UTILITY COMMITTEE

The Utility Committee Meeting was held on December 10, 2012 at 5:00 p.m. with Chairman Bonar presiding. Members present were Mr. Perza (arrived at 5:16 p.m.), Mr. Blakeman, and Mr. Snaman. Mrs. Williams was absent. Members of Council present were Mr. Anderson (arrived at 5:17 p.m.), Mr. Hutchison, and Council President Leary. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

By unanimous consent, the agenda was approved as presented.

Capital School District Impact Fee Transfer

Mr. Scott Koenig, City Manager, advised members that the Public Works Department and the Planning Department had been working with the Capital School District for a number of months on their Facilities Master Plan. He explained that the Capital School District recently constructed a new campus at 194/198 Commerce Way in Dover (Tax Parcel ED05-076.14-01-07.03). Within the campus, the Office of Technology/Maintenance Facility building is located at 194 Commerce Way and the Administration and Professional Development Center building is located at 198 Commerce Way. These facilities were formerly located on multiple properties owned by the District and have been consolidated on this property. Mr. Koenig noted that in both the water impact fee and the sewer impact fee ordinances, there is language that allows (with Council approval) the transfer of impact fees from properties where facilities have been demolished to properties where facilities are being constructed or expanded. Construction of these new facilities allowed for demolition of existing structures on the subject site as well as the previous maintenance building, administration building, and trailers at 211 Delaware Avenue (Tax Parcel ED05-068.17-03-66.00), 945 Forest Street (Tax Parcel #ED05-076.07-01-65.00), and 75 Carver Road (Tax Parcel #ED05-076.07-01-55.00), respectively. The Capital School District submitted a letter, dated November 9, 2012, requesting the transference of thirteen (13) Equivalent Dwelling Unit (EDU) credits from the three (3) previously referenced off-site locations to the new campus on Commerce Way.

Mr. Koenig advised members that, per the City of Dover Code of Ordinances, two (2) references are applicable to this request. The first code reference, located in Chapter 110, Article III – Water Service, Division 3 – Water Impact Fees, Section 110-208 (d), states "No EDUs shall be transferred from one property to another property, whether or not such properties are owned by the same person, without the approval of city council." The second code reference, located in Chapter 110, Article IV – Wastewater Service, Division 3 – Wastewater Impact Fees, Section 110-283 (c), states "No EDUs shall be transferred from one property to another property, whether or not such properties are owned by the same person, without the approval of city council."

Mr. Koenig stated that City staff reviewed the request and found the information consistent with the calculations provided by the Department of Public Works on November 5, 2012. Staff found the request reasonable and recommended the transference of thirteen (13) EDU credits from 211 Delaware Avenue, 945 Forest Street, and 75 Carver Road to the Capital School District Administration and Professional Development Center campus located at 194/198 Commerce Way (Tax Parcel #ED05-076.14-01-07.03). He noted that any redevelopment and/or expansion at the

three (3) locations generating the credits would be subject to all impact fees resulting from new EDUs assessed at that time. Mr. Koenig stated his belief that the District was on a temporary Certificate of Occupancy at the administration complex pending the resolution of this matter, as well as some landscaping issues related to the site plan.

Mr. Blakeman moved to recommend acceptance of staff's recommendation to transfer 13 Equivalent Dwelling Unit (EDU) credits from 211 Delaware Avenue, 945 Forest Street, and 75 Carver Road to the Capital School District Administration and Professional Development Center campus located at 194/198 Commerce Way (Tax Parcel #ED05-076.14-01-07.03). The motion was seconded by Mr. Snaman and unanimously carried.

