# COUNCIL COMMITTEE OF THE WHOLE
# AGENDA

**FEBRUARY 23, 2016 - 6:00 P.M.**

**CITY HALL COUNCIL CHAMBERS**
**15 LOOCKERMAN PLAZA**
**DOVER, DELAWARE**

PUBLIC COMMENTS ARE WELCOMED ON ANY AGENDA 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.

## UTILITY COMMITTEE

(MEETING WILL CONVENE AT 6:00 P.M. AND WILL NOT EXCEED 45 MINUTES IN LENGTH)

**AGENDA ADDITIONS/DELETIONS**

1. **ENERGY MANAGEMENT CONTRACT EXTENSION AND INTEGRATED RESOURCE PLAN (IRP)** (COUNCIL REFERRED THIS ITEM BACK TO THE COMMITTEE ON NOVEMBER 23, 2015)
   (STAFF RECOMMENDS AUTHORIZING MR. KIRK BETTS, BETTS & HOLT LLP, TO NEGOTIATE UP TO A THREE (3) YEAR EXTENSION OF THE TEA AGREEMENT, BUT AMENDED TO ADJUST THE MONTHLY FEE TO REFLECT A MODIFIED SCOPE OF SERVICES, REDEFINE THE SERVICES, AND TO NEGOTIATE SUCH OTHER TERMS AS MAY BE IN THE BEST INTEREST OF THE CITY OF DOVER FOR THE EXTENDED TERM. THE FINAL NEGOTIATED EXTENSION WILL BE BROUGHT BACK TO THE UTILITY COMMITTEE AND CITY COUNCIL FOR CONSIDERATION)

2. **ANNEXATION REQUEST - 1102 SOUTH STATE STREET, OWNED BY CAPITOL CLEANERS AND LAUNDERERS, INC.**
   (STAFF RECOMMENDS PROCEEDING WITH ANNEXATION OF THE PROPERTY)

3. **ADJOURNMENT**

## LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

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

**AGENDA ADDITIONS/DELETIONS**

1. **PROPOSED ORDINANCE #2016-11 AMENDING CHAPTER 102 - TAXATION, ARTICLE VI - EXEMPTIONS; BOARD OF ASSESSMENT APPEALS, SECTION 102-182 - AUTHORITY TO EXEMPT REAL PROPERTY FROM TAXATION (SPONSORS: HUTCHISON, BUNDEK, AND KOENIG)**
   (STAFF RECOMMENDS ADOPTION OF THE ORDINANCE)
2. **ACKNOWLEDGMENT OF FREEDOM OF INFORMATION ACT (FOIA) VIOLATIONS - DOVER YOUTH ADVISORY COMMITTEE**

3. **ADJOURNMENT**

/TM-S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\COMMITTEE-AGENDAS\2016\02-23-2016 CCW.WPD

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

# COMMITTEE ACTION FORM

| | |
|---|---|
| **PROCEEDING**: Utility Committee | **AGENDA ITEM NO.:** |
| **DEPARTMENT OF ORIGIN**: City Manager's Office | **DATE SUBMITTED**: 02/18/2016 |
| **PREPARED BY**: Scott D. Koenig, P.E., ICMA-CM, City Manager | |
| **SUBJECT**: Energy Management Contract Extension and Integrated Resource Plan (IRP) | |
| **REFERENCE**: N/A | |
| **RELATED PROJECT**: N/A | |
| **APPROVALS**: Electric Director, Controller | |
| **EXHIBITS**: N/A | |
| **EXPENDITURE REQUIRED**: Current year: $996,000 | **AMOUNT BUDGETED**: $996,000 |
| **FUNDING SOURCE (Dept./Page in CIP & Budget)**: Electric Budget | |
| **TIMETABLE:** Contract to be issued upon final approval. | |
| **RECOMMENDED ACTION**: Staff recommends that the City Council authorize Mr. Kirk Betts, Betts & Holt LLP, to negotiate up to a three (3) year extension of the TEA agreement, but amended to adjust the monthly fee to reflect a modified scope of services, redefine the services, and to negotiate such other terms as may be in the best interest of the City of Dover for the extended term. The final negotiated extension will be brought back to the Utility Committee and City Council for consideration. | |

