REGULAR COUNCIL MEETING

The Regular Council Meeting was held on June 10, 2013 at 7:30 p.m. with Council President Bonar presiding. Council members present were Mr. Dixon, Mr. Lynn, Mr. Perza, Mrs. Williams, Mr. Hare, and Mr. Hutchison. Mr. Anderson and Mr. Slavin were absent.

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

OPEN FORUM

The Open Forum was held at 7:15 p.m., prior to commencement of the Official Council Meeting. Council President Leary declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

Ms. Felicia Dorman, 114 Thames Drive, Dover, Delaware, stated that she had written to the Police Department on May 8, 2013 regarding what she deemed to be a racial stop on May 3, 2013. She stated that she did not receive a response to her letter and twelve (12) days later, when she arrived home, all of her vehicles had been towed. Ms. Dorman advised members that the vehicles were said to be abandoned with dirt and debris around them and she was provided no notice prior to them being towed. She stated that she had taken pictures of her Mercedes on Saturday, May 18, 2013 and the pictures showed that the vehicles were not surrounded by debris.

Ms. Dorman stated that she had spoken with several people at the City of Dover, sent a letter to the Mayor's Office, and had spoken with the Chief and his staff members. She indicated that the Chief and his staff responded rudely. Ms. Dorman cited violations of 21 Del. C 4402 (b) and 4402 (d).

Ms. Dorman stated that she is a single mother with one (1) income, she is financially devastated, and she needs her cars back. She also provided her correspondence to Mayor Carey and photos of the vehicles in question ***(Exhibit #1)***.

The invocation was given by Mr. Herb Konowitz, followed by the Pledge of Allegiance.

AGENDA ADDITIONS/DELETIONS

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

Council President Bonar noted that Item #6 - Board of Assessment Appeals Exemption Report - May 21, 2013, 1.H.1 Dover Interfaith Mission For Housing, 1151 Walker Road should be 1155 Walker Road.

Mr. Hare moved for approval of the Consent Agenda, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

ADOPTION OF MINUTES - COUNCIL RETREAT OF MARCH 22, 2013

The Minutes of the Council Retreat of March 22, 2013 were unanimously approved by motion of Mr. Hare, seconded by Mr. Hutchison and bore the written approval of Mayor Carey.

ADOPTION OF MINUTES - SPECIAL COUNCIL MEETING OF MAY 6, 2013

The Minutes of the Special Council meeting of May 6, 2013 were unanimously approved by motion of Mr. Hare, seconded by Mr. Hutchison and bore the written approval of Mayor Carey.

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF MAY 28, 2013

The Minutes of the Regular Council meeting of May 28, 2013 were unanimously approved by motion of Mr. Hare, seconded by Mr. Hutchison and bore the written approval of Mayor Carey.

ADOPTION OF MINUTES - SPECIAL COUNCIL MEETING OF MAY 28, 2013

The Minutes of the Special Council meeting of May 28, 2013 were unanimously approved by motion of Mr. Hare, seconded by Mr. Hutchison and bore the written approval of Mayor Carey.

PROCLAMATION - FLAG DAY AND FLAG WEEK

The City Clerk read the following Proclamation into the record:

WHEREAS, the first official flag of the United States was adopted by the Second Constitutional Congress on June 14, 1777 and on August 3, 1949, Congress designated June 14th of each year as "National Flag Day" and requested that the President issue an annual proclamation calling for its observance; and

WHEREAS, on June 9, 1966 Congress requested that the President designate the week in which June 14th occurs as "National Flag Week" and call upon citizens to display the flag during that week; and

WHEREAS, on December 8, 1982, the National Flag Day Foundation was chartered to conduct educational programs and to encourage all Americans to pause for the Pledge of Allegiance on Flag Day; and

WHEREAS, Flag Day celebrates our nation's symbol of unity, devotion to freedom, and the equal rights of all.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DELAWARE do hereby proclaim June 14, 2013 as **FLAG DAY** and the week of June 8-14, 2013 as **FLAG WEEK** in the City of Dover and urge all residents to pause for the Pledge of Allegiance in honor of the Flag of the United States of America and to proudly display the flag in recognition of the beacon of hope that it has become for our country and for people all over the world.

PROPOSED RESOLUTION NO. 2013-17 AUTHORIZING SIGNATURES FOR BANKING SERVICES

By consent agenda, Mr. Hare moved for adoption of Resolution No. 2013-17. The motion was seconded by Mr. Hutchison and, by a roll call vote of seven (7) yes (Dixon, Lynn, Perza, Williams, Hare, Hutchison, and Bonar), and two (2) absent (Anderson and Slavin) the Resolution was adopted, as follows:

A RESOLUTION AUTHORIZING SIGNATURES FOR BANKING SERVICES ON BEHALF OF THE CITY OF DOVER, DELAWARE

WHEREAS, the City of Dover's investment policy includes the investment of funds up to $100,000 per banking institution, investments in the State of Delaware Investment Pool, and the purchase and sale of U.S. Treasury and agency securities; and

WHEREAS, the banking institutions, brokerage firms, trust companies, and other various financial institutions require an Authorizing Resolution for the opening of accounts, and for purchasing, selling, transferring, assigning, and handling securities;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Dover, that the Controller/Treasurer, Assistant Finance Director, and Assistant Treasurers are hereby authorized to open accounts with banking institutions and purchase, sell, transfer, assign, and handle securities and that they are authorized to sign all related forms;

BE IT FURTHER RESOLVED that the transactions in these accounts be carried out with any one signature; and

That the following are the office holders authorized for these purposes, until further notice:

Donna S. Mitchell	-	Controller/Treasurer
Margaret Teal	-	Assistant Finance Director
Traci A. McDowell	-	Assistant Treasurer
Denise L. Devine	-	Assistant Treasurer

ADOPTED: JUNE 10, 2013

PUBLIC HEARING - ELECTRIC REVENUE FUND BUDGET

A public hearing on the Electric Revenue Fund Budget is required for compliance with Section 505 of the 1993 Electric Revenue Refunding Bond Issue (Refunding 1985 Electric Revenue Bond) prior to adoption of the budget. Notice of the public hearing was properly advertised for this time and place.

Mrs. Donna Mitchell, Controller/Treasurer, advised members that the proposed Electric Fund budget for the Fiscal Year beginning July 1, 2013 through June 30, 2014 was included in the draft budget presented to City Council during the Special Council Meeting (Budget Review) held on May 29 and June 5, 2013. She advised members that the Electric Revenue Fund budget totaled $9.138M.

Council President Bonar declared the public hearing open. There being no one present wishing to speak during the public hearing, Council President Bonar declared the public hearing closed.

No further action was taken. Council President Bonar noted that the First Reading of the Budget Ordinances would take place during the latter part of the meeting and that the Final Reading and adoption of the Ordinances are scheduled for the Regular Council Meeting of June 24, 2013.

VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 92 ORCHARD AVENUE, OWNED BY JUAN M. CALLAZO (EMERGENCY CASE)

During their Regular Meeting of May 28, 2013, City Council considered this matter and deferred it for two (2) weeks to provide the property owner and city staff the opportunity to resolve the issues.

Mrs. Ann Marie Townshend, Director of Planning, Community Development, and Recreation, advised members that the dangerous building had been demolished by the property owner and that staff would continue to monitor the debris removal.

Mr. Hare moved for acceptance of staff's recommendation (report), seconded by Mr. Dixon and carried by a roll call vote of six (6) yes (Dixon, Lynn, Williams, Hare, Hutchison, and Bonar), one (1) no (Perza), and two (2) absent (Anderson and Slavin).

BOARD OF ASSESSMENT APPEALS EXEMPTION REPORT - MAY 21, 2013

The Board of Assessment Appeals met on May 21, 2013 with Chairman Garfinkel presiding.

EXEMPTIONS

Westfield Maintenance Corporation (Location: 2.65 AC Arbor Dr. and 1.96 AC Arbor Dr.)

Background and Analysis

These parcels fall under State Statute 9 Del. C. §8110 Civic organizations owning parkland.

These properties are exempt from Kent County Tax.

