# REGULAR COUNCIL MEETING

The Regular Council Meeting was held on September 24, 2012 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mr. Lynn, Mr. Perza, Mr. Bonar, Mrs. Williams, Mr. Hare (absent from 8:40 p.m. to 8:50 p.m.), and Mr. Hutchison. Mrs. Russell was absent.

Council staff members present were Police Captain Stump, Mrs. Mitchell, Mrs. Townshend, Fire Chief Fortney, 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. Yvonne Hall, 228 North State Street, expressed her appreciation of the repairs made to the sidewalk in the 200 block of North State Street, as well as concerns regarding the cost to homeowners, businesses, and those who would be affected by changing the name of Division Street to Martin Luther King, Jr. Boulevard. Noting other priorities, such as the need for additional police officers and unbudgeted expenses related to the new library, she suggested a budget analysis be conducted to determine the cost prior to making the change.

Ms. Helen McCusker, Merle Norman Cosmetic Studio, 1030 Forrest Avenue, read a draft letter from the Central Delaware Chamber of Commerce, on behalf of Judy Diogo, President, as follows:

> *The Central Delaware Chamber of Commerce is aware that the city is proposing to change the name of DE 8 to honor Martin Luther King, Jr. We do ask that the City Council consider not making the name change effective for at least eight (8) months to one (1) year to allow the businesses in that area the opportunity to utilize their current advertising and promotional items that they may have already purchased. If the effective date can be pushed back, it will allow these businesses the chance to build in new marketing materials and promotional items in their next budget cycle. Many of these business have to also take into consideration the advertising that they have already committed to, such as the Yellow Pages. Giving them an extended timeframe will allow them to make the change of address in their future advertising. As we all know, business resources are extremely limited in this economy. We ask that you help our businesses by allowing them to utilize the dollars that they have already committed. We thank you for your consideration of this request and your understanding regarding the budgets of the area businesses.*

Ms. McCusker stated that she recently spent over $240 for 1,000 new business cards because she intended to be there for a while, and letterhead because the franchise changed its logo. She noted that there were three (3) new businesses, the Acorn Book Store that just opened in the shopping center and two (2) more scheduled to open shortly, that had plans in place with the current address. Ms. McCusker stated that it had taken her 11 years at this location to explain to people who live in

Dover where Forrest Avenue is located, and she couldn't imagine going through this change all over again.

Ms. Margery Cyr, Director of the Dover Public Library, 35 Loockerman Plaza, expressed her thanks to present and previous City Councils, the present and previous City administration, the private donors who contributed more than $1.7M to support the library project, the Friends of the Library for their unwavering support, the volunteers who helped with the move and brought pot-luck lunches for the staff and volunteers every day during the moving process, and especially the staff of the library who worked so incredibly hard during all of the days of the move, both before they closed the old library and before they opened the new library. Ms. Cyr also gave thanks to the staff of the City of Dover because there was not a single department that had not gone over and above to help the library get ready for the great new opening.

Reverend John Moore, Youth Pastor of Calvary Baptist Church and Vice President for Research, Development, and Strategic Partnerships for the United Way, stated that placing a dollar value on changing the name of Division Street would be completely missing the mark. He noted that on August 28, 2012, the 49th anniversary of the March on Washington was celebrated, when Dr. King gave his most famous speech: *I Have a Dream*. It was in that speech that he spoke - absolutely contrary to what they are saying about the value of what they are missing - about his dream that his four (4) little children would one day live in a nation where they would not be judged by the color of their skin but by the content of their character. Reverend Moore stated that the amazing thing that a lot of people miss is that just 18 days later, four (4) children lost their lives in the bombing at the 16th Street Baptist Church in Birmingham, Alabama - Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley. He felt that this devastation brought the nation together because people saw the evils of what was happening because of division and segregation. It was because of that tragedy that segregation lost its power and people were able to come together. Reverend Moore stated that in downtown Dover, Delaware, there has been a task force addressing violence; there are challenges with our children in school; and there is a need to create a whole new sense of pride within our community here in the Capital city of the First State. He thought it would be an absolute miss if Dover did not set a tone, just as Wilmington did years ago, by taking the opportunity to rename a part of this city as a street that someday their children could walk up and down with great pride. Reverend Moore stated that the advantage would be to those businesses along the street during the historic moment next year when the 50th anniversary of the March on Washington and the 150th anniversary of the Emancipation Proclamation are celebrated. He felt it was an opportunity for this city to step up and really, truly sustain the dream of Dr. King. He closed his remarks with the following quotes by Dr. King: *Our lives begin to end the day we become silent about things that matter. Human progress is neither automatic nor inevitable... Every step toward the goal of (justice)* human prosperity *requires sacrifice, suffering, and struggle; the tireless exertions and* com*passionate concern*s *of dedicated individuals,* like you and I, for *(an individual*) a person *has not started (living)* to live *until he* or she *can rise above the narrow confines of (his)* their own *individualistic concerns to the broader concern(s) (of)* for *all humanity.*

Mr. Paul Olsen, 301 North State Street, spoke in support of the Police Chief's need for additional officers. He felt that expenditure of monies on any initiative, including street signs, maps, etc., was a non-essential expenditure of monies that was not needed in today's challenging economic times.

He noted that more police officers and the John W. Pitts athletic center are, and were, essential expenditures. Mr. Olsen stated that the police told him that they were too short-staffed and had more important things to investigate than his hit-and-run. He said it was necessary to support the Police Chief and provide the staff that he needs.

Ms. Gertrude Buck, 120 Bayhill Road, Magnolia, DE stated that she came from Philadelphia, which has a lot of crime, and that the need for more police will be an ongoing argument. She thought that the City of Dover needed to proceed with the naming of Martin Luther King, Jr. Boulevard to promote pride and provide better directional instruction.

Pastor Ellis Louden, Mount Sinai African Methodist Episcopal Church, 101 North Queen Street, stated that he recently visited Seattle, Washington, where a street and a county were renamed for Martin Luther King, Jr., one of the premier prophets of the 20th century. He felt that the least the City of Dover could do is to honor the memory of a man who brought so much to the quality of life for everyone in this country and to lift the quality of life for Dover, Delaware. He said that one (1) of the Seattle residents of the street that was renamed was originally opposed to it because she felt it did not measure up to the man it was to honor. However, since the renaming, she was in favor of it because Martin Luther King Way was growing into its name and had transformed many neighborhoods.

The invocation was given by Chaplain Dixon, followed by the Pledge of Allegiance.

**AGENDA ADDITIONS/DELETIONS**

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

Mr. Anderson requested that Item #6A - Transfer of Street Light Accounting to the General Fund, be removed from the Consent Agenda.

