LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on March 11, 2013, at 5:00 p.m. with Chairman Lynn presiding. Members present were Mr. Hare, Mr. Rushe, and Mr. Shevock. Mr. Anderson was absent. Members of Council present were Council President Leary, Mr. Dixon, and Mr. Hutchison. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

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

Permanent Assignment of Duties Associated with Interim Managerial Plan and Organizational Changes

Mr. Scott Koenig, City Manager, reminded members that in December of 2011, he requested and implemented a number of organizational changes related to several staff vacancies and the changing needs of the City's organization. He noted that since that time, a number of staff positions had been filled while others had been vacated through resignation or retirement.

Mr. Koenig reviewed and requested support of permanent changes to staff assignments, salary and organizational structure, as follows:

Public Works

Under the original Interim Plan, Ms. Sharon Duca, P.E. was elevated to the position of Interim Public Works Director. Since that time, Ms. Duca has been offered and accepted the position of Public Works Director. One of her tasks has been to review the organizational structure of the reformed Public Works Department. In June 2012, the Public Utilities Operations/Construction Manager resigned from his position. Instead of filling this position, which supervised the City's construction crew in addition to other duties, the staff members that formerly reported to the position were placed under the supervision of the Water/Wastewater Maintenance Supervisor, Mr. Ralph McDougall. Originally, their assignments were related mostly to general maintenance items. In February 2013, the construction crew aspect of their duties was re-activated to begin construction of a new water line to support the Garrison Farm Development. New projects will continue to be assigned to this crew under the supervision of Mr. McDougall. Since the construction crew was not formerly the responsibility of the Water/Wastewater Maintenance Supervisor, the Director of Public Works had requested a review of the position to ensure internal equity in pay with respect to other positions given the new duties. The Water/Wastewater Maintenance Supervisor position is a Labor Grade 122. Human Resources completed an internal review of this position related to other positions within the Department of Public Works. They also reviewed the salary range with respect to a similar position at Kent County. Based upon this review, staff recommended that the salary for this position be increased from $54,576 to $61,000. This is an increase of $6,424 or 11.77%. The effective date of this salary change should be retroactive to February 1, 2013.

Mr. Koenig advised members that currently, there is still one (1) remaining position in the Department of Public Works that is receiving a managerial bonus related to the Interim Plan from December 2011. Due to recent retirements, a formal recommendation will be forthcoming in the next several months regarding this position and others within the department.

Information Technology

Mr. Koenig advised members that upon his appointment as Interim City Manager, he was informed of the capacity that Mr. Andy Siegel was serving in the Information Technology Department. In August 2010, Mr. Siegel was temporarily upgraded to the position of Interim Information Technology Director by the former City Manager. His salary was placed at the entry level value of $76,314 for the grade of the Director's position. Earlier this year, Mr. Koenig decided to offer Mr. Siegel the position of Information Technology Director, thus removing the interim label; however, no adjustment to his salary was made. Upon review of the circumstances, he was made aware that he had made no consideration for the roughly 2.5 years that Mr. Siegel served as the Interim Director. If Mr. Siegel had been credited with 2.5 years of experience in the salary offer for the Director's position, the salary offer would have been $82,059; therefore, he recommended that his salary be increased from $76,314 to $82,059, an increase of $5,745 or 7.53%. He felt that the recommended salary should be retroactive to the date of promotion to the Director's position.

Finance

Since becoming the City Manager, Mr. Koenig advised members that a large bulk of the responsibility of preparing the City's Annual Budget had been shifted to the staff in the Finance Department. This was an effort to reduce duplication of effort and centralize budgeting efforts. With the retirement of the former Senior City Administrator in the City Manager's office, it would have been necessary to hire additional staff to assist with the budget preparation and management. The transfer of the budget preparation function to the Finance Department has made it unnecessary to hire additional staff in the City Manager's office. The Controller personally assumed much of the budget functions in prior years and opted to not accept compensation for these additional duties. Instead, the Controller offered a portion of the proposed managerial bonus to the Financial Reporting and Accounting Manager (Labor Grade 125), Mrs. Tracey Lisiecki, in the amount of $175 per month. This was done on a temporary basis and the bonus ceased in October 2012. The Human Resources Director has reviewed the position based on internal equity within the organization. Staff recommended the salary for this position be increased from $68,835.24 to $71,600. This is an increase of $2,764.76 or 4.01%.

Planning

In 2011 as part of the Interim Plan, the Director of Planning and Community Development, Mrs. Ann Marie Townshend, accepted the managerial responsibilities for the following divisions: Life Safety, Building Inspections, and Economic Development. These areas represented ten (10) positions and were in addition to her regular permanent responsibilities for Planning, Community Development and Code Enforcement. A managerial bonus of $350 per month was implemented to compensate Mrs. Townshend for these additional responsibilities. Her current salary ($91,775) plus the monthly managerial bonus ($350) equates to annual compensation of $95,975.

