, §§ 20, 21; 78 Del. Laws, c. 161, §§ 36-39.)

§ 7127 Settlements.

(a) Nothing in this chapter shall be construed in any way to prevent the parties to the action at any time before or after trial from negotiating and agreeing to a fair settlement of the dispute, subject to the approval of the Court. Any such settlement, once approved by the Court, shall be entered as an order of the Court. Any violation of such an order by the defendant shall be punishable as contempt as provided in this chapter.

(b) The Court, on application of a plaintiff may vacate a closing order issued pursuant to this chapter where the defendant has transferred title to the premises to the plaintiff, a government agency or any other neighborhood or community organization approved by the Court, provided that the recipient is a nonprofit incorporated organization or association which is exempt from taxation under 26 U.S.C. § 501(c) and which is authorized by its corporate charter or bylaws to rehabilitate, restore, maintain, manage or operate by commercial or residential premises. In that event, the requirements for prerelease inspection set forth in § 7125 of this title shall not apply.

(72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, § 22.)

§ 7128 Recovery of costs.

(a) Whenever an action for abatement relief or penalties brought pursuant to this chapter terminates in a settlement or judgment favorable to the plaintiff, the plaintiff and any other governmental entity shall be entitled to recover the actual cost of the suit, including but not limited to reasonable attorney fees and expenses and disbursements by the plaintiff or any governmental entity in investigating, bringing, maintaining and enforcing the action and any court orders issued pursuant thereto. All defendants shall be jointly and severally liable for the payment of taxed costs imposed pursuant to this section.

(b) A judgment awarding a permanent abatement pursuant to this chapter shall be a lien upon the premises declared to be a criminal nuisance unless title thereto has been transferred pursuant to §§ 7126 and 7127 of this title. In addition, a judgment against an in personam

defendant imposing a civil penalty or bill of taxed costs pursuant to this chapter shall be a lien upon the real estate owned by the defendant at the time of such rendition, and also upon all real estate the defendant may subsequently acquire, for a period of 10 years from the date of the judgment, subject to renewal of the judgment pursuant to § 4711 of this title.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 40.)

§ 7129 Contempt.

(a) Any person who knowingly violated any order issued pursuant to this chapter shall be subject to civil contempt as well as punishment for criminal contempt under §§ 1271 and 1272 of Title 11. Nothing in this chapter shall be construed in any way to preclude or preempt a criminal prosecution for violation of a controlled substance offense or any other criminal offense.

(b) In case of the violation of any abatement or closing order granted under this chapter, or the commission of any contempt of court in proceedings under this chapter, the Court may summarily try and punish the offender.

(c) The proceeding shall be commenced by filing in the pending action with the prothonotary's office a motion for a rule to show cause pursuant to Superior Court Civil Rule 64.1, accompanied by an affidavit showing service on the defendant and setting forth the facts constituting the violation. The Court shall thereupon cause a subpoena to issue under which the defendant shall be required to appear and defend the allegations. The hearing shall be oral before the Court, unless otherwise ordered by the Court and either party may demand the production and oral examination of the witnesses.

(d) A party found guilty of contempt under this chapter shall be fined not less than $500 nor than $10,000, or imprisoned not less than 3 months nor more than 1 year, or both. In addition, the court may impose an order of restitution or other conditions as the Court deems appropriate.

(30 Del. Laws, c. 234, § 8; Code 1935, § 5279; 10 Del. C. 1953, § 7109; 72 Del. Laws, c. 484, § 1.)

§ 7130 Cumulative remedies.

The causes of action and remedies authorized by this chapter shall be cumulative with each other and shall be in addition to, not in lieu of, any other causes of action or remedies which may be available at law or equity. Further, nothing herein shall be construed as to limit the power or authority of the Court in the enforcement of this chapter. However, in every case initiated under this chapter, the Court shall impose the least onerous remedy possible.

(72 Del. Laws, c. 484, § 1.)

§ 7131 Liability for damage to closed properties.

(a) A court-ordered closing of a premises or portion thereof pursuant to this chapter shall not constitute an act of possession, ownership or control by the Court, the plaintiff or any government official or entity responsible for enforcing the court order.

(b) Any person or entity bringing, maintaining or enforcing any civil action or order issued in accordance with the provisions of this chapter shall have immunity from any civil liability that might otherwise be incurred for any theft of, or loss, damage or injury to any premises constituting the criminal nuisance, or to any fixture, furniture, personal or movable property located in or on any such premises.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 41.)

§ 7132 Civil immunity.

Any person or entity who, in good faith, institutes, participates in, testifies in, or encourages any person or entity to institute, participate in or testify in a civil action brought pursuant to this chapter or who in good faith provides any information relied upon by any person or entity in instituting or participating in a civil action pursuant to this chapter, including but not limited to those persons defined or otherwise identified in §§ 7103 and 7107 of this title, shall have immunity from any civil liability that might otherwise be incurred or imposed.

(72 Del. Laws, c. 484, § 1.)

§ 7133 Civil action for damages resulting from criminal nuisance.

(a) Notwithstanding the provisions of § 7105 of this title, any person damaged in his or her business or property by reason of a criminal nuisance may bring a separate civil action for actual damages in the Superior Court against any person who knowingly conducted, maintained, aided, abetted or permitted criminal nuisance as defined in this chapter.

(b) In a civil action for damages pursuant to this section, the failure of an owner or landlord to initiate an eviction action against a tenant in accordance with the provisions of Chapter 57 of Title 25, if the owner or landlord has been notified by certified or registered mail of the tenant's involvement in a criminal nuisance on the leased premises, shall be prima facie evidence that the owner knowingly gave permission to engage in conduct constituting the criminal nuisance.

(c) In a civil action for damages pursuant to this section, expert testimony may be used to determine the amount of any actual damage or loss incurred by reason of the criminal nuisance as defined in this chapter.

(d) Whenever an action for damages brought pursuant to this section terminated in a settlement or judgment favorable to the plaintiff, the plaintiff shall be entitled to recover the actual cost of the suit, including but not limited to reasonable attorney fees and all expenses and

disbursements by the plaintiff in investigating, bringing and maintaining the action. All defendants shall be jointly and severally liable for the payments of taxed costs imposed pursuant to this section.

(e) In any civil action for damages brought pursuant to this section, any evidence admitted or admissible in a civil action for abatement relief or penalty pursuant to this chapter shall be admissible.

(72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 42-47.)

§ 7134 Presumptions.

(a) The person in whose name the premises involved is recorded in the recorder of deeds office shall be presumed to be the owner thereof.

(b) Whenever there is evidence that a person was the manager, operator, supervisor or was in any other way in charge of the premises involved at the time of any conduct constituting the criminal nuisance is alleged to have been committed, such evidence shall be rebuttably presumptive that such person was an agent or employee of the owner, landlord or lessee of the premises.

(78 Del. Laws, c. 161, § 48.)

Part IV
Special Proceedings
Chapter 72
OBSCENITY AND LEWDNESS

§§ 7201 -7210. Definitions; nuisance; abatement of nuisance; injunction authorized; procedure in injunction action; precedence of action; evidence; costs; content of judgment and order; court shall punish offender for violation of injunction or order; lease void if building used for lewd purposes; civil penalty; immunity.

Repealed by 72 Del. Laws, c. 484, § 1, effective Aug. 4, 2000. For present law, see Chapter 71 of this title.

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

****

City Hall Conference Room Located

April 6, 2016

11:00 a.m. – 12:00 p.m.

****

GETTING TOUGH ON THE ISSUES OF

PUBLIC SAFETY

AND

NUISANCE PROPERTYS

AGENDA:

1. Introduction of Kirkwood Neighborhood Watch Executive Committee, City/State Officials and Concerned Citizens. **[Councilman Sudler]**
2. Review of **February 22, 2016** Meeting Minutes **[Panel's Personal Review]**
3. Complaint Data/Contact Status with Elks? **[Chief / Representative – DPD]**
4. History of Lodge #1125 Use with City of Dover **[Council President Slavin]**
5. Criminal Nuisance Abatement Act, **10 DEL. C. Ch. 71.** **[DOJ – A.J. Roop]**
6. Affirmative Steps for Permanent Relief /Abatement from Elks. Lodge #1125.

   A}. Declaration that the property is a Nuisance **10 DEL. C. Ch. 7113** **[Open Discussion]**

   B}. Implementation Strategies for joint complaint filed by the City of Dover and the State of Delaware with Delaware Superior Court **[Open Discussion]**

7. Next Meeting Date _____.
8. Adjournment

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Notes:

_____

_____

_____

_____

_____.

ROUNDTABLE DISCUSSION'S

MEETING MINUTES

The Meeting with the Kirkwood Neighborhood Watch Executive Committee, City / State Officials, and Concerned Residents was called to order by Councilman Roy Sudler, Jr.

February 22, 2016 @ approximately 11:00 a.m.

Council President Mr. Tim Slavin, 1st District Councilman James Hutchinson, 4th District Councilman Roy Sudler, Jr. Dover's Chief of Police Paul Bernat, Delaware's Deputy Attorney General Albert J. Roop [Crime Strategies Unit], 31st District House of Representatives Sean Lynn, Executive Committee President Chuck Jackson, Vice-President Charles White, and Executive Advisor Carmen Hardcastle of Kirkwood Neighborhood Community Watch, Rev. Homes and Mr. William Crawford both from Queen St. were present.

After Introduction of Roundtable Panel there was much discussion concerning the nature of the resident's concerns, Councilman Sudler reviewed the meeting's purpose, mission, goal and narrative of complaints received by Dover Residents that mostly lived on Kirkwood Street and surrounding neighborhoods that have join together to form the Kirkwood Neighborhood Watch Community.

[Please Review Panel-Packet from February 22, 2016]

The conversation started with **Mr. Jackson** expressing that there have been an enormous amount of fighting on Kirkwood Street, that usually occurs after the Lodge closes, he stated that one night his wife woke him up early in the morning to break up a fight that had more than 20 people involved that was taking place in his back yard, which is over **200' feet south** of the Elks Lodge#1125.