## BACKGROUND

The City of Dover contracted with The Energy Authority (TEA) in April 2011 to guide the City of Dover on acquiring energy, managing hedges, daily energy balancing, negotiating EEIs, complying with PJM requirements, advising on and arranging for short term capacity, advising on NAES' management of Dover's generating stations, scheduling and dispatching the City of Dover's generating stations, and arranging fuel supplies for the generating stations. The contract has a fixed monthly fee of $83,000 ($996,000 annualized). The contract began on July 1, 2011 and expires on June 30, 2016. The contract does not automatically extend or renew.

## RECOMMENDATION

Staff recommends that the City Council authorize Mr. Kirk Betts, Betts & Holt LLP, to negotiate up to a three (3) year extension of the TEA agreement, but amended to adjust the monthly fee to reflect a modified scope of services, redefine the services, and to negotiate such other terms as may be in the best interest of the City of Dover for the extended term. The final negotiated extension will be brought back to the Utility Committee and City Council for consideration.

## RATIONALE

During 2015, the City, TEA, and Betts & Holt LLP began exploring the merits of amending the existing agreement to take into account the presence and experience of the City's Electric Director, Mr. Harry Maloney. Among other areas, the parties discussed amending the scope of work related to oversight of the management of the generating units because the new contract with NAES, the plant operator, made Mr. Maloney the primary contact for plant operating matters. This previously had been a significant responsibility with TEA while Dover's Electric Department lacked personnel with these skills. A suggestion was put forth to lower the monthly fee to account for reducing amount of services required from TEA and to amend the scope of services. During the referenced discussions, the City of Dover made reference to an Integrated Resource Planning effort

necessary to outline Dover's future options. IRP services are referenced in the current contract; however, Dover has not initiated these services as of this writing.

TEA responded favorably to the referenced discussions with the City and TEA has further defined their qualifications to conduct and prepare an "Integrated Resource Plan" (IRP) for the City of Dover. (An IRP is a comprehensive decision support tool and road map for meeting the company's objective of providing reliable and least-cost electric service to all of our customers while addressing the substantial risks and uncertainties inherent in the electric utility business.) The IRP will include a comprehensive analysis of load, load patterns, the PJM market, demographic and market trends, and existing generating resources, to determine the ideal mix of resources and strategies to supply most economically and reliably Dover's customers. The IRP seeks to answer the question what energy and capacity resources should be acquired, if any, in a market that is changing dramatically. When completed, it will provide guidance on a number fronts, including ratemaking, service requirements, and even incentives to preserve the customer base, as well as what mix of supply resources should be developed. Coordinating a proposed contract extension and this study will ensure good data for the IRP and continuity during a period of considerable change in the electric industry.

PJM recently issued its ten (10) year planning results and it shows little growth in the region that includes Dover. This confirms TEA's analysis about zero growth in the Dover service territory. There are a number of reasons for this ranging from better insulation to LED lighting, more efficient appliances, and new strategies and affordable technologies for managing consumption of electricity. The contract extension and IRP study will produce continuity and strategies needed to remain a viable supplier and valuable resource for the City of Dover.