**Mrs. Williams moved for approval of the Consent Agenda, as amended, seconded by Mr. Bonar and carried by a unanimous roll call vote (Mrs. Russell absent).**

**ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF SEPTEMBER 10, 2012**

**The Minutes of the Regular Council Meeting of September 10, 2012 were unanimously approved by motion of Mrs. Williams, seconded by Mr. Bonar, and bore the written approval of Mayor Carey.**

**CERTIFICATE OF RECOGNITION - CHARLES H. BOYER - PRESIDENT OF THE DELAWARE FIREFIGHTER'S ASSOCIATION**

The City Clerk read the following Certificate of Recognition into the record:

*Certificate of Recognition presented to Mr. Charles H. Boyer in recognition of being Dover's first firefighter to be elected as President of the Delaware Volunteer Firefighters Association since 1930. The City of Dover extends its congratulations on achieving such a prestigious honor.*

*Current Years of Service:* *Dover Volunteer Fire Department for 54 Years*
*Delaware Volunteer Fire Association for 25 Years.*

*Presented on September 24, 2012*

Mayor Carey presented the Certificate to Charles Boyer and thanked him for his dedication to the fire service. Mr. Boyer thanked the Dover Fire Department, his family, Chief Fortney, and all three (3) counties for their support.

Mr. Hutchison, Mr. Bonar, Mrs. Williams, and Mr. Hare each extended their appreciation and congratulations.

**PROCLAMATION - CYBER SECURITY AWARENESS MONTH**

The City Clerk read the following Proclamation into the record:

WHEREAS, we recognize the vital role that technology has in our daily lives and in the future of the City of Dover, whereby today many citizens, schools, libraries, businesses, and other organizations use the Internet for a variety of tasks, including keeping in contact with family and friends, managing personal finances, performing research, enhancing education, and conducting business; and

WHEREAS, critical sectors are increasingly reliant on information systems to support financial services, energy, telecommunications, transportation, utilities, health care, and emergency response systems; and

WHEREAS, the use of the Internet at the primary and secondary school levels in our city enhances the education of youth by providing them access to online educational and research materials; and at institutions of higher education, the use of information technology is integral to teaching, learning, research, outreach, and service; and

WHEREAS, Internet users and our information infrastructure face increasing threats of malicious cyber-attack, invasion of privacy from spyware and adware, and significant financial and personal privacy losses due to identity theft and fraud; and

WHEREAS, maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role, and awareness of computer security essentials will improve the security of the City of Dover information infrastructure and economy.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, do hereby proclaim October 2012 as ***Cyber Security Awareness Month*** in the City of Dover and urge all citizens to learn about cyber security and put that knowledge into practice.

Mayor Carey presented the Proclamation to Mr. Andy Siegel, Information Technologies (IT) Director, and noted that only Delaware and Texas received grants for Cyber Security. Mr. Siegel advised those present of resources available to them on the City's website.

**PROCLAMATION - FIRE PREVENTION WEEK**

The City Clerk read the following Proclamation into the record:

WHEREAS, the City of Dover is committed to ensuring the safety and security of all those living in and visiting our city, and fire is a serious public safety concern both locally and nationally; and

WHEREAS, the greatest risk of fire is in the home, and home fires result in more than 2,600 deaths per year; and

WHEREAS, one-third of those who burn fires in American households estimate a timeframe of at least six minutes before a home fire might become life threatening; however, in reality, the time available is often less; and

WHEREAS, less than one-fourth of Americans have developed and practiced a home fire escape plan and it is imperative that individuals and families practice such a plan at least twice per year; and

WHEREAS, the City of Dover Fire Marshal and Volunteer Fire Department are dedicated to reducing the occurrence of home fires and home fire deaths and injuries through prevention and proper education; and

WHEREAS, the 2012 Fire Prevention Week theme, "Have Two Ways Out!" effectively serves to remind us to develop and practice a home fire escape plan year-round.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, do hereby proclaim October 7 – 13, 2012 as ***Fire Prevention Week*** in the City of Dover and urge all people to practice their home fire escape plan during Fire Prevention Week and to support the many public safety activities and efforts of fire and emergency service personnel.

Mayor Carey presented the Proclamation to Charles Boyer, President of the Delaware Fire Fighter's Association. Mr. Boyer reminded everyone to change the batteries in their smoke detectors and Mayor Carey advised that if anyone could not afford a smoke detector, they should contact the Fire Department for assistance.

**PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - 212 N. GOVERNORS AVENUE, OWNED BY DEUTSCHE BANK NATIONAL TRUST COMPANY**

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 212 N. Governors Avenue, owned by Deutsche Bank National Trust Company. Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that the property was a two (2) story, wood-framed, single-family home with a detached one (1) car garage at the rear of the property. The dwelling was condemned as unfit for human habitation on July 20, 2012 due to the lack of utilities and the amount of broken windows and unsecured doors.

The City has boarded the property several times and on August 10, 2012, unknown subjects entered the dwelling and started a fire in the front second-floor bedroom, causing additional damage to the home. Currently the structure was vacant, with no active utility services and in a serious state of disrepair.

Mrs. Townshend reviewed a presentation depicting the condition of the structure ***(Exhibit #1)***.

Staff recommended that City Council take the following action for property located at 212 N. Governors Avenue: 1) declare this building and all accessory structures on this property dangerous; 2) order the property repaired or demolished by October 24, 2012 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Responding to questions of Council members, Mrs. Townshend noted that the notice delivery receipt had been received; the fire damage, which was not structural, was contained in one (1) bedroom; the house was significantly less than ten (10) feet from the next house; and there had been no attempt by the owner to repair the property.

Council President Leary declared the public hearing open.

Mr. Benjamin Salin, 214 North Governors Avenue, stated that he owned the property next door which was approximately four (4) feet from this house. Over the past few years, since the house had been empty, people break in, fornicate in the garage, and use drugs and leave needles in the back of the house. He said the property is a general nuisance and it is only a matter of time before someone catches his house on fire. Council President Leary noted that correspondence regarding this matter had been received from Mr. Salin ***(Exhibit #2)***.

Responding to Mr. Bonar, Mr. Salin stated that two (2) years was sufficient time to wait for someone to repair the property.

There being no one else present wishing to speak, the public hearing was closed.

**Mr. Bonar moved to 1) declare the building and all accessory structures located at 212 N. Governors Avenue dangerous; 2) order the property repaired or demolished by October 24, 2012 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a**

**suit at law against the owner. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote (Mrs. Russell absent).**

**PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE REPORT - SEPTEMBER 10, 2012**

The Parks, Recreation, and Community Enhancement Committee met on September 10, 2012 with Councilman Bonar presiding in the absence of Chairwoman Russell.