Exemption Request - ED05-067.17-04-67.00 -	$202,000
Exemption Request - ED05-067.17-04-69.00 -	$ 80,000
Total Exemption Request	$282,000

Recommended Action: Recommend that the request for exemption be approved.

Ms. Hagan, Secretary and Ms. Kaza, Treasurer were present for the hearing. Ms. Hagan explained to the board that the Westfield Maintenance Corp. has been in existence for 20 years, has always paid the taxes and maintained the open spaces, which includes two ponds.

The neighborhood consists of only 60 homes, which does not leave a lot of money to maintain the open spaces. Ms. Kaza also reiterated that the neighborhood is well maintained and that the grass cutting expense does put a lot of strain on the organization.

Mr. Burns pointed at a parcel on the GIS map provided and asked if this piece of land also belonged to Westfield Maintenance Corp.

Ms. Hagan and Ms. Kaza explained to the board that that piece of land is conservation land owned by the City of Dover, and therefore is not maintained by the Homeowners Association.

Chairman Garfinkel asked for the City's recommendation, at which time Cheryl Russell, City Assessor told the board that the City's recommendation is to approve the exemption as these parcels fall under Statute 9 De. C. §8110 Civic organizations owning parkland.

Chairman Garfinkel closed the hearing and opened for deliberations.

Mr. Burns was concerned that the HOA was not fully aware about their boundaries.

Ms. Kaza and Ms. Hagan assured that they are aware where their property ends and the City's property start.

Ms. Burns made the motion to approve the request for exemption based on the State Statute, which was seconded by Mr. Welsh. Motion carried 3-0.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

Four Seasons Homeowners Association (Location: Open Spaces - Four Seasons)

Background and Analysis

These parcels fall under State Statute 9 Del. C. §8110 Civic organizations owning parkland.

These exemptions are being requested for previous years as well. (2010 - 2012 and future years)

Exemption Request - ED05-067.19-04-46.00 -	$ 12,500
Exemption Request - ED05-067.19-04-44.00 -	$ 6,800
Exemption Request - ED05-067.19-04-47.00 -	$ 3,800
Exemption Request - ED05-067.19-04-45.00 -	$ 36,000
Exemption Request - ED05-067.19-04-48.00 -	$ 4,200
Exemption Request - ED05-067.19-04-53.00 -	$ 1,600
Exemption Request - ED05-067.19-04-54.00 -	$120,100
Total Exemption Request	$185,000

Recommended Action: Recommend that the request for exemption be approved.

Ms. Jenkins, President of the Homeowners Association and Ms. Johnson, Vice President of the Homeowner Association were present for the hearing.

Ms. Jenkins told the board that the Homeowners Association has been in place for one year and asked that the past taxes for the open spaces be waived.

Mr. Burns asked how many buildable lots were still available in the development and how financially viable the association was, because the association is not getting any money from the vacant lots. He also wanted to make sure that the open spaces are not buildable lots.

Ms. Jenkins assured him that the open spaces were not buildable lots and that the Homeowner Association maintains these open spaces.

Chairman Garfinkel asked the Assessor what the City's recommendation was.

The Assessor recommended that the request for exemption be approved as it falls under State Statute 9 Del. C. §8110 Civic organizations owning parkland.

Chairman Garfinkel asked the Assessor if the city also agrees to exempt the requested prior years at which time the Assessor told the board that the City will also exempt prior year's taxes.

Mr. Welsh made the motion to approve the exemption, which was seconded by Mr. Burns. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

The Meadows Homeowners Association (Location: Open Spaces McKee Road)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8110 Civic organizations owning parkland.

Exemption Request - $126,600

Recommended Action: Recommend that the request for exemption be approved.

Mr. Keitel, Treasurer for the Homeowner Association was present for the hearing.
He told the board that the association has been in place since 1980 and that they maintain the open spaces in the neighborhood. He explained that the association was not aware that the open spaces could be exempt from property tax until recently.

Mr. Burns went over the GIS map provided by the Assessor's Office and pointed at that a piece of land which does not belong to the association, making sure it is not maintained by the homeowners association.

Chairman Garfinkel closed the hearing and opened for deliberations.

Mr. Burns made the motion to accept the request based on State Statue and Assessor's Recommendation. Mr. Welsh seconded the request. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Wesley College (Location: 34 S State Street - ED05-077.05-04-22.00)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8105. Property is not exempt from Kent County Taxes as of this date.

Exemption Request - $385,100

Recommended Action: Recommend that the request for exemption be approved.

Ms. Gardel, Administrative Assistant to the VP of Finance and HR represented the college. She explained to the board that the school has the 501 (C) 3 tax exempt status and that the property is home to the College President. She went on to say that the property was not only used as a home but also for Wesley College purposes.

Chairman Garfinkel asked the Assessor what the City's recommendation is, at which time Ms. Russell told the board that the city recommended the application for exemption be approved as the parcel falls under State Statute 9 Del. C. §8105.

Mr. Burns asked Ms. Gardel if the College President has any other offices other than the office located at his residence.

According to Ms. Gardel the president does have another office on North State Street, which is used as his primary office.

Mr. Burns asked why the property had been taxed until now, at which time Ms. Gardel explained that she started working for the college last year and was surprised when she received a tax bill for the properties at which time she looked into filing for the exemption.

Chairman Garfinkel asked the Deputy City Solicitor if the residence would still fall under the state statute if it were only used for residential proposes.

Mr. Pepper explained that even though this was a hypothetical question, that in most cases such residence are used for college functions and that in his opinion the residence of the president seems to be used for educational purposes.

Chairman Garfinkel closed the hearing and opened for deliberations.

Mr. Burns made the motion to accept the application for exemption based on the testimony heard and the State Statute, which was seconded by Mr. Welsh. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Wesley College (Location: 308 N Queen Street - ED05-067.20-01-77.00)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8105. Property is not exempt from Kent County Taxes as of this date. This property was previously the Little School.

Exemption Request - $430,900

Recommended Action: Recommend that the request for exemption be reviewed.

Ms. Gardel explained that this property houses the athletic staff for the college, such as football coaches.

Chairman Garfinkel asked what the city's recommendation was, at which time the Assessor told the board that the City recommends approval.

Chairman Garfinkel closed the hearing and opened deliberations.

Mr. Burns made the motion to approve the request for exemption based on State code and the Cities recommendation, which was seconded by Mr. Welsh. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Wesley College (Location: Land - 308 N Queen Street - ED05-067.20-01-79.00)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8105. Property is not exempt from Kent County Taxes as of this date. This property was previously the Little School playground area.

Exemption Request - $90,300

Recommended Action: Recommend that the request for exemption be reviewed.

Ms. Gardell told the board that this property used to be a playground which has since been removed and is now used for athletics as it is connected to 308 N. Queen St.

The Assessor's recommendation is for approval of the exemption.

Chairman Garfinkel closed the hearing and opened deliberations.

Mr. Welsh made the motion to approve the petition for exemption. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Milford Housing Development Corporation (Location: 1361-1383 Walker Road - ED05-067.17-04-47.00 and 1357 Rear Walker Road - ED05-067.18-01-66.01)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8105. Property is exempt from Kent County Taxes as of April 2013.

EXEMPTION REQUEST

$464,300
$515,900

Recommended Action: Recommend that the request for exemption be approved.

Mr. Huxtable, Vice President was present for the hearing. He explained to the board that the organization has the 501(c) 3 status and provides housing for low income families. Mr. Huxtable provided the board members with a copy of the organizations "Report to the Community". He told the board that his organization provides a variety of housing opportunities and programs. These properties are used strictly as low income rental apartments which fall under the organization's mission, which is to provide affordable housing opportunities. Mr. Huxtable mentioned that his organization is looking into purchasing the property behind the two parcels they are seeking the exemption for and to redevelop the entire parcel.

Mr. Burns asked how many low income rental units the organization owns in the State of Delaware. Mr. Huxtable told the board that they currently own 318 units. He explained that the company started approximately 30 years ago and that they just recently decided to acquire more properties.

Mr. Burns asked if they have received exemption for other municipalities.

Mr. Huxtable explained that they did receive the exemption for the county and other Municipalities for those projects that they own individually.