In June of 2012, the Dover City Council voted to assign the oversight of the Economic Development Office and its three (3) employees to the Mayor. Also in June of 2012, Mr. Zachary Carter elected to retire from the City. Mr. Carter served as the Director of Parks and Recreation. Upon Mr. Carter's retirement, the Library function became a direct report to the City Manager. In addition, discussions between the City Manager and Mrs. Townshend resulted in the temporary assignment

of managerial oversight for the Parks and Recreation staff to Mrs. Townshend. Mrs. Townshend has been serving as the Department Head for the Parks and Recreation function since July 1, 2012. Mr. Koenig provided a summary of the Parks and Recreation functions.

Mr. Koenig advised members that the assignment of these duties to Mrs. Townshend has allowed the City to eliminate the Parks and Recreation Director position from the budget. This amounts to an annual salary savings of roughly $81,000 per year. The City also has realized a saving in benefit load over and above the $81,000 in annual salary. Mrs. Townshend has requested consideration of the following annual salary: Current Salary ($91,775) + Current Managerial Bonus ($4,200) + Parks and Recreation Function ($11,340) = $107,315. Based on a business case review, the salary request of $11,340 to continue the managerial oversight of the Parks and Recreation Division is the lowest cost option. The City cannot hire managerial staff for less than $11,340 in salary. In viewing the current organizational structure of the City, the Parks and Recreation function cannot be easily assigned to another manager and the facts support that the assignment to the Director of Planning and Community Development has been a benefit to the City. Since the Director of Planning and Community Development is a Council-appointed position, the City Council must endorse the transfer of the managerial responsibilities as well as the proposed salary. The total increase from $91,775 to $107,315 is $15,540 or 16.93%. Currently, Mrs. Townshend's position is the sixth highest paid position in the City. If the request is approved, the position will become the fourth highest paid position in the City.

Summary

As a follow up to the December 2011 Interim Managerial Plan which saved the City an estimated $215,000 in annual salary, Mr. Koenig requested salary increases for those positions served by specific members of City staff who have taken on additional duties or permanent assignments since the Interim Managerial Plan was placed into action, as follows:

Position	Current	Adjusted	Difference	Percent Increase
Water/Wastewater Supervisor	$54,576	$ 61,000	$ 6,424	11.77
Information Technology Director	$76,314	$ 82,059	$ 5,745	7.53
Fin. Reporting & Acct. Manager	$68,835	$ 71,600	$ 2,765	4.01
Director of Planning & Insp.	$91,775	$107,315	$15,340	16.93

Mr. Koenig indicated that the salary increases total $30,274. Total budgetary impact would be salary plus 40% load, which is roughly $42,383.60. Funding for these increases would need to be covered by unused salary in the current year and would need to be budgeted for in FY-2014.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, read the following statement into the record:

"Thank you for the opportunity to explain my compensation proposal. The details of the proposal are in the packet, so I will not go over each and every detail, but I would like to highlight and clarify a few items.

- *Throughout my seven years with the City of Dover, I have been a devoted employee and have always worked hard to make sure that my efforts and those of my staff are in the best interest of the City. This is my home too, and I am firmly committed to making Dover a great place to live and work.*

- *As outlined in the proposal, there have been added responsibilities to my position over the years that I have enthusiastically accepted, including the addition of economic development responsibilities in 2008, and again in 2011; and the management of the City's Municipal Storm Sewer Permit and reversing the City's non-compliance with the permit.*

- *In December 2011, I was officially assigned oversight of Building Inspections, Licensing and Permitting, and Fire Marshal's Office and compensated with a $350/month bonus, total of $4,200 annually. I had been providing oversight for these areas without added compensation since Mr. Koenig was appointed interim City Manager in June 2011.*

- *In July 2012, I gladly accepted oversight of the Recreation Division following Zach Carter's retirement. I indicated that I did not believe it necessary to delay the responsibilities until compensation could be worked out because I was well aware of the City's fiscal challenges, and I wanted to get a sense of what the demands of the new responsibilities would be.*

- *For the last eight months, I have managed the Recreation Division, working closely with staff to evaluate the business operations, to reverse the declining revenues and to improve our programming – as stated at a recent seminar I attended, to make better best. We have had great success.*

    - *We have restructured the City's summer camp program so that it will make money instead of lose money – while making the program better for meeting the needs of working families by adding extended day camp. Our prices are still far less than many other camps, but we will make money instead of lose money on the program.*
    - *We have improved our outreach with the schools regarding our programming and seen an increase in participation.*
    - *We have adjusted our field rental fee schedule.*
    - *I have given staff the support needed to try new ideas and see if they work, including offering birthday party packages at the Pitts Center, and improving partnerships with other sports and recreation providers in the region.*

- *All the while, I have continued working with the business community to modernize and simplify our zoning ordinance; continued our tough approach to code enforcement and addressing vacant and dangerous buildings; worked with the Police Department to develop our proposed Safe Communities program;*

worked with the Capital School District and DelDOT to address safe pedestrian access to the new High School; worked closely with Planning and Inspection staff to ensure that our business operation remains strong and improved it in a number of areas; and taken on many other projects and issues.

