# DOVER HUMAN RELATIONS COMMISSION

The Dover Human Relations Commission (DHRC) meeting was held on May 27, 2015 at 5:15 p.m. with Vice Chairman McGiffin presiding. Members present were Mr. Henderson, Mr. Roach (arrived at 5:29 p.m.), Mr. Ruane, Mrs. Sadusky (arrived at 5:17 p.m.), Ms. Smith, and Ms. Stewart. Ms. Hicks was absent.

**AGENDA ADDITIONS/DELETIONS**

**Mr. Henderson moved for approval of the agenda, seconded by Mr. Ruane and unanimously carried.**

**Election of Commission Chair**

Mr. McGiffin advised members that Chairman Cecil Wilson had resigned from the DHRC and it would be necessary to elect a new Chair.

**Mr. McGiffin moved to nominate Ms. Smith to serve as Chair, seconded by Mr. Ruane and unanimously carried.**

**Mr. Henderson moved to close nominations, seconded by Mr. Ruane and unanimously carried.**

**By unanimous consent, Ms. Smith was elected to serve as Chair of the DHRC.**

Ms. Smith expressed her appreciation for being entrusted with the role of DHRC Chair and stated that she would do her best to serve members and the community with integrity and ensure that every voice is heard.

Mr. McGiffin indicated that he would be happy to continue to serve as Vice Chairman.

**Discussion - Recent Events Involving the Dover Police Department**

Maj. Marvin Mailey, Deputy Chief of Police, advised members that a couple of weeks ago a video was released of an arrest made by Officer James Webster on August 24, 2013. Maj. Mailey indicated that a Use of Force Report is generated anytime an officer uses force during the course of an arrest and the City of Dover Police Department had been in possession of the videotape since the onset of this report. He advised members that at the time of the incident, Mr. James Hosfelt was serving as Chief of Police, current Police Chief Paul Bernat was a Major in the Department, and Maj. Mailey had been working in the Department's Internal Affairs Division. Maj. Mailey explained that he had done the investigation himself and, although the details of the investigation were protected under the Law-Enforcement Officers' Bill of Rights, it was found that Officer Webster had violated policy. He was punished appropriately and was suspended for an undisclosed length of time. Maj. Mailey stated that Officer Webster was retrained and put back to work as part of the closure of the investigation.

Maj. Mailey stated that when the incident was being investigated in 2013, the videotape was shown to the State Attorney General's Office, who presented it to a grand jury. The grand jury elected not to charge Officer Webster at that time. It was also presented to the U. S. Department of Justice (DOJ) in Wilmington, where it was reviewed. No wrongdoing was seen and no charges were pursued. Maj. Mailey assured members that all of the information that the Dover Police Department could provide from a prosecutable standpoint, as far as their investigation, was provided because the

Department investigated the incident criminally as well as internally. He explained that an internal investigation is separate from a criminal investigation. During an internal investigation, an officer is compelled to answer questions that they would not normally answer during a criminal investigation since they would be invoking their Fifth Amendment right. Maj. Mailey stated that the U.S. Department of Justice passed on prosecuting the case and Officer Webster returned to work.

Maj. Mailey advised members that this matter was brought to light again when a law suit was subsequently filed by Mr. Latif Dickerson and the American Civil Liberties Union (ACLU) became heavily involved. During the course of this civil suit, the videotape was deemed non-confidential by the judge. Maj. Mailey stated that it became evident that the video was going to be released at some point, and the City reached an impasse in negotiations with the ACLU as to how and when this would occur. He explained that the ACLU was threatening to release it before the City could prepare residents for what might happen. Maj. Mailey noted that it was desired to avoid, in Dover, events similar to those that had recently occurred in Ferguson, Missouri; Baltimore, Maryland; and all across the United States.

Maj. Mailey explained that the City contacted and met with the National Association for the Advancement of Colored People (NAACP), showed them the videotape, and informed them that the City was aware of the event. It was explained that the Police Department had investigated the incident and posed it to two (2) individual law enforcement agencies, the DOJ and the State Attorney General's Office, who passed on prosecution. Maj. Mailey stated that the NAACP was advised that the City did not try to hide the incident and acknowledged that what Officer Webster had done was wrong and his actions were not condoned in Dover. Maj. Mailey indicated that the City made the NAACP aware of everything that potentially could come out of this videotape.

