LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on October 12, 2015, at 6:00 p.m. with Chairman Hare presiding. Members present were Mr. Cole, Mr. Sudler (arrived at 6:06 p.m.), Mr. Shevock, and Ms. Maucher. Members of Council present were Mr. Anderson, Mr. Hosfelt, Mr. Hutchison, and Mr. Slavin (arrived at 6:25 p.m.). Mayor Christiansen was also present.

AGENDA ADDITIONS/DELETIONS

Mr. Shevock moved for approval of the agenda, seconded by Mr. Cole and unanimously carried.

Update - Transfer of Real Property from Delaware Civic Center Corporation to Delaware State University

During their meeting of August 24, 2015, the Committee reviewed a request from Delaware State University (DSU) regarding the transfer of property from the Delaware Civic Center Corporation. The Committee recommended continued conversation and information gathering from Delaware State University (DSU), as well as the City Manager, and for DSU to come back at the first meeting in October and give another presentation in regard to how they could economically benefit both the City and DSU.

Mr. Scott Koenig, City Manager, informed members that he did not invite representatives from Delaware State University (DSU) to attend this evening's meeting because staff was still working on a few issues that were discussed during the Committee meeting of August 24, 2015. He stated that when the request was received earlier this year staff thought that it would probably be good to transfer the property; however, since that time, concerns have come up regarding the potential drop in State revenues, the need for the City to look at locations for renewable energy, and some of the other things that are going on in local and State governments.

Mr. Koenig stated that since the meeting of August 24, 2015, Mr. Harry Maloney, Electric Director, had been working with Scott Engineering, who did some layout of the Civic Center property, to determine whether there is enough room to lay out a solar field that would be large enough to give the City a good return on investment.

Mr. Koenig advised members that there was currently utility work happening on the property related to the expansion of easements in this area, which were previously approved by City Council, to afford for the new Kent County bypass line that will relieve the large diameter force main in the center of U.S. 13. Mr. Koenig stated that the intent is to finalize all of the easements after the line is actually in to ensure the line is correctly located within the easements across the property.

Mr. Koenig explained that, in the intervening time, Councilman Hare, Mr. Kirby Hudson, Assistant City Manager, and he met with DSU representatives regarding opportunities to partner and discussed branding, marketing, and the issue of payment in lieu of taxes (PILOT).

Mr. Koenig expressed his belief that there is potential for the City and DSU to bring a proposal back to Council that is mutually beneficial from a number of different standpoints. He stated that, in the long run, he does not believe that the City has a good use for a majority of this property because it was a former landfill and is going to be subject to differential settlement for many years. Mr. Koenig

noted that, with this type of property, it would be best to either leave it as fields or convert it to parking which can be adjusted in the future if settlement occurs.

Mr. Koenig stated that he would be back with a more concrete plan in the future. He explained that, given the consideration of tightening budgets, he did not think it prudent for the City to give this land away, noting his belief that a deal could be made that would be mutually beneficial to the City and DSU.

Mr. Cole asked whether the concrete proposal would be brought forward after the State and the Joint Finance Committee get into their budget. Responding, Mr. Koenig stated that a concrete plan would be more DSU's responsibility than the City. He explained that the City was currently in the process of having the annual property inspection completed and reminded members that the City only owned the back-end of the property. Mr. Koenig stated that the four (4) or five (5) acres along the access road is owned by the Civic Center Corporation. He explained that once the City decides how much of the property it may want, it would be incumbent on DSU to come forward with a proposal to City Council.

Mr. Hare asked if a solar field was something that the City wanted to get into again and questioned the possibility of the City partnering with the Delaware Municipal Electric Corporation (DEMEC) like other municipalities have. In response, Mr. Koenig stated that the City would probably not enter into an agreement with LS Power again but may pursue a potential partnership with DEMEC. He explained that the City may also consider doing the project without a partner, if the numbers work out, noting that there are 2% interest loans available. Mr. Koenig stated that DEMEC has been working with various communities to install the equipment and if that was the best or least cost option for the City, staff would propose that coming forward to City Council.

