LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE
A G E N D A

OCTOBER 28, 2013 - 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.

AGENDA ADDITIONS/DELETIONS

1. **Request to General Assembly to Amend Title 29 - State Government - General Regulations for State Agencies - Chapter 100 - Freedom of Information Act**
   (Staff Recommends Supporting Mayor Carey's Efforts and Issuing Correspondence Endorsing the Proposed Request to the General Assembly to Amend Title 29 – State Government – General Regulations for State Agencies – Chapter 100. Freedom of Information Act)

2. **Establishment of an Ad Hoc Committee to Study the Future of City Hall, Weyandt Hall, and the Former Dover Public Library** *(Request of Councilman Bonar and Councilwoman Williams)*

3. **Adjournment by 7:00 p.m.**

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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.

ACTION FORM

PROCEEDING: Legislative & Finance **AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Mayor's Office **DATE SUBMITTED**: 10/23/2013
PREPARED BY: Scott D. Koenig, P.E., City Manager
SUBJECT: Request to General Assembly to Amend Title 29 – State Government – General Regulations for State Agencies – Chapter 100. Freedom of Information Act (Request of Mayor Carey)
REFERENCE: N/A
RELATED PROJECT: N/A
APPROVALS: N/A
EXHIBITS: Copies of draft Senate Bill
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: As soon as possible.
RECOMMENDED ACTION: Support Mayor Carey's efforts and issue correspondence endorsing the proposed request to the General Assembly to Amend Title 29 – State Government – General Regulations for State Agencies – Chapter 100. Freedom of Information Act.

BACKGROUND AND ANALYSIS

In recent months, the City of Dover has been actively negotiating the proposed sale of various pieces of land within the city limits. Under current law, the sale and/or lease of land which is owned by the city cannot be discussed in executive session. Mayor Carey has worked with Senator Brian Bushweller to draft an amendment to the Delaware Code which would add sales and leases to the current language regarding publicly funded capital improvements. The attached documents outline the proposed changes.

SPONSOR: Sen. Bushweller

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO OPEN MEETINGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Amend § 10004, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows.

§ 10004. Open meetings [Effective until Sept. 16, 2013]

(b) A public body may call for an executive session closed to the public pursuant to subsections (c) and (e) of this section, but only for the following purposes:

(2) Preliminary discussions on site acquisitions, sales, and leases for any publicly funded capital improvements;

SYNOPSIS

The bill adds sales and leases to the current language regarding publicly funded capital improvements.

Author: Senator Bushweller

SD : JGM : MMS
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Cross references. — Confidentiality of records, § 2206 of Title 13.

The policy behind the Freedom of Information Act is to ensure government accountability, inform the electorate and acknowledge that public entities, as instruments of government, should not have the power to decide what is good for the public to know. Guy v. Judicial Nominating Comm'n, Del. Super. Ct., 659 A.2d 777 (1995).

The policy of free access and disclosure must be balanced against an individual's right to keep personal information from public scrutiny; while the drafters determined that all documents defined as "public records" are to be freely accessible to all citizens, to protect individual privacy the drafters also carved out exceptions to the definition of what constitutes a "public record." Bd. of Managers of Del. Justice Info. Sys. v. Gannett Co., Del. Super. Ct., 808 A.2d 453 (2002).

§ 10004. Open meetings.

(a) Every meeting of all public bodies shall be open to the public except those closed pursuant to subsections (b), (c), (d) and (g) of this section.

(b) A public body may call for an executive session closed to the public pursuant to subsections (c) and (e) of this section, but only for the following purposes:

(1) Discussion of an individual citizen's qualifications to hold a job or pursue training unless the citizen requests that such a meeting be open. This provision shall not apply to the discussion by a licensing board or commission which is subject to the provisions of § 8810 of this title, of an individual citizen's qualifications to pursue any profession or occupation for which a license must be issued by the public body in accordance with Delaware law;

(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements;

(3) Activities of any law-enforcement agency in its efforts to collect information leading to criminal apprehension;

(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body;

(5) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor;

(6) Discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion may disclose the contents of such documents;

(7) The hearing of student disciplinary cases unless the student requests a public hearing;

(8) The hearing of employee disciplinary or dismissal cases unless the employee requests a public hearing;

(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed, unless the employee or student requests that such a meeting be open.

(c) A public body may hold an executive session closed to the public upon affirmative vote of a majority of members present at a meeting of the public body. The vote on the question of holding an executive session shall take place at a meeting of the public body which shall be open to the public, and the results of the vote shall be made public and shall be recorded in the minutes.