Miss. Hardcastle who lives about **75' feet south** of the Lodge, indicated that she had to hurry-up and take cover after hearing a number of gun shots fired after the lodge let out, the shots caused such an alarm, that when she tried to hurry up and take cover, she hit her head on the end of a table.

Mr. White who lives about **175' feet south** of the Lodge said, "There are more than two bullet wholes in his window and he constantly hears gun shots being fired usually after the lodge closes for the night". He also indicated that he personally has reached out to the Lodge Management in regards to his concerns, but the fighting and shooting still exist.

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Councilman Sudler pointed out that another home not even **75' feet north** of the Lodge has bullet wholes as well in the vinyl siding near the front door entrance. Also, he talked about the Kirkwood, Cecil, West, and Queen Street Communities voting on the future of the Elks. Lodge #1125 in their community [Votes Casts **18** –Relocate to **5** – Stay].

Rev. Holmes who lives behind the Elks Lodge on Queen Street stated that, "He was very concerned about the element of people who attend the lodge and that when they get to fighting people often run through the back of his yard trying to escape the crowd that is after that person, which puts he and his company alarmed and at-risk.

Mr. Crawford said that, "It didn't use to be like that about **20** to **30** years ago, but it seems to be an ongoing problem that needs to be addressed expeditiously". He stated that he feels that it is time for the Lodge to relocate to another community out of a residential area. He urged the panel to immediately take action on behalf of the community to secure the community's safety and well-being.

1st. District Councilman Hutchinson said, "He understood the concerns of the residents and understands that maybe it's time for the Elks. Lodge #1125 to relocate out the Kirkwood Residential Area, but he would like to see a soft-approach taken in resolving this matter".

Executive Committee President Chuck Jackson, 31st District House of Representatives Sean Lynn and 4th District Councilman Roy Sudler, Jr. expressed to Councilman Hutchinson that the Kirkwood Community and surrounding Stakeholders have utilized a "Soft-Approach" on more than one occasion and have not received a positive response in regards to their concerns. In fact, in a community meeting held in **July 2015**, the Elks Lodge Management initially said at the meeting that they would be willing to hire adequate security or even Off-Duty Dover Police Officers to help secure the safety of the community, but as of **February 2016**, they have failed to do so.

Mr. Albert J. Roop Deputy Attorney General for the State of Delaware explained to the panel how the **Criminal Nuisance Abatement Act, 10 DEL. C. Ch. 71.,** applied to properties that have had a high level of complaints due to criminal activity deemed as a public nuisance. He expressed that the City of Dover and the State of Delaware could file a joint claim with the Superior Court of Delaware to have the Dover Elks. Lodge #1125 temporary abated for one year with the possibility of permanent abatement, which is similar to the Thunder-guards Motorcycle Club and the Gold Club Exotic Night Club Case in Wilmington Delaware.

After intense discussion concerning what avenue to take in resolving the residents' concerns, **Chief Bernat of the Dover Police Department,** asked the panel to allow him an opportunity to reach out to the Lodge's Management to see how he could help convey the concerns of the Kirkwood and Surrounding Communities. So the Panel agreed to grant,

1). Chief Bernat's request to allow him the opportunity to contact the Elks. Lodge #1125, Management, within a **45** days' time period allotted, before the next meeting scheduled for **April 6, 2016** and;

2). Chief Bernat said, "He would forward additional complaints called in by neighboring communities of Kirkwood Street to Deputy Attorney General Albert J. Roop for additional review and evidence to strengthen our claim against the **Dover Elks. Lodge #1125.**

- ✓ In conclusion of the meeting, **31st District House of Representatives Sean Lynn** suggested to Council President Tim Slavin to ask Planning Director to submit to the Panel the File on the Dover Elks. Lodge #1125 consisting of its Non-Conforming Use Status-Stipulations and any other information pertinent to this matter.

City Council-President said, "Ok"

Meeting was adjourned by 12:03 p.m.

Meeting Minutes Submitted to Roundtable Panel by 4th District Councilman Roy Sudler, Jr.

TITLE 10

COURTS AND JUDICIAL PROCEDURE

SPECIAL PROCEEDINGS

CHAPTER 71. CRIMINAL NUISANCE ABATEMENT

§ 7101 Short title.

This chapter shall be known as and may be cited as the "Criminal Nuisance Abatement Act".

72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 2.

§ 7102 Purpose; construction.

(a) This chapter shall be liberally construed and applied so as to promote its underlying purposes, which are:

(1) To authorize temporary and permanent abatement relief and other remedies to abate any criminal nuisance as defined herein;

(2) To eliminate locations that otherwise attract criminals, violence and the threat of violence associated with either illegal drug trade or any of the other nuisances defined herein;

(3) To abate drug nuisances and illegal drug activity as well as the other nuisances defined herein that otherwise reduce property values, injure legitimate businesses and commerce and erode the quality of life for law-abiding persons working or residing in or near these locations;

(4) To ensure that the civil actions and remedies authorized by this chapter be heard by the courts on a priority basis to expeditiously identify and abate all nuisances, particularly those involving illegal drug trade or activity; and

(5) To encourage owners, landlords, operators and managers of buildings, places or premises (hereinafter referred to as "premise") to take the affirmative steps necessary to prevent violations on their properties involving any of the above nuisances, particularly those involving illegal drug trade or activity.

(b) Any action brought pursuant to this chapter, regardless of the remedy or remedies sought or ordered, is intended to be by the General Assembly and shall be deemed to be an action for abatement of a criminal nuisance.

(c) Any action brought on the basis of a criminal nuisance defined at § 7103(5)b. of this title is intended to abate the criminal nuisance existing on those properties where illegal firearms exist and those who use illegal firearms congregate. It is not intended to interfere with the right to lawful possession or use of firearms by law abiding citizens.

72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 3-7.;

§ 7103 Definitions.

As used in this chapter, unless the context indicates differently:

(1) "Adverse impact" means the presence of 1 or more of the following conditions:

a. Diminished real property value related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances in or near the property;

b. Increased fear of residents to walk through or in public areas, including sidewalks, streets, and parks, due to the presence of nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

c. Increased volume of vehicular and pedestrian traffic to and from the property that is related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

d. An increase in the number of police calls to the property that are related to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

e. Bothersome solicitations or approaches by persons wishing to engage in prostitution or to sell controlled substances or drug paraphernalia on or near the property;

f. The presence, use, or display or discharge of illegal firearms at or near the property;

g. Investigative purchases of controlled substances or drug paraphernalia, or investigative actions relating to prostitution by undercover law-enforcement officers at or near the property;

h. Arrests of persons on or near the property for criminal conduct relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

i. Search warrants served or executed at the property relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

j. A substantial number of complaints made to law-enforcement and other government officials regarding nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

k. Increased number of housing or health code violations relating to nuisances associated with drug activity, illegal firearms, criminal gangs, violent felonies, prostitution, and other public nuisances;

l. Any other impact the Court deems to be relevant and consistent with safeguarding the public health, safety, and welfare of the community.

(2) "Controlled substance," "manufacture," "distribution," "sale," "trafficking," and "possession with intent to sell or distribute" shall have the same meaning as those terms are used in Chapter 47 of Title 16.

(3) "Court" means the Superior Court of the State of Delaware.

(4) "Criminal gangs" means any criminal street gangs or youth gangs as defined in §§ 616-617 of Title 11. "Pattern of criminal gang activity" shall have the same meaning as defined in § 616(a)(2) of Title 11.

(5) "Criminal nuisance" means any real property at which:

a. An illegal drug event has occurred within the period of 1 year prior to the commencement of the civil action under this chapter; or

b. The illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, storing or delivery of ammunition or firearms has occurred, or any act or acts which constitute any felony set forth in subpart E of subchapter VII of Chapter 5 of Title 11 or an unlawful attempt or conspiracy to commit such an act; or

c. Prostitution is promoted, facilitated or permitted in violation of §§ 1342-1344 and 1351-1356 of Title 11; or

d. Criminal gangs are engaging in a pattern of criminal gang activity; or

e. An act that would constitute a violent felony, as defined by § 4201(c) of Title 11, has occurred within the period of 1 year prior to the commencement of the civil action under this chapter; or

f. A material annoyance, inconvenience, discomfort, or a tangible injury occurs to neighboring properties or persons, and which a court considers objectionable under the circumstances, or any other public nuisance defined by state or municipal codes or Delaware law.

(6) "Firearm" shall have the same meaning as that term is used in § 222 of Title 11. "Ammunition" shall have the same meaning as that term is used in § 1448(c) of Title 11.

(7) "Illegal drug events" means the unlawful manufacture, distribution, trafficking, sale or possession with intent to distribute, sell or deliver a controlled substance, or any act or acts which constitute any felony set forth in Chapter 47 of Title 16, or an unlawful attempt or conspiracy to commit such an act.

(8) "Landlord" shall have the same meaning as that term is defined in § 5141 of Title 25.

(9) "Owner" means any person in whom is vested the ownership and title of property, and who is the owner of record. "Owner" shall include any local, city, county, state or federal governmental entity.

(10) "Person" means a human being who has been born and is alive, and, where appropriate, a public or private corporation, a trust, a firm, a joint stock company, a union, an unincorporated association, a partnership, a government or a governmental instrumentality.

(11) "Place," "site" or "premises" includes any building, structure, erection, or any separate part or portion thereof, whether used as a residence, for commercial purposes or a house of worship, or the ground itself.

30 Del. Laws, c. 234, § 1; Code 1935, § 5272; 10 Del. C. 1953, § 7101; 53 Del. Laws, c. 360; 69 Del. Laws, c. 248, §§ 1, 2; 72 Del. Laws, c. 31, §§ 1, 2; 72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, §§ 1-7; 78 Del. Laws, c. 161, § 8.;

§ 7104 Maintaining a criminal nuisance.

Any person, including but not limited to any owner, agent, employee or lessee, who uses occupies, establishes, promotes, permits, facilitates, or conducts a criminal nuisance, or aids or abets therein, shall be liable for maintaining a criminal nuisance and shall be enjoined as provided in this chapter.

