LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on June 24, 2013, at 6:00 p.m. with Chairman Lynn presiding. Members present were Mr. Hare, Mr. Slavin, Mr. Rushe, and Mr. Shevock. Members of Council present were Council President Bonar (arrived at 6:40 p.m.), Mr. Dixon, Mrs. Williams (arrived at 6:38 p.m.), and Mr. Hutchison. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

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

Proposed Ordinance #2013-10 Amending Chapter 2 - Administration, Article IV - Officers and Employees, Division 7 - General Employee Pension Plan, Section 2-331 - Form of Benefits (Civil Marriage)

Mr. Scott Koenig, City Manager, informed members that on May 7, 2013, Governor Jack Markell signed the Civil Marriage Equality and Religious Freedom Act of 2013, amending Title 13 of the Delaware Code relating to domestic relations to provide for same-gender civil marriage and to convert existing civil unions to civil marriages, effective July 1, 2013.

As a result, staff prepared proposed Ordinance #2013-10, which would amend Chapter 2 - Administration, Article IV - Officer and Employees, Division 7 - General Employee Pension Plan, Subdivision I - In General, Section 2-331 - Form of Benefits of the Dover Code to recognize spouses and children of civil marriage as eligible survivors of pension participants.

Staff recommended adoption of proposed Ordinance #2013-10 for compliance with State law.

Mr. Hare moved to recommend adoption of proposed Ordinance #2013-10, seconded by Mr. Rushe and unanimously carried.

Discussion - Fiscal Year 2013 Audit Program

Mrs. Donna Mitchell, Controller/Treasurer, reviewed a presentation entitled "Auditor's Responsibility for Communicating with Audit Committee." She reminded members that City Council decided that the Legislative, Finance, and Administration Committee would also serve as the City's Audit Committee.

Mr. Hare moved to recommend acceptance of the Auditor's Responsibility for Communicating with Audit Committee report, seconded by Mr. Rushe and unanimously carried.

Review of Ordinance Sponsorship *(Tabled by Committee on June 10, 2013)*

During their meeting of June 10, 2013, members reviewed a history of the requirement for three (3) sponsors to propose amendments to the Dover Code. Members were advised that currently all ordinances or proposed Charter changes must have three (3) sponsors (three (3) members of Council) before they are presented to the appropriate committee for consideration and subsequent recommendation to the Council. The only exceptions are emergency ordinances, zoning ordinances or map amendments, ordinance amendments submitted by Council-appointed staff or a committee,

and ordinances passed in consideration of a comprehensive review of the Code. After much discussion, the matter was tabled to allow time for members of the Committee and Council to review the history of how the current procedure came about.

By unanimous consent, the matter was removed from the table.

Mr. Hare stated his opinion that the requirement should be changed from three (3) to two (2) Council sponsors and that amendments proposed by Council-appointed staff should not be excepted from the requirement but should be required to have the sponsorship of at least one (1) member of Council.

Mr. Hare moved to direct staff to prepare an ordinance to amend Chapter 1 - General Provisions, Section 1-9 - Sponsoring, Consideration, Passage and Effective Date of Ordinances and Charter Amendments, Subsection (c) - Sponsors, to reduce the number of Council member sponsors required from three (3) to two (2), stipulating that ordinance and Charter changes proposed by one (1) Council-appointed staff member would require sponsorship by one (1) member of Council, noting that all other exceptions would remain unchanged, seconded by Mr. Rushe and carried by a roll call vote of three (3) yes (Hare, Rushe, and Shevock) and two (2) no (Lynn and Slavin).

Proposed Amendments to Chapter 58 - Human Relations Commission

During their meeting of June 10, 2013, Council approved the Committee's recommendation of May 28, 2013 that the Chair of the Legislative, Finance, and Administration Committee schedule a Special Meeting for the purpose of discussing recommendation Items #1-5 included in the committee action form pertaining to the Dover Human Relations Commission (DHRC).

During the Committee meeting of June 24, 2013, Mr. Hutchison stated that since the creation of the DHRC in 2002, it had served a very important part in addressing some critical issues in the City; however, based upon past performance, there were some issues and concerns which needed to be reviewed and addressed. He voiced his concerns regarding the size of the Commission, stating that 15 members were too many, and the serious problem of retaining members, noting the Mayor and Council had received resignations from numerous members.

Mr. Lynn stated that the Committee would review each of the five (5) recommendation items and then open the floor for public comments. The first recommendation item questioned whether the Commission was fulfilling its purpose as defined in Section 58-31 of the Dover Code.

Mr. Hare stated his opinion that each election district should be represented by the Commission, and suggested the possibility of reducing the Commission to nine (9) members, to include two (2) from each district and one (1) at-large.