Mr. Hare asked if DSU was also considering the possibility of using the property the City let them have years ago adjacent to the Delaware Agricultural Museum for a convocation center or whether it would forever be a tax-free race parking lot. Responding, Mr. Koenig advised that, to his knowledge, the City of Dover never owned that property and DSU purchased it from a third party. He explained that, at one point, DSU had proposed a strip mall which would include the university bookstore; however, there have not been any specific discussions regarding this development in at least four (4) or five (5) years. Mr. Koenig stated that, at this point, the property is tax exempt because it is owned by the university and the City did not regulate the use of the land. He noted that if DSU was to develop the property commercially, they would most likely lose their tax exempt status on it because they would be receiving business generated revenue. Mr. Koenig stated that it was his understanding that DSU was interested in going north to tie-in the potential of working with the former Sheraton hotel, which is now a dormitory and school, and if DSU can get that land for a low cost from the City, then it leaves them another development option to the south.

Mr. Sudler asked whether, if DSU used 100% of their nonprofit status, they could use approximately 25% of it for the commercial usage with their civic center if they are going to be renting it out to other organizations and agencies for income. He also asked where the money goes when DSU parks cars during races and whether that is a form of generating income on a nonprofit land parcel. In

response, Mr. Koenig stated his belief that it would be in the category of other business related income; however, he was uncertain how it works in terms of accounting.

Mr. Koenig informed members that some things had come up recently that had never been considered before in regard to the tax exempt status for parcels. He noted that the City never contemplated Wesley College renting dormitories to the National Guard for training or individuals during Firefly or other events when the development applications were considered. Mr. Koenig explained that in considering future development applications or modifications, these types of things would need to be questioned. He stated that the City, through the Planning Commission, needs to figure out if additional licensing may need to occur, or if there will need to be any additional oversight when there is a different use than the intended building use.

Responding to Mr. Hare, Mr. Koenig stated that he was uncertain whether the City would be able to revoke a tax-free status, and that it would be a question for City Solicitor Rodriguez. Mr. Koenig noted that the City would have some leverage if there was a different use than what was originally authorized by the City, and advised that when things change, sometimes the City has the ability to create new guidance.

Mr. Hare noted his understanding that DSU could make upwards of $40,000 per race for parking cars and campers and this money goes into their scholarship fund.

Mayor Christiansen asked whether it would be smart for Council to have tax exempt entities that use their properties during certain periods of time be required to have a specific license for that type of operation. He suggested that a one-time use permit could be applied that would be substantial enough to generate some revenue for the City. In response, Mrs. Townshend, Director of Planning and Community Development, stated that staff could review the licensing. She explained, for instance, that dormitories get a lodging permit and staff has never looked at having to license them separately; however, she thought that something could be developed for special events that are not education-related.

Mayor Christiansen noted that, for all intent and purposes, Wesley College and DSU would be in competition with hotels, motels and other parking facilities that are not tax exempt. He also suggested extending the license requirement to individuals parking 85 cars on a one (1) acre lot.

In response to Mr. Hosfelt, Mrs. Townshend stated that the City did currently permit DSU to park cars in the area where they camp. She stated that DSU gets a camping permit which she believed cost $125 per event. Mr. Hare stated that $125 was a maximum, noting that if an individual parks six (6) to 12 campers, it costs $25 which is not proportionately the same.

Mayor Christiansen expressed his opinion that it was an issue of maintenance of standards, noting that if the other hotels and motels, including Dover Downs, have to pay licensing fees for lodging, so should anybody else that chooses to do the same, whether they are a profit or non-profit entity.

Mr. Hare reiterated that City Solicitor Rodriguez should be consulted, noting that a tax exempt status was granted to these entities based on a specific use; however, the entities are now using their properties to generate income.

Mr. Hosfelt noted that members were advised that DSU had previously discussed developing a strip mall on their property located next to the Delaware Agricultural Museum and the possibility of that property losing its tax exempt status. Referring to DSU's proposal for a civic or convocation center which would generate a profit, Mr. Hosfelt expressed his opinion that, no matter what else may be worked out, it would be appropriate for the City to take measures to ensure that the property would be taxable.

Proposed Amendment to Downtown Development District Boundary

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that on January 11, 2015, Governor Jack Markell designated the City of Dover's downtown as one (1) of three (3) Downtown Development Districts (DDD) in the State of Delaware. Since that time, the City has been actively promoting redevelopment of properties within the City's DDD. The State's DDD program allows for up to 225 acres to be included within the DDD boundary. Dover's District is approximately 220 acres. In selecting the original DDD boundary, the City utilized public streets as boundaries to the extent possible. As the program has been implemented, staff has determined that some of the properties that front the streets utilized as boundaries are also in need of investment. Expanding the boundary as proposed would make the DDD 224.9 acres, fully utilizing the allowable area under the State's program.