- *The City does not have to hire a Parks and Recreation Director, which is a savings of a minimum of $72,000 per year plus associated benefits. And our Recreation programs are thriving.*

- *For me personally, this has meant more hours put in to get the job done, including many evenings and weekends.*

- *What is the value of this to the City? The savings of eliminating the department head position (nearly $100,000 when benefits are factored in) combined with the business improvements we are implementing.*

- *My request is for $11,340 annual salary for the Recreation function and $4,200 annual salary (my existing bonus amount) for the oversight of Licensing and Permitting, Fire Marshal's Office, and Building Inspection, for total of $15,540. And yes, technically speaking it is a 16.9% salary increase, but if the bonus is factored in, the increase is 11.8% over my current compensation."*

Responding to Mr. Shevock, Mr. Koenig stated that the salaries for the vacated positions were eliminated from the FY2013 Budget; therefore, there was no unused salary for the Senior City Administrator or the Parks and Recreation Director.

In response to Mr. Hare regarding salary comparisons for the positions, Mr. Koenig stated that the Water/Wastewater Supervisor position was compared to the City of Dover Water Production Supervisor, who is paid slightly higher but the technical requirements differ. He indicated that Kent County salary ranges were reviewed and were similar to the salary increases that staff recommended. In regard to the IT Director position, he explained that when the employee was assigned to the Interim IT Director position, he was paid the minimum amount; however, if the City had actually recruited to fill the IT Director's position and the employee had been selected within the four (4) to six (6) months, the salary would have been appropriate. He explained that there was a 2½ year lapse between the time the employee began serving as the Interim IT Director and when he was actually offered the permanent Director's position. As a result, this employee acquired 2½ years experience serving as a Director that he was not credited for in the salary calculation. He further explained that if a person had been selected from outside the City's employment to fill the position and that individual had 2½ years of experience serving as an IT Director, the City would credit the individual for this experience as a Director in developing their salary.

Referring to the IT Director, Mr. Hare suggested that the employee be provided a one-time bonus ($5,500-$6,000), noting that his salary was considerably less than $76,000 2½ years ago, and he questioned if his salary would have been set at the higher level if this individual had been selected

at that time. Responding, Mr. Koenig stated that in every other instance when an employee is promoted, their years of experience are considered and salaries are offered accordingly. In the case of the IT Director, this did not occur and the recommendation would correct this error.

Mr. Lynn moved to recommend approval of staff's recommendation for the permanent assignment of duties as outlined by the City Manager, seconded by Mr. Shevock and carried with Mr. Hare voting no.

Downtown Dover Partnership (DDP) Request for Continued Staff Assistance and Support

Members were advised that the Mayor and City Manager received a request from the Downtown Dover Partnership (DDP) for the City of Dover to continue to provide administrative support to the DDP via Ms. Beverly Jackson, Administrative Assistant, until December 31, 2013. Members were reminded that City Council authorized a funding transfer in the amount of $180,000 during the current fiscal year to assist the DDP with the hiring of staff and other expenses related to the DDP's operating budget. The DDP's new Executive Director began work on Monday, March 4, 2013. The requested additional assistance from City staff would enrich the transition period, given the substantial projects that are currently being undertaken by the DDP.

Mr. Scott Koenig, City Manager, advised members that he and the Mayor had reviewed the request and believed it would be in the best interest of the City and the DDP to honor the request; however, it was felt that the extended relationship would require the endorsement of City Council, based upon the result of the City's budget discussions last spring. He also advised members that the DDP had indicated that they would be submitting a request for financial assistance for the FY2014 Budget in an amount less than the $180,000; however, he stated that the exact amount was not known at this time.

Staff recommended authorization to continue to provide administrative support to the Downtown Dover Partnership (DDP) via Ms. Beverly Jackson until December 31, 2013.

Responding to Mr. Hare, Mr. Koenig anticipated that the DDP would be functioning administratively on their own by the end of the current year. In regard to contributions from the City, he stated that this date was questionable. He reminded members that the City collects the Business Improvement District (BID) Tax (approximately $51,600), which, according to the Dover Code, is to be dedicated to the former Main Street Program, whose function has been assumed by the DDP. He noted that it was the opinion of some that the $51,600 collected was a guaranteed amount to be provided to the DDP; others felt that this would be an administrative transfer offered by the City to the DDP. Mr. Koenig indicated his desire that contributions from the City would not be necessary after FY2014; however, he questioned if this would be possible.