Mr. Slavin expressed his observation that the Commission was fulfilling its purpose as defined in the Code; however, he noted that the Code was overly broad and questioned whether this should remain the purpose of the Commission going forward.

Mr. Dixon agreed that it would be more beneficial for the Commission to be comprised of representatives from each election district to create a balance. He stated his opinion that the Commission should provide training to City officials, as the Delaware State Human Relation Commission (SHRC) does, to ensure the fair treatment of all people.

In regard to the second item for consideration, Mr. Slavin recalled that, in the past, the SHRC had taken over numerous complaints that were filed with the DHRC. He questioned whether the frequency of the SHRC's involvement was tracked and whether there were clearly established jurisdictional boundaries between the Commissions.

Mr. Lynn stated that these were issues which would require further review and discussion, realizing that it was unknown whether the DHRC was duplicating the services of the SHRC.

Reminding members of his membership on the SHRC, Mr. Dixon stated that the SHRC had jurisdiction within the City. With regard to the DHRC request for an apology for slavery, there was a conflict because the Commission presented it with the impression that it was a SHRC recommendation. Mr. Dixon expressed his understanding that the DHRC was created in 2001 to help restore peace within the community and subsequently maintain open communication to keep similar problems in abeyance.

In response to Mr. Slavin, Mr. Lynn stated that the SHRC would have precedence over the DHRC in matters and that there was a possibility of having two (2) concurrent investigations into a matter which could result in two (2) different outcomes.

Mr. Hare stated that a City resident could file a complaint directly with the SHRC and noted that the SHRC would have the final authority in all matters. He expressed his opinion that the DHRC was a duplication of services and oversteps at times. Referring to the flyer prepared and distributed by Mr. Roy Sudler, DHRC Chair, for the DHRC Special Meeting of June 13, 2013 ***(Attachment #1)***, which indicated that the purpose of the meeting was to review the rules and regulations of a newly adopted City ordinance, Mr. Hare stated that it was not within the scope of the Commission to review action taken by Council.

Mr. Slavin questioned the City's authority in regard to matters governed by State law. Mr. Lynn suggested the possibility that questions regarding the viability and feasibility of the formation of the Commission may have been raised and legal opinions previously provided during the 2001 discussions which could be provided to members for review.

Mr. Dixon clarified that the citizens who file complaints with the SHRC maintain the right to file these matters with the civil court.

Mr. Hare requested information pertaining to the number of complaints filed since 2001.

Mr. Hutchison expressed concern that the DHRC does not have a legal representative present during meetings, noting that a representative from the Attorney General's Office was present at each SHRC meeting.

In regard to the possibility of amending the Dover Code to limit the Commission to meeting on an as needed basis, Mr. Hare concurred that the Commission should meet on an as needed basis and that this should occur when a complaint is filed.

Mr. Rushe agreed with Mr. Hare, noting, for example, that the Board of Adjustment meets on an as needed basis and if there are no variance requests received, they do not meet.

Responding to Mr. Slavin, Mr. Hare stated that complaints would be filed and vetted through the City Clerk's Office.

Referring to the possibility of amending the Dover Code to reduce the membership of the Commission from fifteen (15) to seven (7), which would maintain the threshold originally proposed during the Dover Community Meeting of December 4, 2001, Mr. Lynn stated that a review of the DHRC minutes revealed that there was an attendance problem as well as a problem in finding individuals willing and able to serve on the Commission and that he was in support of reducing the number of members to seven (7).

In response to Mr. Rushe, Mr. Lynn stated that he was not aware of any other committees, commissions, or boards in the City of Dover with such a large number of members.

Mr. Lynn provided an opportunity for members of the public in attendance to share their comments, reminding those wishing to speak that citizen comments were limited to three (3) minutes.

Mr. Roy Sudler, Jr., Chair, reviewed the DHRC Response to Action Form, dated June 24, 2013 *(as on file in the Clerk's Office)*, and read a statement, as follows:

> *On behalf of the Commission, it is my intent to submit factual evidence demonstrating the actions, special forums, outreach community programs and meetings of the commission, not only being relevant, but essential for promoting tolerance and understanding in the great City of Dover, where diversity is valued.*
>
> *Under my Chairmanship, the Dover Human Relations Commission only seeks to increase the quality of living for all races by implementing a proactive approach, rather than a reactive approach to racial tension and unfair-treatment in the workplace.*
>
> *In our DHRC response to the action form packet, prepared by Denise Devine, City's Clerk Assistant, and filed by James Hutchison, City Councilman; the Commission is appalled to hear the allegation stated in your Legislative, Finance, and Administration Packet. For the record, throughout the last three years, the*

commission has partnered with various city and state agencies, that have played a significant role in helping the Dover Human Relations Commission to fulfill their decree as commissioner. For example:

1. *The Dover Police Department;*
2. *Dover Planning, and Inspections Division;*
3. *Delaware's Department of Justice;*
4. *State Human Relations Commission;*
5. *Dover Interfaith Agencies;*
6. *Delaware State University's Police Department;*
7. *Delaware State University's Students and Counseling Division; and*
8. *Community Leaders*

all partnered with the Dover Human Relations Commission to help alleviate, assess and monitor fair housing initiatives, racial tension, hate crime activity and unfair-treatment in the City of Dover.