**Presentation - Restoration and Remediation of Mirror Lake**

Mr. Dean Holden, Chair, Silver Lake Commission, recognized the joint effort of the Commission and the Department of Natural Resources and Environmental Control (DNREC) in developing a project focusing on two (2) main areas of concern at Mirror Lake, mercury/PCB contaminants (which led to a prohibition against eating fish from the Lake) and visual aesthetics, related to the sandbar in the area. Mr. Holden stated that Mr. Rick Greene, Environmental Engineer, DNREC, had presented information to the Commission regarding ways to resolve the issues, including securing funding sources for the majority of the project, and that some members of Council had attended related meetings. In addition, he noted that Mr. Scott Koenig, City Manager, and other City officials had provided input and that public workshops were held to provide the community an opportunity to voice their concerns. Mr. Holden referenced a few ideas relating to the project that were in progress, including a volunteer program for clean-up and a biannual clean up schedule. He noted that, although some residents expressed concern regarding maintenance of plantings along the waterway, the overall public response to the project was supportive. He requested that members look upon the project favorably and move it forward for Council's consideration. He noted that it was hoped that construction could begin in the Fall of 2013.

Mr. Rick Greene provided members with an informational sheet, "Remediation and Restoration of Mirror Lake" and reviewed a presentation entitled "Restoration and Remediation of Mirror Lake, Dover, dated July 1, 2012." The presentation focused on four (4) main areas, including the vision for the project, a review of problems that the project presented, options to remedy the problems, and details regarding DNREC's preferred solution.

Responding to Mr. Bonar, Mr. Greene stated that the sediment involved with this project was not so heavily contaminated that it would be considered hazardous waste. He indicated that contaminants do the most damage in an aquatic environment and accumulate in high concentration; therefore, it would be preferable to move the sediment to a dry area that could be controlled and capped rather than spreading it in a marsh.

Mr. Greene indicated that if no action were taken, it would take approximately 74 years for the concentration of PCBs in Mirror Lake sediments to drop to the point that fish from the Lake would be edible; therefore, various alternative options were considered, along with the challenges associated with them. This led to DNREC's preferred method to "Sequester it in place," and he provided a detailed explanation of the process and the costs, challenges, and benefits of this option, which would reduce the level of contaminants by 70% - 90% within five (5) years. He stated that, in an effort to further determine the feasibility of the project, DNREC reached out to

Dr. Upal Ghosh, Professor, University of Maryland, Baltimore County, and it was concluded that the Mirror Lake project was a good candidate for the carbon treatment proposed by DNREC.

Mr. Greene estimated the cost of the project to be approximately $750,000, including planning, design, construction, and monitoring. He further advised that a great deal of funding had already been secured, including $680,000 from the State Hazardous Substance Cleanup Act (HSCA) program and $63,000 from DNREC, for the development of plans and specifications. Mr. Greene stated that additional funding and assistance were still needed from the City, including support for the project concept, authorization for access to the necessary areas, drawing down the lake prior to the inception of the project, and providing labor, the use of equipment and plants. Mr. Greene acknowledged those who had contributed to this project, including Mr. Koenig; the Silver Lake Commission (and specifically Mr. Holden); members of the Parks, Recreation, and Community Enhancement Committee; and many others.

In response to Mr. Lewis regarding the procedure for capping carbon pellets, Mr. Greene advised that fill would be added to create a wetland bench that would lock in the pellets, keep them from moving downstream, and ultimately allow them to be incorporated into the sediment. He noted some fish fatalities would be unavoidable, but by drawing down the lake slowly, fish would be driven into other areas and harm would be minimized. Mr. Greene explained the State of Delaware Division of Fish and Wildlife had agreed that the long-term benefits of the project would outweigh the short-term impact.

Responding to Mrs. Horsey, Mr. Greene stated that once the pellets were contained in the sandbar along with fill that would be added, the pellets would remain stable. He noted that the heaviest contaminants were on the western side of the Lake; however, he felt that both the eastern and western sides of the Lake were fairly stable.

In response to Mr. Bonar regarding the specific contributions that were being requested from the City, Mr. Greene indicated that labor, the use of a lift truck, and sandbags were desired and he estimated the cost of the City's contribution at approximately $25,000.

Responding to Mr. Bonar, Mr. Koenig confirmed that fountain pumps that the City previously purchased to aerate Mirror Lake (which cost approximately $5,000 - $8,000) became clogged with sediment and were being stored in the City warehouse. Mr. Holden noted that the Silver Lake Commission considered this option to address green algae; however, a consultant report determined that a number of aeration stations spread throughout the lake would be needed, which would be very costly, energy intensive, and would not address the issue. He explained that the lake contained 50% agricultural and 50% urban contaminants and noted that dredging the lake could eliminate blue/green algae but might cause different types of algae, such as brown or red, that could potentially be more threatening and damaging to the environment. Mr. Holden noted that the fact that the Lake is a manmade ecosystem makes remedying the situation very challenging. He indicated that there are a number of storm water discharges and highways that drain directly into the lake and suggested that perhaps Delaware Department of Transportation (DelDOT) be approached to contribute funds toward remedying this problem. Mr. Holden explained that cost was a concern, noting that a study performed a number of years ago identified 80 storm water retrofits that were needed. He estimated

that this would cost $50M and stated the need to establish a funding source for this purpose. He explained that no single project would eliminate blue-green algae and that appropriate expectations must be set up for what could be accomplished. Mr. Holden advised members that the project could be addressed in small increments, including aspects such as storm water retrofits and streambank restoration.

Mr. Bonar expressed his support for the project and encouraged the Commission and the City Manager to look for funding sources to remedy the deterioration of Mirror Lake and Silver Lake more effectively. Responding, Mr. Holden noted that obtaining funds was a challenge and that a grant proposal was recently submitted to improve the water quality behind Central Middle School. He indicated that it is difficult for the general public to understand that it costs a great deal of money to complete such projects and suggested that members of Council speak to the public on these issues so that a funding source could be developed to address the problem on a larger scale.

Mr. Koenig advised members regarding the challenge of maintaining related projects once they are complete, noting that a 15-page maintenance document was generated related to the repair of buffers in the area and that the City did not have adequate staffing to implement this document. In addition, he anticipated that some of the residents on Park Drive would object to the project, noting that they had expressed concerns about the buffer that was put in north of the area on Park Drive. Residents indicated that growth was too tall, obstructing their view of the water, and had not been properly maintained.

Mr. Greene assured members that the residents would be able to see the water following the planting that is planned for the Lake, as outlined in this project. Mr. Holden pointed out that a program was being organized with citizen assistance to address these concerns.

The Committee recommended support for the restoration and remediation of Mirror Lake, as presented.

During the Council meeting, Mr. Rick Greene, Environmental Engineer, Department of Natural Resources and Environmental Control (DNREC), and Mr. Dean Holden, Chair of the Silver Lake Commission, reviewed a presentation entitled "Remediation and Restoration of Mirror Lake, Dover."

Mr. Greene advised Council members that the expected level of assistance being requested from the City was an access and staging agreement, assistance with drawing down the water level, a lift truck and employees to load and unload the portadam frames, 1,200 sandbags, and plantings.

Mr. Scott Koenig, City Manager, advised members that the sandbags would cost approximately $1,000 to $1,500 and the cost for the use of staff and equipment would be less than $2,500. He noted that the benefit would be significant because it would address ongoing issues with Silver Lake and Mirror Lake and the projects would help with the stormwater permitting and restore the area along the St. Jones River.