30 Del. Laws, c. 234, § 2; Code 1935, § 5273; 10 Del. C. 1953, § 7102; 72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, § 8; 78 Del. Laws, c. 161, § 9.;

§ 7105 Action to abate criminal nuisance.

(a) Whenever a criminal nuisance exists and it adversely impacts the community, the Attorney General may bring an action to abate a criminal nuisance under this title to obtain temporary and permanent abatement relief under §§ 7111 and 7113 of this title and to seek civil penalties provided under § 7126 of this title.

(b) Any other person, as defined in § 7103 of this title, may bring an action to abate a criminal nuisance under this title on behalf of the Attorney General in the name of the State, provided the person serves the State Solicitor with a copy of the complaint within 5 days of filing. The Attorney General may elect to intervene and proceed with the action after it receives a copy of the complaint. If the Attorney General reviews the complaint and determines that there is insufficient evidence to support the claim, the Attorney General may dismiss the complaint.

30 Del. Laws, c. 234, § 3; Code 1935, § 5274; 10 Del. C. 1953, § 7103; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, § 10.;

§ 7106 Jurisdiction; complaint; notice of lis pendens.

(a) Any action under this chapter shall be brought in the Superior Court of the county in which the property is located.

(b) At or before the commencement of the action a verified complaint alleging the facts constituting the criminal nuisance shall be filed in the office of the prothonotary of Superior Court, together with a notice of the pendency of the action, containing the names of the parties, the object of the action, and a brief description of the property affected thereby. Such notice of lis pendens shall be immediately recorded by the prothonotary.

(c) The Court shall have in rem jurisdiction over the premises alleged to be a criminal nuisance, and the complaint initiating the civil action pursuant to this chapter shall name as a defendant the premises involved, describing it by block, lot number and street address, or by such means as are appropriate in the circumstances.

30 Del. Laws, c. 234, § 4; Code 1935, § 5275; 10 Del. C. 1953, § 7104; 72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 11, 12.;

§ 7111 Temporary abatement hearing; order; procedure.

(a) To bring a civil action for abatement relief pursuant to this chapter, the Office of the Attorney General, or any other person authorized, may file a complaint seeking temporary relief by alleging that the premises constitute a criminal nuisance which adversely impacts the community. Upon receipt of the complaint, the Court, on application of the plaintiff, may issue an ex parte temporary abatement order prohibiting the defendants and all other persons from committing or permitting any act or acts of waste to the premises, or to the personal property and contents thereof, and from knowingly tampering with any evidence likely to be used by any party in any judicial proceeding until the decision of the Court granting or refusing the temporary abatement order thereon. Absent such ex parte relief by the Court, the Court shall order a preliminary hearing which shall be held no later than 10 days from the date upon which service upon all parties was completed, unless otherwise agreed to by the parties. In the event that service cannot be completed in time to give the owners or tenants the minimum notice required by this subsection, the Court may set a new hearing date.

(b) A copy of the complaint together with a notice of the time and place of the hearing of the application for a temporary abatement order shall be served upon the defendants at least 5 days before the hearing. If the hearing be then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

(c) Each defendant so notified shall serve upon the complainant, or the complainant's attorney, a verified answer on or before the date fixed in the notice for the hearing and such answer shall be filed with the prothonotary's office wherein the cause is triable, but the Court may allow additional time for so answering, providing such extension of the time shall not prevent the issuing of the temporary writ as prayed for. The allegations of the answer shall be deemed to be denied without further pleading.

(d) If the Court finds:

(1) That the premises constitute a criminal nuisance that adversely impacts the community,

(2) That at least 10 days prior to the filing of the complaint seeking temporary abatement relief, the owner or the owner's agent (or tenant, where such is an in personam defendant) had been notified by certified letter of the criminal nuisance, and

(3) That the public health, safety or welfare immediately requires a temporary closing order and unless the owner or the owner's agent shows to the satisfaction of the Court that the criminal nuisance complained of has been sufficiently abated, or that such person proceeded forthwith to enforce his or her rights under this chapter as more fully set forth herein,

the Court shall issue a temporary abatement order to close the premises involved, the portions appropriate in the circumstances, or any other temporary abatement remedy requested by the Attorney General's Office. The order shall direct actions necessary to physically secure the premises, or appropriate portions thereof, against use for any purpose. The temporary abatement order may also prohibit the defendant and all persons from removing or in any manner interfering with the furniture, fixtures and movable or personal property located on or within the

premises constituting the criminal nuisance. Where a tenant is a defendant, the Court may issue a closing order prohibiting him or her from residing at or having contact with the premises.

(e) To determine whether the health, safety, or welfare of the community immediately requires a temporary abatement order, the Court shall consider any relevant evidence presented concerning any attendant circumstances, including but not limited to:

(1) The extent and duration of the criminal nuisance and severity of the impact on the community;

(2) The proximity of the property to other residential structures;

(3) The number of times the owner or tenant has been notified of criminal nuisance related problems at the property;

(4) The prior efforts, or lack of efforts, by the defendant to abate the criminal nuisance;

(5) The involvement of the owner or tenant in the criminal nuisance;

(6) The costs incurred by the jurisdiction or community based organizations in investigating or attempting to correct the criminal nuisance;

(7) Whether the criminal nuisance is continuous or recurring;

(8) Whether the criminal nuisance involves the use or threat of violence; or

(9) Any other factor the Court deems relevant and in the interests of the public health, safety, or welfare of the community.

(f) If the Court finds that the premises constitute a criminal nuisance but that immediate closing of the premises is not required pursuant to subsection (d) of this section, the Court may abate the criminal nuisance by issuing an order prohibiting the defendants and all other persons from conducting, maintaining, aiding, abetting or permitting events constituting the criminal nuisance, or from otherwise having contact with the premises. Additionally, the Court may issue an order appointing a temporary receiver to manage or operate the premises or order that any defendant take immediate actions including, but not limited to, the remedies listed in § 7113(c)(7) of this title. A temporary receiver shall have such powers and duties specifically authorized pursuant to § 7113 of this title.

(g) Notwithstanding the Delaware Rules of Evidence, any police report concerning the premises, and any witness statements contained therein, may be admitted into evidence in determining the existence of a criminal nuisance or whether any form of temporary abatement relief is appropriate.

(h) The abatement order shall be served pursuant to the procedures set forth in § 7108 of this title, and by both such delivery and posting. The officer serving such abatement order shall forthwith make and return into Court an inventory of the personal property and contents situated in and used in conducting or maintaining the criminal nuisance. The parties may enter into a consent order in relation to or with respect to temporary abatement relief or permanent abatement relief. Any such order must be approved by the Court. Any violation of such abatement order shall be a contempt of court, and where such order is so posted, mutilation or removal thereof, while the same remains in force, shall be a contempt of court, provided such posted order contains thereon or therein a notice to that effect.

(i) The temporary abatement order shall remain in place until a permanent abatement hearing. Any violation of the Court's temporary abatement order shall be contempt of court, to be punished as provided in this chapter.

(j) The owner or owners of any real or personal property so closed or prohibited, or to be closed or prohibited, may petition the Court for an expedited schedule for the permanent abatement hearing.

(k) The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law.

§ 7113 Permanent abatement for all criminal nuisance actions; hearing; admissible evidence.

(a) An action, when brought under this chapter, shall be noticed for trial at a time to be fixed by the Superior Court.

(b) In the action evidence of the general reputation of the place, or an admission, or finding of guilt of any person under the criminal laws at any such place, shall be admissible for the purpose of proving the existence of the criminal nuisance, and shall be prima facie evidence of such criminal nuisance and of knowledge of and of acquiescence and participation therein on the part of the person charged with maintaining the criminal nuisance as defined in this chapter.

(c) If the existence of the criminal nuisance is established upon the trial, the Court shall grant permanent abatement relief which perpetually prohibits the defendants and any other person from further maintaining the criminal nuisance at the place complained of, and the defendants from maintaining such criminal nuisance elsewhere within the State and shall issue such other orders as are necessary to abate the criminal nuisance and to prevent to the extent reasonably possible the recurrence of the criminal nuisance. The Court's order may include, but need not be limited to all of the following:

(1) Directing the sheriff or other appropriate agency to seize and remove from the premises all material, equipment and instrumentalities used in the creation and maintenance of the criminal nuisance, and directing the sheriff to sell the property in the manner provided for the sale of property under execution in accordance with the general rules of civil procedure. The net proceeds of any such sale, after the deduction of all lawful expenses involved, shall be paid pursuant to § 7114 of this title.

(2) Authorizing the plaintiffs, subsequent to an order granting plaintiffs the right to seize the property in question, to make repairs, renovations and construction and structural alterations or to take such other actions necessary to bring the premises into compliance with all applicable housing, fire, zoning, health and safety codes, ordinances, rules, regulations or statutes. Such repairs, renovations or construction shall only be undertaken after the appropriate regulatory agency has first inspected the property in question, determined that code, ordinance or statutory violations exist and has reported same to the Court. If no order of seizure is granted and the owner or owners of the property remain in possession, the Court may order said owner or owners to make the appropriate repairs as set forth herein following the inspection and determination of violations by the appropriate regulatory agency. Expenditures by the plaintiffs pursuant to this paragraph may be filed as a lien against the property.

(3) Directing the closing of the premises, or appropriate portion thereof, to the extent necessary to abate the criminal nuisance, and directing the officer or agency enforcing the closure order to post a copy of the judgment and a printed notice of such closing order conforming to the requirements of § 7111 of this title. The closing directed by the judgment shall be for such a period of time as the Court may direct but, subject to the provisions of § 7121 of this title, shall not be for a period of more than 1 year from the posting of the judgment provided for in this subsection.

(4) Suspending or revoking any business, operational, rental or liquor license.

(5) Suspending or revoking any lease.

(6) Ordering the suspension of any state, city or local governmental subsidies payable to the owners of the property, such as tenant assistance payments to landlords, until the criminal nuisance is satisfactorily abated.