Mr. Gregg Moore, President of the DDP, introduced Mr. Louis Colôn, the new Executive Director of the DDP. He advised members that it was the opinion of the DDP that the BID Tax was due to the DDP through the former Main Street Program and that this was in accordance with State legislation. He stated that these monies are anticipated by all Main Street Programs throughout the State of Delaware. He reviewed the accomplishments of the DDP and their impact during the past

year, as follows: 1) bringing the E-ZPass vendor downtown, which would provide 60 new jobs and up to 50 customers every day entering the building via Loockerman Street; 2) completion of the North Street Projects (all were invited to attend the Ceremonial Opening on March 28th at 10:30 a.m.); 3) breaking ground on improvements to North Street properties behind 22 and 24 Loockerman Street on March 11, 2013, which would aid in getting E-ZPass into the building; 4) the DDP being chosen by the Delaware Department of Transportation (DelDOT) for a $1M grant from the Transportation Enhancement Fund and the scheduling of the first meeting with DelDOT on March 21, 2013 to help facilitate continued improvements along North and other streets, which would aid in improving infrastructure that would otherwise be paid for by the City; 5) opening of the Bayard Pharmacy, which has provided seven (7) new jobs; 6) an application from the Family Dollar Store to locate downtown (where the former NAPA business was located), which was anticipated to provide 20 new jobs; and 6) the expansion of Wesley College's nursing program, which has located to the Frear Building. In total, he stated that nearly 100 new jobs had been created this year associated with the DDP's efforts.

In terms of funding for the DDP, Mr. Moore stated that the DDP felt that a good transition for the new Executive Director was essential, which would include maintaining administrative support to the DDP via Ms. Beverly Jackson until December 31, 2013. He advised members that Mr. Colôn was in the process of creating the funding request for DDP and that a letter and justification for the request would be forwarded to the City Manager. Although the requested amount would be less than last year's request, he stated that it would not be substantially less and provided various reasons, as follows: 1) parking revenues were down as a result of lost parking to the State of Delaware, as well as construction prohibiting the use of some parking areas, noting that there had not been an increase in parking rates for 30 years; 2) investment of over $500,000 in the 22-24 Loockerman Street building, which would house E-ZPass; 3) current assistance being provided to the Interfaith Mission for Housing to add facilities for daytime use for the homeless, explaining that this organization's lease was provided at a reduced market rate; 4) providing reduced rental fees to the Inner City Cultural League; and 5) the delay in locating the vendor in the 22-24 Loockerman Street building since DelDOT must go through the process of choosing a vendor. Mr. Moore stated that once a vendor is selected (in April), the DDP could begin their negotiations and then will have the task of designing the interior of the building, which would include the investment of over $300,000.

Responding to Mr. Hare, Mr. Moore stated that renting to the E-ZPass Program would provide the DDP a significant amount of funding on a monthly basis, noting that there would be a five (5) year lease with a four (4) year extension. In addition, he stated that the DDP was considering a very large user (major employer) at the former Acme Site, which would also provide a revenue source. He advised members that these two (2) projects, and other similar projects, would allow the DDP to have an infusion of revenue that will assist the DDP in being self sufficient. Although he felt that the amount of financial assistance requests would decrease during the years, he anticipated that the DDP would always request some form of funding from the City to assist in providing improvements to the City's downtown area and noted the detrimental affects that an unsuccessful downtown can have on its municipality and community as a whole.

Mr. Hutchison relayed appreciation for the accomplishments of the DDP and felt that the funding request was small compared to the benefits received.

Mr. Shevock moved to recommend approval of the request to authorize the City's administrative staff to continue to provide administrative support to the Downtown Dover Partnership (DDP) until December 31, 2013. The motion was seconded by Mr. Rushe and unanimously carried.

Update on Community Meeting - Role and Scope of the Historic District Commission and the Historic District

During their meeting of January 14, 2013, members were advised of discussions that had been occurring regarding the role of Dover's Historic District, and in particular, the Historic District Commission. Some in the community had faulted the Historic District Commission with adding roadblocks to projects that would support downtown redevelopment, or creating impediments to economic development and growth, while others saw the Historic District Commission as an important caretaker of the City's rich history. Many of the discussions had taken place in informal venues among property owners, business owners, elected officials, and other stakeholders in the community.

During their Regular Meeting of January 28, 2013, City Council approved the Committee's recommendation that the Planning Office hold a public workshop (more than one if necessary) by the end of February 2013 to discuss the role and scope of the Historic District and Historic District Commission, and that staff report back to the Legislative, Finance, and Administration Committee during their first meeting in March 2013 with clear recommendations on whether and how the role and scope of the Historic District and/or the Historic District Commission should be modified.