Mr. Koenig acknowledged that some residents along Park Drive had expressed concerns about the aesthetics of the project and wanting to maintain the view of the water line. He noted that staff

would work with DNREC regarding this concern, as well as the engineering and environmental issues.

**Mr. Bonar moved for approval of the Committee's recommendation to support the restoration and remediation of Mirror Lake, as presented. The motion was seconded by Mr. Lynn and carried by a unanimous roll call vote (Mrs. Russell absent).**

**Presentation - Overview of City of Dover Recreation Programs**

Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that following the retirement of Mr. Zachery Carter, former Director of Parks and Recreation, in June 2012, the City Manager made the decision to remove funding for this position from the budget. The parks responsibilities of the position were then assigned to the Public Works Department and the recreation responsibilities to the Planning Department. Due to the change in structure, Mrs. Townshend felt it important for members to be introduced to recreation staff and receive information regarding programs and employee responsibilities. Mrs. Townshend introduced staff members, including Mr. Steve Pickering, City Sports Coordinator; Mr. Wayne Voshell, Recreation Center Coordinator; Ms. Peggy O'Brien, Office Clerk; Ms. Carolyn Courtney, Administrative Assistant; and Mrs. Sherwanda Rachel-Speaks, Recreational Specialist. Mrs. Townshend also recognized the part-time employees who help the Pitts Center run successfully, including Ms. Katie Burns and Ms. Connie Dickerson (Building Supervisors) and Ms. Hollie Dee and Ms. Amy Webb, (Service Center Clerks), who were not present at the meeting.

Mrs. Townshend reviewed a presentation, entitled "City of Dover Recreation," highlighting the City's recreation programs. She advised members that the Recreation Division was faced with a number of challenges in maintaining its budget and increasing revenue. She acknowledged that recreation programs are typically not entirely self-supporting; however, she noted that the City's program was approximately 20% self-supporting, whereas Newark's program (the only comparable program in the area) was 50% self-supporting. Mrs. Townshend stated that the department was evaluating the revenue structure and fees and looking for ways to boost revenue. Some ideas that were presented included adding age 18+ drop-in basketball for a fee, offering birthday party packages, establishing a surcharge for non-residents or a discount for residents, starting a wellness program (which would include programs for healthy cooking, fitness trails, etc.), and incorporating bike safety into the programming. She noted that staff attempted to cut costs by discontinuing its newsletter; however, this proved detrimental and was reinstated in August. Mrs. Townshend indicated that a Facebook page for the Center had been established. She explained that the summer months bring a lull to the usage of the Pitts Center due to the lack of air conditioning; however, during the winter months it is in high demand. Mrs. Townshend advised members that Mr. Koenig has made rectifying this situation a priority because it presents a challenge when the Center is shut down during summer months due to high temperatures. Mrs. Townshend stated that staff would hold an all-day brainstorming and idea-sharing event on September 14, 2012 to look for ways to bridge the revenue gap by expanding on current offerings.

Mr. Bonar thanked Mrs. Townshend and her staff and expressed the Committee's support and appreciation for their efforts.

No further action was taken by the Committee regarding this matter.

**UPDATES**

The following updates were provided to members:

**Planning and Funding for New Library**

Mr. Scott Koenig, City Manager, stated that the Library was 10 days from completion and would open on time, with the Ribbon Cutting Ceremony scheduled for Thursday, September 20, 2012 at 10:00 a.m. Mr. Koenig advised members that Governor Jack Markell, members of Kent County Levy Court, and members of City Council would be in attendance, among others. Mr. Koenig acknowledged that the State of Delaware Division of Libraries had been assisting with setting up the computers and preparing for the opening.

**CDBG Program**

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the Status of Community Development Block Grant (CDBG) Projects for FY 2011/2012.

**By consent agenda, Mr. Bonar moved for acceptance of the Parks, Recreation, and Community Enhancement Committee Report, seconded by Mrs. Williams and carried by a unanimous roll call vote (Mrs. Russell absent).**

**Mr. Bonar moved for acceptance of the Committee's report, seconded by Mrs. Williams and unanimously carried.**

**LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - SEPTEMBER 10, 2012**

The Legislative, Finance, and Administration Committee met on September 10, 2012 with Chairman Lynn presiding.

**Transfer of Street Light Accounting to Electric Fund**

Mrs. Donna Mitchell, Controller/Treasurer, reviewed correspondence received from Ms. Emilie Ninan, City of Dover Bond Counsel, dated August 24, 2012. She explained that it was the opinion of the Bond Counsel that attempting to charge for street lights through the Electric Fund could run the City in default of the bonds. Ms. Ninan recommended that the City transfer additional funds from the Electric Fund, rather than charging individual customers for all of the street lights in the City of Dover.

In response to Mr. Lynn's question regarding the legality of charging through the Electric Fund, Mrs. Mitchell stated that it was the opinion of the Bond Counsel that the City would risk running in default of the Bond Covenants. Mrs. Mitchell explained that Ms. Ninan's correspondence indicated that the City could not provide for free electric in the Electric Fund and could be in default of bond covenants if this were attempted.

Mrs. Mitchell expressed her preference that the City use the electric transfer rather than a surcharge for street lights.

Mr. Lynn informed members that, during the Special Council Meeting - Budget Review session held on May 30, 2012, he proposed moving the street lights out of the General Fund into the Electric Fund to "free up" approximately $1M from the General Fund, thus reducing the budget deficits projected for the out years.

Mr. Lynn questioned if Mrs. Mitchell knew how the municipalities of Newark, Milford, Smyrna, New Castle, Seaford, Middletown, Clayton, and Lewes handle this issue. In response, Mrs. Mitchell stated that she contacted Smyrna, Middletown, and Newark but had not yet received a response from Newark. She stated that Smyrna allows the Electric Fund to absorb the street lights and does not charge the General Fund for the street lights or any municipal electric. Middletown has free meters, but this is not charged to individual departments or to the General Fund; the transfer is reduced by that amount. However, she stated that Smyrna and Middletown have no bond covenant restrictions because they are a part of Delaware Municipal Electric Corporation, Inc. (DEMEC); therefore, their bonds are covered through DEMEC, separate from the government. She explained that DEMEC is similar to an electric co-op; therefore, there are no bond covenants that restrict how electricity is charged.

In response to Mr. Shevock, Mrs. Mitchell stated that if the City were to be in default of the bond covenants, a suit could be filed by the bondholders and the City would have to pay the bonds.

Mr. Hare stated that he would prefer to wait to make a recommendation on this item until information could be provided by the other six (6) municipalities.

In response to Mr. Rushe, Mrs. Mitchell stated that she was unsure what municipalities the Bond Counsel consulted, although they were out of their client base. She indicated that Ms. Ninan discussed this matter with other attorneys to determine if they knew of any other municipalities using this method of allocation.