PETITION TO ANNEX AND REZONE PROPERTY
Report to the Utility Committee
February 22, 2016

| | |
|---|---|
| Applicants/Owners: | Capitol Cleaners & Launderers Inc. |
| Property Address: | 1102 South State Street |
| Tax Parcel ID #: | ED-00-086.05-01-46.02-000 |
| Size: | 6,331 SF |
| Present Use: | Commercial |
| Proposed Use: | Commercial |

Comprehensive Plan Designation: Category 1 – High Priority Annexation Areas

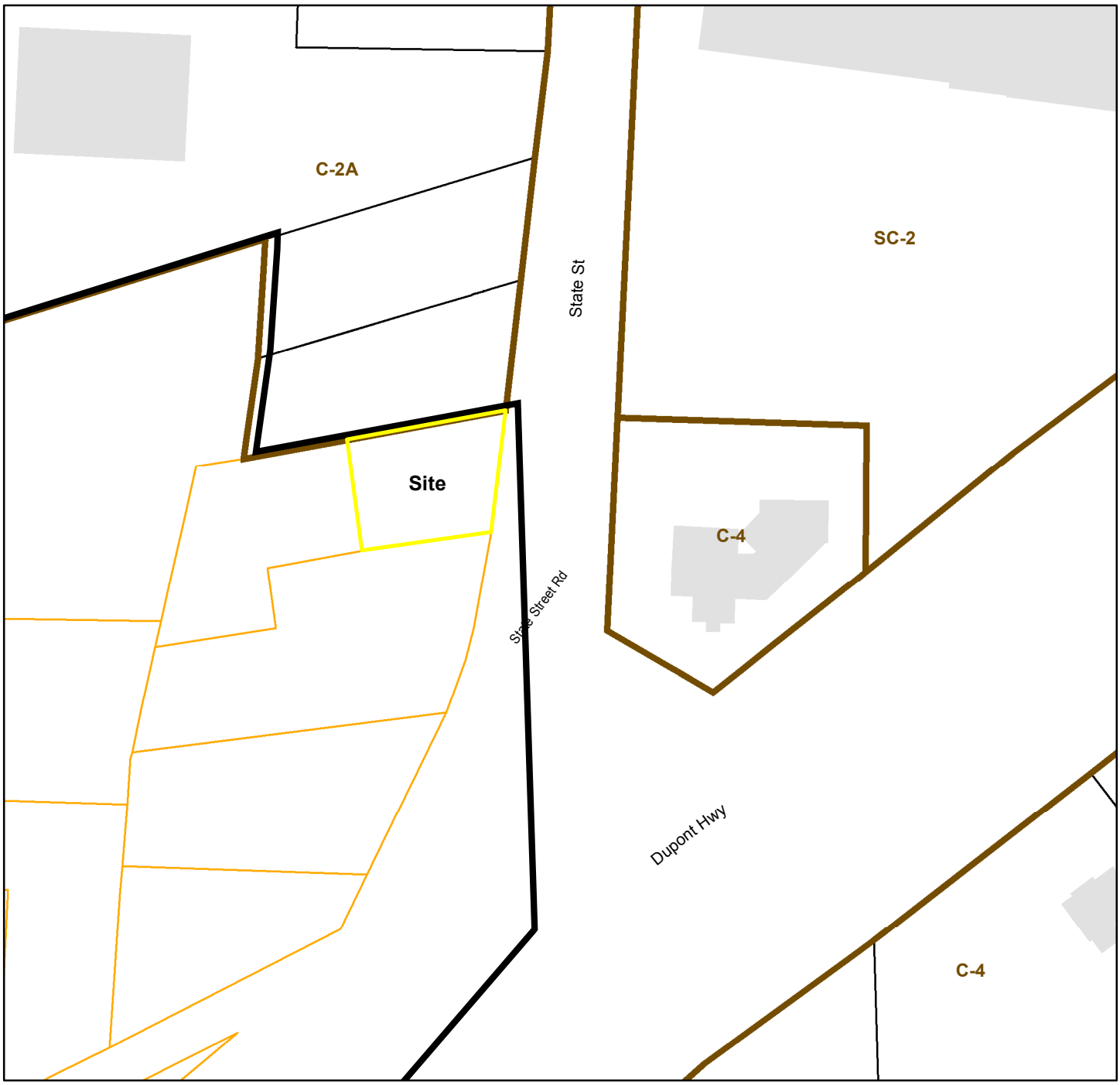
Comprehensive Plan Land Use Designation: Commercial