Renewable Energy Portfolio Standards

Mr. Scott Koenig, City Manager, introduced Mr. Patrick McCullar, President and Chief Executive Officer and Ms. Kimberly Schlichting, Vice President - Administration, both of whom were representing the Delaware Municipal Electric Cooperative (DEMEC). Mr. Koenig advised members that the Renewable Portfolio Standard (RPS) is a state-mandated policy that obligates each retail seller of electricity to include in its resource portfolio annually increasing amounts of electricity from Qualifying Renewable Energy Resources through 2025, when it will reach the goal of 25% with at least 3% from solar renewable resources. Qualifying Renewable Energy Resources include solar electric, wind, ocean tidal, ocean thermal, fuel cells powered by renewable fuels, hydroelectric facilities with a maximum capacity of 30 megawatts (MW), sustainable biomass, anaerobic digestion, and landfill gas. Prior to 2010, municipal electric utilities were exempted from the RPS requirements. In 2010, the Delaware RPS was revised under Senate Substitute No. 1 for Senate Bill 119 to require all utilities to participate, including municipal utilities, but allowing municipal electric companies to exempt themselves provided that they develop and implement a program comparable to the Renewable Energy Portfolio Standards for ratepayers beginning in the 2013 Compliance Year (June 1, 2013 thru May 31, 2014). There was no clear standard for a "comparable plan," but the statute imposes an "alternative compensation payment" of $25 per megawatt-hour for non-compliance in the first year, increasing to $80 per megawatt-hour by the third year, which must be passed to consumers. For the 2013 planning year, Dover must purchase 10% of its calculated load from qualified renewable resources, including 0.6% from solar photovoltaic resources, to comply with the statute.

Mr. Koenig noted that DEMEC's draft proposal encourages qualifying renewable energy resources and provides for a five (5) year planning cycle and annual and monthly compliance reconciliation for DEMEC members. DEMEC also has entered into contracts with qualifying renewable resources that will ensure compliance for its members for five (5) years, but only through planning year 2015. He stated that compliance based upon consumption would be complicated (i.e. industrial customers with loads in excess of 1,500 kWh may apply for exemption, but they must apply, it is not assumed; surplus solar capacity and facilities with Delaware-made equipment receive a multiplier, and compliance is suspended if costs increase by 3% (1% for solar)). DEMEC's proposal would free Dover from the process of submitting its own plan.

Mr. Koenig informed members that DEMEC provides full requirements service to its members, making compliance with RPS an integral part of the services. Although Dover is a member of DEMEC, it does not have the same financial obligations as the other members. Consequently, it would be necessary for Dover to enter into additional agreements with DEMEC concerning the scope of services, planning obligations, acquisition responsibility when DEMEC acquires qualified renewable resources, and compensation to DEMEC for the term of the renewable resource contract. These and other terms would be negotiated in the months ahead. Mr. Koenig indicated that this request for action was limited solely to the joint filing of a plan.

Mr. Koenig indicated that the City evaluated whether to file a separate compliance plan or to join with DEMEC. He advised members that, on the assumption that the RPS and the "circuit breaker" to protect against higher costs would remain in effect, conversations with The Energy Authority (TEA), DEMEC, and Mr. Kirk Betts, the City's Utility Attorney, led staff to conclude that the City of Dover should join in DEMEC's proposed RPS Plan as outlined in the Municipal Electric Utilities Renewable Portfolio Standard Plan. Staff recommended that the City join the DEMEC Renewable Portfolio Standard Plan.

Mr. McCullar stated that he was present to discuss the RPS plan and the possibility of DEMEC acting as agent for the City of Dover in the implementation of the filing and compliance with the plan. He complimented Mr. Koenig on his summary of the plan and noted one (1) correction, advising members that municipal plans do not have a non-compliance penalty payment. He explained that DEMEC was given flexibility by the General Assembly to design plans and this was being done with the goal of having a plan that is fairly comparable to the plan mandated for Delmarva Power. Mr. McCullar noted that the plan would seek to minimize the impact on DEMEC's rate payers and to stay below the circuit breakers that are built into the legislation defining RPS (1% cost of retail sales on an annual basis for solar and 3% for non-solar, such as wind and other renewables). He indicated that the plan distributed to the local regulatory authorities (municipalities) must be adopted by the local regulatory authority, and filed with the General Assembly and the Delaware Energy Office. From that point, there is an obligation to meet the compliance targets which are determined on an annual basis as a percentage of retail electric sales; for example, if a set amount of kWh is generated in a year, a schedule determines the percentage of those kWh's that must come from Qualifying Renewable Energy Resources, and there is a subset of solar renewable energy portfolio units. Mr. McCullar advised members that a five (5) year time frame was chosen for DEMEC's compliance plan because this is the duration of the State energy plan and also because it was felt that conditions in the electric industry and the persuasions of the General Assembly may change, causing modifications to the RPS law. He noted that DEMEC would be responsible for the compliance obligation for the other eight (8) municipal electric utilities involved. He indicated that the plan was designed in anticipation that the City of Dover would approach DEMEC to be its agent and DEMEC was prepared to do so. Mr. McCullar noted that DEMEC currently had a partial requirements agreement with the City of Dover for certain activities and that amendments would have to be made

to define the responsibilities and payment obligations, should DEMEC (as the agent for Dover and the other eight (8) municipal electric utilities) acquire renewable energy resources or build them to create a supply that meets compliance obligations.