Mr. Leary expressed his thought that when credible opinions are received that indicate that the City may be running the risk of default on bonds, the discussion should stop. With heightened scrutiny from bond rating agencies, he stated his opinion that too much discussion of this issue was probably not a good thing. Although members relayed their desire to reach out to the other municipalities to determine how they handle this issue, it was Mr. Leary's opinion that an equal comparison could not be made and he felt that this was a moot point.

Mr. Perza thanked Mrs. Mitchell for following up on this issue and expressed his concurrence with Mr. Leary's statement.

The Committee recommended acceptance of the recommendation of the Bond Counsel to use the provisions of 507A(e) of the resolution to transfer necessary funds to the general fund, (since) trying to get a general fund expense paid out of the electric fund in a different way runs the risk of bondholders claiming an event of default has occurred under the resolution and, ultimately, could result in acceleration of the bonds.

During the Council meeting, Mr. Anderson expressed concern regarding the lack of specificity in the correspondence provided by Bond Counsel. He stated that other municipalities do what is being proposed and he would like to see what specific provisions would be violated and how. Noting that there was no rush to make a decision, Mr. Anderson suggested inviting Bond Counsel to come and address their questions.

Mr. Anderson moved to table the matter and invite Bond Counsel to address this matter at a future meeting, seconded by Mr. Lynn.

Responding to Mr. Hare, Mrs. Donna Mitchell, Controller/Treasurer, stated that there would be a fee for Bond Counsel to attend the meeting. She suggested that Bond Counsel was being questioned because they advised that the City would "run the risk" of a claim of default and an acceleration of the bonds instead of stating their opinion absolutely.

Mr. Anderson reiterated his concerns about not being able to obtain answers to his questions.

With regard to the practice of other municipalities, Mr. Leary stated that Revenue and General Obligation bonds are completely different from the bonds being discussed.

The motion to table the matter and invite Bond Counsel to address this matter at a future meeting failed by a roll call vote of six (6) no (Perza, Bonar, Williams, Hare, Hutchison, and Leary) and two (2) yes (Anderson and Lynn) (Mrs. Russell absent).

**Mr. Hutchison moved for approval of the Committee's recommendation, seconded by Mr. Bonar and carried, with Mr. Anderson voting no.**

**Reduced Rates for All-Electric Homes in December, January, and February**

During the Open Forum Segment of the April 9, 2012 City Council Meeting, Mr. Ted George, 77 Billings Drive, requested that members consider providing an electric rate discount during the months of December, January, and February for those customers with all-electric homes. During the Regular Council Meeting of July 9, 2012, City Council approved the recommendation of the Legislative, Finance, and Administration Committee that the proposal to reduce electric rates for all-electric homes be referred to staff for cost analysis and review.

Mr. Scott Koenig, City Manager, reviewed a memorandum regarding Reduced Rates for All-Electric Homes in December, January, and February dated September 4, 2012. He stated that he understood the interest in such a program, but that he could not support the request based on the current market conditions related to the City's Electric Utility. Mr. Koenig noted that the City's rate structure does not afford for this special classification of residential customers and the added staff burdens would not be beneficial to the remaining customers.

Mr. Shevock moved to not provide reduced rates for all-electric homes, as recommended by staff, seconded by Mr. Rushe and, by a vote of two (2) yes (Rushe and Shevock) and two (2) no (Hare and Lynn), the motion failed.

Mr. Hare stated that he was not opposed to the idea but requested more in depth information because he believed that there are a lot of people who heat with electric but use gas in their homes as well. He stated his opinion that this reduction should only be considered for City residents.

In response to Mr. Shevock's question regarding what constitutes an all-electric home, Mr. Koenig explained that determining this was part of the problem, since the current billing system does not distinguish between customers who have all-electric versus partial electric homes; therefore, staff would have to conduct investigations of all of these homes to determine if the customer would qualify for such a program. He expressed his belief that the City could not offer the reduction to only in-City customers, since the City has a uniform electric rate for all of its service territories, and offering the program to in-City customers would require distinguishing between that classification. He stated that, to his knowledge, the customer who requested consideration of this item was not an in-City customer.

Mr. Hare suggested, if this were approved, that customers would apply in the same manner that property owners apply for a tax exemption. The burden would be placed on each applicant to prove they have an all-electric home. If a cost were incurred because a member of staff was required to inspect the home, the customer would incur that cost to obtain the exemption. Responding, Mr. Koenig stated that staff could create such a program if this was Council's desire; however, he cautioned that when a house is built, there is no guarantee that conditions will remain the same because of renovations or changes in technology, noting that people "chase the market." He stated that market conditions have changed since the origin of this concept; therefore, this would not be a one-time issue but would need to be updated occasionally.

Mr. Hare stated his opinion that the program would not include a rate reduction; rather, customers would be required to apply and, based on square footage or the appropriate measurement, they would qualify for a credit during the three (3) specified months, and customers would have to reapply each year. Responding to Mr. Koenig, Mr. Hare confirmed that he was suggesting a program similar to the tax exemption program. He stated his feeling that this was an issue of fairness, since there are a number of people who have lived in Dover for many years and were told that they would have this opportunity, which was then taken away.

Mr. Lynn concurred with Mr. Hare; however, he understood the reasons behind Mr. Koenig's position as stated in the memo, due to staff resources being stretched so thin. However, he stated that he would like to see a more in-depth analysis to determine the cost, although he realized that it may be impossible to quantify how many houses would be affected by such a program at this point. Responding, Mr. Koenig stated that this could be quantified, but it would take a lot of "guess work."

Mr. Hare moved that the proposal to reduce electric rates for all-electric homes be referred back to staff for a more in-depth analysis, seconded by Mr. Lynn.

Mr. Shevock requested, if the proposal were referred back to staff, that staff determine the cost for the City to administer such a program (including whether an additional employee would be necessary) and the number of houses that would be involved, and provide a cost analysis to

determine whether the program would be cost effective for the City, based on the additional cost to the City versus the savings that would be realized by the customers.

Mr. Hare expressed his opinion that a new employee should not be hired; rather, the City could contract out inspections and the applicant could incur the expense.

Mr. Hare and Mr. Lynn agreed to amend the motion to include Mr. Shevock's request.

The Committee recommended that the proposal to reduce electric rates for all-electric homes be referred back to staff for a more in-depth analysis, and that staff determine the cost for the City to administer such a program (including whether an additional employee would be necessary) and the number of houses that would be involved, and provide a cost analysis to determine whether the program would be cost effective for the City, based on the additional cost to the City versus the savings that would be realized by the customers.

**By consent agenda, Mrs. Williams moved for approval of the Committee's recommendation. The motion was seconded by Mr. Bonar and carried by a unanimous roll call vote (Mrs. Russell absent).**

**Discussion - Renaming of Division Street as Martin Luther King, Jr. Boulevard**

Mr. Lynn thanked members of the public for their attendance and interest.