When asked by Mr. Burns who was responsible for the utility bill, Mr. Huxtable told the Board that the utilities are split between the renter and the company and that this property will be managed by East Coast Management Company. He explained that once they acquire the other part, one of the apartments will be used as an office for the management company.

Mr. Burns asked if the management company was a "for profit" company.

Mr. Huxtable told him that they are a "for profit" company and are owned by Milford Housing Corp. He referred to the back cover of the "Report to the Community".

Chairman Garfinkel pointed to three organizations listed on the back of the report and asked Mr. Huxtable who these companies were and what their connection to the Milford Housing Corp. was.

Mr. Huxtable explained that all three companies are owned by the Milford Housing Corp.

Mr. Burns expressed his concern regarding those companies owned by the Milford Housing Corp. which are not tax exempt and do make a profit. In his opinion this organization is different from the other nonprofit organizations that have come before the board seeking exemption.

Chairman Garfinkel asked if Milford Housing Corp. buys these projects like the one they are requesting the exemption for and then gives the jobs out to these other companies.

Mr. Huxtable assured the board that the Milford Housing Corp. does most of the work itself.

Mr. Burns asked the Assessor what her thoughts were, she referred the question to Deputy City Solicitor Pepper, who also expressed his concern regarding the other companies owned by Milford Housing Corp., but believes based on the low rents the exemption should probably be granted.

Mr. Welsh asked about the rent that will be charged on the units they are in the process of purchasing.

Mr. Huxtable assured that the rental units will be for low income families as well and that there will be units that are also handicap accessible.

Chairman Garfinkel closed the hearing and opened for deliberations.

Mr. Burns states that while the organizations mission is clear, he believes that the ownership of the other three companies does raise some concern, but because of the recommendation of Legal Counsel, he was leaning to approve the application for exemption.

Chairman Garfinkel also expressed his concern regarding the three companies owned by Milford Housing Corp., because these companies are owned by Milford Housing Corp. and do make a profit.

Mr. Welsh made the motion to accept the request for exemption based on the fact that the company has the 501(C) 3 Status and has been tax exempt by other municipalities. Mr. Burns seconded the motion, with the condition that the exemption will be given for one year only, which would make the organization have to reapply for the exemption again next year. Motion carried 2-1.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Central Delaware Habitat for Humanity (Location: 4 Bennington Street - ED05-076.02-01.00)

Background and Analysis
An exemption request was submitted to the Assessor's Office. This property is being renovated for a low-income family to provide an affordable mortgage. Once this property is complete and the ownership is transferred, the property will be added back to the tax rolls. (As a supplemental billing)

Exemption Request - $167,100

Recommended Action: Recommend that the request for exemption be approved.

Ms. McBride, Executive Director was present for the hearing. She explained that the organization is a nonprofit organization that provides affordable housing for low income families. Central Delaware Habitat for Humanity has housed 16 residences in the last 23 years within the City of Dover, according to Ms. McBride. The organization purchased the home in February and will sell the property to the new owner in July/August at which time the property will go back on the City of Dover tax roll.

Mr. Burns asked what the purchase price was and what the selling price will be.

Ms. McBride explained that the home was purchased under the Neighborhood Stabilization Program in partnership with the City of Dover for approximately $87,000. The organization had approximately $150,000 in funds to purchase and renovate the home. The selling price will be based on upgrades and affordability of the home owner. She also told the board that the first floor has been renovated for wheelchair accessibility, as the new homeowner is disabled.

According to the City Assessor, the home will only be exempt for 3 months, if it sells in August as stated by Ms. McBride, because the city tax bills go out July 1.

Chairman Garfinkel closed the hearing and opened for deliberations.

Mr. Burns made the motion to accept the City's recommendation to approve the exemption. Mr. Welsh seconded the motion. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Bible Church of God Inc. (Location: 1202-1204 White Oak Road - ED05-068.14-03-55.00)

Background and Analysis
An appeal form was submitted to the Assessor's Office. No additional paperwork has been submitted to the Assessor's Office, other than the Deed to prove property ownership. We are unaware of the activities at this location. Per our database, there is an active license for "Churches Public Occupancy".

Kent County records indicate that this property is Exempt from Kent County Taxes.

There is also a vacant parcel of land located behind this property. Kent County also has this small parcel exempt from Kent County Taxes. It is not mentioned in the exemption request, but it should be mentioned at this time, in case it was an oversight by the appellant. Paperwork not provided at this time, but can be discussed if Board of Assessment Appeals so desires.

Exemption Request - $192,300

Recommended Action: Recommend that the request for exemption be approved.

The appellant did not show for their scheduled hearing,

Chairman Garfinkel made the motion to dismiss the petition due to failure of appearance by the petitioner, which was seconded by Mr. Burns. Motion carried 3-0.

Ms. Cheryl Russell, Tax Assessor, advised members that the Board of Assessment Appeals denied the request for exemption because the applicant failed to appear at the hearing to answer questions regarding the activity at this property. She stated that the applicant was notified of their hearing through certified mail, regular mail, and a phone call.

Council President Bonar declared the Appeal Hearing open. With no one present wishing to speak, the Appeal Hearing was closed.

Mr. Perza moved to uphold the Board's recommendation that the request for exemption be denied for failure to appear, seconded by Mr. Hare and carried by a unanimous roll call vote (Anderson and Slavin absent).

Dover Interfaith Mission for Housing (Location: 1155 Walker Road - ED05-067.18-01-79.00)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8105.

Exemption Request - $645,100

Recommended Action: Recommend that the request for partial exemption be approved.

Attorney John Terence Jaywork, Member of the board and Mr. Herb Konowitz, Vice Chair, were present for the hearing.

Mr. Jaywork went over the papers filed with the exempt application. He told the board that the organization is a nonprofit charitable corporation and has the 501(c) 3 status. He explained that this property will be used for living quarters and will allow for two to three men to stay in one room. According to Mr. Jaywork, these are men who are coming off the streets and are trying to get back into the workforce.

Mr. Konovitz told the board that this project is not considered short term like some of the other projects the organization has, this project is considered long term where the men may stay up to three years. The men that will be living in these quarters will have to pay a modest rent, which will be used for food and upkeep of the property.

The organization did not have the cash to purchase the property, which has just recently been subdivided; they rely on grants from banks and organizations.

Mr. Burns wanted to make sure that the building is not generating any income at the moment.

Mr. Konovitz assured the board that the building is presently empty and is not generating any income. He told them that permits will be applied for as soon as the site-plan has been approved, which should be any day now.

Mr. Burns made motion based on the City's recommendation to accept the petition, which was seconded by Mr. Welsh. Motion carried 3-0.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Dover Interfaith Mission for Housing (Location: 523 Ross Street - ED05-067.16-01-32.00)

Background and Analysis
This parcel falls under State Statute 9 Del. C. §8105.

Exemption Request - $140,300

Recommended Action: Recommend that the request for exemption be approved.

Attorney John Terence Jaywork, Member of the board and Mr. Herb Konowitz, Vice Chair, were present for the hearing.

Mr. Jaywork explained that this property has been converted to accommodate 5 unrelated men and that they may live there for as long as they want or need to, they too have to pay rent which will then be used for food and upkeep of the property.

Permits are in process to be submitted and work will begin as soon as possible.

Mr. Welsh made the motion to accept the City's recommendation which was seconded by Mr. Burns. Motion carried 3-0.

Chairman Garfinkel explained to the applicant, that the City Council was the final decision and that a letter with the date of the Council Hearing would be mailed to them.

By consent agenda, Mr. Hare moved for approval of the Board's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Mr. Hare moved for acceptance of the Board of Assessment Appeals Report, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - MAY 28, 2013

The Legislative, Finance, and Administration Committee met on May 28, 2013 with Chairman Lynn presiding.