Maj. Mailey advised members that the NAACP had questions which the City answered, and the City and the NAACP worked together to a point. He stated that Mr. Lamar Gunn, President of the local chapter of the NAACP, did not want the City to release the videotape because he feared backlash in the community in the way of protests, demonstrations, and destruction of property, which Maj. Mailey stated did not occur. He indicated that people in the community were not happy about it, as reflected in posts on the internet and the Police Department's website as well as calls made to the Police Department; however, they were not upset to the point of rioting or demonstrating. Maj. Mailey indicated his belief that this was because there had been closure to what happened, noting that the Attorney General's Office reopened the investigation, the videotape was shown to another grand jury, and Officer Webster was charged. Maj. Mailey stated his understanding that Officer Webster's trial date would be coming up on May 28, 2015, noting that he was currently suspended without pay from the Dover Police Department pending the criminal case. Maj. Mailey stated that the Dover Police Department's investigation had been completed in 2014 when the case was referred to the two (2) agencies and discipline was imposed.

Responding to Ms. Smith, Maj. Mailey stated his belief that the reason this issue resurfaced was due to the civil lawsuit filed by Mr. Dickerson, noting that the possibility of the videotape being released probably contributed.

For clarification, Mr. McGiffin explained that on the criminal side of the law, the Dover Police Department went to the State prosecuting authority, who initially determined to take no action. The Federal prosecuting authority also investigated and decided to take no action. The new State Attorney General then decided to take another look at it and, this time, the State decided to take prosecutorial action, all of which was on the criminal side of the law. On the civil side of the law, Mr. Dickerson and the ACLU of Delaware decided to take civil action. Mr. McGiffin informed members that there were two (2) different cases on two (2) different tracks; the government deals with the criminal track, but the civil track is handled by Mr. Dickerson or the ACLU on his behalf.

Mr. McGiffin stated that this item had been placed on the agenda because he felt it important for the DHRC to acknowledge that this event took place and the Commission did not have a role in the City's response to it, stating that the DHRC was not asked for advice or comment. Mr. McGiffin felt that this was the kind of issue that the DHRC should be able to address when the Commission matures as an organization, and that members should be in the loop when something like this happens.

Maj. Mailey advised members that former DHRC Chairman Wilson was aware and sat in on one (1) of the meetings just prior to the videotape being shown.

In response to Mr. Ruane, Maj. Mailey indicated that the Use of Force Policy is in the Dover Police Department's rules and regulations and policy manual, stating his belief that this information would be available to the public. Maj. Mailey advised members that the behavior seen on the videotape, as far as a kick to the head, was outside of the policy and was not what officers are trained to do. He indicated that the Department has a continuum with respect to the use of force that progresses from voice inflection through a hands technique for grasping people, the use of taser and pepper spray, up to the use of lethal force.

In response to Mr. Ruane about training for the new officers that were being hired at the Police Department, Maj. Mailey confirmed that these officers would obtain basic knowledge about use of force from State training. When they come to the Dover Police Department, they would go through a field training tour with another seated officer. Maj. Mailey explained that they would go over related policies, procedures, and regulations as part of that orientation and training.

In response to Mr. Ruane, Maj. Mailey confirmed that this particular officer had undergone that training and then was retrained when he returned to active duty on the force. He informed members that officers undergo training once per year, which he compared to continuing education, noting that they are re-certified in CPR and review criminal law. Maj. Mailey stated that they may also go over how to deal with the public, verbal communication skills, safe and legal traffic stops, avoiding profiling, integrity classes, etc.

In response to Ms. Smith as to whether Officer Webster's discipline included non-payment, Maj. Mailey stated that Officer Webster had been placed on paid administrative leave up to a certain point in the process when discipline took over. Maj. Mailey could not speak to why Officer Webster

was disciplined or whether or not he was paid during his punishment time since this was part of the Law-Enforcement Officers' Bill of Rights; he could only say that Officer Webster was disciplined by the agency.