(7) Appointing a temporary receiver to manage or operate the premises for such a time as the Court deems necessary to abate the nuisance. A receiver appointed pursuant to this section shall have such powers and duties as the Court shall direct, including but not limited to:

a. Collecting, holding and dispersing the proceeds of all rents from all tenants;

b. Leasing or renting portions of the premises involved;

c. Making or authorizing other persons to make necessary repairs or to maintain the property;

d. Hiring security or other personnel necessary for the safe and proper operation of the premises;

e. Retaining counsel to prosecute or defend suits arising from his or her management of the premises;

f. Bringing actions for summary possession of any premises; and

g. Expending funds from the collected rents in furtherance of the foregoing powers.

(8) A receiver appointed by the Court pursuant to this section or § 7111 of this title shall upon entering upon his or her duties be sworn and shall affirm faithfully and fairly to discharge the trust committed to him or her. In addition, the receiver may be required to post a bond in an amount to be fixed by the Court making the appointment, to ensure that such receiver will faithfully discharge his or her duties.

(9) If the existence of a criminal nuisance as defined in this chapter is admitted or established in an action under this chapter, the Court may, in addition to the aforementioned remedies or sanctions, order the removal from the place of the criminal nuisance all personal property and contents used in conducting the criminal nuisance and not already released under authority of the Court as provided in § 7111 of this title, and shall further direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution.

(d) Owners of unsold personal property and contents so seized must appear and claim same within 10 days after such order of abatement is made. The burden shall be on the owner to show,

(e) If proof of the existence of the criminal nuisance depends, in whole or in part, upon the affidavits or testimony of witnesses who are not peace officers, the Court may upon a showing of prior threats of violence or acts of violence by any defendant or any other person, issue orders to protect those witnesses including, but not limited to, the nondisclosure of the name, address or any other information which may identify those witnesses.

(f) A law-enforcement agency may make available to any person or entity seeking to secure compliance with this chapter any police report, or edited portion thereof, or forensic laboratory report, or edited portion thereof, concerning the alleged criminal nuisance on or within the premises involved. A law-enforcement agency may also make any officer or officers available to testify as a fact or expert witness in a civil action brought pursuant to this chapter. The agency shall not disclose such information where, in the agency's opinion, such disclosure would jeopardize an investigation, prosecution or other proceeding, or where such disclosure would violate any federal or state statute.

72 Del. Laws, c. 484, § 1; 76 Del. Laws, c. 158, § 19; 78 Del. Laws, c. 161, §§ 28-32; 78 Del. Laws, c. 382, § 1.;

§ 7133 Civil action for damages resulting from criminal nuisance.

(a) Notwithstanding the provisions of § 7105 of this title, any person damaged in his or her business or property by reason of a criminal nuisance may bring a separate civil action for actual damages in the Superior Court against any person who knowingly conducted, maintained, aided, abetted or permitted criminal nuisance as defined in this chapter.

(b) In a civil action for damages pursuant to this section, the failure of an owner or landlord to initiate an eviction action against a tenant in accordance with the provisions of Chapter 57 of Title 25, if the owner or landlord has been notified by certified or registered mail of the tenant's involvement in a criminal nuisance on the leased premises, shall be prima facie evidence that the owner knowingly gave permission to engage in conduct constituting the criminal nuisance.

(c) In a civil action for damages pursuant to this section, expert testimony may be used to determine the amount of any actual damage or loss incurred by reason of the criminal nuisance as defined in this chapter.

(d) Whenever an action for damages brought pursuant to this section terminated in a settlement or judgment favorable to the plaintiff, the plaintiff shall be entitled to recover the actual cost of the suit, including but not limited to reasonable attorney fees and all expenses and disbursements by the plaintiff in investigating, bringing and maintaining the action. All defendants shall be jointly and severally liable for the payments of taxed costs imposed pursuant to this section.

(e) In any civil action for damages brought pursuant to this section, any evidence admitted or admissible in a civil action for abatement relief or penalty pursuant to this chapter shall be admissible.

72 Del. Laws, c. 484, § 1; 78 Del. Laws, c. 161, §§ 42-47.;

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

****

City Hall Conference Room Located

February 22, 2016

11:00 a.m.

****

Agenda:

1. Introduction of Kirkwood Neighborhood Watch Executive Committee & City/State Officials
2. Purpose of Meeting
3. Mission
4. Narrative of Complaint [DPD History of 217 N. Kirkwood / Community Votes! 18 to 7]
5. Goal
6. Request for Relief / Exhibit A - C. Cases
7. Additional Comments / Strategies for Relief [Open Discussion]
8. Next Meeting Date
9. Adjournment

Notes:

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Introduction of Kirkwood Neighborhood Watch Executive Committee, Local & State Officials:

_____

_____

_____

_____.

Purpose:

To combine Local and State Government Resources to eliminate the Dover Elks Lodge #1125 Located @ 217 North Kirkwood Street Dover, Delaware, which attracts criminal violence, reduces property values and erodes the quality of life for law-abiding citizens working or residing in or near the Kirkwood, Cecil, Queen and West Street in Dover, Delaware.

Mission:

To highlight the Lodge's activities that exemplifies the very essence of Criminal Nuisance Property that manifest numerous arrest of individuals near or coming from the property for disorderly conduct, loud noise / party, shootings, fights, criminal mischief, loitering, burglary, stabbing / cutting, offensive touching, weapons and warrant service.

Narrative of Complaint:

The Kirkwood Neighborhood Watch Executive Committee does not have confidence that the Dover Elks Lodge #1125 located @ 217 North Kirkwood Street Dover, Delaware is willing to or capable of conducting business without jeopardizing the general welfare of the public's safety.

In fact, Lodge #1125 has been the site and magnet for illicit activity where Dover Police Department has repeatedly been called to the site of Lodge #1125 to address criminal nuisance issues. Residents residing on Kirkwood, Queen, Cecil, Fulton and West Street have identified and deemed Lodge #1125 as a social problem that is an ongoing threat to the physical security and general welfare of their community and needs to be relocated to another venue.

The volume and severity of criminal activity that takes place during or after the closing of the lodge has potential to cause economic damage and decline in property value, which impacts the quality of life for our community and constitutes grounds for permanent abatement of Non-Conforming Property Use Status.

217 N KIRKWOOD STREET (ELKS) 2015

Incident Number	*Call Date/Time*	*Incident Type*
2015-00037924	12/20/2015 1:14	Loitering
2015-00037177	12/13/2015 23:08	Loitering
2015-00036268	12/06/2015 0:05	Disorderly Conduct
2015-00035581	11/30/2015 0:07	Disorderly Conduct
2015-00032372	10/31/2015 0:18	Fight
2015-00031575	10/24/2015 1:22	Loud Noise/Party
2015-00030023	10/10/2015 11:18	Criminal Mischief
2015-00029986	10/10/2015 1:27	Shots Fired
2015-00029646	10/06/2015 18:03	Theft
2015-00029340	10/04/2015 1:17	Loitering
2015-00025217	08/30/2015 1:04	Criminal Mischief
2015-00025207	08/29/2015 23:13	Shots Fired
2015-00022799	08/09/2015 0:54	Loitering
2015-00021176	07/25/2015 0:48	Property Check
2015-00019729	07/13/2015 1:11	Loitering
2015-00019628	07/12/2015 0:53	Property Check
2015-00018938	07/06/2015 0:48	Public Asst
2015-00018100	06/28/2015 0:48	Loitering
2015-00014546	05/31/2015 0:53	Disorderly Conduct
2015-00013855	05/26/2015 0:23	Loitering
2015-00013743	05/25/2015 2:42	Alarm Burglary
2015-00013741	05/25/2015 1:22	Loitering
2015-00001558	01/19/2015 3:14	Accid PD
2015-00001557	01/19/2015 2:31	Follow Up
2015-00001551	01/19/2015 0:35	Shooting
2015-00001505	01/18/2015 0:33	Fight

217 N KIRKWOOD STREET (ELKS) 2014

Incident Number	Call Date/Time	Incident Type
2014-00034369	12/19/2014 0:01	Resisting Arrest
2014-00034368	12/18/2014 23:48	Warrant Service
2014-00034363	12/18/2014 22:34	Weapon Gun
2014-00033747	12/12/2014 23:01	Stop
2014-00031720	11/22/2014 23:56	Disorderly Conduct
2014-00031005	11/16/2014 0:58	Property Check
2014-00030784	11/14/2014 0:14	Fight
2014-00020096	08/02/2014 0:18	Fight
2014-00018149	07/13/2014 0:26	Loitering
2014-00017471	07/06/2014 0:32	Shooting
2014-00017466	07/05/2014 23:13	Trespass
2014-00014556	06/08/2014 2:15	Property Check
2014-00014547	06/08/2014 0:39	Alarm Burglary
2014-00012929	05/23/2014 12:12	Burglary
2014-00011708	05/11/2014 0:01	Loud Noise/Party
2014-00007454	03/29/2014 23:38	Disorderly Conduct
2014-00006888	03/22/2014 22:43	EMD
2014-00006202	03/15/2014 0:23	Loud Noise/Party

217 N KIRKWOOD STREET (ELKS) 2013

Incident Number	Call Date/Time	Incident Type
2013-00035426	12/28/2013 23:08	Trespass
2013-00034926	12/22/2013 0:01	Fight
2013-00033560	12/06/2013 22:39	Offensive Touching
2013-00028361	10/12/2013 0:22	Fight
2013-00026292	09/21/2013 23:45	Loitering
2013-00022742	08/19/2013 1:49	Property Found
2013-00022738	08/19/2013 0:30	Shots Fired
2013-00022667	08/18/2013 0:56	Weapon Gun
2013-00022656	08/17/2013 22:49	Loitering
2013-00022646	08/17/2013 21:45	Stabbing/Cutting
2013-00002448	01/27/2013 0:10	Fight

