LEGISLATIVE, FINANCE AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on February 25, 2013, at 5:33 p.m. with Chairman Lynn presiding. Members present were Mr. Anderson, Mr. Hare, and Mr. Rushe. Mr. Shevock was absent. Members of Council present were Council President Leary, Mr. Dixon, Mr. Perza, Mr. Bonar, Mrs. Williams, and Mr. Hutchison (departed at 5:58 p.m. and returned at 6:13 p.m.). Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

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

Proposed Charter Amendment - Article II - Mayor and Council, Section 13 - Vacancies; Forfeiture of Office; Filling of Vacancies *(Deferred by Committee on February 11, 2013 Due to Time Constraints)*

At the request of Councilman Anderson, staff prepared a draft amendment to Article II - Mayor and Council, Section 13 - Vacancies; Forfeiture of Office; Filling of Vacancies of the City of Dover Charter. This amendment would add a provision for elected officials to designate temporary successors in the event that they are absent or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of the office for an extended period of time. In addition, the amendment would change the provisions regarding the filling of vacancies for the Mayor and Council seats to specify that offices vacated within six (6) months of the next election would remain vacant until the next election; however, those offices vacated for more than six (6) months from the next election would be filled through a Special Election.

Members were reminded that Charter Amendments require adoption of a Resolution requesting the General Assembly to approve the amendments. Upon adoption of the Resolution, staff will forward it to local legislators for consideration.

Staff recommended approval of the proposed amendments to the City of Dover Charter and adoption of the subsequent Resolution requesting the General Assembly to amend the City Charter.

Mr. Anderson noted that if an executive position has a temporary vacancy, there is a mechanism to fill that vacancy. He did not believe that legislative positions were less important and advised members that many towns across the nation have worked to find ways to get around some of the political difficulties in filling such positions. He stated that the City Clerk conducted research at his request and that consideration was given to previous comments made by members of City Council related to this topic in the development of the proposed amendment, which was modeled after legislation in other states, particularly Alabama. Mr. Anderson reminded members that the need for such a mechanism had increased substantially since the terms of office were expanded to four (4) years.

Mr. Hutchison noted that each Council District had two (2) representatives and that the At-Large Council Member and the Mayor also serve residents; therefore, each District would still have three (3) elected representatives in the event of the absence of one (1) member. Responding, Mr. Anderson felt that the citizens of Dover would be better served if there was a greater likelihood of having a full Council.

Council President Leary did not recall any problems with obtaining a quorum or other issues as a result of members of Council being unable to attend meetings. It was his feeling that the proposal was an attempt to solve a problem that did not exist.

Mr. Perza explained that the integrity of the process being discussed was important. Noting that members of Council are chosen by City residents, he felt that nominating temporary placeholders would take away some of the integrity. He advised members that if he were in a situation that would impact those who elected him to serve by causing him to step away for an extended period of time he would resign, and he felt that it would be incumbent on the person holding office to consider resignation. Although the reasons for proposing the amendment were to cover military and other legitimate absences, he cautioned members of potential abuse by members of Council who may not want to vote on a particular issue and choose to take a lengthy vacation.

Concurring with Mr. Lynn, Mr. Hare suggested that members consider the proposed amendment if it were felt that such a vacancy would be detrimental to conducting City Council business.

Mr. Bonar expressed his opinion that the intent of the request for a Charter change was well founded; however, in listening to the comments relayed by members, he felt that the rationale for placing trust in the body of City Council as currently structured seemed sound. He concurred with Mr. Hutchison's comments, stating that although members of Council are elected by district, they serve the entire City and would assist any district affected by a member of Council who was absent for any reason.

In response to concerns of possible abuse, Mr. Anderson noted that the proposed amendment was specifically for members who are absent due to physical, mental, or legal reasons. Responding to Mr. Lynn, Mr. Anderson stated that the proposed amendment had not been reviewed by the City Solicitor's Office.

Responding to Mr. Lynn's suggestion to table the matter to allow for review by the City Solicitor, Mr. Perza stated his objections, explaining that he had not heard enough support to justify the legal expense. If there were no consensus to move forward, he felt that there was no need to spend additional resources studying the issue.

Mr. Hare moved for the issue to be presented to City Council for their consideration without a recommendation from the Committee, seconded by Mr. Anderson and carried with Mr. Lynn voting no.

Proposed Charter Amendment - Article II - Mayor and Council, Section 5 - Council to Be Legislative Body; size; Districts; Terms of Mayor and Councilmen; Qualifications ***(Deferred by Committee on February 11, 2013 Due to Time Constraints)***

Mrs. Traci McDowell, City Clerk, advised members that it was recently brought to staff's attention that the current wording of Article II - Mayor and Council, Section 5 - Council to be Legislative Body; Size; Districts; Terms of Mayor and Councilmen; Qualifications, indicates that in order to be eligible to be elected as mayor or as a member of council, the person must, as of the date of the

election, be: (4) Eighteen years of age. This amendment would correct that language to be "Eighteen years of age or older." She also noted that additional amendments were proposed to make the language in this section more concise.

Members were reminded that Charter Amendments require adoption of a Resolution requesting the General Assembly to approve the amendments. Upon adoption of the Resolution, staff would forward it to local legislators for submission.