Mr. Lynn stated that the proposal to change the name of Division Street to Martin Luther King, Jr. Boulevard had been under discussion for some time and that this issue was brought to his attention by the efforts of Mayor Carey as well as Senator Brian Bushweller.

Mr. Lynn expressed his concern with the current Code requirement that individuals must circulate a petition to secure the signatures of various land owners in order to begin the process of changing the name of a street. He stated that concerned citizens who want to change the name of a street could put hours of leg work and time in, and then come before Council and have the request "shot down" and have to start all over. He did not wish supporters to spend hours of time if their request would not garner the support that it needs.

Mr. Lynn stated that this was a two (2) part question; 1) should the City of Dover have a Martin Luther King, Jr. Boulevard, and (if so); 2) where it should be located. He felt that Division Street should be renamed Martin Luther King, Jr. Boulevard.

Mr. Lynn stated that in conversations with Mr. Nicholas Rodriguez, City Solicitor, Mr. Rodriguez opined that City Council could circumvent the petition portion of the street name change ordinance, since it was well within the City's purview to change the name of its own streets. Rather than having this group work to complete a petition, it was Mr. Lynn's thought to "just get it done," since this was an important issue that needed to be addressed.

Mr. Shevock questioned which sections of Division Street would be renamed. Responding, Mr. Hare stated that it was his understanding that the request was for the renaming to extend from Route 13 to Saulsbury Road.

Mr. Hare stated that he did not have a problem with the proposal but suggested another opportunity for public comment. He stated his opinion that this was an issue that was long overdue. He was aware that the community had previously discussed the possibility of renaming College Road; however, he was uncertain why that was not pursued.

Mr. Shevock questioned the ramifications this would have on the Delaware Department of Transportation (DelDOT) since Route 8 is a State road through the City. Responding, Senator Brian Bushweller stated that his office had contacted DelDOT regarding this specific question and DelDOT staff confirmed that the naming of streets in a City was up to the City and they have no role in this issue since the area in question is within the City limits.

Mr. Hare stated that the road would still be considered Route 8, as DuPont Highway is considered Route 13, and Senator Bushweller confirmed that the route markings would remain the same.

Mr. Shevock questioned who would be responsible for handling address numbering changes. Responding, Senator Bushweller stated that there are address numbering issues involved in a street renaming, for example, the 911 Center would have to be reprogrammed so that the correct address shows up when a call is received. Mr. Shevock stated that his concern was in regard to the post office refusing to deliver mail that was not properly addressed, which reportedly occurred in Sussex County. Senator Bushweller could not offer any guarantees but stated that he would be happy to be a part of the process in making sure that similar problem does not occur in Dover.

Senator Bushweller thanked Mr. Lynn for introducing this issue and allowing for public discussion. He stated that he was in attendance to reflect his personal support for the idea of renaming Division Street as Martin Luther King, Jr. Boulevard. He expressed his opinion that Martin Luther King, Jr. became a seminal figure in the development of our Constitutional republic and espoused the need for all Americans to enjoy the same rights, liberties, involvements, and access. He firmly believed that the capital city of the Delaware should have a street named after Martin Luther King, Jr. and stated that he had not heard from anyone who disagreed with that notion. It was his opinion that, given the significance of Martin Luther King, Jr. to our country, the street selected should be a significant street in the City, and as Division Street is located in the center of the City, he believed it to be a good choice. He indicated that his staff confirmed with the Division of Historical and Cultural Affairs and the Delaware Public Archives that there is no significant historical element to the name Division Street in Dover.

Mr. Lynn thanked Senator Bushweller for his support, and expressed his opinion that changing the name from Division Street to Martin Luther King, Jr. Boulevard symbolically carries great weight, and that simply changing the word “division” to recognize someone who preached unity was in and of itself symbolically powerful.

Mayor Carey concurred with Senator Bushweller's comments and expressed the importance of renaming Division Street. He reminded those present of Dr. Martin Luther King, Jr.'s concerns regarding education, and noted the presence of Booker T. Washington Elementary School, Central Middle School, Wesley College, and Elizabeth W. Murphey School in this area. He stated that this proposal meant a lot to the community and stated his support.

Mr. Lynn thanked Mayor Carey for his efforts regarding this matter.

Mr. Bonar felt that this change should have been accomplished 34 years ago. He noted that this roadway also encompasses East Division Street and Forrest Avenue within the City limits, and Forrest Avenue would soon be home to Dover High School, which is another plus from the educational standpoint of Dr. King's views. He stated that his initial reaction was not quite 100% enthusiastic because he would rather see Legislative Avenue renamed Martin Luther King, Jr. Avenue since that is where the laws of this State are made and, in his opinion, Dr. King had the greatest impact on social change and government in our country. However, given the fact that there has been discussion on changing Division Street, it was his suggestion that East Division Street and Forrest Avenue be included, from one end of the City to the other. He voiced his support for such a proposal.

Mr. Leary expressed his agreement with Mr. Lynn's opening comments and indicated he was heartened to see so many people in the Council Chambers for such an important subject. He requested that the Committee's motion encompass ample opportunity for public input.

On behalf of the Dover Human Relations Commission, Mr. Roy Sudler, Jr., Chairman, 57 Tallowick Lane, Dover, expressed support for the renaming Division Street to Martin Luther King, Jr. Boulevard. As a Fourth District constituent, Mr. Sudler expressed his hope that City Council would unanimously vote to make this change in the near future.

Reverend Michael Rogers, President, Interdenominational Ministerial Alliance (Dover vicinity), 118 Springfield Way, Dover, thanked the Mayor, Senator Bushweller, and Councilman Lynn for the opportunity to address this matter. He stated that this proposal had been discussed throughout the community for a long time, beginning with Pastor Rudolph Coleman, Mt. Zion A.M.E. Church, Dover, who initiated it between ten and fifteen years ago. He thanked members of the Committee for their comments and support and stated that this was an issue that he wanted to see come to fruition. Reverend Rogers informed members that the Interdenominational Ministerial Alliance, the Churches Association, and many groups from within the community have held several forums over the course of the past few months and asked that members call on them if there is anything they could do to move this matter forward.

Mr. Lynn thanked Reverend Rogers and Nelson Hill, President, White Oak/Towne Point Civic Association for bringing this matter to his attention during his attendance at a White Oak/Towne Point Community Outreach meeting.

Representative Donald Blakey, 956 Bison Road, Dover, Delaware, congratulated members for considering changing street that currently bears the name Division Street to Martin Luther King, Jr.

Boulevard. He explained that dramatic changes had occurred in Dover since he moved here in the early 1950s, and that with this street name change, there may be a reversal in the character of the area, which he stated would be a "real bonus."

Mr. William T. Wilson, 838 Forest Street, Dover, expressed the honor he felt to be present. He stated that he had witnessed many changes in the City of Dover during his lifetime and faced trials and tribulations in regard to segregation, and was proud to hear the Committee "speak up" for renaming Division Street Martin Luther King, Jr. Boulevard.