The Commission requests that the Legislative Finance and Administration Committee carefully analyze all of the evidence provided not only in your Legislative, Finance and Administration Committee Packet, but also in the Dover Human Relations Commission's Response to Action Form Packet, submitted for your review by the Dover Human Relations Commission's Chairman Roy Sudler, Jr.

In addition, in good faith, we ask that you consider completing the (8) Recommendation provided by DHRC Chairman; voted on and unanimously approved in January's 2012 Legislative, Finance and Administration Committee Meeting before additional recommendations are provided for implementation.

In response to Mr. Hare's comments regarding the DHRC Special Meeting of June 13, 2013, Mr. Sudler stated that the DHRC conducted a review of the landlord and tenant obligations of Ordinance #2013-04 (adopted April 8, 2013) to help educate the community, not to review or scrutinize Council's action.

In response to Mr. Slavin, Mr. Sudler stated that the Commission had not discussed the Committee Action Form of May 28, 2013 or voted on the response provided; however, explained his opinion that, as Chair of the Commission, he had the authority to speak on their behalf, according to the by-laws.

Mr. Rushe expressed his support for the the Commission's proactive approach and inquired as to Mr. Sudler's opinion regarding reducing the number of members. Responding, Mr. Sudler confirmed that 15 members were a lot and that it was difficult to get people to commit, and stated the importance of ensuring representation for different ethnic groups.

Mr. Lynn suggested that the Commission could benefit from more organizational help from the City, including mandating that all meetings are held at City Hall, packets and agendas are created by the Clerk's Office, and requesting the City Solicitor or Deputy City Solicitor to attend each meeting. He stated his observation that there was a consistent problem with proposals not being voted on, as well as a perceived problem with Freedom of Information Act (FOIA) violations, and questioned whether the Commission would benefit from assistance in the creation of agendas to ensure that meeting minutes were created, reviewed, and approved at each meeting. He also inquired as to Mr. Sudler's opinion regarding reducing the number of members and ensuring representation for each election district.

Responding to Mr. Lynn, Mr. Sudler stated his agreement with reducing the number of Commission members; however, he disagreed with the suggestion of incorporating individuals from each election district. It was his opinion that ethnic representation was more important than election district representation. He stated that many Commissioners believe they cannot fulfill their duties because of micro-management by the City Clerk's Office.

In response to Mr. Hutchison, Mr. Sudler expressed his opinion that it would not work for the Commission to meet on an as needed basis because the City Clerk's Office would micro-manage the complaint intake process and members could not be confident that matters would be referred. He indicated that the Commission by-laws provided a flow chart for the review process. Mr. Sudler reminded members of the Demand for Hearing, Written Complaint and Memorandum of Record received from Mr. Eshed Alston, which he provided to members during their meeting of May 28, 2013, stating that he had not been informed of the complaint until Mr. Alston contacted him directly. *(Clerk's Office Note: This document, in addition to two (2) others filed by Mr. Alston, was received by the City Manager's Office on November 5, 2012 and City staff acted in accordance with the advice of legal counsel.)*

In response to Mr. Hutchison's comment that a Deputy Attorney General attends each SHRC meeting to ensure adherence to all rules and regulations, Mr. Sudler stated that the DHRC follows the by-laws of 2001. *(Clerk's Office Note: The by-laws on file with the City of Dover indicate an adopted date of September 6, 2002 and an amended date of December 15, 2004.)*

Mr. Hutchison expressed concern regarding the Commission's history of looking into matters that were not brought forward as complaints.

Mrs. Williams questioned whether there had been any meetings between the DHRC, the SHRC, and general counsel to clarify the roles of each group.

Responding to Mrs. Williams and Mr. Lynn, Mr. Sudler agreed to meet with the SHRC as well as contact Ms. Fuentes-Bowles.

Mr. EShed Alston, 406 Arnold Court, Dover, stated that he had previously filed three (3) written complaints with the City of Dover in November 2012 which had not yet been addressed, noting that one (1) of the complaints was referenced by Mr. Sudler earlier in the meeting. *(Clerk's Office Note:*

The three (3) documents referenced were filed with the City Manager's Office by Mr. Alston on November 5, 2012 and City staff acted in accordance with the advice of legal counsel.) At the request of Mr. Alston, members were provided with correspondence which he submitted to the City Clerk's Office on June 24, 2013 *(as on file in the Clerk's Office).*

Noting that Mr. Alston's three (3) minute time limit had elapsed, and there being no additional questions from members in attendance, Mr. Lynn requested him to relinquish the podium.