Staff recommended the following changes to Dover's DDD boundary, with the following justification for each area:

1. The area immediately east of South State Street between Loockerman Street and The Green is mostly privately owned. A number of property owners have inquired about incentives to renovate their historic properties. This modest expansion would make these renovations more feasible.

2. Similarly, the area south of Water Street between South State Street and South Governors Avenue includes properties in need of investment. State Street Commons has sat vacant since the completion of the building shell for many years. The addition of this small area on the south side of Water Street would allow for these improvements to qualify for the incentives and would also make improvements to other properties on this block more feasible.

This request for expansion was submitted to the Office of State Planning Coordination and reviewed by the Cabinet Committee on State Planning Issues on September 30, 2015. The Cabinet Committee on State Planning Issues approved the proposed expansion.

Mr. Shevock noted that the 1.6 acres on State Street was part of the historic district and if the buildings are historic, the owners could apply for federal money to have them rehabilitated.

Responding, Mrs. Townshend confirmed that these owners would be eligible for the State and Federal Historic Preservation Tax Credits, in addition to the DDD incentives. She stated that there would still be out-of-pocket costs but the tax credits and cash rebates would make it more feasible.

Mayor Christiansen asked whether the housing authority has come down with the new regulations for residential properties starting at $15,000. In response, Mrs. Townshend stated that for the small projects, yes, so it would be commercial and residential, but if it is below $250,000 of capital costs, then the threshold is $15,000 now.

Responding to Mayor Christiansen, Mrs. Townshend stated that for the small projects, individuals can apply for a reservation at any time because there is not a deadline like there is for the larger projects. She explained that someone could apply for the state housing authority to reserve funds and from the time of their reservation they have six (6) months to complete the improvements and then 45 days after that to submit for reimbursements.

Mayor Christiansen asked whether it stresses the fact that these projects should be in owner-occupied houses, noting that when he and the Governor discussed them lowering the project threshold for individuals, small commercial and small housing, he requested that they go with the owner-occupied or owner-occupied to be projects. In response, Mrs. Townshend stated that they did not include that.

Ms. Maucher moved to recommend approval of the expansion of the Downtown Development District Boundary, as recommended by staff *(Attachment #1)*, seconded by Mr. Cole and unanimously carried.

Proposed Ordinance #2015-17 Amending Chapter 14 - Amusements and Entertainments; Appendix B - Zoning, Article 3 - District Regulations, Section 18 - Recreational and Commercial Zone (RC); and Appendix F - Fees and Fines

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed proposed Ordinance #2015-17, explaining that it would remove Chapter 14 of the Dover Code - Amusements and Entertainment, which addresses Outdoor Music Festivals, amend the RC (Recreation and Commercial) Zone to allow temporary special events and temporary camping areas within the zone and set minimum requirements for these events and camping areas.

Mrs. Townshend stated that the principle amendments would be to the zoning ordinance as it relates to the permitted uses in the recreational and commercial zones, and staff also included some necessary cleanup. She stated that this ordinance would move auto, horse, and motorcycle race tracks from the conditional use section to the permitted use section. It would also allow for temporary outdoor activities and temporary camping areas and create the permitting process and the standards for that. Mrs. Townshend explained that this ordinance would allow events such as Firefly, Big Barrel, and other large events planned to be held at the Woodlands area at Dover International Speedway. She noted that staff had been working on this ordinance for several months with Dover International Speedway.

Referring to Line 99, Mrs. Townshend explained that this ordinance included specific noise hours, so that the use of loud speakers and other amplification systems outdoors would be prohibited after midnight on weeknights, and after 2:00 a.m. on weekends.

Mrs. Townshend stated that the City's zoning ordinance had previously been set up to deal with the issue of recreational vehicle (RV) camping, and the proposed ordinance includes similar language for tent camping. She explained that this specific ordinance only affects the RC zone, so some of the language, specifically regarding camping, would need to be added to other sections of the zoning ordinance as well. She stated that those changes could certainly follow but staff wanted to make sure that the Code was set up for the RC zone in order to begin working with the speedway on the process of annexing the land where the festivals are taking place, noting that the land was currently split between the City and Kent County.