11

217 N KIRKWOOD STREET (ELKS) 2012

Incident Number	*Call Date/Time*	*Incident Type*
2012-00027517	10/05/2012 23:41	Loud Noise/Party
2012-00022514	08/18/2012 18:25	Traffic Haz/Serv
2012-00011156	04/25/2012 20:04	Criminal Mischief
2012-00005741	03/03/2012 1:08	Loitering
2012-00002676	01/30/2012 1:08	Terr Threatening
2012-00002675	01/30/2012 1:02	Disorderly Conduct
2012-00002671	01/30/2012 0:15	Domestic
2012-00002263	01/25/2012 15:22	Alarm Burglary
2012-00002239	01/25/2012 12:32	Alarm Burglary
2012-00002190	01/24/2012 21:55	Alarm Burglary

(10)

217 N KIRKWOOD STREET (ELKS) 2011

Incident Number	Call Date/Time	Incident Type
2011-00034378	12/26/2011 17:20	Alarm Burglary
2011-00034349	12/26/2011 1:07	Disorderly Conduct
2011-00034348	12/25/2011 23:43	Disorderly Conduct
2011-00034135	12/23/2011 7:48	Alarm Burglary
2011-00032149	12/04/2011 21:46	Loud Noise/Party
2011-00031928	12/02/2011 17:32	Loud Noise/Party
2011-00031123	11/23/2011 23:45	Loud Noise/Party
2011-00020899	08/15/2011 19:54	Public Asst
2011-00016501	07/02/2011 21:40	Suspicious Event
2011-00011862	05/17/2011 13:35	Animal Complaint
2011-00005186	03/05/2011 0:43	Fight
2011-00003563	02/14/2011 0:05	Loitering

12

217 N KIRKWOOD STREET (ELKS) 2010

Incident Number	*Call Date/Time*	*Incident Type*
2010-00026722	10/16/2010 1:02	Assault
2010-00026023	10/09/2010 0:46	Disorderly Conduct
2010-00025517	10/04/2010 11:12	Stabbing/Cutting
2010-00024725	09/26/2010 4:08	Burglary
2010-00020921	08/18/2010 2:53	Property Check
2010-00020920	08/18/2010 2:20	Alarm Burglary
2010-00020686	08/15/2010 13:59	Burglary
2010-00020667	08/15/2010 2:33	Alarm Burglary
2010-00017929	07/17/2010 22:40	Public Asst
2010-00016479	07/03/2010 0:56	Welfare Check
2010-00014155	06/10/2010 15:22	Alarm Burglary
2010-00012983	05/29/2010 0:25	Disorderly Conduct
2010-00012333	05/22/2010 1:16	Disorderly Conduct

13

217 N KIRKWOOD STREET (ELKS) 2009

Incident Number	Call Date/Time	Incident Type
2009-00027340	11/16/2009 0:05	Drug
2009-00025627	10/27/2009 1:02	Fight
2009-00017362	07/26/2009 23:58	Drug
2009-00016349	07/16/2009 0:38	Welfare Check
2009-00016084	07/13/2009 0:35	Loitering
2009-00014819	06/28/2009 23:39	Loud Noise/Party
2009-00014181	06/22/2009 0:27	Public Asst
2009-00014177	06/21/2009 23:03	Loud Noise/Party
2009-00012917	06/08/2009 0:04	Loitering
2009-00012881	06/07/2009 16:06	Public Asst
2009-00012408	06/02/2009 11:21	Welfare Check
2009-00010948	05/18/2009 0:21	Loitering
2009-00010910	05/17/2009 11:48	Loud Noise/Party
2009-00010318	05/10/2009 23:59	Loitering
2009-00009712	05/03/2009 23:08	Loud Noise/Party
2009-00009093	04/27/2009 0:04	Loitering
2009-00008501	04/19/2009 22:56	Loud Noise/Party
2009-00007940	04/13/2009 0:17	Loitering
2009-00005900	03/19/2009 13:56	Harassment
2009-00003387	02/14/2009 2:53	Resisting Arrest
2009-00003384	02/14/2009 2:25	Resisting Arrest
2009-00003381	02/14/2009 1:52	Shots Fired
2009-00002960	02/08/2009 23:47	Disorderly Conduct
2009-00002460	02/03/2009 1:06	Fight

24

217 N KIRKWOOD STREET (ELKS) 2008

Incident Number	Call Date/Time	Incident Type
2008-00032140	12/29/2008 0:17	Public Asst
2008-00030188	12/05/2008 2:24	Assault
2008-00024510	09/28/2008 22:21	Loitering
2008-00021190	08/24/2008 23:51	Fight
2008-00021026	08/23/2008 0:33	Loud Noise/Party
2008-00020045	08/11/2008 0:20	Loud Noise/Party
2008-00018235	07/21/2008 0:22	Loitering
2008-00015667	06/23/2008 0:05	Loitering
2008-00015483	06/21/2008 0:10	Disorderly Conduct
2008-00012693	05/24/2008 1:14	Loud Noise/Party
2008-00012235	05/19/2008 0:12	Loitering
2008-00010086	04/26/2008 0:30	Fight
2008-00010084	04/26/2008 0:15	Fight
2008-00008642	04/10/2008 19:23	Shots Fired
2008-00008319	04/06/2008 23:53	Fight
2008-00008172	04/04/2008 23:46	Welfare Check
2008-00007675	03/31/2008 0:15	Disorderly Conduct
2008-00007672	03/30/2008 22:55	Disorderly Conduct
2008-00006982	03/22/2008 21:06	Disorderly Conduct
2008-00006687	03/19/2008 18:07	Assault
2008-00006624	03/19/2008 1:04	911D Land Line
2008-00006469	03/17/2008 10:17	Repossession
2008-00006272	03/15/2008 0:38	Fight

217 N KIRKWOOD STREET (ELKS) 2007

Incident Number	Call Date/Time	Incident Type
2007-00027366	10/26/2007 22:21	EMD
2007-00022639	09/08/2007 0:10	Criminal Mischief
2007-00021971	08/31/2007 23:50	Fight
2007-00021269	08/25/2007 1:16	Loitering
2007-00020803	08/19/2007 23:42	Disorderly Conduct
2007-00020651	08/18/2007 0:58	Loitering
2007-00018959	07/30/2007 22:08	Loitering
2007-00016824	07/07/2007 0:06	Shots Fired
2007-00015434	06/23/2007 1:22	Disorderly Conduct
2007-00015432	06/23/2007 1:10	Fight
2007-00014878	06/16/2007 20:35	Theft
2007-00014813	06/16/2007 0:49	Fight
2007-00014803	06/15/2007 22:34	Domestic
2007-00014214	06/09/2007 1:17	Loitering
2007-00013882	06/05/2007 20:26	Public Asst
2007-00012794	05/26/2007 1:05	Loitering
2007-00011000	05/07/2007 11:56	Public Asst
2007-00010837	05/05/2007 18:10	Weapon Other
2007-00010834	05/05/2007 17:43	Disorderly Conduct
2007-00010180	04/29/2007 3:47	Suspicious Event
2007-00010056	04/28/2007 0:38	Shots Fired
2007-00009563	04/22/2007 23:47	Loud Noise/Party
2007-00007439	03/29/2007 18:32	911D Land Line
2007-00006270	03/16/2007 1:57	Medical Transport
2007-00003017	02/04/2007 23:50	Fight
2007-00002007	01/24/2007 16:46	911D Land Line

(26)

217 N KIRKWOOD STREET (ELKS) 2006 -

Incident Number	Call Date/Time	Incident Type
2006-00033732	12/31/2006 23:01	Public Asst
2006-00030414	11/22/2006 15:39	Alarm Bank
2006-00028357	10/29/2006 23:39	Shooting
2006-00026474	10/08/2006 23:25	Parking Violation
2006-00025852	10/02/2006 16:26	Criminal Mischief
2006-00023450	09/09/2006 0:24	Fight
2006-00021628	08/21/2006 7:31	Theft
2006-00021425	08/19/2006 1:11	Loitering
2006-00018667	07/21/2006 13:47	Alarm Burglary
2006-00016873	07/03/2006 0:09	Loud Noise/Party
2006-00016096	06/24/2006 0:20	Escort
2006-00014882	06/10/2006 12:33	Alarm Burglary
2006-00014133	06/03/2006 0:08	Assault
2006-00013653	05/29/2006 18:54	911D Land Line
2006-00012048	05/13/2006 0:43	Disorderly Conduct
2006-00010487	04/28/2006 23:52	Fight
2006-00010228	04/26/2006 19:57	Fight
2006-00009152	04/15/2006 11:38	Traffic Haz/Serv
2006-00009127	04/15/2006 0:53	Shooting
2006-00008472	04/07/2006 11:14	Criminal Mischief
2006-00007892	04/01/2006 0:45	Fight
2006-00007198	03/24/2006 0:39	Domestic
2006-00006732	03/18/2006 1:00	Harassment

217 N KIRKWOOD STREET (ELKS) 2016

Incident Number	Call Date/Time	Incident Type
2016-00000256	01/03/2016 18:52	Disorderly Conduct