Dr. Jahi Issa, 1300 S. Farmview Drive, expressed his frustration with the lack of response to complaints he conveyed to the DHRC during their meeting in October 2012 regarding the allegations of lynchings occurring in Dover, as well as his request to Mr. Sudler for a copy of the audio recording from that meeting. He also stated his belief that he was constantly being followed by City of Dover and State Police officers.

Mr. Hare questioned whether Dr. Issa or Mr. Alston had expressed their concerns to the SHRC and the outcome they received.

In response to Mr. Hare, Dr. Issa stated that he had attended SHRC meetings as well and made oral complaints but received no follow up. It was his opinion that the lack of response was the result of the subject matter being "too touchy."

Also responding to Mr. Hare, Mr. Alston stated that Mr. Vincent Petroff, Supervisor, Delaware Division of Human Relations, invited him to attend a State-wide teleconference; however, he had not received any follow up information since that time.

Mr. Hare moved to table the matter until the next meeting to allow the opportunity for members to obtain and review the DHRC by-laws, the number and type of complaints received, and research regarding the City Solicitor's review of the formation of the DHRC, seconded by Mr. Slavin and unanimously carried.

By unanimous consent, the meeting adjourned at 7:03 p.m.

Sean M.Lynn
Chairman

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Attachment
Attachment #1 - Flyer prepared and distributed by Mr. Roy Sudler, DHRC Chair, for the DHRC Special Meeting of June 13, 2013

ATTACHMENT #1
LF&A Committee Meeting of 06/24/2013

Prepared and distributed by Mr. Sudler

DHRC - SPECIAL MEETING

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On **June 11, 2013 @ 7:00 p.m.,15** Locker man St. Dover, DE **[City Hall Chambers]** the **Dover Human Relations Commission** will conduct a special meeting titled:

Landlord and Tenant's Obligation to Adhere to Chapter 22 – Building and Building Regulations, Article X – Rental Dwelling [Amended] New City Ordinance # 2014-04 Section: 22-331

Adopted April 8, 2013

Purpose:

To review the rules and regulations of newly adopted **City Ordinance # 2013-04 section 22-331 – 373;** in an effort to mitigate ambiguity of landlord and tenant's obligation to manifest a safe rental dwelling climate that deters delinquent behavior and the commission of criminal enterprises in quest of eradicating undesirable tenants and their guest who engaged in unlawful activity throughout the City of Dover.

Goal:

To promote cleaning up our streets together by foster a philosophy of inclusiveness as City Officials work together to implement new ordinances that address curing defective conditions and social problems that contributes to a decrease in the quality of renting, living and vision for the City of Dover. In addition, to increase the caliber of communication and compliance, while decreasing reservation between Dover Residents and City Code Enforcement Agencies through good faith and positive dialogue.

The Commission is authorized to investigate the merit of alleged discrimination claims and dispures within the City of Dover and makes Recommendations for Action to alleviate such Intergroup Conflict.

The Final determination of action will be decided by the Mayor and Dover City Council.

- If you have a concerns or issue that you would like to bring-forth to **DHRC,** then please do not hesitate to contact **Roy Sudler, Jr. Chairman of DHRC @ 736.9889 (or)**
- **City Clerk's Office – (302) 736.7008**

Dover Human Relations Commission

SPECIAL
DOVER HUMAN RELATIONS COMMISSION
AGENDA

JUNE 13, 2013 - 7:00 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.

1. Call to Order/Roll Call

2. Approval of the Agenda

3. Moment of Silence

4. Presentations - Landlord and Tenant Obligations Pursuant to City of Dover Ordinance #2013-04 (Adopted April 8, 2013), Which Amended Chapter 22 - Buildings and Building Regulations, Article X - Rental Dwellings of the City of Dover Code

   On April 8, 2013, City Council adopted Ordinance #2013-04 implementing the Safe Communities program to help ensure that rental housing in the City of Dover is not the source of criminal activity. The staff presentations will provide citizens with an overview of the ordinance and a review of the Police Department's role in enforcing compliance. Citizens are encouraged to attend to learn how this tool can be used to improve their neighborhoods.

   A. City of Dover Department of Planning and Inspections - Ann Marie Townshend, Director
      a-1. Overview of Ordinance #2013-04
   B. City of Dover Police Department - James Hosfelt, Chief
      b-1. Review of Police Department's Role in Enforcement of Ordinance #2013-04

5. Public Comments

6. Adjournment by 9:00 p.m.

/dd
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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.