Mr. Sudler, referring to the noise restrictions, requested clarification regarding when the weekend hours would start and end. Responding, Mrs. Townshend stated that the proposed ordinance was written so that the use of loud speakers and other amplification systems outdoors shall be prohibited between 12:00 a.m. and 7:00 a.m. Monday through Friday, and 2:00 a.m. and 9:00 a.m. on Saturday and Sunday. She explained that this would allow the use of loud speakers and other amplification systems outdoors on Friday and Saturday nights until 2:00 a.m., and no later than midnight Sunday through Thursday. Mrs. Townshend stated that staff thought it was important to make sure that there was a standard that could be articulated to the people running the events as well as the public, since there were some issues regarding noise during these large events in previous years.

Mrs. Townshend noted that the proposed ordinance would go through the hearing process which would include public hearings held by the Planning Commission and City Council.

Mr. Anderson asked if staff would be agreeable to changing the time to 12:05 a.m. in case there is a New Years' Eve event. Responding, Mrs. Townshend explained that this ordinance only applied to the RC zone.

In response to Mr. Hare, Mr. Jerry Dunning, Sr. Vice President and General Manager of Dover Motorsports, Inc., indicated that this ordinance would work for Dover International Speedway.

Mr. Cole moved to recommend adoption of proposed ordinance #2015-17, as recommended by staff, seconded by Mr. Shevock, and unanimously carried.

By unanimous consent, the meeting adjourned at 6:27 p.m.

William F. Hare
Chairman

WFH/TM/dd
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Attachments
Attachment #1 - Proposed Ordinance #2015-19 Amending Appendix C - Downtown Redevelopment, Article II - Definitions, Section 4 - Target Area

FIRST READING

CITY OF DOVER PROPOSED ORDINANCE #2015-19

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

That Appendix C - Downtown Redevelopment, Article II - Definitions, Section 4 - Target Area of the Dover Code be amended by inserting the bold, blue text and deleting the text indicated in red strikeout as follows:

High Priority Target Area shall mean that part of the city more particularly described as bounded by the street center lines as follows:

> From the intersection of the centerlines of North Governors Avenue and Mary Street south ~~go~~ **to** the intersection of the centerlines of North Governors Avenue and Fulton Street, east to the intersections of the center lines of Fulton Street and North State Street, south to the ~~northern~~ intersection of the center lines of South State Street and ~~The Green,~~ **Loockerman Street, east 202 feet and then south 172 feet and then west 36 feet and south 73 feet, and west along the right-of-way of North Street for 136 feet, and then south 45 feet along the center line of State Street and then east 73 feet along the south right-of-way of North Street and then south 71 feet, and then west 11 feet and south six feet and west 20 feet and south 135 feet and west 8 feet and then south 22 feet,** ~~and along~~ **then west following** the centerline of The Green ~~east of South State Street~~ to the south intersection of the center lines of South State Street and The Green, south to ~~the intersection of the center lines of South State Street and~~ West Water Street **and south 218 feet and west 205 feet and southwest 41 feet and west 246 feet and north 102 feet and west 103 feet and northwest 3 feet and west 40 feet and southwest 9 feet and west 44 feet and north to the intersection of South Governors Avenue and the centerline of West Water Street** and west to the intersection of the center lines of West Water Street and South Queen Street, south along the center line of South Queen Street 541.11 feet and then west to the center line of South West Street, and north to the intersection of the center lines of West North Street and South West Street, and west to the intersection of the center lines of West North Street and Clarence Street and north to the intersection of the center lines of Clarence Street and Slaughter Street, and west along the center line of Slaughter Street to Cherry Street and north along the center line of Cherry Street to the intersection with the center line of Lincoln Street, and east along the center line of Lincoln Street to the intersection of the center lines of Forest Street and South West Street, and north along the center line of South West Street to the intersection of the center lines of West Street and West Division Street, and west to the east property line of the Norfolk Southern railroad track, and north along this property line to the intersection with the center line of Mary Street, and west to the intersection of the center lines of Mary Street and North Governors Avenue.

ADOPTED: *

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SYNOPSIS

The amendment expands the boundaries of the high priority target area.
(Sponsor: Legislative, Finance, and Administration Committee)

Actions History
10/26/2015 - First Reading at City Council meeting

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