Mr. McGiffin expressed his hope that this event would show members that there is a need to increase the DHRC's profile as a commission and develop credibility. He felt that this would be done through the committee work that the Commission had agreed to do, noting that this would expose everyone in the City to the DHRC. Mr. McGiffin stated that the DHRC's research project would involve interviewing people, making online surveys available and offering focus groups for discussion of diversity issues, and the police would also be asked to cooperate in this regard. The DHRC would work with all of the various City agencies. Mr. McGiffin hoped that if there were another similar situation in the future, people would look to the DHRC. He expressed his opinion that the DHRC should recommend that the City formally include the DHRC in their plan to deal with emergencies of this nature so that the Commission can do what it is charged with and wants to do.

In response to Mr. Ruane, Maj. Mailey stated that Chief Bernat had taken leadership and proactively held meetings in regard to this incident, and the Mayor was also involved.

Mr. Ruane suggested, as the new Chair of the DHRC, that Ms. Smith look for an opportunity to speak with the Mayor and the Police Chief about who the DHRC is and what their role might be. He advocated using this incident as an example and asking that the City include the DHRC when inviting parties to public meetings to address these situations proactively.

Mr. Henderson stated that other ad hoc committees, religious communities, and ministers should not be overlooked, noting that he had seen this approach used in Baltimore and other cities. He advised members that Dover's Interdenominational Ministerial Alliance (IMA) was very proactive.

Mr. Roach stated the importance of the Police Department building rapport within the community.

In response to Ms. Smith regarding how the DHRC could support and strengthen its relationship with the Police Department, Maj. Mailey suggested that members do a ride along with officers to see the complaints they respond to and how they interact with the public. He concurred with Mr. Roach that more officers were needed walking in the community and stated that a program had been started to have officers walk through neighborhoods as part of extra duty assignments. He indicated that this was working in Wilmington and felt it would work in Dover. Maj. Mailey advised members that the City's police cadets would be working in the downtown area, the Dover Public Library, and in neighborhoods.

Maj. Mailey stated that for many years the Police Department had been forced to do more with less and had not had the personal contact needed since they were occupied with going after those who were getting out of line. He indicated that if officers had more time for inter-personal communication, there would be less misunderstanding. Maj. Mailey advised members that, just as in other professions, there are good and bad police officers; however, he assured members that bad officers in Dover would not last long because there are corrective measures in place. Maj. Mailey

stated that the Dover Police Department offers a Citizens' Police Academy for a couple of weeks over the summer that allows citizens to learn about how the Department operates, what is done during the course of drug and burglary investigations, community policing, and the Department's social media program. He noted that the social media program had helped the Department reach out to the community on a lot of fronts, noting that the Dover Police Department was featured in a recent YouTube video, and there was a similar follow-up video as well. Maj. Mailey invited members to tour the Police Department and meet the officers. He stated that it was important for officers to get out and have fun with the community, so the community and Department could get to know one another.

Ms. Smith requested that the DHRC be informed when the Citizens' Police Academy is held.

Ms. Smith stated that the purpose of inviting someone from the Police Department was to create an awareness that the DHRC was not at the table in regard to the incident that occurred, discuss why this was the case, and find out how to get to the table. She stated that she would be happy to meet with the Mayor and Police Chief and invited members to join her to find out what was needed to solidify the relationship and create more synergy. Ms. Smith stated that the DHRC would have no power unless they had people behind them, and questioned how to get a greater following, noting that, currently, there were only eight (8) total people involved. She felt that once the Commission's constituents come to recognize and respect them, the DHRC would have power and she requested members for feedback in this regard.

Mr. Roach indicated that members attend certain community events or meetings individually, and felt it important for members to attend some of these occurrences together to show that the Commission is unified, noting that this might bring about support.

In response to Ms. Smith as to the specific target audience and types of events, Mr. Henderson stated that last week he attended a meeting with Fourth District Councilmen Anderson and Sudler at the Solid Rock Baptist Church. In regard to the police videotape incident, Mr. Henderson expressed his belief that the DHRC was not invited to the table because others were busy trying to put the fire out, but stated the need for the DHRC to make their own presence. Mr. Henderson felt that the DHRC's presence should be in Districts 3 and 4 in various meetings and functions and with various churches.

Mr. Ruane noted that there was a recent shooting in District 2.