Downtown Dover Business Improvement District (BID) Budget and Assessment (Tax) Rates for Fiscal Year 2013-2014

In accordance with Appendix D, Article III, Section 9(f) of the Dover Code, City Council must adopted a Business Improvement District (BID) budget and assessment every year. Ms. Cheryl Russell, City Assessor, provided members the FY 2013-2014 proposed budget ordinance showing BID tax revenue and expenses, as well as the following tax calculation worksheet with recommended rates:

JULY 1, 2013 TO JUNE 30, 2014

	ZONE 1	ZONE 2	ZONE 3	TOTAL
Aggregate Assessments	$38,558,700	$58,290,700	$32,830,900	$129,680,300
Assessment Tax Rate Per $100 Assessment	0.0634	0.0349	0.0156	---
Revenue Raised	$24,400	$20,300	$5,100	$49,800
% Revenue Raised	49%	41%	10%	100%
Number of Parcels	113	105	42	260
Average Assessment	$216	$193	$121	$531

Ms. Russell noted that the revenue percentages by zone had been calculated in accordance with Section 9(e) of Appendix D, Article III of the Dover Code and that the amounts were estimated per the 2010 reassessed values.

Staff recommended approval of the Downtown Dover Business Improvement District (BID) Budget and Assessment (Tax) Rates for FY 2013-2014 and adoption of the proposed budget ordinance.

Responding to Mr. Slavin, Mrs. Donna Mitchell, Controller/Treasurer, explained that the Dover Code requires the Downtown Dover Business Improvement District (BID) Budget and Assessment (Tax) Rates to be approved by City Council on or before the second meeting in June. She recommended that staff conduct further research to determine why it was initially established this way prior to any consideration of amending the ordinance to allow adopting the BID budget and assessment at the same time as the City's budget. She estimated that a one percent (1%) increase in BID tax of the total assessed values would equate to approximately $12,900.

Mr. Bonar stated that increasing the BID tax for downtown merchants would allow the Downtown Dover Partnership (DDP) to become more self-sustaining and provide them a better funding mechanism.

Mr. Slavin expressed his resistance to the BID tax, explaining his feeling that it was contradictory to indicate that the City was providing an incentive to businesses in the downtown area by assessing them an additional tax. It was his feeling that there were other means the City could consider to fund the DDP instead of taxing the businesses in that district. Mr. Hare stated his concurrence.

The Committee recommended approval of staff's recommendation to approve the Downtown Dover Business Improvement District (BID) - Assessment (Tax) Rate for FY 2013-2014 and approval of the proposed budget.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Downtown Dover Partnership (DDP) Loan Guarantee Extension

Mrs. Donna Mitchell, Controller/Treasurer, provided information regarding the Downtown Dover Partnership's (DDP) recent negotiations for new terms for their PNC Loan. She reminded members that the original loan provided for interest only payments with a balloon payment due in July 2013, as presented to members during their meeting on April 14, 2008.

Mr. Lou Colón, Executive Director, Downtown Dover Partnership, advised members that the loan guarantee extension was for the former Acme property located on South Governors Avenue. He stated that the extension would be a one (1) year extension of interest only and would reduce the current debt service payments to approximately $39,000 and the interest rate from approximately 5% to a little over 3%.

Mr. Shevock noted that the City was guaranteeing the interest on the loan this year and that the balloon payment would be due next year. He questioned what the City's liability would be next year since the interest was guaranteed only for the current year. Responding, Mr. Colón stated that it was

the intent of the DDP to have the building sold within the year. He indicated that the building would be marketed for redevelopment and the loan would then be paid in full.

Mrs. Mitchell referred to the details provided to members regarding the new terms, as follows: 1) the Bank has approved an extension of one (1) year on their $1,300,000 loan at interest only until July 1, 2014; 2) the new rate will be floating at the London Interbank Offered Rate (LIBOR) + 2.50% (currently 2.71%); and 3) the rate was a fixed rate at 5.16% - that would show a reduction in annual interest expense from approximately $67,080 to $35,230 or around $31,850 per year, assuming LIBOR remains the same [LIBOR is a floating Rate index, but has not moved materially for several years; however, there are no guarantees as to what LIBOR might be day to day.] It was noted that the Bank will not extend at interest only again past July 1, 2014 and that the DDP will be requested to develop a specific plan by that date as to how they plan to handle the obligation.

In response to Mr. Hare, Mr. Colón advised members that if the property were not sold within the year, the DDP had funds budgeted to cover some debt service. In regard to the balloon payment, he felt confident that this could be negotiated with the bank; however, he could not guarantee that would be the case. He confirmed that if the building were not sold and they were unable to negotiate with the bank, the City's guarantee would pay the $1.8M. Elaborating, Mrs. Mitchell explained her understanding that the bank had indicated that if the building were not sold as of July 1, 2014, the bank would then want interest and principle, noting that the DDP was only paying interest. She indicated the possibility that enough rent monies would be collected to cover the interest and principle payments, explaining that this would depend on the interest rate locked in and the amount of rent monies collected at that time.

Responding to Mr. Hutchison regarding the vendor who would administer EZ-Pass, Mr. Colón stated that the DDP had first been advised that this would be decided by April 15, 2013, and subsequently this date was changed to May 15, 2013. He stated that the DDP would be meeting with DelDOT on Thursday, May 30, 2013 and that although a selection had been made, it had not been made public.

Staff recommended granting the extension of the Downtown Dover Partnership (DDP) loan guarantee for a period of one (1) year effective July 1, 2013 on the loan between PNC Bank and the Downtown Dover Partnership.

The Committee recommended approval of staff's recommendation.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Delaware Solid Waste Authority (DSWA) Municipal Discount Disposal Fee Agreement

Mrs. Donna Mitchell, Controller/Treasurer reminded members that the City of Dover uses the Delaware Solid Waste Authority (DSWA) facility located in Sandtown for the disposal of municipal solid waste, as well as dry waste generated within the City's service territory. The City's current Municipal Discount Disposal Fee Agreement expires on June 30, 2013. She advised members that the DSWA has proposed a new agreement and fee schedule as follows:

Period	Base Rate	Rebate/Discount	Effective Rate
July 1, 2013 – June 30, 2014	$ 85.50/Ton	$ 8.00/Ton	$ 77.50/Ton
July 1, 2014 – June 30, 2015	$ 87.00/Ton	$ 8.00/Ton	$ 79.00/Ton
July 1, 2015 – June 30, 2016	$ 88.50/Ton	$ 8.00/Ton	$ 80.50/Ton

Mrs. Mitchell indicated that the tonnage for FY-2014 to be delivered to the Sandtown facility is estimated at 12,500 tons, which would equate to an estimated cost of $968,000. Staff recommended that the $8.00 per ton discount be taken on the monthly bill rather than participating in the rebate program. She stated that the total estimated expenditure for solid waste disposal, including recycling, in FY-2014 is $1,315,300.

Staff recommended that the City Manager be authorized to sign the DSWA Municipal Discount Disposal Fee Agreement.

Responding to Mr. Shevock, Mrs. Mitchell stated that it was her recollection that the discount and rebate provide the same amount of savings; however, the City would not receive the rebate for a year. Staff had elected to take the discount in previous years since it reflected current costs and fiscal year expenses.

The Committee recommended approval of staff's recommendation to authorize the City Manager to sign the Delaware Solid Waste Authority (DSWA) Municipal Discount Disposal Fee Agreement.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Disposal of Excess Property - 70 Mifflin Road, 299 College Road, and 29 North Kirkwood Street - Offer from Habitat for Humanity

Members considered a request from Habitat for Humanity for the purchase of City-owned property, as follows: 70 Mifflin Road for $10,000, 299 College Road for $8,000, and 29 North Kirkwood Street for $5,000. Mrs. Ann Marie Townshend, Director of Planning, Community Development, and Recreation, reminded members that the City acquired the properties at a monition sale due to liens for demolition expenses. She assured members that these were excess properties as the City had no use for the property and would be better served by these properties being redeveloped and restored as taxable properties.

Mrs. Townshend advised members that in accordance with Section 5 - Exceptions to Standard Method of Disposition, Exception D, of the procedure for Sale and Disposition of Real Property, if, in the opinion of the Dover City Council, the donation of a parcel of excess land to a non-profit organization would be in the best interest of the City of Dover, Council then reserves unto itself the right to make such a donation. In this case, she noted that the Habitat for Humanity had submitted an offer to purchase the subject properties. She assured members that the sale of these properties to Habitat for Humanity would be consistent with the goals of the City of Dover 2008 Comprehensive Plan and the City of Dover 2010-2014 Consolidated Plan to foster home ownership for low and moderate income households. This would also support the City's goal and mandate to affirmatively further fair housing by allowing for location choices for low and moderate income households.