Responding to Mr. Hutchison, Mr. McCullar stated that DEMEC's contract with the City would extend through 2025, since it was known that there was an absolute compliance obligation that 25% of DEMEC's energy resources come from renewables at that time. Decisions would be made in five (5) year increments regarding what "the curve would look like" to meet the 25%. If the DEMEC Board of Directors (including Mr. Koenig) were to decide that a project must be built or a contract for output from a particular project to meet the compliance obligation in 2025 was necessary, an agreement would be put in place that would allow the City of Dover to participate in that economic project and have part of their compliance obligation met.

In response to Mr. Bonar, Mr. McCullar reassured members that Mr. Koenig would be a voting member of the DEMEC Board of Directors. He stated that no legislative approval would be needed to amend the original plan if the City were to enter into the agreement with DEMEC. He explained that the municipal plans are viewed as nine (9) separate plans, since the legislation requires that each local regulatory authority have a plan; however, the DEMEC Board agreed that the best approach for all concerned was to have a unified plan with nine (9) separate reporting categories. He noted that the composition of the electric customer base is different in each community. Mr. McCullar indicated that industrial customers with a 1,500 KW demand can exempt themselves. He stated that regulations had very recently been changed to state that industrial customers are automatically exempt and need not apply. Mr. McCullar noted that DEMEC would advise each community of its annual sales and the percentage of these sales that come from qualifying industrial customers, and this would be subtracted from their obligation. He informed members that the City of Dover has quite a few qualifying customers (as does Newark); however, the Towns of Clayton and Smyrna have very few; therefore, a higher percentage of their total sales would be subject to compliance. As the annual compliance reporting is performed, DEMEC would make calculations to determine the actual year-to-year obligations and show how this was met with qualifying resources.

In response to Mr. Bonar, Mr. McCullar confirmed that DEMEC would be responsible if they were unable to meet the specified goals; however, he noted that "there is very little in the plan" that allows for a penalty and that new legislation would have to be passed to impose a penalty on DEMEC.

Noting that the City's solar plan ran "full bore," generating 3% of the City's electric supply during the previous summer, Mr. Snaman inquired about sources of renewable energy other than wind and solar. Responding, Mr. McCullar noted that there was a variety of sources, including geothermal, heated water solar, tidal, and small hydro energy, and that wind produces the most efficiency. DEMEC had a contract for wind energy for a project proposed by Bluewater Wind; however, this facility was never built. Mr. McCullar noted that DEMEC worked closely with the University of Delaware and that Professor Willett Kempton, from the University, performed a number of studies on wind resources in Delaware and discovered that there was not enough efficiency in wind

resources to build wind farms in the State. He advised members that one (1) windmill was running in Lewes (a University of Delaware project) and, although it receives the benefit of offshore winds, its efficiency is "not too great." He explained that DEMEC recently had Duke Energy build a 69 MW commercial wind farm operation on top of a mountain ridge in north central Pennsylvania where there was very good wind efficiency and DEMEC will receive 100% of the energy from this facility, which will serve the organization's non-solar renewable energy credit compliance for quite a few years into the future.

In response to Mr. Snaman regarding plans for other renewable energy projects, Mr. Koenig explained that the City was being approached by various solar developers (at least two (2) specifically) and stated that the Renewable Portfolio Standard Plan must be put in place before additional solar construction was considered. He noted that this was likely to come up in the future.

Responding to Mr. Snaman, Mr. McCullar stated that natural gas did not qualify as renewable energy. He indicated that the General Assembly allowed for a fuel cell powered by natural gas and that carbon-based resources would not qualify.

Mr. McCullar stated that DEMEC's plan as the administrator would be to identify the most economic and efficient projects that can be put in with the goal of creating the least burden possible on rate payers while maintaining compliance.