Mr. Fred Tolbert, Vice Chairman, City of Dover Planning Commission, 35 Karen Place, expressed his full support for the renaming of Division Street to Martin Luther King, Jr. Boulevard, and read a statement into the record, as follows:

> *The uniquely significant achievements of Reverend Martin Luther King has been acknowledged and memorialized with great pride around the world, including a Pulitzer Peace Prize. A large number of American cities and states have elected to memorialize the accomplishments of Reverend Martin Luther King and his leadership of the civil rights struggle. Unfortunately, the City of Dover, Delaware has not attempted to recognize the meaning of the civil rights struggle and Reverend Martin L. King's success, until this time, with leading America toward recognizing the real meaning of civil rights and equality. Dover, Delaware is the capital city of the First State and, as such, it should provide leadership for the State in the areas of governance, equality, and democratic beliefs and practices. The fact, to date, that the City of Dover has not officially recognized the accomplishments of Reverend Martin Luther King is unquestionably an unacceptable blemish on its record and should be corrected as quickly as possible, as this Committee is attempting to do. The renaming a portion of Division Street to honor the name of Reverend Martin Luther King is a very small way to honor such an internationally known hero and civil rights leader. In reality, it would be significantly more appropriate to name the new Dover library after Martin Luther King and/or to erect a memorial to him in a prominent place such as: 1) the front of the new library, 2) on Loockerman Street on the islands in front of City Hall, or 3) on The Green. These suggestions are offered not as an alternative to renaming Division Street but in addition to renaming Division Street. The action that Dover City Council takes on this issue is most important to all residents of the City and it will send a positive message to all that Dover, Delaware is finally approaching an area of progressive thinking that will be most beneficial to the City and all of its inhabitants.*

Pastor Richard Avant, Calvary Baptist Church; President Emeritus of the Interdenominational Ministerial Alliance; and longstanding member of the Dover community, shared that his heart was lifted to see such support for this proposal from members of the Committee as well as the community. In reference to Mr. Hare's earlier comments, he explained that Mayor Carey researched and developed the "College Road concept" which was discussed by members of the community; however, a consensus was reached that, due to the history involved in the naming of College Road, a different road should be selected in recognition of Martin Luther King, Jr. He stated that he was

overwhelmed by the support shown by Senator Bushweller, Representative Blakey, and Mayor Carey, and that he would like to see this street renaming accomplished during his lifetime.

Mr. Theodore A. Hendricson, retired Air Force Lieutenant, shared a brief history regarding the freeing of slaves in Delaware.

Mr. Lynn acknowledged that, due to a prior obligation, Mr. Rushe had to excuse himself from the meeting but he asked Mr. Lynn to share his support for Martin Luther King, Jr. Boulevard and that, pursuant to his own research, he found that as of 2009, there were at least 730 cities, spanning 39 states, which had a Martin Luther King, Jr. Boulevard.

Dr. Wilma Mishoe, 353 Rita-Wilma Road, Dover, stated that she was glad to see such support in the audience from members of the Dover community. On behalf of herself and her sister, Reverend Rita Paige, she stated that she agreed with the comments of those who preceded her at the podium and was overjoyed by the opportunity that City Council had to write a new chapter in the history of Dover. She thanked the members of the Committee for their consideration.

Mr. Kenneth Roach, 816 Slaughter Street, Dover, stated that he was born and raised in Dover, Delaware and was overjoyed by the outpouring of community support for this proposal. He explained that Dr. Martin Luther King, Jr. "brought people together" and was always one of his heroes. He expressed his opinion that it was a great injustice that the capital of the First State did not have a street named after Martin Luther King, Jr. Mr. Roach thanked members of the Committee for their consideration of this matter.

Mr. Hare moved to recommend that a public hearing regarding this matter be set for Monday, October 8, 2012 at 7:30 p.m., seconded by Mr. Lynn.

Mr. Bonar requested that the language for the renaming of Division Street to Martin Luther King, Jr. Boulevard include Division Street from "City limit to City limit."

The Committee recommended that a public hearing regarding the renaming of Division Street as Martin Luther King, Jr. Boulevard be set for Monday, October 8, 2012 at 7:30 p.m. and that the language for the renaming of Division Street to Martin Luther King, Jr. Boulevard include Division Street from "City limit to City limit."

Mr. Lynn moved for approval of the Committee's recommendation, seconded by Mr. Bonar.

Mr. Anderson stated that he supported the renaming of Division Street; however, he was concerned about the change made by the Committee to include Division Street from "city limit to city limit" instead of the requested renaming from Route 13 to Saulsbury Road. He noted that he had heard no objections from the Division Street area; however, he had heard a number of concerns from the Forrest Avenue area and suggested that the revision be revisited. Mr. Bonar recommended that it be decided after the public hearing was held.

Responding to Mr. Hutchison, Mrs. Ann Marie Townshend, Director of Planning and Community Development, outlined the six (6) step process for renaming a street, as specified in Chapter 98 of the Dover Code of Ordinances. She noted that the process starts when a petition is received; the request is reviewed by the Development Advisory Committee (DAC) and a staff report is developed for Planning Commission review. The Utility Committee then reviews the request for a recommendation to City Council. City Council then sets and subsequently holds a public hearing and takes final action. Mrs. Townshend indicated that she had requested the DAC to review the proposal and would include those comments in the packet for the October 8, 2012 City Council meeting.

**The motion for approval of the Committee's recommendation that a public hearing regarding the renaming of Division Street as Martin Luther King, Jr. Boulevard be set for Monday, October 8, 2012 at 7:30 p.m. and that the language for the renaming of Division Street to Martin Luther King, Jr. Boulevard include Division Street from "City limit to City limit" was unanimously carried.**

**Mr. Lynn moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mr. Hutchison and unanimously carried.**

Meeting recessed at 8:40 p.m. and reconvened at 8:46 p.m.

**MONTHLY REPORTS - JULY 2012**

**By motion of Mrs. Williams, seconded by Mr. Bonar, the following monthly reports were accepted by consent agenda**:

Budget
Capital Investment Plan (CIP)

**ENGINEERING SERVICE AGREEMENT - ENGINEERING DESIGN OF WASTEWATER FACILITIES - GARRISON FARM SUBDIVISION**

Pennoni is currently one of three (3) approved consulting engineers with which the City of Dover has entered into an agreement of professional services. In order to meet the wastewater demands of the proposed Garrison Farm Subdivision, wastewater facilities upgrades need to take place. The proposal can be divided into four (4) separate tasks:

1. Design of a wastewater pump station on the Garrison Farm Subdivision.
2. Analysis and design of upgrading existing force main and gravity sewer main from the Garrison Farm Subdivision to the White Oak Farms Pump Station (Pump Station #5).
3. Analysis of existing White Oak Farms Pump Station (Pump Station #5) and design necessary upgrades to properly convey the increased flow from the Garrison Farm Subdivision.
4. Abandonment of the White Oak Road Pump Station (Pump Station #14).