Mrs. Townshend explained that if the City were to accept the offers from Habitat for Humanity, it would be necessary for the City to write off a portion of the City's costs for demolition and the other charges. Members were provided a summary of the write-offs, based on the offers from Habitat for Humanity and the lien value, as follows:

Address	Offer Price	Lien Amount	Write-Off Amount	City's Assessed Land Value
70 Mifflin Road	$10,000	$12,175.68	$ 2,175.68	$67,400
29 N. Kirkwood Street	$ 5,000	$16,511.12	$11,511.12	$24,200
299 College Road	$ 8,000	$17,870.26	$ 9,870.26	$51,700

Mrs. Townshend advised members that if the "Standard Method of Disposition" were followed, the City could potentially recover all of its costs or make money on the sale over and above the lien values; however, that would be subject to the marketability of the properties. She noted that when the City acquired the properties at the monition sale, the City was not outbid by other bidders. In addition, she explained that by selling to Habitat for Humanity, the City would be assured that the lots would be developed and occupied by homeowners, and reminded members that homeownership is important in creating strong communities.

Mrs. Townshend advised members that the City Manager's Office had received two (2) other letters from persons interested in purchasing 299 College Road; however, the interested parties were not non-profit organizations and would not be eligible for the Exception D to the "Standard Method of Disposition."

Staff recommended that it be determined that the properties are excess properties and that the City Manager be authorized to negotiate sale prices with Habitat for Humanity that minimize the write-off amount.

In response to Mr. Lynn, Mrs. Townshend stated that the Sale and Disposition of Real Property is a procedure and is not codified and that the term "donate" is not defined in the procedure. Mr. Lynn explained his concern that in the absence of a statutory definition, the reasonable meaning would be applied, and in his opinion "donate" would mean no consideration of monies. As such, he stated his hesitation in approving the request based on Exception D of the procedure for Sale and Disposition of Real Property, although he understood the intent of staff's recommendation in this regard.

Mr. Hare indicated that, in his experience, it was not uncommon for Habitat for Humanity to make an offer for properties, explaining that not all properties are donated and individuals who purchase properties from Habitat for Humanity pay a mortgage. He indicated that he would support staff's recommendation in regard to 70 Mifflin Road and 29 North Kirkwood Street; however, he felt that the City should explore the other interests in the property located at 299 College Road.

Regarding the concerns relayed by Mr. Lynn, Mrs. Townshend stated that although there is no clear answer for the definition of "donate" as it related to this procedure, there had been precedence for this type of scenario occurring in the past. She reminded members of the infamous "cat house" (101 Jefferson Court) in which the City invested approximately $75,000 and then sold the property for approximately half that amount to Habit for Humanity. She noted that this was accomplished utilizing Exception D of the procedure for Sale and Disposition of Real Property.

Mr. Roy Sudler, 353 Rita Wilma Road, questioned what the estimated sales price would be for the property located at 299 College Road for a private investor. Responding, Mrs. Townshend stated that although the City did not have an appraised value for the property, the assessed value was $51,700. If the City were to use the standard method of disposal for the property, she anticipated that bids would be solicited for its purchase.

The Committee recommended that it be determined that 70 Mifflin Road, 299 College Road, and 29 North Kirkwood Street are excess properties and that the City Manager be authorized to negotiate sale prices with Habitat for Humanity that minimize the write-off amount for the properties located at 70 Mifflin Road and 29 North Kirkwood Street and that the Standard Method of Disposition of Excess Property (with the possibility of a bid process) be utilized for the property located at 299 College Road.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Proposed Amendments to Chapter 58 - Human Relations Commission

Members were reminded that in March 2001, two (2) incidents occurred which caused racial tension and divisiveness within the City of Dover, as follows: 1) the shooting of a police officer in the Capital Green area; and 2) the death of Mr. Reginald Hannah. As a result, then Mayor Hutchison requested an Emergency Council Meeting to discuss the conflicting issues involving the community, which was held on March 25, 2001. Subsequently, the Delaware Human Relations Commission held a series of Dover Community Meetings throughout the year to begin a dialogue and develop objectives to restore and rebuild the community, together with all citizens of Dover. Those that attended these meetings worked to develop and prioritize a list of issues as well as strategies and objectives to resolve those issues. During those Community Meetings, it was suggested that a local Human Relations Commission be established. As a result, during their Regular Meeting of February 22, 2002, Dover City Council adopted an ordinance establishing the City of Dover Human Relations Commission (DHRC).

Mr. Hutchison advised members of his concerns regarding the Dover Human Relations Commission. He noted that although the Commission was established to restore and rebuild the community, during the past several years, the Commission had experienced low meeting attendance (by both members and citizens), and that the Mayor and Council have received resignations from numerous members. As a result, the Commission has experienced difficulty in obtaining the required quorum of members to convene meetings and conduct official business. In addition, Mr. Hutchison indicated that there had been a lack of communication between the Commission and Council, as well as between the Commission and members of City staff. The Commission had repeatedly jeopardized the City's compliance with the Freedom of Information Act (FOIA) through its disregard of requests to provide detailed meeting minutes.

Mr. Hutchison recommended that the Committee examine the role and performance of the Dover Human Relations Commission to determine the following: 1) if the Commission is fulfilling its purpose; 2) if there is evidence of a continued necessity for the Commission, or if it is a duplication of services provided by other agencies, committees, etc. within the City and/or State of Delaware; 3) the possibility of amending Sec. 58-33 (c) - Meetings, of the Dover Code to limit the Commission

to meeting on an as needed basis, in the same manner as many other City committees, commissions and boards, including the Construction Code Appeals Committee, Election Board, Ethics Commission, and Property Maintenance Code Board of Appeals; 4) the possibility of amending Sec. 58-32 (b) - Composition; appointment, of 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; and 5) direct staff to prepare a Proposed Ordinance reflecting the recommendation of the Committee for a First Reading at City Council during the Regular Meeting of June 10, 2013 and Final Reading on June 24, 2013.

Concurring with the concerns of Mr. Hutchison, Mr. Hare also felt that 15 members was too many and stated his understanding that the State Human Relations Commission only meets when a complaint has been filed. He felt that this was the intent of Council when establishing the Dover Human Relations Commission.

Mr. Dixon suggested that training be provided for members of the Commission, as well as the City at-large, by the State Human Relations Commission. He explained that training would provide guidelines for members and give them information on their mission and what could be done to help the City.

Mr. Bonar also agreed that 15 members was too large a body and that if the City chose to continue to have such a commission, its members should be provided a set standard of guidelines so that they have a clear understanding of their duties and responsibilities. As mentioned by Mr. Hare, it was his understanding that holding meetings on a regular basis had sometimes caused members to "go on fishing expeditions" to conjure up issues, which he felt did not serve the City or its citizens. He suggested that members examine the structure and the contents of rules and regulations for the operation of the Commission.

In response to Mr. Slavin, Mr. Hutchison concurred that Recommendation #5, directing staff to prepare a Proposed Ordinance reflecting the recommendation of the Committee for a First Reading at City Council during the Regular Meeting of June 10, 2013 and Final Reading on June 24, 2013, should be delayed until the completion of Recommendations #1-4.

Mr. Roy Sudler, Jr., Chairman of the DHRC, agreed that 15 members may be too many, explaining that it was challenging at times to obtain a quorum at meetings. It was his belief that the State Human Relations Commission had a significant role in the establishment of the by-laws and procedures established for the DHRC. He felt that the State Human Relations Commission could assist the City in providing guidance in functioning more effectively. Mr. Sudler reminded members that he was recently requested to conduct a self-review of the DHRC, which was considered by Council on January 23, 2012. He noted that #7 of that report indicated the need for the DHRC and the City to work together to develop an improved and long-range strategy plan and an annual operational plan for the Commission, which would greatly enhance the Commission and City's ability to monitor, measure, and evaluate the effectiveness of the City and the Commission in meeting its five (5) standard needs. Referring to the five (5) standard needs, he suggested that members consider what had been accomplished since 2010 and review the 2012 Annual Report of the Commission. He felt that members would then be able to make a more educated decision in regard to a plan of action. In conclusion, Mr. Sudler provided a Demand for Hearing, Written Complaint and Memorandum of Record, which was submitted to the DHRC by EShed Alston, expressing his opinion that the DHRC Chairman, Roy Sudler, Jr., should be removed from office.