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|---|---|
| Present Zoning: | BG (General Business) |
| Proposed Zoning: | C-2A (Limited Central Commercial) |
| Utility Availability: | The property is currently served by City of Dover Electric and Water. There is sanitary sewer service available to the north of this property, specifically within the property of 1074 South State Street, to serve this property, private easement agreements will be required from 1074 and 1086 South State Street. The property owner would be responsible for the costs associated with tapping the sanitary sewer mains extending services to the property, payment of impact fees, costs of all private easements and obtaining permits associated with such improvements. |
| Staff Recommendation: | Staff recommends that the City proceed with annexation of the subject property. |
| File Number: | AX-16-01 |

# City of Dover

## Department of Planning & Inspections

Application No.: AX-16-01




Title: Lands of Capitol Cleaners & Launderers
Address: 1102 South State Street
Parcel ID: ED-00-086.05-01-46.02-000
Proposed Zoning: C-2A (Limited Central Commercial Zone)
Owner: Capitol Cleaners & Launderers, Inc.
Date: 2/2/2016

**Legend**

- Dover Boundary
- Zoning
- Dover Parcels
- Kent County Parcels
- Subject Property
- 2012 Buildings

N W E S

0 60 120 240 Feet

# ACTION FORM

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| **PROCEEDING**: Legislative, Finance, and Administration Committee |
| **DEPARTMENT OF ORIGIN**: Assessor's Office **DATE SUBMITTED**: 2/23/2016 |
| **PREPARED BY**: Cheryl A. Bundek, AAS Assessor |
| **SUBJECT**: Proposed Ordinance Amendment –**Section 102-182 Authority to exempt real property from taxation** |
| **REFERENCE**: |
| |
| **APPROVALS**: Council; |
| **EXHIBITS**: 1. Draft Ordinance Amendment 2. Open Space Delinquent Property Tax |
| **EXPENDITURE REQUIRED**: **N/A** **AMOUNT BUDGETED**: N/A |
| **TIMETABLE**: Ordinance Amendments to become effective upon Council Approval. |
| **RECOMMENDED ACTION**: Staff recommends that the attached Ordinance Amendment be approved. |

## BACKGROUND AND ANALYSIS

The City of Dover Assessor's office has drafted an amendment to the Dover City Ordinance. A copy of the Ordinance Amendment is attached. The Ordinance Amendment is based on recommendations from a meeting with the City Manager, City Planner and the Deputy City Solicitor that was held to discuss delinquent property tax on open space in established subdivisions.

This amendment allows the Assessor to exempt public open space from property tax when the subdivision or a phase of the subdivision has reached 80% completion and/or the streets have been dedicated to the City of Dover, therefore allowing the exemption prior to the civic association taking ownership and filing application. It also permits the Assessor to forgive the delinquent taxes, interest and penalty on such property.

The City of Dover has several public open space parcels that are extremely delinquent in property tax. Unfortunately, the taxes are uncollectible as the entities that owned the property are defunct and the properties have not been turned over to the Homeowners Association for whatever reason. Public Open Space cannot be sold at Sheriff Sale.

# CITY OF DOVER PROPOSED ORDINANCE #2016-11

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

That Chapter 102 - Taxation, Article VI - Exemptions; Board of Assessment Appeals, Section 102-182 - Authority to Exempt Real Property from Taxation of the Dover Code be amended by deleting the text indicated in red strikeout and inserting the bold, blue text, as follows:

**Sec. 102-182 - Authority to exempt real property from taxation.**

The city council shall have the power to exempt real property located within the city from municipal property taxes when, in the opinion of the board, the same will best promote the public welfare. The city assessor shall be empowered to grant tax exemptions to senior citizens where the requested income verification is completed and meets the requirements of section 102-183. Pursuant to Del. C. title 9, §§ 8105 and 8110, the city assessor shall be empowered to grant tax exemptions to property owned by governmental, religious, educational, charitable agency or civic associations owning parkland, upon receipt of an application filed by the organization establishing its entitlement to such exemptions. **The city assessor shall be empowered to grant tax exemption to and waive delinquent taxes on real property which has been required by the City of Dover to be set aside for public parkland or open space once the subdivision/phase of subdivision has reached 80% completion and/or street dedication, whichever occurs first, in concurrence with the City Manager. Any outstanding penalty or interest incurred as a result of unpaid taxes on said property shall be forgiven.**