As directed, Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that on February 26, 2013, the Planning Office held a workshop that focused primarily on facilitated discussion of members of the public regarding the City's Historic District Zone, Historic District Commission, and development review within the Historic District. She indicated that more than 30 members of the public attended the workshop, and that the workshop included a lot of valuable discussion regarding the importance of protecting the City's historic resources. Some ideas were presented by members of the public regarding how the process could be streamlined and how the City could improve the preservation of its historic character.

Although there were no concrete recommendations to implement immediately as a result of the workshop, Mrs. Townshend felt confident that proposed changes would be brought forward after further exploration. She advised members that during the spring months, staff would conduct additional public outreach, likely to include a survey to gauge public support for ideas that could potentially streamline the current review process, as well as enhance preservation of the City's historic character and historic resources.

Staff assured members that they would continue to be updated regarding this matter and that proposed changes to the process would ultimately be brought forward for the Committee's review and recommendation.

No further action was taken by the Committee.

Proposed Ordinance - Staff Substitute #2 for Ordinance #2013-04 - Amending Chapter 22 - Buildings and Building Regulations, Article X - Rental Dwellings

During their meeting of January 14, 2013, members were provided Proposed Ordinance #2013-04 amending Chapter 22 - Building and Building Regulations, Article X - Rental Dwellings to create a Crime Free Housing Program. During their Regular Meeting of January 28, 2013, City Council considered proposed Ordinance #2013-04 amending Chapter 22 - Buildings and Building Regulations, Article X - Rental Dwellings, without a recommendation by the Committee. Staff advised members that several concerns were relayed during the Committee meeting and in a letter from local Realtors. As a result, staff met with Deputy City Solicitor Pepper, Police Chief Hosfelt, MCpl. Bernat, and Councilman Lynn to develop two (2) staff amendments. These amendments were presented to City Council for their review and consideration, which resulted in additional recommendations by City Council. After much discussion, it was suggested that all of the amendments proposed during the discussion should be consolidated and presented as a whole. Therefore, City Council referred the matter back to the Committee for their review and recommendation.

During the Committee Meeting of February 11, 2013, members recommended that Staff Substitute #1 for Ordinance #2013-04 be referred back to staff to allow for the inclusion of the changes presented by Mr. Phil McGinnis, Policy Director for the Kent County Association of Realtors, and to allow for assurance that the concerns relayed by Chief Magistrate Alan G. Davis had been addressed. The Committee's recommendation was approved by City Council during their Regular Meeting of February 25, 2013.

As a result of the previous action, staff submitted Staff Substitute #2 for Ordinance #2013-04 - Amending Chapter 22 - Buildings and Building Regulations, Article X - Rental Dwellings for the Committee's consideration and recommendation. Mrs. Townshend reviewed the substitute ordinance, noting that changes were highlighted for better clarification. In reviewing Lines 145-148, she assured members that the Landlord/Tenant Code for the State of Delaware includes language which specifically indicated that there were grounds for eviction for violating a City ordinance. Also, as a result of several concerns relayed, she stated that the seminar specified had been changed to voluntary; however, she noted that there were clear exceptions that would require a landlord to attend a Safe Community seminar. With reference to Lines 200-204, Eviction Required, Mrs. Townshend stated that the language regarding evictions was derived from Department of Housing and Urban Development (HUD) documents written for public housing.

Mrs. Townshend stated that the words "crime free housing" throughout the document had been changed to "safe communities" due to an attempt by those in charge of Crime Free Housing to trademark the term "crime free housing."

Mrs. Townshend advised members that she and Police Chief Hosfelt met with the City Manager and Police Chief of the City of Harrington, where a similar program was instituted that offered the seminar on a voluntary basis. She stated that Harrington's program had been very well received and landlords from outside of the jurisdiction had attended and indicated appreciation for the knowledge attained. Staff also worked with the Attorney General's Office, who had reviewed the proposed amendments, which were consistent with some of the practices they were encouraging.

Police Chief Hosfelt indicated his feeling that the City had an opportunity to take positive action and help the Police Department to rid neighborhoods of problem tenants. He noted that the Police Department met with Mr. Dan Logan, representative of the Attorney General's Office, who specializes in these types of situations throughout the State and prosecutes accordingly in Wilmington and that Mr. Logan supported the recommendations. Chief Hosfelt suggested that the City take a lead in this matter, urging members to approve the staff recommendation or, at a minimum, to forward the proposed ordinance to City Council for action.

Responding to Mr. Shevock, Mrs. Townshend stated that the Inspections Division would be responsible for taking action in accordance with the ordinance. In response to Mr. Shevock's concerns regarding the possibility of neighbors issuing complaints to the Police Department simply because of their dislike for a neighbor, Chief Hosfelt stated that such a situation would not be considered a criminal offense but would be similar to a civil dispute and that the police officers would attempt to mediate these situations. He stated that any complaints received must be substantiated and that case-by-case review may be needed.