Kirkwood Area Oct 21 to Nov 5 2015

Incident Number	Call Date/Time	Dispositions	Location	Incident Type
2015-00032959	11/05/2015 11:24		2XX N WEST ST, Dover	EMD
2015-00032927	11/05/2015 2:47	All Cars Advised - 1	2XX N KIRKWOOD ST, Dover	BOLO Local
2015-00032911	11/04/2015 21:14	Service Rendered - 1	3X N NEW ST, Dover	Follow Up
2015-00032852	11/04/2015 13:19	GOA - 1	2XX MARY ST, Dover	Warrant Service
2015-00032733	11/03/2015 13:02	GOA - 1	2X N NEW ST, Dover	Animal Complaint
2015-00032727	11/03/2015 12:07	PR - 1	CECIL ST / N GOVERNORS AVE, Dover	Theft
2015-00032710	11/03/2015 10:00	NPR - 1	3XX N QUEEN ST, Dover	Megans Law
2015-00032709	11/03/2015 9:57	NPR - 1	3XX W DIVISION ST, Dover	Property Found
2015-00032702	11/03/2015 9:26	PR - 1	1XX N QUEEN ST, Dover	Loitering
2015-00032687	11/03/2015 7:47	NPR - 1	N GOVERNORS AVE / FULTON ST, Dover	Welfare Check
2015-00032603	11/02/2015 10:29	NPR - 1	FULTON ST / N NEW ST, Dover	Public Asst
2015-00032580	11/02/2015 8:09	GOA - 1	4X N KIRKWOOD ST, Dover	Public Asst
2015-00032507	11/01/2015 11:58	PR - 1	2XX N NEW ST, Dover	EMD
2015-00032491	11/01/2015 6:13	Unfounded - 1	3XX FULTON ST, Dover	Disorderly Conduct
2015-00032477	11/01/2015 1:26	NPR - 1	2XX N NEW ST, Dover	Fight
2015-00032372	10/31/2015 0:18	NPR - 1	2XX N KIRKWOOD ST, Dover	Fight
2015-00032275	10/30/2015 10:31	NPR - 1	2XX N KIRKWOOD ST, Dover	Property Found
2015-00032214	10/29/2015 18:30	GOA - 1	2X N NEW ST, Dover	Animal Complaint
2015-00032195	10/29/2015 15:47	NPR - 1	1XX N NEW ST, Dover	Follow Up
2015-00032124	10/29/2015 2:24	NPR - 1	3X N NEW ST, Dover	Trespass
2015-00032064	10/28/2015 10:59	PR - 1	1XX N NEW ST, Dover	Criminal Mischief
2015-00032035	10/28/2015 1:13	GOA - 1	3X N GOVERNORS AVE, Dover	Suspicious Event
2015-00031842	10/26/2015 14:18	GOA - 1	N KIRKWOOD ST / MARY ST, Dover	Animal Complaint
2015-00031760	10/25/2015 19:02	NPR - 1	N KIRKWOOD ST / CECIL ST, Dover	Welfare Check
2015-00031688	10/25/2015 0:37	GOA - 1	2XX N NEW ST, Dover	Loud Noise/Party
2015-00031575	10/24/2015 1:22	GOA - 1	2XX N KIRKWOOD ST, Dover	Loud Noise/Party
2015-00031525	10/23/2015 17:59	NPR - 1	2XX W DIVISION ST, Dover	Shots Fired
2015-00031520	10/23/2015 17:20	PR - 1	3XX FULTON ST, Dover	Follow Up

Kirkwood Area Oct 21 to Nov 5 2015

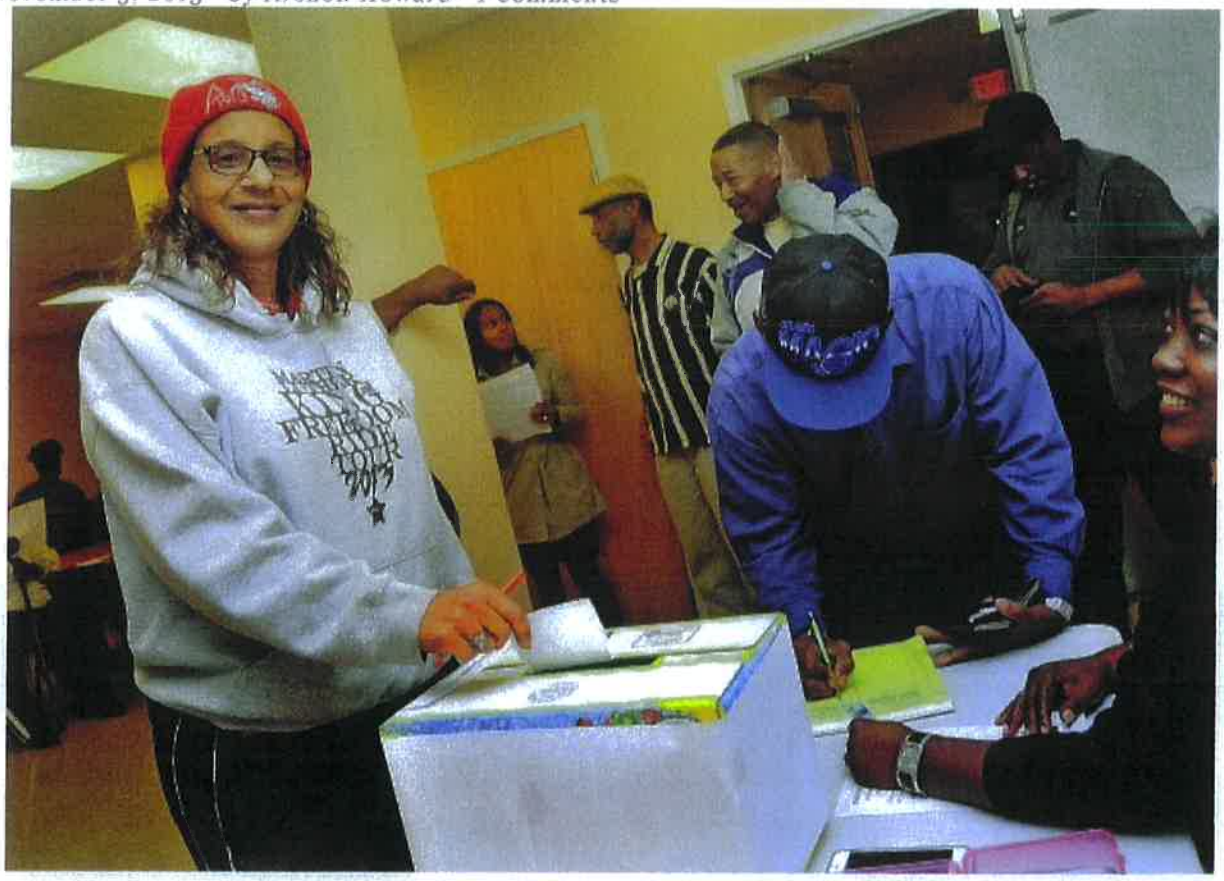
2015-00031452	10/23/2015 7:20	NPR - 1	2XX N QUEEN ST, Dover	Parking Violation
2015-00031407	10/22/2015 19:40	NPR - 1	2X N NEW ST, Dover	Animal Complaint
2015-00031405	10/22/2015 19:00	GOA - 1	2X N NEW ST, Dover	Animal Complaint
2015-00031364	10/22/2015 14:15	NPR - 1	2XX N QUEEN ST, Dover	Parking Violation
2015-00031356	10/22/2015 13:40	Cancelled - 1	2XX N KIRKWOOD ST, Dover	Public Asst



Dover Councilman Roy Sudler Jr. has called for a special vote on the future of the Elks Lodge on Kirkwood Street.

Dover neighbors say Kirkwood Elks Lodge must go

November 3, 2015 · by Arshon Howard · 1 Comments



Carmen Hardcastle of Dover casts her vote on the fate of the Elks Lodge on Kirkwood Street Tuesday evening inside the Solid Rock Community Outreach Center in Dover. (Delaware State News photos/Dave Chambers)

DOVER — It's time for a change.

Eighteen neighbors of the Elks Lodge at 217 N. Kirkwood St., voted Tuesday evening for removing the establishment; seven voted against any action in an informal referendum held at Solid Rock Baptist Church Community Center.

Eligible voters were residents who lived on Kirkwood, Cecil, West, Fulton and Queen streets.

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Councilman Roy Sudler Jr., (4th Dist.) orchestrated the residential vote in a response to residents' concerns about the perception of violence around the Elks Lodge property.

Mr. Sudler said he plans to take action on removing the establishment from the Kirkwood community.

He said he was pleased with the voters' turnout.



Pilar Figeroa of Dover, right, assists resident Dave McClain as he votes Tuesday evening inside Solid Rock Community Outreach Center on the fate of the Elks Lodge on Kirkwood Street.

"Especially for it being a Tuesday, and I feel as though everyone that was truly interested in this process came out and did their part," he said.

Brothers William and Barry Crawford, who have lived in the community for more than 40 years, share Mr. Sudler's sentiment.

"My brother lives right across the street from (the Elks Lodge)," William Crawford said. "We hear gunshots and everything you can think of. We want it go. It's been in the neighborhood for too long.

"We're talking about a neighborhood. It should be out away from the people. It's in a neighborhood where elderly people live. We constantly hear gunshots and that's not good."

In an interview Monday, Willie Alexander, who holds the title of exalted ruler of the Elks Lodge, believes the establishment is being treated unfairly.

"I think he's (Roy Sudler Jr.) putting the cart before the horse," Mr. Alexander said. "I don't think we're getting a fair chance.

"Nothing has happened inside of the establishment, but stuff does happen once we're closed," he said.

The establishment is open from 5 p.m. to 12:30 a.m. on the weekends, with varying hours on weekdays.

Barry Crawford said people loiter outside the parking lot behind the building once the Elks closes.

"They just hang out there, or just on the streets in front of the building," he added. "People trespass and do the same next to my house, too.

"We find trash everywhere. It's a lost generation that's down there. They're listening to the wrong voice."

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Councilman David Anderson (4th Dist.) believes the Elks need to have better control of what's happening around their property.

"We had a community meeting in July where the Elks said they were going to hire police officers or some type of security for their establishment when they close," Mr. Anderson said.

"That hasn't happened yet. The people are really concerned and that seems to be evident with the votes."

"I don't think the problem is the Elks, but they have to get control of what's happening around their property once they close," Mr. Anderson added.

"We'll have to probably get a petition and then we will look at all of the safety issues and concerns regarding the dwelling being safe or unsafe in the Kirkwood community," Mr. Sudler said.

"We have to see what the ordinances say about that moving forward."

He said he has been in talks with NCALL and Habitat for Humanity to potentially buy out the property and turn the building into a home."

NCALL is a nonprofit organization based in Dover that specializes in affordable housing development, education and lending.

Mr. Sudler said he anticipates the Elks to be resistant about a potential change moving forward, but hopes to resolve the issue the best way he can.

"I expect them to feel some type of way," Mr. Sudler said. "But the people have spoken and majority rules. I'm going to try and reach out to them. This is a top priority for the Kirkwood Community."

"This has been an ongoing problem. It's not something that I tried to take up as a newly elected official, but something that my constituents have decided to put on my plate as a top priority."