(Code 1981, § 19.5-51; Ord. of 3-12-2001; Ord. No. 2009-17, 11-9-2009)

ADOPTED: *

S:\ORDINANCES\2016\DRAFT\ORDINANCE #2016-11 CH 102 TAXATION, ART VI-EXEMPTIONS, SEC 102-182\Ordinance #2016-11 CH 102-TAXATION, ART VI-EXEMPTIONS, SEC. 102-182.wpd

## SYNOPSIS

This amendment allows the Assessor to exempt public open space from property tax when the subdivision or a phase of the subdivision has reached 80% completion and/or the streets have been dedicated to the City of Dover, therefore allowing the exemption prior to the civic association taking ownership and filing application. It also permits the Assessor to forgive the delinquent taxes, interest and penalty on such property.

(SPONSORS: HUTCHISON, BUNDEK, AND KOENIG

Actions History

02/22/2016 - Scheduled for Introduction - Legislative, Finance, and Administration Committee

Draft

Open Space Delinquent Accounts

| Ownership | Parcel ID | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | Penalties thru March 2016 | Amount Due |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Westover LLC | ED05-076.13-02-58.02 | 598.29 | - | - | - | - | - | - | - | 825.64 | 1,423.93 |
| Westover LLC | ED05-076.10-02-89.00 | 17.69 | 90.75 | 238.49 | 238.49 | 238.49 | 238.49 | 238.49 | 47.79 | 916.08 | 2,264.76 |
| Westover LLC | ED05-076.10-02-87.00 | 157.33 | 806.85 | 2,249.75 | 2,249.75 | 2,249.75 | 2,249.75 | 2,249.75 | 2,966.63 | 8,874.84 | 24,054.40 |
| Westover LLC | ED05-076.13-03-33.00 | 49.61 | 254.43 | 560.07 | 560.07 | 560.07 | 560.07 | 560.07 | 715.64 | 2,281.53 | 6,101.56 |
| Westover LLC | ED05-076.09-02-39.00 | 2.64 | 13.53 | 97.96 | 97.96 | 97.96 | 97.96 | 97.96 | 123.93 | 355.59 | 985.49 |
| | | | | | | | | | | | - |
| First Flag Inc | ED05-076.05-06-16.00 | - | - | 253.69 | 253.69 | 253.69 | 253.69 | 253.69 | 30.38 | 837.03 | 2,135.86 |
| First Flag Inc | ED05-076.05-06-31.00 | - | - | 28.38 | 28.38 | 28.38 | 28.38 | 28.38 | 34.02 | 97.30 | 273.22 |
| | | | | | | | | | | | - |
| Fox Meadows Joint Venture | ED05-067.05-02-19.01 | - | 1.98 | 2.70 | 2.70 | 2.70 | 2.70 | 2.70 | 4.46 | 11.76 | 31.70 |
| | | | | | | | | | | | - |
| Robino-Sea Chase LLC | ED05-076.09-02-86.00 | - | - | - | 33.10 | 33.10 | 33.10 | 33.10 | 6.48 | 76.25 | 215.13 |
| Robino-Sea Chase LLC | ED05-076.09-02-87.00 | - | - | - | 79.38 | 79.38 | 79.38 | 79.38 | 117.45 | 195.07 | 630.04 |
| Robino-Sea Chase LLC | ED05-076.09-02-88.00 | - | - | - | 185.45 | 185.45 | 185.45 | 185.45 | 37.26 | 427.31 | 1,206.37 |
| Robino-Sea Chase LLC | ED05-076.09-02-89.00 | - | - | - | 19.93 | 19.93 | 19.93 | 19.93 | 4.05 | 45.93 | 129.70 |
| | | | | | | | | | | | - |
| Stoney Creek Homeowners | ED05-077.11-03-43.00 | - | - | - | 14.58 | 486.43 | 486.43 | 486.43 | 292.80 | 746.75 | 2,513.42 |
| | | | | | | | | | | | - |
| | | | | | | | | | | | $ 41,965.58 |