Ms. Linda Hackett, 1117 Charles Drive, advised members that she serves on the DHRC and indicated her desire to meet with City officials to discuss tasks that should be focused on together. She supported the Commission and indicated that there was a lot of work necessary to address many concerns throughout the City. She relayed her interest in the youth in the City and felt that the Commission should be a viable part of the community and that great things could be accomplished if the City and the Commission worked more closely together. It was her hope that members would be provided an objective and that everyone be made aware of what is expected of both the Commission and the City.

Mr. Shevock moved to recommend that this matter be referred to staff to formulate a recommendation for the Committee's consideration and that a date be established for the First Reading of the related proposed ordinance, seconded by Mr. Hare.

Mr. Slavin relayed his opposition, explaining that what had been recommended was for the Committee to conduct the examination and then the matter would be referred to staff for the drafting of an ordinance. He explained that referring it directly to staff would place them in a difficult position and felt that it would be disingenuous for members to indicate a desire to have discussions of the issues and without holding such discussion. Mr. Slavin suggested that a Special Legislative, Finance, and Administration Committee meeting be scheduled specifically to discuss this issue and noted that there may be a need to have more than one (1) meeting.

Mr. Shevock withdrew his motion, as did the seconder.

The Committee recommended that the Chair of the Legislative, Finance, and Administration Committee schedule a Special meeting for the purposes of discussing Recommendation Items #1-5 included in the Committee Action Form pertaining to the Dover Human Relations Commission.

Mr. Lynn stated that he would schedule a Special Committee Meeting following Council's approval of the Committee's recommendation.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

By consent agenda, Mr. Hare moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - MAY 29, 2013

The Safety Advisory and Transportation Committee met on May 29, 2013 with Chairman Hutchison presiding.

Planned Neighborhood Design: Senior Citizen Housing Option - Luther Village III

Mrs. Dawn-Melson Williams, Principal Planner, advised members that a Conditional Use Site Plan application was received for property located east of John Hunn Brown Road and on the west side of Babb Drive, owned by Martin Luther Foundation of Dover, which proposed the development of Luther Village Planned Neighborhood Design - Senior Citizen Housing Option consisting of 524 age-restricted apartment units in a total of nine (9) phases. It was previously established by

application C-02-02, and Luther Village Phases I and II (total of 100 apartment units) have been constructed (Applications S-03-07 and S-07-10). The project also includes the Site Plan for Luther Village Phase III, which consists of the construction of a four (4) story apartment building with 48 units (age-restricted), the construction of a one (1) story 3,566 S.F. resident activity room, and associated site improvements. The plan also includes a Minor Subdivision to create a parcel of land for Phase III from the existing 29.8 acre$^{+/-}$ parcel owned by the Martin Luther Foundation of Dover (Phases I and II already exist on individual parcels).

At their May 20, 2013 meeting, the Planning Commission conducted a public hearing and took action to grant conditional approval for the overall Luther Village Planned Neighborhood Design - Senior Citizen Housing Option and the Site Plan for Phase III. The Planning Commission also made recommendations for approval of the waiver requests for the subdivision waiver of the requirement for lot frontage on a public street and for elimination of the rear emergency access requirement.

Request for Waiver of Appendix A - Subdivisions, Article VI - Subdivision General Requirements and Design Standards, Section E - Lots (5) Requirement for Lot Frontage on a Public Street

Mrs. Dawn-Melson Williams, Principal Planner, reviewed a Petition to Waive Subdivision Standards for Luther Village Planned Neighborhood Design - Senior Housing Option - Luther Village III (C-13-03). She explained that a Minor Subdivision Plan is associated with this project that proposes to subdivide a 2.85 acre parcel from the 29.8 acres of the overall Luther Village remaining parcel. This subdivision includes the Phase III apartment building and the immediately surrounding area. The proposed parcel for Luther Village Phase III is within the larger tract of land and therefore will not have frontage on a public street. She noted that the waiver would allow the subdivision of the parcel to create a parcel for Phase III without public street frontage but with access to the public street as established by an easement across the adjacent property (Lands of Martin Luther Foundation of Dover).

Staff recommended approval of the waiver to allow for creation of a parcel without street frontage, noting that the main parcel of the complex, including the entrance, maintains frontage along a public street. The creation of this parcel focused on Phase III is necessary to comply with funding and/or ownership requirements for the project. Similar waivers were approved for Phase I and Phase II.

The Planning Commission recommended approval of the subdivision waiver of the requirement of lot frontage on public street for the Minor Subdivision Plan associated with C-13-03.

The Committee recommended approval of the subdivision waiver of the requirement of lot frontage on a public street for the Luther Village Planned Neighborhood Design - Senior Citizen Housing Option - Luther Village III, as recommended by the Planning Commission.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Request for Waiver of Appendix B - Zoning, Article 5 - Supplementary Regulations, Section 17 - Emergency Access Requirements

Mrs. Dawn Melson-Williams, Principal Planner, reviewed a Petition to Waive Emergency Access Requirements for Luther Village Planned Neighborhood Design - Senior Housing Option - Luther Village III (C-13-03). She advised members that the Zoning Ordinance requires a 24-foot primary fire lane to provide emergency access to the rear of the four (4) story apartment buildings (Article 5 §17.5(a)). The applicant is requesting a waiver for the elimination of this requirement. The building has fire protection requirements under the Fire Codes including the following: a required the building to be sprinklered, a requirement for a primary fire lane for the primary entrance and exit side of the building, and fire lane coverage required for 35% of the building.

Staff recommended approval of the waiver request to eliminate the emergency rear access for apartment units, finding that the building would be sprinklered and would include other required fire lane coverage.

The Planning Commission recommended approval of the waiver to eliminate the Emergency Rear Access Requirement for the apartment buildings.

Mr. Davis expressed his concern regarding waiving the requirement for a 24-foot primary lane for rear access for the Fire Department, noting that the Fire Marshal had reviewed the plan and included comments but did not make a recommendation.

Mrs. Melson-Williams explained that this requirement was part of the Zoning Ordinance relating to emergency access provisions that list requirements for certain types of housing units and requirements for apartment buildings depend on the number of stories. She stated that the plan meets all Fire Code requirements and that the Fire Code includes provisions for a means of egress from the building.

Mr. Davis stated that his concern was the age of the proposed inhabitants, noting that egress from the building would not be as quick as if it were a standard apartment building with multi-age groups. He was concerned that fire trucks would not have access if there were a fire at the rear of the building.

Mr. Hutchison stated his belief that the required sprinkler system would reduce risk.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that the project would receive federal funding; therefore, federal requirements for housing inspections must be met in addition to City requirements. The City is required to comply with State fire prevention regulations, which are developed by the State Fire Commission, and National Fire Protection Association (NFPA) 2012 standards, which are developed by technical experts. She advised members that the Zoning Ordinance provisions were another level of requirements and that staff had had some discussions questioning whether these City requirements were needed. She confirmed that all Fire Code requirements for the project had been met.

Mr. Hutchison stated that he was more than satisfied with the project based upon the recommendations of staff and the Planning Commission.

The Committee recommended approval of the waiver to eliminate the emergency rear access requirement for the Luther Village Planned Neighborhood Design - Senior Citizen Housing Option - Luther Village III, as recommended by the Planning Commission.