Mr. Rushe noted that the proposed amendment still included the terminology "crime free." In addition, referring to Lines 198-199, he suggested that the broad term "template" be changed to something more specific since "template" had several interpretations. In Line 44, he stated that the word "let" should be "rent." He relayed appreciation to staff for their work regarding this matter.

Mr. Dixon relayed his concerns with fair treatment of people and the potential for the ordinance to cause homelessness. He also noted that, in accordance with the proposal, parents could be evicted for the actions of their teenaged children. It was his feeling that the proposed amendments could serve the City well or poorly and suggested that the City be very careful in following the landlord/tenant laws.

Council President Leary advised members that he received a call from a constituent residing in The Hamlet earlier in the day regarding an issue involving the same tenant, same address, etc., that had previously caused concerns. It was his feeling that the City could not allow its citizens to continue to live in this way and that action must be taken to allow for a decent quality of life.

Mayor Carey stated that he too had received phone calls from citizens and he felt that there was no need for anyone to have to live in such difficult situations. He indicated his support of the proposed amendments.

Dr. Todd Stonesifer, 115 N. State Street, addressed members on behalf of the Kent County Association of Realtors (KCAR). He relayed appreciation for the efforts of the City and the opportunity to voice his organization's concerns. He stated that the KCAR supported the proposed amendments, explaining that staff had implemented all of the language that the KCAR had requested to be changed.

Mr. James McGiffin, 500 N. State Street, stated that he represents tenants in his employment, particularly those with low incomes throughout the City. He relayed appreciation to Mrs. Townshend, explaining that he met with her on several occasions to discuss the proposed amendments and found her to be very responsive. He stated that generally, he approved of the proposed amendment as presented and felt that it was fair, understandable, etc. However, he suggested that members consider amending the phrase "other person associated with the tenant," explaining his feeling that it was very broad to make a tenant responsible for any other person associated with the tenant. For example, he stated that individuals could be associated through their membership and/or attendance at a church, or through other memberships (noting that he, along with Mr. Rushe and Mr. Lynn were associated as members of the Kent County Bar Association). Mr. McGiffin suggested that the language from the HUD regulations, "any person under the tenant's control," be considered to replace this phrase. He stated that the phrase appears in Lines 147, 158, and 202.

Ms. Sarah Herbert, 223 N. Bradford Street, indicated that her residence is located adjacent to Wesley College and is surrounded by numerous rental properties that appear to be vacant. She advised members that often parents will purchase a property for their child to occupy while attending school and rent to other students. The child whose parents own the property serves as a property manager; therefore, these properties do not appear to be rented structures and homes. She questioned if the proposed amendment would apply to these types of situations. Responding, Mrs. Townshend stated that currently the City considers property owned by an individual who allows their child to live in said home not to be a rental property. She stated that this type of scenario is becoming more and more prevalent. She suggested that there may be a need to review this matter to determine how the Dover Code should be applied since there are individuals who pay rent to live at the residence.

Responding to Mr. Hare, Mrs. Townshend stated that there are several properties within the City where a parent purchases a property for their child to live and because they are an immediate family member and rent is not collected, they are not required to obtain a rental permit. She stated that when there are other individuals residing at the property who are paying rent, these properties are clearly rental. It was her opinion that staff should begin implementing the requirement differently than has been done in the past.

Senator Brian Bushweller relayed appreciation to members of the Committee, Council, and City Staff for development of the proposal, indicating that he had dealt with these types of issues that can be ruinous to neighborhoods and particularly to those who reside adjacent to and near the problematic properties. He encouraged members to support the proposed amendment and forward it to City Council for approval.

Mr. Hare moved to recommend adoption of Staff Substitute #2 for Ordinance #2013-04, as amended *(Attachment #1)*, seconded by Mr. Shevock and unanimously carried.

By unanimous consent, the Meeting Adjourned at 6:15 P.M.

Sean M. Lynn
Chairman

SML/tm/jg
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Attachment
Attachment #1 - Staff Substitute #2 for Ordinance #2013-04

CITY OF DOVER

ORDINANCE #2013-04 - STAFF SUBSTITUTE #2 WITH LF&A #1

(LF&A Amendments Indicated in Yellow Highlight)

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 22 – Buildings and Building Regulations, Article X – Rental Dwellings be amended by deleting the text indicated in bold, red strikethrough and inserting the text indicated in bold, blue italics as follows:

DIVISION 1. – GENERALLY

Sec. 22-331. - Purpose; applicability; definitions; compliance.

(a) *Purpose.* The purpose and intent of this article is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of dwellings operated for lease to the public. The health, safety and welfare of the occupants of the dwellings are of the utmost importance to the city, as is the general community character in which these dwelling units are located.

(b) *Applicability.* The provisions of this article shall apply to all matters affecting or relating to rental dwellings. Where, in this article, different sections of this Code may specify different requirements, the most restrictive shall govern.