**FREEDOM OF INFORMATION ACT (FOIA) VIOLATIONS**
**DOVER YOUTH ADVISORY COMMITTEE**
(as of February 11, 2016)

- **Youth Advisory Committee (FOIA Violation) (Meeting date unknown)**
  During the Open Forum Segment of the Regular Council Meeting on May 26, 2015, Mr. Austin Auen, 14 Vessel Court, Felton, Delaware, stated that he was the new chairperson for the newly reformed Youth Advisory Committee and shared his excitement to be working for the youth of the City to make things a little safer and more fun for them. He stated that he works hard at everything he does and will make sure that the job gets done and the youth in the City are heard. In response to Mr. Hutchison, Mr. Auen stated that approximately eight (8) to 10 individuals were serving on the Committee.

  Based on Austin Auen's comments during Open Forum, it was determined that applicants for appointment to the Youth Advisory Committee who had not been officially recommended or approved by Council held an unannounced organizational meeting electing a chairman.

  On June 8, 2015, City Solicitor Rodriguez informed Attorney General Matthew Denn of this FOIA violation. This organizational meeting and election of officers was a complete nullity and no meeting minutes are required.

- **July 6, 2015 - Youth Advisory Committee (FOIA Violation)**
  A Youth Advisory Committee meeting was scheduled for Monday, July 6, 2015. The meeting was properly noticed and the agenda included the swearing-in of new officers. As of July 6, 2015, four (4) members had been appointed by City Council to the committee. At the meeting of July 6th, two (2) of the appointed members were present and two (2) of the appointed members were absent. An additional applicant who had not yet been appointed to the committee was also present. The two (2) members and the applicant proceeded to hold the meeting without a quorum. Two (2) of the appointed members and the applicant who had not yet been appointed were sworn in.

  On July 22, 2015, City Solicitor Rodriguez informed Attorney General Matthew Denn of this FOIA violation. This meeting was a nullity due to lack of a quorum to consider business and no meeting minutes are required.

- **Youth Advisory Committee Meeting Minutes**
  As of February 11, 2016, the Youth Advisory Committee has held seven (7) official meetings:

  08/03/2015
  09/09/2015
  10/05/2015
  11/02/2015
  12/07/2015
  12/28/2015
  02/01/2016

  The Committee has only provided meeting minutes for two (2) meetings (09/09/2015 and 11/02/2015).

  Two (2) meetings which were duly noticed (12/18/2015 and 01/04/2016) were cancelled due to a lack of a quorum of members being present. No minutes are required for these meetings.

/dd Prepared: 02/11/2016

## MAYOR AND COUNCIL

**COUNCIL RESOLUTION NO. 2010-03**
**YOUTH ADVISORY COMMITTEE (YAC)**
**COUNCIL RESOLUTION NO. 2008-11, WITH AMENDMENT NO. 1**

WHEREAS, the City Council has determined that there is a need to create a Youth Advisory Committee for the City of Dover, Delaware; and

WHEREAS, this Youth Advisory Committee will be created to operate as a liaison between the youth of the community, City Council, and the Parks, Recreation, and Community Enhancement Committee on issues affecting youth by involving them in social, cultural, recreational, and other drug-free and alcohol free activities and, when requested by the City Council, the committee shall give advice and assistance on matters concerning the needs of youth; and

