SPECIAL COUNCIL MEETING

A Special Council Meeting was held on November 17, 2014 at 5:00 p.m. with Council President Bonar presiding. Members present were Mr. Anderson, Mr. Dixon, Mr. Hare, and Mr. Hutchison. Mr. Perza, Mr. Slavin, and Mrs. Williams were absent

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

AGENDA ADDITIONS/DELETIONS

Mr. Bonar reminded members that the meeting was being held with less than seven (7) days notice in order to comply with election law deadlines.

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

SETTING OF DATES AND SELECTION OF POLLING PLACE FOR SPECIAL THIRD DISTRICT ELECTION

Council President Bonar reminded members that former Councilman Sean Lynn had been elected as State Representative for the 31st District and the State Board of Canvass had certified this election. Mr. Bonar indicated that it was incumbent upon Council to set a date for a special election to fill the remainder of Mr. Lynn's Third District Council term, which would expire May 8, 2017. Mr. Bonar stated that Deputy City Solicitor William Pepper and staff had been consulted, and staff recommended that the date of the election be set for Tuesday, December 30, 2014. Mr. Bonar reviewed a memorandum from Mrs. Traci McDowell, City Clerk, dated November 17, 2014, regarding Special Election - Third (3rd) District Council Vacancy, which included recommended dates for accepting filing petitions, voter registration close, and administration of the oath of office. Mr. Bonar noted that staff recommended the use of the former Dover Public Library, 45 South State Street, as the polling place for the Special Election.

Mr. Anderson moved to open discussion, noting that he did not favor the recommended action and, without objection, Council discussed this agenda item.

Members were provided with an opinion from Mr. William Pepper, Deputy City Solicitor, dated November 13, 2014, which stated that the period between the creation of the vacancy and the annual meeting in 2015 would be six (6) months and three (3) days and set forth two (2) options: 1) to commit to swear the winner of the April election into office before the six (6) month period expires; and 2) to hold a special election to fill the balance of Mr. Lynn's term between December 6, 2014 and January 5, 2015.

Mr. Anderson stated that both options had merit because there were more than two (2) years left in the term; however, he felt that it would make sense from a public policy standpoint to consider the second option in regard to the money that would be spent. He advised members that he had been involved in a special election during the holiday season in the past and this did not work out well. Mr. Anderson stated that an election at this time of year was not good for the citizens because it was

very hard to get any messages out, the turnout is dismally low, and the public is not well served for the money spent. He indicated that the City had received an opinion which would allow for an election date that would coincide with the regularly scheduled election and he felt that this should be considered. Mr. Anderson acknowledged that there were varying opinions and felt both had merit; however, if there were any choice from a public policy point of view, he felt it vital to examine each and every option. He stated that if Council decided that a special election was needed for legal reasons, he was opposed to it being held this year and that it should be scheduled for the new year, otherwise it would be extraordinarily hard to accomplish and difficult to find staffing. Mr. Anderson stated that it would be easier for voters to pay attention if the election were scheduled early in the new year, possibly the first Tuesday of the year.

Mr. Hare reminded Council that there were two (2) options and stated that it was the job of the City Solicitor's Office to give Council the options, not what the Solicitor's Office thinks should be done, noting that both options were within the law. He indicated that the City was not in a position to spend $6,000 for a special election and then spend an additional $6,000 on another election. He did not feel that the City would be "hurting" if the seat were vacant until the next election or that the citizens of Dover would have a problem understanding that the April election would include filling one (1) vacant seat for an additional two (2) years, as well as electing four (4) year Council representatives, noting that the press would communicate this. Mr. Hare stated that if spending the additional funds and putting Clerk's Office staff through additional work could be avoided, he felt the City would be better off having the election as planned, in April. He indicated that the winner of the vacant seat would be sworn in three (3) or four (4) days early to be within the six (6) month time frame, noting that members had been sworn in early before. Mr. Hare did not see the logic in having a special election during the Christmas holiday.

Responding to Mr. Hutchison, Mr. Bonar stated that State representatives are sworn in on January13, 2015; however, he stated that Mr. Lynn's appointment was already effective, since taking the oath of office was a formality. He reminded members that Mr. Lynn had formally resigned from Council, and began being paid as the Representative of the 31st District effective on the date of the election.

Mr. Hutchison noted that if Council followed the date of Mr. Lynn's taking the oath of office, the City would be well within the time limits and no special election would be required.

Mr. Bonar noted that Mr. Lynn had resigned, and this was what "set the clock in motion."

Mr. Bonar stated that the earliest an election could be held would be December 6, 2014 and the latest would be January 5, 2015. From a personal standpoint, he indicated that he did not care when the election would be held; however, if Council could facilitate the election taking place and filling this seat, he felt that Council needed to do so. Mr. Bonar indicated that he did not have a problem with waiting until the regular municipal election in April to fill the vacancy and swearing in the new member a few days early, if this met the City's legal obligation and was the will of Council.

In response to Mr. Bonar, Mrs. McDowell advised members that December 6, 2014 was the earliest date the election could be held according to the requirement to schedule the election no sooner than 30 days and no later than 60 days from the vacancy; however, she explained there were State laws that require advertising the vacant position for 20 days and staff was now 11 days behind in the election process.

Mr. Hare moved to hold the election on April 21, 2015 and swear in the individual who wins the seat a few days early to be within the time limits, as was one (1) of the options presented by the City Solicitor's Office. The motion was seconded by Mr. Anderson and carried by a unanimous roll call vote.

Mr. Bonar stated that the election would be scheduled to coincide with the regular municipal election for City Council that takes place in April and the swearing in would take place a few days prior to the regular swearing in.

Responding to Mr. Bonar, Mrs. McDowell advised members that the filing deadline for Mayor would be January 30, 2015 (the last working day in January, at 4:30 p.m.) and the filing deadline for Council representatives would be February 13, 2015 (the second Friday in February).

By unanimous consent, the meeting adjourned at 5:13 p.m.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Special Meeting of November 17, 2014 are hereby approved.

ROBIN R. CHRISTIANSEN
MAYOR

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