Staff recommended approval of the proposed amendments to the City of Dover Charter and adoption of the subsequent Resolution requesting the General Assembly to amend the City Charter.

Mr. Anderson moved to recommend approval of staff's recommendation and adoption of the Resolution requesting the General Assembly to approve the Charter Amendments. The motion was seconded by Mr. Hare and unanimously carried.

Proposed Charter Amendment - Article I - Powers of the City, Section 1.05 - Procedure to Extend Boundaries ***(Deferred by Committee on February 11, 2013 Due to Time Constraints)***

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that the Planning Office and City Clerk's Office began working on a Charter Amendment regarding annexation several years ago when the City was receiving a lot of interest in annexation. She stated that the Charter currently requires that all petitions for annexation be subject to an election of the owners and residents of the property proposed for annexation. In reviewing many annexation requests, it became apparent that the added step of an election in cases where the only person(s) voting were those who requested annexation was an inefficient use of City staff and financial resources, as well as an added burden to the property owner(s). She stated that a Charter amendment was required to eliminate this unnecessary step.

Mrs. Townshend explained that the proposed Charter amendment developed by staff would eliminate the requirement for an election when the property owner had requested annexation of their property. However, the proposal would require an election in the cases where the entirety of the area proposed for annexation was not the subject of a request from the property owners. As proposed, she assured members that the City would not be able to annex land against the owner's wishes without the opportunity for the owner to vote in an election. She stated that the proposed Charter amendment would simplify the annexation process and reduce unnecessary costs but still allow property owners a vote if their property were the subject of an annexation proposal that was not petitioned by the owners.

Members were reminded that Charter Amendments require adoption of a Resolution requesting the General Assembly to approve the amendments. Upon adoption of the Resolution, staff would forward it to local legislators for submission.

Staff recommended approval of the proposed amendments to the City of Dover Charter and adoption of the subsequent Resolution requesting the General Assembly to amend the City Charter.

Mr. Hare moved to recommend approval of staff's recommendation and adoption of the Resolution requesting the General Assembly to approve the Charter Amendments. The motion was seconded by Mr. Rushe and unanimously carried.

Disposal of Excess Property - Justice of the Peace (JP) Court 7 and 16

Mr. Scott Koenig, City Manager, advised members that the City received a request from Cabe Associates, Inc. and Delaware Architects, LLC on behalf of the State of Delaware, Administrative Office of the Court, to potentially expand the existing Justice of the Peace (JP) Court 7 and 16 building located at the intersection of Bank Lane and West Street immediately adjacent to the Dover Police Department. The proposed court expansion is desired in order to meet the area's growing needs for court facilities. At this time, only the JP Court 7 and 16 building footprint is owned by the State of Delaware. In order for the court to expand, the City of Dover must agree to dispose of any surrounding land required to accommodate the proposed expansion.

Mr. Koenig explained that since the engineers and architects were in the early planning stages, exact land requirements were unknown at this time; therefore, he envisioned the request to be a two (2) step process. The first step would be to receive approval from City Council for the City Manager to become a co-applicant, along with the State of Delaware, on a site plan application for the proposed expansion. He stated that the site plan and facilities planning process would identify the exact amount of land that would be needed by the court to expand. Once the exact amount of land was known, the City Manager would fully initiate the Procedures for Sale and Disposal of Real Property and return to the Legislative, Finance, and Administration Committee with a specific recommendation regarding the transfer of any land necessary to accommodate the proposed expansion of the court.

Mr. Koenig assured members that staff would work closely with the project engineer, project architect, representatives from the State of Delaware, and the Dover Police Department to design a project that would meet the needs of the Court while addressing any operational concerns of the Dover Police Department, since they are the adjoining property owner.

Staff recommended that the City Manager be authorized to become a co-applicant, along with the State of Delaware, on a site plan application to expand JP Court 7 and 16 located at the intersection of Bank Lane and West Street. Once the amount of land necessary to accommodate the proposed expansion is known, the City Manager would return to the Committee with a recommendation regarding the disposal of City property necessary to accommodate the proposed expansion.

Responding to Mr. Anderson, Mr. Koenig confirmed that the State of Delaware would be bearing all costs associated with this matter.

Mr. Hutchison questioned if staff had considered the open space adjacent to the Police Station on the southwest corner. Responding, Mr. Koenig stated that there had not been any recent discussions; however, he felt that the JP Court 7 and 16 expansion may reignite that interest. Mr. Hutchison advised members that approximately 50 people work in JP Court 7 and 16 and noted the convenience

of the Court's location for police officers due to its close proximity to the Police Station. He urged members to support the request and approve staff's recommendation. Due to his wife's employment at the Court, he advised members that he would not be voting on this issue.

Mr. Hare moved to recommend approval of staff's recommendation authorizing the City Manager to become a co-applicant, along with the State of Delaware, on a site plan application to expand JP Court 7 and 16 located at the intersection of Bank Lane and West Street; once the amount of land necessary to accommodate the proposed expansion is known, the City Manager will return to the Committee with a recommendation regarding the disposal of City property necessary to accommodate the proposed expansion. The motion was seconded by Mr. Anderson and unanimously carried.

By unanimous consent, the meeting adjourned at 6:16 P.M.

Sean M. Lynn
Chairman

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