WHEREAS, the City Council wishes the Youth Advisory Committee to consist of nine (9) members, or more if City Council chooses, between the ages of 14 and 18 years, two (2) adults, and one (1) liaison member who shall be chosen by the City Council to serve one (1) year terms, without compensation, and the City Council shall have the power at any time to alter the size of the committee by expanding or reducing its membership. The liaison member shall receive and record all exhibits, petitions, documents, or other material presented to the Council in support of, or in opposition to, any question before the Committee, prepare and distribute agendas and packets; and

WHEREAS, members of the Youth Advisory Committee shall be selected through an application process and shall be appointed by the City Council and take office upon being sworn on their oath to uphold the duties of the office and the Constitution of Delaware and the United States of America; and

WHEREAS, the term of the office for each member shall be one (1) year, or until his/her successor is duly appointed and qualified, unless a vacancy occurs prior to the expiration of a term, in which case an appointment shall be made by the City Council for the remainder of the unexpired terms; and

WHEREAS, the committee shall elect from its membership a chairperson, vice-chairperson, and secretary for one-year terms of office commencing the first day of June of each year and a member shall be eligible for reelection to any of these offices as long as he or she remains on the committee. The chairperson shall preside at all regular and special meetings, rule on all points of order and procedure during meetings, and provide recommendations to the liaison regarding agenda items. The vice chairperson shall assume all duties of the chairperson in his or her absence or disability. In the absence of both the chairperson and vice chairperson from any meeting, an acting chairperson shall be elected from among the members present; and

WHEREAS, the committee shall hold meetings located in the City at times it may designate. All meetings of the committee shall be held in accordance with the Freedom of Information Act and a notice of said meeting shall be posted at City Hall and on the website at www.cityofdover.com. The presence of a majority of the committee members then in office shall be necessary and sufficient to constitute a quorum, and an affirmative vote of the majority of those present shall be necessary to pass upon pending questions, except that on tie votes, the vote of the chairman shall be determinative, the chairman in addition being entitled to vote on all questions. Minutes of meetings shall be kept and the record filed with the person performing the duty of secretary; and

WHEREAS, in the performance of its function, the committee is an advisory body authorized to make recommendations to the City Council on the following:

1. Policy matters affecting the youth of the community;
2. Planning, organizing, coordinating, and carrying out drug-free and alcohol-free social, cultural, recreational, educational, and other activities for the youth in the community
3. Establishing guidelines, rules, and procedures for participation in such activities; and
4. Entering into agreements with entertainers, concessionaires, and other third parties as may be deemed desirable by the committee within available funds and in accordance with applicable state and city laws and procedures; and

WHEREAS, by May 1st of each year, the committee shall submit to the City Council a written report of its activities for the previous year and an annual plan of work for the ensuing year of which these documents shall be retained as a part of the official city records. Subject to the approval of the City Council, the facilities and personnel of the City shall be made available to assist the committee in carrying out its functions; and

WHEREAS, the committee is authorized to amend its rules and procedures for the conduct of its authorized activities, subject to the approval of the City Council; and

WHEREAS, Committee members are subject to the attendance policy and procedure adopted by the City Council and any member who misses two (2) meetings that are considered unexcused, where no phone call was made or e-mail was sent letting someone know, or whose overall attendance at regular meetings falls below seventy-five (75) percent, has automatically vacated his seat. The committee shall at once notify the City Council that a vacancy exists. Vacancies shall be filled within thirty (30) days by appointment for the remainder of the term or at the discretion of City Council.

NOW, THEREFORE, BE IT RESOLVED THAT THE MAYOR AND COUNCIL OF THE CITY OF DOVER HEREBY ESTABLISHES A YOUTH ADVISORY COMMITTEE

ADOPTED: APRIL 26, 2010

S:\RESOLUTIONS & PROCLAMATIONS\2010\ADOPTED\Res. No. 2010-03 - YAC Amendment #1(2).wpd

Actions History

April 12, 2010 - Introduced at Parks, Recreation, and Community Enhancement Committee