(c) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Multiple-family dwellings means dwelling units operated as a group, and located in the same building. This shall include ~~**departments**~~ ***apartments***, roominghouses, condominium dwelling units, and accessory apartments located within structures principally used for owner occupancy.

Rental dwelling means a dwelling unit that is leased for occupancy to a person or persons in exchange for monetary payment or provision of goods or services to the owner of the dwelling unit.

Single-family dwellings means dwelling units operated singly, and separated from other units. In general, this definition shall apply to single-family detached dwellings, including mobile homes, and attached units, including duplexes, and townhouses.

Criminal activity means any crime classified by applicable law as a felony or a class A misdemeanor in addition to the following offenses:, criminal mischief, noise violations, drug offenses, offensive touching, menacing, vehicular assault, sexual harassment, indecent exposure, graffiti, trespassing, criminal trespassing, crime against a vulnerable adult, unlawfully dealing with a child, disorderly conduct, malicious interference with emergency communications, public intoxication, loitering, criminal nuisance, obstructing of public passage, lewdness, prostitution, patronizing a prostitute, unlawfully dealing with a dangerous weapon, or unlawfully dealing with a switchblade knife.

(d) *Compliance required.* No person shall operate, occupy or let to another for occupancy any dwelling which is not in compliance with the International Property Maintenance Code adopted in section 22-221 and all other applicable codes.

Sec. 22-332. - Inspection required.

(a) The code enforcement office, in accordance with the procedures set forth in the International Property Maintenance Code adopted in section 22-221, shall inspect rental dwellings for compliance with the property maintenance code and all other applicable codes to ensure compliance.

(b) Following an inspection, the code enforcement office shall issue a letter and/or report of any code violations and provide a timeline for compliance. There shall be no fee for the first followup inspection. Each subsequent reinspection shall be subject to a fee as provided for in Appendix F—Fees and Fines.

Sec. 22-333. - Agent required.

(a) *Property manager.* Any owner of a rental dwelling, residing outside of the county, shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other rental real estate for a fee and who resides in the county acting as a property manager. The property manager, including family members and designated individuals, shall have charge, care and control of the rental dwelling, and shall provide access to the rental dwelling for inspection, upon request by the building inspector or city planner, within a reasonable time.

(b) *Corporate or partnership owners.* Any corporation or partnership owning a rental dwelling shall have a designated member, partner, or employee having charge,

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care, and control of the rental dwelling. The designated member, partner or employee shall reside in or have an office located in the county, or shall be required to have a licensed property manager residing or having an office located in the county, or a family member or other designated individual who does not manage any other rental real estate for a fee, and who resides in the county, acting as a property manager. The property manager, family members or other designated individuals shall have charge, care and control of the rental dwelling, and shall provide access to the rental dwelling for inspection, upon request by the building inspector or city planner, within a reasonable time.

Sec. 22-334. – Written lease required.

A written lease, including the crime-free lease addendum specified in §22-372, shall be required for all rental dwellings in the City of Dover prior to establishment of a utility account for the property.

Secs. 22-~~334~~*335*—22-350. - Reserved.

DIVISION 2. - PERMIT

Sec. 22-351. - Generally.

(a) *Single-family dwellings.* It shall be unlawful for any person to operate any single-family rental dwelling without obtaining a permit from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31. The fee for the annual permit shall be as provided for in Appendix F—Fees and Fines. ***The permit fee for rental dwelling permits issued after January 31st will be prorated from the date the permit is issued until the next January 31st.***

(b) *Multiple-family dwellings.* It shall be unlawful for any person to operate any multiple dwelling without first obtaining an annual permit therefor from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31, and the fee for the annual permit shall be as provided for in Appendix F—Fees and Fines. ***The permit fee for rental dwelling permits issued after January 31st will be prorated from the date the permit is issued until the next January 31st.***

(c) *Late payment penalty.* In the event that the permit fee set forth herein is not paid on the date due, then the permittee shall incur a penalty fee as provided for in Appendix F—Fees and Fines until the same is paid.

(d) *Reinstatement fee.* An owner whose permit has been suspended in accordance with section 22-352 shall pay a reinstatement fee as provided for in Appendix F—Fees and Fines.

(e) *Lien.* In the event that the property owner fails to pay said fees within 30 days from the date a notice thereof is mailed to the owner, then such fees shall be entered in the municipal lien docket as a lien owing the city; and the same may be turned over to the city solicitor for collection.

(f) *Utilities.* The owner or occupant of any rental unit shall not be entitled to receive city utilities until the permit fee required in this section is paid in full and city personnel shall refuse to provide sewage, water and electricity to the property until satisfactory proof is furnished that such permit fee has been paid.

Sec. 22-352. - Suspension.