Reach staff writer Arshon Howard at ahoward@newszap.com

Goal:

To eliminate the Non-Conforming Use Property Status for the Dover Elks Lodge #1125 and coerce them to relocate out of a residential zoned area for the general welfare of the Kirkwood, Cecil, Queen and West Street Community by Local and State Official Influence.

Request for Relief:

The Kirkwood Neighborhood Watch Executive Committee respectfully request to the City of Dover's City Council and or State of Delaware's Department of Justice the following against the Dover Elks Lodge #1125 located @ 217 North Kirkwood Street Dover, Delaware

1). City of Dover's Council to Revoke the Non-Conforming Use Status for Dover Elks Lodge; and

2). Property be permanently abated from the Kirkwood Residential Community within a reasonable time-frame to not exceed no more than two to three years.

Exhibit A.



Steven Roscoe
Age: 31
Briar Park, Camden, DE

Dover Police Investigate a Shooting at Elks Lodge on Kirkwood Street
Fugitive Arrested by Dover Police K9 12-19-14

Incident #: 50-14-34369 **Date:** Thursday, December 18th, 2014 at 11:55PM

Location: 217 North Kirkwood Street (ELKS Lodge), Dover, DE

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Narrative:

The Dover Police Department arrested a fugitive from New Castle County, late Thursday night. Officers learned that 31-year-old Steven Roscoe, who was wanted on a Rule 9 warrant issued by New Castle County Superior Court, was at the Elks Lodge on North Kirkwood Street. At that time several officers, including K9 "Spike" responded to the area, knowing that Roscoe had a history of fleeing from police. Officers approached the Elks Club staff and asked them to have Roscoe step out, however Roscoe fled out the rear door of the building and ran from officers who gave chase. K9 Spike gave chase after Roscoe jumped a privacy fence and ignored commands to stop by police. K9 Spike was able to apprehend Roscoe and bring him to the ground, allowing officers to take Roscoe into custody without further incident. A search of Roscoe after his arrest, led to the discovery of 1.9 grams of marijuana in his pants pocket. Roscoe was charged with Possession of Marijuana, Possession of Drug Paraphernalia, Resisting Arrest, and Local Fugitive (Rule 9 warrant). He was committed to James T. Vaughn in lieu of $102,500 Secured Bond.

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Exhibit B.

Dover Police Department Complaint #: 50-15-14708

Date/Time: 06/01/2015 between the hours of 12:25 am to 12:40 am

Location of Incident: Elks Lodge, 217 N. Kirkwood Street, Dover, De

Victim: Male **Victim Age:** 41

Narrative:

On Monday, June 1, 2015, the Dover Police responded to Kent General Hospital for a male victim that was shot in the leg. Through investigation it was determined that while the victim was standing outside of the Elks Lodge located at 217 N. Kirkwood Street, an unknown make and model sedan drove southbound on Kirkwood Street at which time an unknown person from inside of the vehicle fired approximately 3 rounds in the direction of the victim and other people that were outside of the Elks Lodge at the time. The victim was struck in the leg by one of the bullets fired and was driven to Kent General Hospital by one of his family members.

The investigation is still ongoing and anyone with information is asked to contact the Dover Police Department at (302)736-7111. Callers may remain anonymous. Tips can also be submitted to law enforcement through tip lines maintained by Delaware Crime Stoppers at 1-800-TIP-3333 or on-line at www.tipsubmit.com.

Crime/Nature:

Assault 2nd

Possession of a Deadly Weapon During the Commission of a Felony

Suspect Description/Information:

Unknown

4TH DISTRICT CONSTITUENT'S COMPLIANT / REQUEST FOR RELIEF

Exhibit C.



James Ewell
Age: 17

Incident #: 50-14-17471 **Date/Time:** Sunday, July 6th at 12:32Am

Location: Elks Lodge, 217 North Kirkwood Street, Dover, Delaware

Narrative:

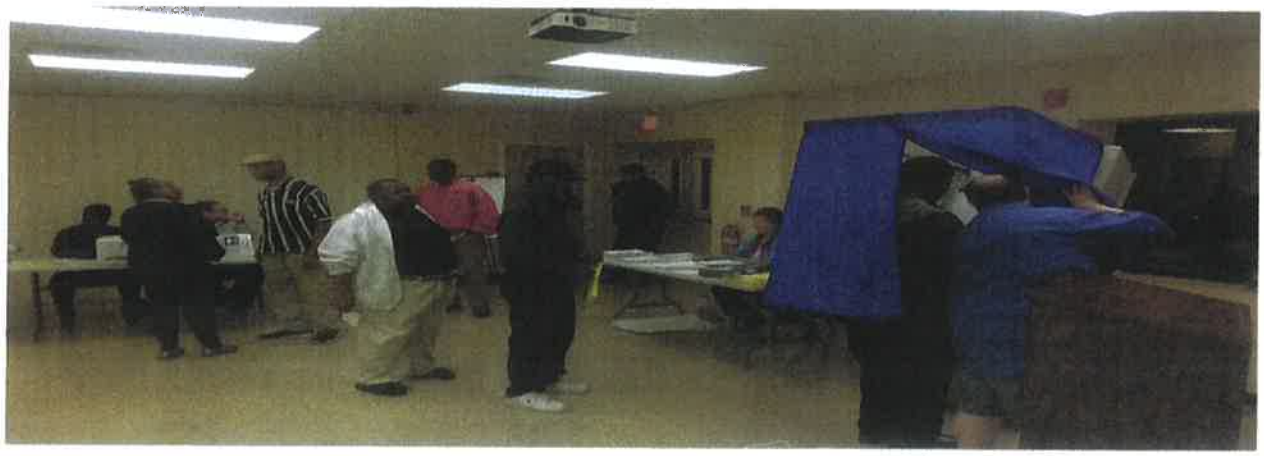
The Dover Police Department has arrested a 17-year-old in the shooting of two people at a Dover Elks Lodge just after midnight on Sunday, July 6th. The incident occurred when James Ewell (17) entered the establishment just 3 minutes after midnight on Sunday, July 6th, without security/lodge staff noticing. Shortly after he entered the lodge, Ewell fired at least three shots, leaving two men injured. A 44-year-old male victim was struck twice in the upper leg and a 25-year-old male was shot in the lower leg. Both victims were treated at Bayhealth Kent General Hospital for non-life threatening injuries. Witnesses in the lodge at the time of the shooting advised officers that the suspect (Ewell) was approximately 16-20 years of age. Detectives working the case reviewed surveillance footage of the Elks lodge entrance/lobby area and were able to identify the suspect, even seeing a 9mm handgun in his hand as he fled the lodge after the shooting. Further investigation by the Criminal Investigations Unit revealed James Ewell as a suspect. Photos of Ewell were obtained and matched the suspect shown in the Elks Lodge surveillance video footage. Ewell was arrested on Tuesday evening at the William Marion

Stevenson House Detention Center. Ewell was being held there on unrelated charges after the shooting occurred. Bond information is not available at the time of this release.

Charges:

- Assault 1st Degree (2x)
- Possession of Firearm During Commission of a Felony
- Possession of Firearm by Person Prohibited
- Burglary 2nd Degree
- Carrying a Concealed Deadly Weapon (firearm)

OFFICIAL COMPLAINT OF CRIMINAL ACTIVITY ON KIRKWOOD ST.



Kirkwood Neighborhood Watch Officials November 12, 2015

Chuck Jackson [President] & Charles C. White [Vice – President]

126 N. Kirkwood St. & 206 N. Kirkwood

Dover, DE 19904

Safety and Transportation Advisory Committee, Mayor and Dover City Council Members

15 Loockerman St.

Dover, DE 19903

RE: The Request to Review and or Eliminate the Nonconforming Use Status for the Dover Elks Lodge #1125 located on 217 Kirkwood St., in order to protect the General Welfare of the Kirkwood Community

---

To Chairman of the Safety Advisory and Transportation Committee, Mayor and City Council Members:

I, **Chuck Jackson, and Charles C. White,** residents and executive community leaders of the Kirkwood Neighborhood Watch Program are very concerned about the enormous amount of criminal activity that plaques our community and interferes with our rights to enjoy and occupy our real property free from loud boisterous and unreasonable noise; disorderly conduct, aggressive panhandling, accosting, prostitution and shots fired in our community.

OFFICIAL COMPLAINT OF CRIMINAL ACTIVITY ON KIRKWOOD ST.

We the people of the Kirkwood Community are seeking your help in ensuring that our property, love ones and community is safe for us to reside at. Recently, there has been an increase in the amount of criminal activity in our community, which creates a feeling of fear and emotional distress to the point that we are held hostage in our own community.

Whenever the Elks Lodge has an event and they are closing at the end of the night, most of us who live right across from the Lodge have to go to the back of our house as a safety precaution due to the gun-shots fired after a street brawl or fight.

On **July 16, 2015, @ a 4th District Emergency Community Meeting**, in good faith, we reached out to our neighbor, the Dover Elks, hoping that our concerns would not be ignored and a plan of action would be developed where all parties would be satisfied.

At first the Elks Lodge said "that they would hire Security or even an Off-duty Dover Police Officer to protect our community and property", but they have failed to do so; and as of today have yet to develop a plan of action to help curb the violence we experience in our neighborhood.

The **Elks Lodge has not been a friendly neighbor** and has failed to show **"Good Faith"** in addressing their neighbor's concerns, therefore; they have left us with no other choice but to take action on our own and demand that the **Dover Elks Lodge # 1125 of 217 N. Kirkwood Dover, Delaware** Relocate for the Safety of the Kirkwood Community.

