LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on October 28, 2013, at 6:03 p.m. with Chairman Lynn presiding. Members present were Mr. Hare, Mr. Slavin, Mr. Rushe, and Mr. Shevock. Members of Council present were Mr. Dixon, Mrs. Williams (arrived at 6:07 p.m.), Mr. Hutchison, and Council President Bonar. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

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

Request to General Assembly to Amend Title 29 - State Government - General Regulations for State Agencies - Chapter 100 - Freedom of Information Act

Mayor Carey advised members that, in recent months, the City of Dover had been actively negotiating the proposed sale of various pieces of land within the City limits and that, under current law, the sale and/or lease of land owned by the City could not be discussed in executive session. Mayor Carey indicated that he had worked with Senator Brian Bushweller to draft an amendment to the Delaware Freedom of Information Act that would add language to allow preliminary discussions regarding the sale or lease of publicly funded capital improvements in executive session. Mayor Carey presented the proposed amendment to members for consideration.

In response to Mr. Shevock, Mayor Carey confirmed that the amendment would allow only discussion of such sales and leases in executive session; however, any Council action would occur in a public forum.

Mayor Carey reminded members that recent negotiations regarding Garrison Park were open to the public, which restricted the City's ability to negotiate the price for the property. He believed that this restriction could have potentially cost the City a great deal of money.

Mr. Lynn thanked Mayor Carey for his efforts and concurred that publicly negotiating sales puts the City in an inferior bargaining position; however, he expressed concern with the use of the term "preliminary," stating that this was not defined within the Code and was therefore open to interpretation. In addition, Mr. Lynn noted his concern that the amendment would attach such sales and leases to publicly funded capital improvements. He explained that this would not necessarily address situations similar to Garrison Park, as this was not a capital improvement project but a sale of City property. Mr. Lynn suggested that the proposed amendment be sent to Deputy City Solicitor Pepper for review and revision of the language.

Mr. Rushe questioned if other municipalities were facing this issue and whether they had addressed Senator Bushweller. Responding, Mayor Carey indicated that no other municipalities had brought this item forward. He stated that he brought this matter to the attention of the Delaware League of Local Governments (DLLG) and its members were unanimously in favor of moving forward with the amendment and were willing to write letters of support.

In response to Councilman Hutchison, Mayor Carey advised members that the DLLG had not expressed concern regarding any other aspects of the Freedom of Information Act (FOIA).

Councilman Hutchison expressed his opinion that it would be helpful for Council to have the ability to hold an executive session for preliminary discussion of a matter to determine a consensus for support and to identify whether such matter warranted further discussion by Council. For example, Mr. Hutchison stated his opinion that Council's hands were tied with regard to discussing concerns involving land, personnel matters, financial matters, etc. outside of a public meeting.

Mr. Bonar suggested approaching the legislature with the proposed amendments, with the DLLG's support, before the end of January when their session ends.

Mr. Hare moved to recommend supporting Mayor Carey's efforts and issuing correspondence *(Attachment #1)* 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, stipulating that the proposed amendment be sent to the Deputy City Solicitor for review prior to consideration by Council. The motion was seconded by Mr. Rushe and unanimously carried. *[Clerk's Office Note: Subsequent to the Deputy City Solicitor's review, the proposed Senate Bill was revised as recommended **(Attachment #2)**.]*

Establishment of an Ad Hoc Committee to Study the Future of City Hall, Weyandt Hall, and the Former Dover Public Library

Council President Bonar stated that due to the age and condition of the City's buildings, including the former Dover Public Library, Weyandt Hall, and City Hall, it would cost a significant amount of money to repair or renovate them. He noted that these buildings were not handicapped accessible, had problems with the heating, ventilation and air conditioning (HVAC) systems, etc., and were not currently drawing any tax revenue for the City.

Mr. Bonar explained that the purpose of this Committee would be to review these issues and develop an unbiased but educated recommendation to Council on the most fiscally responsible way to remedy them. He noted that members would consider whether to renovate or build new structures, keeping in mind the concept of inviting private investors to pay for the repairs or construction of a new building which would also put the buildings back on the tax rolls. Mr. Bonar noted additional concerns regarding security in City Hall, citing a recent incident involving an individual who posed a potential threat and was able to make it into the City Manager's and Mayor's Office. He stated that this person was taken into custody without incident; however, he felt that this indicated that security at City Hall and in the City Council Chambers needed to be addressed.

Mr. Bonar recommended creating an objective group to review the options and provide a recommendation to the Legislative, Finance, and Administration Committee and ultimately to Council. He noted that the Committee would be of no expense to the City but would provide valuable information.

In response to Mr. Shevock, Mr. Bonar advised that once the task of the Committee was complete it would dissolve. It would not be a standing committee.

Responding to Mr. Shevock, Mr. Bonar stated that the Committee would consist of three (3) members of Council, and three (3) members of the general public with a background in investments and finance, and that he, as Council President, would appoint the members.

In response to Mr. Slavin, Mr. Bonar advised that if the recommendation were passed on to Council, additional details and specific information concerning the formation of the Committee would be provided, including the names and backgrounds of members, the scope of the committee, etc.

Responding to Mr. Lynn, Mr. Scott Koenig, City Manager, stated that the basic groundwork and architectural design previously approved by Council for City Hall was currently on hold pending the potential formation of the Committee. He reminded members that further discussion and possible recommendations regarding public/private partnerships related to City-owned buildings was scheduled for consideration during the Special Council Meeting of October 30, 2013.

Mr. Hare moved to recommend the establishment of an Ad Hoc Committee to Study the Future of City Hall, Weyandt Hall, and the Former Dover Public Library. The motion was seconded by Mr. Shevock and unanimously carried.

By unanimous consent, the meeting adjourned at 6:21 p.m.

Sean M. Lynn
Chairman

SML/TM/mk/js/dd
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Attachment
Attachment #1 - Letter of Support for FOIA Amendment
Attachment #2 - Proposed Amendment to Title 29 - State Government - General Regulations for State Agencies - Chapter 100 - Freedom of Information Act

City of Dover

MAYOR AND COUNCIL

November 13, 2013

The Honorable Brian Bushweller, Senator
PO Box 1401
Dover, DE 19903

Dear Senator Bushweller:

The City of Dover offers its full support of the proposed amendment to Title 29 - State Government - General Regulations for State Agencies - Chapter 100 - Freedom of Information Act. This amendment would enable the City of Dover, and all other Delaware municipalities, to discuss, in addition to the acquisition of property, the sale or lease of real property, in executive session.

As always, thank you for your continued support of the City of Dover.

Sincerely,

CARLETON E. CAREY, SR.
MAYOR

DAVID L. BONAR
COUNCIL PRESIDENT

/CEC/DLB/tam
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cc: City Council

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 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 for any publicly funded capital improvements, or sales or leases of real property;

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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