(a) *Grounds; duration.* The building inspector shall suspend the permit issued or withhold the permit paid for, pursuant to this division, when***:***

(1) ~~**he**~~ The building inspector determines that any dwelling or the premises surrounding the dwelling fails to meet the requirements of this chapter or any rule or regulation issued pursuant thereto;

(2) The failure of the property owner or property manager to initiate and prosecute in good faith eviction proceedings following notification by the City that the terms of the safe communities lease addendum have been violated; or

(3) The failure of the property owner or property manager to attend a safe communities seminar when required by §22-371(b).

Suspension shall last until the violations have been corrected to the satisfaction of the building inspector, or the suspension shall have been reversed ~~**or appealed**~~.

(b) *Notice of violations.* Upon suspending any permit under this section or withholding the permit paid for, the building inspector shall notify the owner of the violations of the applicable code and shall prescribe a period in which the violation shall be corrected.

(c) *Appeal.* Any owner or operator of any dwelling, whose permit to operate the structure is suspended by the building inspector pursuant to the procedures of this section, shall have the right to appeal and notice as provided in section 22-225

(d) *Effect of appeal.* Upon suspension of a permit, or withholding of a permit ordered by the building inspector and upon the permittee serving the city clerk with a notice of appeal pursuant to section 22-225, the permit suspension shall be stayed and an existing permit shall remain in force until the appeal is decided.

Secs. 22-353—22-~~380~~ *369*. - Reserved.

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DIVISION 3. – SAFE COMMUNITIES

Sec. 22-370 Criminal activity

Tenants of rental dwellings, any member of the tenant's household, any guest or other person ~~associated with the tenant~~ under the tenant's control shall not engage in criminal activity on or within 500 feet of the lot on which the rental dwelling resides.

Sec. 22-371. – Safe communities seminar ~~required~~.

(a) The City of Dover police department shall offer a safe communities seminar a minimum of two times each calendar year. The seminar shall be voluntary, except in the following circumstances:

1. When a rental dwelling permit has been suspended in accordance with Section 22-352, the property owner or manager shall attend the seminar prior to reinstatement of the suspended rental dwelling permit; or

2. When a rental dwelling has been the subject of response by the police department on three or more occasions within a six month period, due to occasions where the tenant, any member of the tenant's family, or any guest or other person ~~associated with the tenant~~ under the tenant's control have engaged in criminal activity, the property owner or managers shall attend the seminar.

(b) Upon notification by the chief of police that the safe communities seminar is required in accordance with subsection 2 above, the department of planning and inspections shall notify the property owner and/or property manager that he is required to attend the next scheduled safe communities seminar. Such notice shall be sent by certified mail to the property owner and property manager if a property manager is on record with the department of planning and inspections.

Sec. 22-372. – Safe communities lease addendum.

(a) All residential leases shall include a safe communities lease addendum, signed by the property owner and tenant, in the following form:

In addition to all other terms of the lease, landlord and tenant agree as follows:

1. The tenant, any member of the tenant's household, any guest or any other person ~~associated with the tenant~~ under the tenant's control on or within 500 feet of the leased premises:

i. Shall not engage in criminal activity, including drug-related criminal activity, on or within 500 feet of the leased premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution,

use, or possession of any illegal or controlled substance defined by 16 Del.C. Ch. 47.

ii. Shall not engage in any act intended to facilitate criminal activity.

iii. Shall not permit the dwelling unit to be used for or to facilitate any criminal activity.

2. Any activity prohibited by this addendum shall constitute a substantial violation of the lease, material noncompliance with the lease, and grounds for termination of tenancy and eviction.

(b) The department of planning and inspections shall provide a crime free lease addendum ~~template~~.

(c) A copy of the signed ~~crime free~~ safe communities lease addendum shall be submitted to the city of Dover prior to establishment of utility services to any residential property.

Sec. 22-373. – Eviction Required.

(a) If the tenant, any member of the tenant's household, any guest or other person associated with the tenant engages in criminal activity on three or more occasions within a 12-month period, the property owner or property manager shall begin to process to terminate tenancy.

(b) Upon notification by the chief of police that termination of tenancy is required in accordance with subsection (a), the department of planning and inspections shall notify the property owner and property manager that he has 30 days to initiate the eviction or otherwise terminate the tenancy. Such notice shall be sent by certified mail to the property owner and property manager if a property manager is on record with the department of planning and inspections.

SYNOPSIS

The proposed ordinance adds the requirement that landlords participate in a safe communities program that includes participation in a safe communities seminar offered by the Dover Police Department and including a safe communities addendum to leases. In addition, the proposed ordinance allows for prorating of rental permit fees for permits purchased after the beginning of the permit year.

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Actions History

March 11, 2018	-	Reconsidered by Legislative, Finance, and Administration Committee
February 11, 2013	-	Reconsidered by the Legislative, Finance, and Administration Committee and referred back to staff
January 28, 2013	-	Considered by Council and referred back to Committee for further review
January 14, 2013	-	Introduced at Legislative, Finance, and Administration Committee

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