Mr. Blakeman moved to recommend acceptance of staff's recommendation that the City join the Delaware Municipal Energy Cooperative (DEMEC) Renewable Portfolio Standard Plan, seconded by Mr. Snaman and unanimously Carried. *(City Clerk's Office Note: Due to time constraints, this item was placed on the Council agenda for the meeting being held later in the evening.)*

Quarterly Review of Utility Related Capital Investment Plan (CIP) (Electric and Water/Wastewater *(Deferred by Committee on November 13, 2012 Due to Time Constraints)*

Mr. Scott Koenig, City Manager, referred members to the September 30, 2012 Capital Investment Plan (CIP) Project Tracking Report and stated that the report encompassing the period through December would be discussed during the second meeting in January.

TEA/NAES Report (August and September) *(August Report Deferred by Committee on November 13, 2012 Due to Time Constraints)*

Mr. Scott Koenig, City Manager, referred members to the August and September TEA/NAES Reports. Mr. Blakeman expressed his appreciation to Mrs. Donna Mitchell, Controller/Treasurer, for the modifications made to the report format, stating that the information was exactly what he had hoped for.

UPDATES

Green Energy Funding and Programming

Mr. Scott Koenig, City Manager, referred members to the Funding Summary for Green Energy projects, noting that Page 2 of the summary reflected a large financial commitment to the Dover Public Library. He stated that, as of December 5, 2012, the City had made a request to the Delaware Municipal Energy Cooperative (DEMEC) for the transference of approximately $152,000 related to Green Energy funding in association with the library. Mr. Koenig indicated that the City was nearing the initial set-aside for the Dover Public Library, as envisioned when the financing plan was developed by Mr. Anthony DePrima, former City Manager. He stated that no new applications had been received in the last few months, to his knowledge, and the City was working its way through the final funding of projects that had been submitted to date.

National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Permit

Mr. Scott Koenig, City Manager, stated that Planning Department staff had been working with the State on updates to the City's plan. The City was in the process of obtaining reauthorization from the State for a new permit; however, staff at the State level had changed and he was unsure if these positions had been filled, so the City had the benefit of having additional time before a new permit must be implemented. He informed members that staff had worked through the issues identified in the City's old permit and was continuing to collect data and make improvements to the City's system to ensure compliance when a new permit is issued.

Garrison Oak Technology Park Project *(Deferred by Committee on November 13, 2012 Due to Time Constraints)*

Mr. Scott Koenig, City Manager, stated that it was his understanding that Becker Morgan would be submitting the final subdivision plans for Garrison Oak within the next week to the City, the agencies associated with stormwater review, and the Delaware Department of Transportation (DelDOT). The City had gone through re-engineering of some site utilities to accommodate the Calpine project and was progressing with water tower, pump station, and force main design. Staff met with the Delaware Department of Natural Resources and Environmental Control (DNREC) during the previous week regarding water allocation permits and ways to enhance water production throughout the City. Staff was reasonably comfortable with the introduction of Unit 1 into the system and was attempting to get all allocation permits in line. Mr. Koenig explained that the demand that will be placed on the water system if Unit 2 is triggered would require the development of additional water resources over a specific time horizon; however, staff was focusing on the first 309 MW of power. Staff's expectation was that Calpine would file for building permits during the January-February time frame and was planning to go into commercial operation in June of 2015, which would require testing of the facility under full load in early January of 2015. He stated that Calpine had indicated that they were ready to proceed but, as of the previous week, was waiting on their air permit, although it was anticipated that this would be filed quickly. Mr. Koenig informed members that easements were being developed from the Calpine site to the 230 kV tie site, and one

of the hurdles being worked on was obtaining an alignment for the wire to go from the Garrison Energy Center to the 230 kV tie. This matter was under private negotiations with Calpine and other interested parties. The issue regarding the filing of LS Power vs. the City of Dover Planning Commission was unresolved; however, Mr. Koenig stated that he was assured that this was being worked on by Calpine and LS Power.

Responding to Mr. Hutchison regarding the status of the gas line, Mr. Koenig stated that he had not heard anything for or against the gas main. He indicated that his assumption was that everything necessary to get the gas line to the area was moving forward.

By unanimous consent, the Meeting Adjourned at 5:27 P.M.

David L. Bonar
Chairman

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