Signed By: _____

Chuck Jackson [President of Kirkwood Neighborhood Watch]

Signed By: _____

Charles C. White [Vic-President of Kirkwood Neighborhood Watch]

CC: Sean Lynn – 31st District House of Representatives

Brian Bushweller – 17th District Senator

ACTION FORM

PROCEEDING: Legislative and Finance Committee	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Police	**DATE SUBMITTED:** 6/9/16
PREPARED BY: Captain Timothy Stump / Administrative Division Commander	
SUBJECT: FY16 Edward Byrne Justice Assistance Grant Program – Joint Grant with Smyrna Police Department & Kent County	
REFERENCE: Annual Recurring Grant Funding	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller/Treasurer	
EXHIBITS: None	
EXPENDITURE REQUIRED: $59,961.00	**PROJECT BUDGET:** $107,961
FUNDING SOURCE (Dept./Page in CIP & Budget):	USDOJ Grant (Fund 712) and Police Budget (Fund 110) Computer Equipment Account (20-38)
TIMETABLE: The grant should be awarded in August or September. Once received and accepted, the items will be ordered.	
RECOMMENDED ACTION: Approve the grant project as requested.	

BACKGROUND

The Dover Police Department recently received its annual allocation from the Office of Justice Programs (OJP) for the 2016 Justice Assistance Grant (JAG). Similar to previous years, Dover Police Department was identified as a disparate funding agency along with Smyrna Police Department and Kent County. This disparate condition requires the submission of a joint grant application for the three agencies.

Although no funds were designated for Kent County in the allocation document, a Memorandum of Understanding will be completed and signed by all three agencies and will state that Kent County will waive any claim to funding on the grant. The Dover Police Department will serve as the fiscal and administrative agent for the grant. The following table shows the breakout for the grant funds:

Department	Amount
Dover Police Department – 10 COBAN in-car camera/computer systems	$49,236.00
Smyrna Police Department – 14 Taser body cameras and associated licensing, equipment and storage	10,725.00
Grand Total	$59,961.00

ACTION REQUESTED

The Legislative and Finance Committee and Council approve the receipt of this grant and the purchases identified.

Department Grant Application Analysis Form
For Use in Evaluating Grant Opportunities

General Information

Department: Police Staff Contact: Capt Stump

Grant/Project Title: FY16 Byrne Memorial Justice Assistance Grant (JAG)

Brief Grant/Project Description: Recurring formula based Federal grant program which provides funding for various Law Enforcement programs. This grant is a joint grant with Smyrna Police Department and Kent County, but no funds will be allocated to Kent County, since they have no Law Enforcement element in their structure. As in the past, The Dover Police Department will serve as the administrative agency and complete all the reports and documentation required.

Application Information

Due Date: 6/30/16 New ☐ Related Grants:

Recurring ☒ Previous years' grants

Anticipated Award Date: 8/1/16 Anticipated Notification Date: 8/1/16

Start Date: 8/1/16 End Date: 12/31/17

Award Amount: $51,549.00 Cash ☐ Reimbursement ☒

Approx. reimbursement turn-a-around time 1-2 weeks

Council Approval Needed: Yes ☒ No ☐

(Council approval is needed for grant projects > $25,000, when match amounts equal or exceed $25,000, or when expressly required by the granting authority.)

Which apply?

Match amount ☐

Project shortage ☐

Other grant requirement ☒

Grant/Project Costs

Budget Category	Award Amt	Match Amt	Match Source
Contractual			
Equipment/Supplies	$59,961.00	$0.00	Not Applicable
Indirect Cost (ie, vehicle repairs, mileage, IT, telephone)			
Personnel			
Additional Personnel/Over-time (ie, support costs, administrative salaries)			
Travel/Training			
Capital Voicemail System			
Other (ie, informant/buy money)			
Total	$59,961.00	$ 0.00	

GRAND TOTAL $59,961.00 **Award + Match**

Department Grant Application Analysis Form
For Use in Evaluating Grant Opportunities

Other Information

1. Are any of this project's costs included in the City budget?
   Yes, currently the Dover Police Department has $60,000 programmed in its computer budget for the replacement of mobile computers in the vehicles. These funds will be combined with the grant funds to purchase ten systems.

2. Are there any long-term costs or commitments?
   Maintenance costs for the systems will be picked up by the department budget after the end of the five year warranty period.

3. How will this program/project be funded after the grant expires?
   Not Applicable.

4. What is the maximum amount of funds available from this funding source?
   The amounts shown on the preceding table are the maximum amounts available.

5. If the Department receives only a portion of the amount requested, how will the project be funded?
   The funds are explicitly authorized for Dover PD's and Smyrna PD's use, so the full amount will be available.

6. Are there other departments in the City eligible for this funding?
   No.

7. Are other departments in the City willing to collaborate on this project?
   Not Applicable.

8. Will this project duplicate or compete with other services or programs provided by the City or other local agency?
   No.

AUDITOR'S RESPONSIBILITY FOR COMMUNICATING WITH AUDIT COMMITTEE

Presented by:
Donna Mitchell, CPA
City Controller/Treasurer
June 27, 2016

What we will cover

- Three primary purposes
- Matters to be communicated
  - Auditor's responsibility
  - Planned scope and timing of audit
  - Significant findings from the audit

Three Primary Purposes

- To clearly communicate an overview of the audit scope, the timing of the audit, and the auditor's responsibilities.
- To provide timely observations arising from the audit that are relevant to oversight of the financial reporting process.
- To obtain relevant audit-related information from those charged with governance.

Auditor's Responsibility

- **The auditor's responsibilities under generally accepted auditing standards.**
- **This will be detailed in the auditor's engagement letter, a copy of which will be provided to each audit committee member.**

Planned Scope & Timing of Audit

- An overview of the planned scope and timing of the audit that is not so detailed as to compromise audit effectiveness.
- This will be summarized in a memo to the committee and discussed with the committee before commencement of the audit.

Significant Findings from the Audit

- The auditor's views about findings or issues that the auditor considers to be significant and relevant to those charged with governance regarding their oversight of the financial reporting process.
- These will be communicated near or at the end of the audit.

Audit Calendar

City of Dover
2016 Audit Calendar

MAY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	Detail Audit Plan Submitted	28
29	30	31				

JUNE

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	Auditors - preliminary auditwork including walk throughs and inventory testing - Inventory listing received morning of 6/13/16 from IT.					25
26	27	28	29	Fuel measure @ plant		

JULY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	Close AP & GL	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	Test of controls started	13	14	15	16	17
18	19	20	21	22	Test of Controls Completed	24
25	26	27	28	29	30	

OCTOBER

S	M	T	W	T	F	S
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	Draft Schedules/Statements to auditor	18	19	20	Draft CAFR Complete *	22
23	Draft CAFR to auditor	25	26	27	Draft CAFR to City Clerk	29
30	31					

*Draft CAFR completed by October 21 (includes Notes & Statistical Section)

NOVEMBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	Draft Cafr to LF&A	15	16	17	18	19
20	21	22	Final Changes made to CAFR	24	25	26
27	28	29	CAFR Sent to GFOA			

Final CAFR completed by November 23 (includes all Sections and TOC)

DECEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Holidays - Green

Meetings with Auditors if requested by LFA

Key Dates in Yellow

QUESTIONS ???

ACTION FORM

PROCEEDING: Legislative, Finance & Administration Committee	**AGENDA: 06/27/16**
DEPARTMENT OF ORIGIN: Finance	**DATE SUBMITTED: 06/17/16**
PREPARED BY: Donna Mitchell, Controller/Treasurer	
SUBJECT: Actuary Services Contract – Pension & Other Post Employment Benefits (OPEB)	
APPROVALS: City Council	
EXHIBITS: Response Rating Analysis – Pension & OPEB RFP	
EXPENDITURE REQUIRED:	**Total:** $24,500
AMOUNT BUDGETED: Pension Actuary $19,000 (General Fund, Finance 110-2300-517-30-31) OPEB Trust Fund, No budget	
FUNDING SOURCE: As above	
TIMETABLE: Five Year Contract beginning FY17 – FY21	
RECOMMENDED ACTION: Award a five year contract, to begin in FY17 and end in FY21, to Nyhart for valuation services totaling $96,700 and hourly rates for benefits consulting as quoted in their response to the City of Dover RFP #16-0041FN – Pension & Other Post Employment Benefits Actuarial Services and Benefits Consulting.	

The Finance Department requested proposal's for Actuarial Services on May 5, 2016, RFP #16-0041FN. In order to continue efficiencies in preparing the data and cost savings, the RFP requested one actuary perform valuation services for both the Pension Plans and Other Post Employment Benefits.

We reviewed each of the proposals for quality, experience and qualifications of the firm and staff, valuation fees, hourly rates, and travel and administrative factors. We also considered the amount of experience in each field, pension and medical benefits. In scoring the pricing of the proposals the hourly rates for consulting services were considered along with the valuation service fees

We received three proposals, all of which were very good in qualifications and experience. The firms we received proposals from are as follows:

Cavanaugh Macdonald Consulting, LLC
Milliman, Inc. (current actuary)
Nyhart

A summary of the review analysis, including fees, is attached for your review.

There were no local vendor or minority vendor preferences identified and submitted in these proposals.

(Copies may be double sided, please see reverse side for Response Rating Analysis)

City of Dover
Response Rating Pension & OPEB RFP

	Cavanaugh Macdonald Consulting	Milliman	Nyhart
TOTAL COSTS PER YEAR			
Year 1 - 2017	$63,000.00	$42,500.00	$24,500.00
Year 2 - 2018	$21,000.00	$16,500.00	$9,900.00
Year 3 - 2019	$63,000.00	$42,500.00	$25,700.00
Year 4 - 2020	$21,000.00	$16,500.00	$10,200.00
Year 5 - 2021	$63,000.00	$42,500.00	$26,400.00
5 Year Cumulative	**$231,000.00**	**$160,500.00**	**$96,700.00**
Includes GASB Depletion Calculation			
Valuation Meeting (2) Included	Yes	Yes	Yes
Price Comparability (0-25)	10	15	20
Mtgs w/City Council or other Staff	$ 1,500	$ 1,200	Based on hrly rates

Hourly Rates

Consulting or Sr Actuary	320 - 396	440 - 455	375
Sr Consultant	276 - 320	370	
Actuary	276 - 320		275
Consultant	240 - 276		
Sr Actuarial Analyst	240 - 276		
Actuarial Analyst	180 - 240		175
Other	116	238 - 295	85