By consent agenda, Mr. Hare moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

UPDATES

Dover High School Pedestrian Study

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that the Delaware Department of Transportation (DelDOT) had approved a HAWK System pedestrian-activated signal for the intersection of Route 8 and Heatherfield Way. She noted that the gaps in the sidewalk on the north side of Route 8 must be addressed in order to utilize the signal and there was an additional gap on the south side. She stated that staff had worked with DelDOT, Senator Bushweller, and the State Budget Office to have funding allocated to install sidewalks on the north side of Route 8. Mrs. Townshend noted her concern that this project had been included in DelDOT's budget for the next fiscal year and she was anxious to expedite it. She indicated that she was notified that this project would be completed by DelDOT in-house rather than being contracted out, and DelDOT's Traffic Solutions Branch was performing sidewalk design work and would manage construction. She noted that DelDOT was aware of time constraints and the priority of the project. Mrs. Townshend explained that, in a conversation with the State Budget Director, she was able to use information provided by the Capital School District indicating that the minimum cost to bus students who live just north of Route 8 would be more than $75,000 per year; therefore, an investment of $0.5M in sidewalk installation would pay for itself relatively quickly. She stated that obtaining public involvement would be necessary for both the sidewalk and the traffic signal projects, and this would probably occur in the Fall of 2013.

In response to Mr. Hutchison, Mrs. Townshend stated that she would have an opportunity to see a HAWK signal in operation in Newark next month as she had a meeting scheduled in that area in June.

Responding to Mr. Dixon, Mrs. Townshend explained that public involvement would probably include holding a public workshop and providing public notice to property owners in the area to make them aware of the project and allow them to express concerns. She stated that she would keep members apprised regarding this matter.

Mr. Keller noted that he would prefer to see a traditional traffic signal at the location and encouraged the City to keep this issue "in the crosshairs." Responding, Mrs. Townshend explained that the legislators had expressed the same concern. She noted that once the signal design and the infrastructure in the road were complete, it would be easy to change to a conventional signal and that staff would continue to advocate for this.

Report from Bicycle and Pedestrian Subcommittee

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that the Bicycle and Pedestrian Subcommittee had continued to meet for several months and was working on completion of a City application to the American League of Cyclists in July for a

Bike-Friendly Community designation, noting that this application would be due in July. She indicated that the Subcommittee hoped to receive at least honorable mention, noting that Newark and Lewes received honorable mention when they first applied, received ideas for improvement, and reapplied before receiving the bike-friendly designation. Mrs. Townshend informed members that the Subcommittee had also planned a Bike to Work Day in conjunction with the Delaware Department of Transportation (DelDOT). City employees were invited to participate and Mrs. Townshend stated that she was pleased with the turnout for this first-time event, noting that approximately 35 people participated including more than seven (7) City employees. She hoped to build on this next year by involving the Department of Natural Resources and Environmental Control (DNREC).

Mr. Hutchison stated the importance of promoting bicycle safety.

In response to Mr. Keller, Mrs. Townshend explained that a Bike-Friendly Community designation would be helpful in promoting the City and attracting others to the community. She noted that the State had begun work on the first phase of the Capital City Trail near Family Court and that projects like this would make the City more bicycle friendly.

By consent agenda, Mr. Hare moved for acceptance of the Safety Advisory and Transportation Committee Report, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

MONTHLY REPORTS - APRIL 2013

By motion of Mr. Hare, seconded by Mr. Hutchison, the following monthly reports were accepted by consent agenda:

Budget
Chief of Police *(March and April)*
City Assessor
City Manager
City Planner
Economic Development Office

QUARTERLY REVIEW OF CAPITAL INVESTMENT PLAN (CIP)(JANUARY, FEBRUARY, AND MARCH)

By consent agenda, Mr. Hare moved for acceptance of the Quarterly Review of Capital Investment Plan (January, February, and March), seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

EVALUATION OF PROPOSAL - EMERGENCY RESPONSE AND SITE CLEANUP SERVICES

Members were advised that the Electric Department maintains blanket contracts with various contractors to ensure that the bidding rules are adhered to for contractors that are hired to perform work for the Electric Department. These contracts are priced as "time, equipment, and material" contracts and may exceed $25,000 annually. This proposal is for emergency and scheduled environmental cleanup services. Additionally, other City Departments may utilize this contractor when required.

Mr. Scott Koenig, City Manager, advised members that Request for Proposals were solicited and advertised according to City Policy by the City's Contract and Procurement Manager under RFP # 13-0029EL and proposals were received from four (4) potential vendors. Due to the variety of pricing strategies quoted by each vendor staff, along with Compliance Environmental, included a hypothetical spill response exercise in the RFP in which each bidder submitted their technical approach. An analysis was developed to equalize each bidder using an itemized list of labor and equipment rates to determine the lowest cost response. Using this methodology, Guardian Environmental Services was the low bidder; the next lowest bidder, Clean Venture Inc., was 8% higher. Guardian Environmental Services was given the 3% local preference for operating a business within the State of Delaware. Funding will be provided by the appropriate divisional budget based on the event.

Staff recommended awarding a blanket emergency response contract to Guardian Environmental Services, the lowest priced proposal based on actual experience, for three (3) years with a City option to extend the contract for an additional two (2) years. The maximum term of the blanket contract will be five (5) years.

Responding to Mr. Perza, Mr. Koenig stated that a large leak at a transformer would trigger a call to the environmental contractor to commence cleanup.

Mr. Hare moved for approval of Staff's recommendation, seconded by Mr. Dixon and carried by a unanimous roll call vote (Anderson and Slavin absent).

2013/14 COMMITTEE APPOINTMENT - COUNCIL PRESIDENT - PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE - M. MILFORD CALDWELL (RECOMMENDED BY WALLACE R. DIXON, COMMITTEE CHAIR)(ANNUAL APPOINTMENT TO EXPIRE MAY 2014)

The Chairman of the Parks, Recreation, and Community Enhancement Committee, Mr. Dixon, recommended the appointment of M. Milford Caldwell to the Committee. This is an annual appointment to expire May 2014.

By consent agenda, Mr. Hare moved for approval of the appointment of M. Milford Caldwell to the Parks, Recreation, and Community Enhancement Committee, as recommended by Chairman Dixon, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

* **2013/14 COMMITTEE APPOINTMENTS - MAYOR (ANNUAL APPOINTMENTS TO EXPIRE MAY 2014)**

Mayor Carey recommended the appointment of Mr. Brad Holden to serve on the Dover 4th of July Celebration Committee. This is an annual appointment to expire May 2014.

By consent agenda, Mr. Hare moved for approval of the appointment, as recommended by Mayor Carey. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

Mayor Carey recommended the appointment of Mr. Zachary Carter to serve on the Silver Lake Commission. This is an annual appointment to expire May 2014.

By consent agenda, Mr. Hare moved for approval of the appointment, as recommended by Mayor Carey. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

APPOINTMENTS RECOMMENDED BY COUNCIL PRESIDENT BONAR - CITY CHAPLAINS (ANNUAL APPOINTMENTS TO EXPIRE MAY 2014)

Council President Bonar recommended the appointments of Minister Theodore A. Henderson of Dover Christian Church and Bishop Thomas L. Holsey of Bibleway Temple Church of God in Christ as the 2013/2014 City Chaplains and authorization for the City Clerk's Office to issue purchase orders for contributions in the amount of $180 each to Dover Christian Church and Bibleway Temple Church of God in Christ.

By consent agenda, Mr. Hare moved for approval of the appointments, as recommended by Council President Bonar. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

REAPPOINTMENT RECOMMENDED BY MAYOR CAREY - DOVER PUBLIC LIBRARY COMMISSION - GERTRUDE JACKSON - FIVE (5) YEAR TERM TO EXPIRE JUNE 16, 2018

Mayor Carey recommended the reappointment of Ms. Gertrude Jackson to serve on the Dover Public Library Commission. This is an annual appointment to expire May 2014.

By consent agenda, Mr. Hare moved for approval of the appointment, as recommended by Mayor Carey. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Anderson and Slavin absent).

FIRST READING - PROPOSED ORDINANCE #2013-09

Council President Bonar reminded the public that copies of the proposed ordinance are available at the entrance of the Council Chambers or can be obtained from the City Clerk's Office. Final action by Council will take place during the Second Reading of the ordinance on June 24, 2013.