Mr. Roach stated the need to be there for everyone, since the sensitivity and importance of various issues may be subjective.

Ms. Smith questioned how to pinpoint those events that the DHRC needs to attend as a unit and also ensure that it is a diverse group of people, how to communicate with one another that this is where members need to be, and what the DHRC's agenda would be. She stated the need to be strategic in

identifying whether the target audience would be at the grass roots or upper echelon levels. Ms. Smith reminded members that they had previously discussed partnering with groups of people as a grass roots effort, which would be more proactive than attending events. She felt the need to be very strategic in creating power and orientation.

Mr. Henderson agreed that the Commissioners needed to identify events to attend, noting that he gets information online. He also stated that Rev. Rita Mishoe Paige, member of the IMA, is very active in the community. Mr. Henderson indicated that he would like to think in terms of those he represents rather than those who follow. He stated the need for members to get out of their comfort zones as Commissioners. Mr. Henderson noted that Councilmen Anderson and Sudler, particularly Councilman Sudler, were trying very hard to get established, become aware and open up community forums, and indicated that, as a commissioner and member of the IMA, he planned to attend every one (1) of those meetings that he could. He stated that if he hears of a community meeting anywhere, he wants to be there to be aware of what is going on.

Mr. McGiffin advised members that when he was serving as City Councilman, there were seven (7) different community meetings that took place at various levels of frequency. He felt it incumbent upon himself, as a Third District Commissioner, to contact his two (2) Council district representatives to find out when such meetings are held.

Mr. Roach suggested that each commissioner could identify two (2) or three (3) events coming up in the near future and communicate them to the whole group so members could attend as a whole.

In response to Mr. Ruane, Mrs. Traci McDowell, City Clerk stated that new Council members were not made aware of the DHRC during their orientation sessions since orientation involves getting them on board, telling them what their responsibilities are, and letting them know how to get information.

Mr. Ruane commented that, in addition to meeting with the Mayor and Police Chief, there was an opportunity to educate Council about who the DHRC is and how they got to be where they are. He questioned whether newly elected Council representatives have knowledge of the DHRC or that they have a connection with commissioners. Noting that there were five (5) new members of Council, he felt the DHRC should have some strategy for reaching out to Council, whether through written communication or a meeting.

**Scheduling of November 2015 Meeting Date**

Ms. Smith questioned whether members should continue to meet once per month or take a few months off. She stated her opinion that there was a need to meet to build upon momentum, determine a specific direction, continue to build a brand, get into the community, make the DHRC's presence known, and get clarity on who their audience is.

Mr. Roach stated his preference for hour-long meetings once per month.

**By unanimous consent, members scheduled monthly meetings to be held at 5:15 p.m. on the following dates:**

**June 23, 2015**
**July 28, 2015**
**August 25, 2015**
**September 29, 2015**
**October 27, 2015**
**November 17, 2015**

Ms. Smith requested members to keep one another apprised through email about community events. Responding, Mr. McGiffin cautioned members of the DHRC's need, as a public body, to comply with the Freedom of Information Act (FOIA) and that information should be distributed through the City Clerk's Office.

Ms. Denise Devine, Assistant City Clerk, advised members to avoid serial meetings, including emails or text messages, which could violate FOIA. She stated, if members were planning to get together, they should contact the Clerk's Office to determine who should or should not attend, and whether there would be a need to post the gathering as a public meeting.

Ms. Smith requested that, over the next 30 days, members think about the events that they wish to attend, in order to pinpoint their market and whether they are trying to engage leadership or grass roots, noting that this would determine the events where they put most of their energy.

Mr. Ruane questioned if both areas could be addressed. Responding, Ms. Smith stated that focusing on two (2) totally different markets might cause members to run themselves ragged. She stated that focusing on one (1) market and building from there would not mean that members could not attend both types of events, it would just identify the target audience and a means of reaching them.

**DHRC Committee Updates**
**By unanimous consent, this item was deferred due to time constraints.**

**Commission Members' Announcements**
**By unanimous consent, this item was deferred due to time constraints.**

**Mr. Henderson moved for adjournment, seconded by Mr. Roach and unanimously carried.**

Meeting adjourned at 6:16 p.m.

S. Renee Smith
Chairwoman

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