Mr. Scott Koenig, City Manager, thanked Mrs. Mitchell and her staff, for all of the effort they had put into the budget, as well as the department heads who labored through a number of budget meetings prior to presentation of the budget. He noted that staff had presented City Council with a roughly $134 million operating and capital budget to address basic municipal services for the citizens and customers of the City of Dover. The General Fund Operating and Capital budget for FY 2014 was slightly under $37 million. The number of full-time employees had been reduced from 350 to 347 and part-time employees were increased from 36 to 38, with a $30M personnel component to the budget. There were no proposed fee increases in the baseline budget. There were no water and sewer fee increases proposed. In addition, an average reduction of 11% in electric rates to customers was proposed. Residential customers would see a reduction of approximately 8% while business customers would see rate reductions up to 13% depending upon the type of service. Staff took into consideration all of the motions made during approximately seven (7) hours of budget hearings, as well as more than twenty hours of internal meetings with Department Heads and staff. He indicated that the budget ordinances, as prepared, present a balanced budget using a proposed

carry forward balance from FY 2013 in the amount of $620,000 to balance the General Fund Budget and the budget honored all existing labor contracts and proposed a 3% cost-of-living adjustment for all non-bargaining positions (with the exception of the City Manager) based on salaries in effect on July 1, 2012.

Mr Koenig stated that, as has been displayed through the five (5) year forecast, the General Fund has a structural problem and cannot be sustained without taxes increase or service reductions to balance future budgets. In fact, without using savings from FY 2013, the FY 2014 General Fund expenses exceed the amount of revenue projected to be raised in FY 2014.

Mr. Koenig stated that he believed the budget document was frugal in the sense that they had tried to manage the operating costs to current levels. There were some reductions that were required due to contractual issues with various vendors; however, they had been very frugal with the departments throughout the budget process. Mr. Koenig reminded members that there had been increases in the health care costs and OPEB and pension liabilities and they had done everything they could to keep the capital plan on schedule.

Mr. Koenig reviewed a recap provided by the Controller/Treasurer, Mrs. Donna Mitchell, of FY14 General Fund budget adjustments made during the budget review to balance the General Fund, as follows:

Budget Balance Overage as Presented on May 29, 2013	$41,000
Council Motion for additional DDP Contribution	(112,900)
Council Motion to reduce Council travel budget	6,500
Council Motion for 3% Non Bargaining raise on pay as of 7/1/12	4,000
Interfund Service allocation adjustments on above changes	(5,600)
Subtotal	(108,000)
Transfer from Contingency Reserve (excess of 2%)	21,000
Reduce Transfer to Capital Fund - Recreation use of Parkland Reserve	30,000
Reduce Transfer to Capital Fund - Use of Fund Budget Balance	16,000
Subtotal	67,000

In accordance with Section 1-9 of the Dover Code, Council acknowledged the First Reading of the Ordinance as read by the City Clerk, by title only, as follows:

- Ordinance #2013-09 - 2013/2014 City of Dover Budget Ordinances

COUNCIL MEMBERS' ANNOUNCEMENTS

There were no Council member's announcements.

Mr. Dixon moved for adjournment, seconded by Mr. Lynn and unanimously carried.

Meeting Adjourned at 7:53 p.m.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of June 10, 2013, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM
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Exhibits
Exhibit #1 - Correspondence from Ms. Felicia Dorman dated May 24, 2013

To: City of Dover Mayor

From: Felicia A. Dorman, Citizen – 302-258-3101

RE: IMMEDIATE RELIEF OF VEHILCES – ILLEGALLY AND IMPROPERLY TOWED – NOTICE OF HARASSEMENT AND RETALIATION

Date: 05/24/2013

I am requesting your assistance in the matter of, what I believe to be, blatant harassment and retaliation by the City of Dover Police Department. This issue involves two separate incidences, the first issue being the trigger for the second issue.

First Issue

On May 3, 2013, I was illegally pulled over and harassed by Officer Thompson of the Dover Police Department. I will not go into details, but the events of the traffic stop prompted me to write a "letter of concern" to Chief Hosfelt on May 8th, 2013. The letter detailed the traffic stop and my belief that the stop must have been racially motivated, which was absolutely apparent by the facts of the stop. I did not suggest disciplinary action against the officer, only to make the chief aware of what had happened, how it affected me and the impact it had on my life, my health and my job. I also indicated that others had warned me that if I made a complaint, it was the nature of that department to retaliate and/or harass; and, that I would need to "watch out". Therefore, I strongly indicated in the letter that this was not a complaint but only a "letter of concern", but I felt I needed to say *something*. I mailed the letter and did not receive any type of follow up.

Second Issue

On May 20, 2013, approximately 12 days after my letter was put in the mailbox, I arrived home to my address and the Dover Police had been to my house and illegally towed 2 of my vehicles and improperly sticker-tagged 2 other vehicles. The 2 cars I am speaking about are a 2001 Mercedes and a 2003 Ford Expedition. The police had not sticker-tagged either car, nor had the police provided any notice of a violation or warning of possible towing. I simply arrived home and the cars were gone! When I called the police department, being very rude, condescending and smug in their interactions, I first spoke with Corporal Hoffman, he indicated that he towed the vehicles and had a legal right to do so because they were "sitting there". I requested his supervisor; I then spoke with Sergeant Burnett, who agreed with everything that Corporal Hoffman said. He then gave me a fake ordinance number when I requested the city ordinance guidelines that said they could tow without giving notice. In addition, my truck was an actively used vehicle which had just been driven every single day except for the past 4 days. (All of my co-workers can confirm I drive that vehicle every day and confirm that the vehicle was driven to work on Thursday May 16th, 2013) Note: This was also the truck the officer pulled me over in from the First Issue.

In Conclusion/ Relief Sought

As it stands today May 24th, 2013, the Dover Police have yet to release my vehicles. I am paying daily for a rental car because they took my only means of transportation. I researched the Delaware Code and have located the state codes that have been violated. At this point, I am demanding (1) the immediate release of my vehicles (2) to have the police department held responsible for the vehicles return to my possession and transportation to get them to me (3) the reimbursement of the rental car fees that I am currently paying since Monday May 20th which is debited out of my checking account. Please contact me at 302-258-3101.

Violations

On May 20, 2013, the City of Dover, Department of Dover Police violated 21 Del. C. § 4402 (b) which states, Upon the discovery of a vehicle on any state or public highway or property or the property or roads of any political subdivision or state or public highways within a municipality or upon any express highway in the State concerning which vehicle there are reasonable grounds to believe to be an abandoned vehicle, the State Police, county police or ***municipal police, as the case may be, shall post a notice at some conspicuous place on the vehicle, which shall direct that such vehicle be removed by a stated time and date (such time and date to be not less than 12 hours following the posting of such notice). If the vehicle is not removed within the time period designated by such notice, the abandoned vehicle shall be removed to a storage area designated by the Department or the State Police or its successor.***

On May 20, 2013, the City of Dover, Department of Dover Police violated 21 Del. C. § 4402 (d) which states, ***If an abandoned vehicle is on private property with the consent of*** the owner or ***occupant*** thereof, of if an abandoned vehicle is owned by the owner or occupant of the private property where the vehicle is located, representatives of the Department or State Police may enter upon the property where such vehicle is located to ascertain its ownership. The ***Department shall notify the owner of the abandoned vehicle by certified mail sent to the owner's last known address to remove such vehicle within 7 days from the date of the mailing***. If the vehicle is ***not removed within 7 days*** or if the owner cannot be located for the purpose of sending the written notice, then representatives of the Department or State Police may enter upon the property where the vehicle is located and conspicuously ***affix thereto a sticker or tag showing the time and date of its affixing, advising the owner that if the vehicle is not removed within 24 hours from the time of the affixing of the sticker, the vehicle shall be removed to a storage area designated by the Department*** or the State Police. This subsection shall not apply to automobile graveyards as defined in § 1202(b)(2) of Title 17 nor to any vehicle on private property which is not visible from the street or road and is not otherwise a nuisance or a health or fire hazard.

Photos Taken on 5/18/13 for Mercedes Company





Photos taken on 5/18/13 for Mercedes Company