Each task has an estimated cost, the estimates are based on limited knowledge of the facilities, site visits and surveying will provide proper information to better define the upgrades necessary. The

proposal cost is reflective of a "worse-case scenario" with each task. It is possible that the cost for design could be reduced. Pennoni is well versed with the City's wastewater pump station requirements, as they have designed multiple pump stations throughout the system. With Council approval, Pennoni will produce bid documents for this project for the City of Dover to publicly advertise and bid. This design will take into consideration the overall subdivision plan and water main layout provided by Becker Morgan Group. Due to the purchasing policy, this work could not be accomplished by Becker Morgan Group because they are not one of the three (3) consulting engineers that have entered into an agreement of professional service.

Staff recommended authorizing Pennoni to produce Invitation to Bid Documents in an amount not to exceed $365,000.

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

**ENGINEERING SERVICE AGREEMENT - ENGINEERING DESIGN OF ELEVATED WATER STORAGE TANK - GARRISON FARM SUBDIVISION**

URS is currently one of three (3) approved consulting engineers with which the City of Dover has entered into an agreement of professional services. In order to meet the hydraulic demands of the proposed Garrison Farm Subdivision, a new 1.5 million gallon elevated water storage tank is required. URS is currently designing a separate elevated water storage tank for the City of Dover at a different location; therefore, they have proper knowledge of City requirements in regard to the water distribution system. With Council approval, URS will produce Design-Build Request for Proposal (RFP) Bid Documents for the City of Dover to publicly advertise and bid. This RFP would take into consideration the overall subdivision plan and water main layout provided by Becker Morgan Group. Due to the purchasing policy, this work could not be accomplished by Becker Morgan Group, because they are not one of the three (3) consulting engineers that have entered into an agreement of professional service.

Staff recommended authorizing URS to produce a "Design-Build RFP" in the amount of $49,000.

**Mrs. Williams moved for approval of staff's recommendation, seconded by Mr. Bonar and carried by a roll call vote of seven (7) yes (Anderson, Perza, Bonar, Williams, Hare, Hutchison, and Leary), one (1) no (Lynn), and one (1) absent (Russell).**

**FINAL READING - PROPOSED ORDINANCE #2012-05**

The First Reading of the proposed ordinance was accomplished during the Council Meeting of September 10, 2012.

**Mrs. Williams moved that the Final Reading of Proposed Ordinance #2012-05 be acknowledged by title only, seconded by Mr. Bonar and unanimously carried.**

Mrs. Ann Marie Townshend reviewed Proposed Ordinance #2012-05, which would amend Chapter 46 - Fire Prevention and Protection and Appendix F - Fees and Fines to clarify existing

language and create new subsections which would make it unlawful for any person to tamper with or impair any fire protection system from operating as designed; specify the authority of the fire marshal; prohibit open burning, commercial barbecuing, and outdoor fireplaces to be unattended at any time and authorize the fire marshal, code official, fire officer, or police to order the open burning extinguished; and remove the requirement for fire alarm installation reports. It would also create new sections to address fire hydrants and fire department connections; the report of a fire and spreading of alarm; unlawful regulations or orders; maintaining records for inspections; and marking rated walls.

Mr. Bonar questioned if the Code should be amended to reflect the name change from Robbins Hose Company to the Dover Fire Department. He suggested that the ordinance be amended to reflect the legal name of the Fire Department, once it is determined.
*(City Clerk's Office Note: According to Fire Chief Jack Fortney, although the Fire Department operates as the "Dover Fire Department" it has maintained the incorporated name of Robbins Hose Company and all official documents will continue to use the name of Robbins Hose Company.)*

Mr. Lynn stated that he continued to receive complaints from residents of East Lake Gardens about residential meat smokers and asked if Section 46-5 - Open burning (f) Prohibited (2) Unattended burning could be amended by adding "residential meat smoker." Mrs. Townshend stated that she would be concerned about this change because meat smoking is an all day process, so people would normally be inside and checking on the meat only periodically.

Mr. Bonar moved for adoption of the ordinance, amending as necessary to include the Fire Department's corporate title, seconded by Mr. Hutchison.

Mr. Lynn moved to amend the motion to include the words “residential meat smoker” in Section 46-5 (f)(2), after commercial barbecuing, seconded by Mr. Anderson. The amendment failed, with Mr. Lynn voting yes.

**The motion for adoption of the ordinance, amending as necessary to include the Fire Department's corporate title, was carried by a unanimous roll call vote (Mrs. Russell absent) and Ordinance #2012-05, was adopted as follows:**

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

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-3 - Impairment of Fire Protection Equipment, be amended to read as follows:

Sec. 46-3. - Impairment of fire protection equipment.

(a) *Prohibited*. It shall be a violation of this chapter for any owner, renter, lessor, or contractor, after having been notified, in writing, by the fire marshal or code enforcement officer of any impairment to fire protection equipment, including but not limited to fire hydrants, fire alarm systems, sprinkler systems, commercial cooking ventilation and fire suppression systems, standpipes, and smoke removal or pressurization systems, to allow it to remain impaired for

any time beyond that allowed by the fire marshal for repair. For the purposes of this section, the term "impairment" means any effective lessening of the equipment to operate as designed, including times of maintenance and annual testing.

(b) *Impairment of fire protection systems*. All fire protection systems, devices, units, and service equipment shall be maintained in an operational condition at all times, and it shall be unlawful for any person owning, controlling, or otherwise having charge of any fire protection system to willfully or knowingly tamper with or impair the system from operating as designed without proper approval. An approval form may be obtained from the fire marshal's office. Approvals will not be required for temporary impairments caused by periodic testing and inspection. Any impairment which will render the system non-operational or out of service for more than eight hours for testing and inspection purposes must be approved prior to the start of work.

(c) *Notification required*. The owner, tenant, or contractor shall notify the Robbins Hose Company of any impaired fire protection equipment, and shall renotify the Robbins Hose Company when the fire protection equipment has been restored to normal service. Certification from the repairing contractor shall be required to verify that the system has been fixed and is functioning as designed.

(d) *Fire watch required*. When any impairment would cause a sprinkler system not to operate or a fire alarm system not to detect and signal a fire, and if the building is to remain occupied, a fire watch shall be established in that building or that portion of a building affected. It shall be the responsibility of the owner or tenant to set up the fire watch. The fire watch shall consist of an hourly check of the building or portion of the building affected, and a log kept, there stating the date, time of the checks, and who was making the checks. This log shall be accessible for immediate inspection by the fire chief, fire marshal, or code enforcement officer.

(e) *Authority of fire marshal*. The fire marshal or his/her designee is authorized to close any such building or property where fire protection equipment is found to be impaired or non-operational to ensure the life safety of the occupants.

(f) *Fines*. Any owner, occupant, contractor or body corporate found to be in violation of this section shall be issued a summons as provided for in Appendix F—Fees and Fines.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-5 - Open burning, Paragraph (f) - Prohibited, be amended to read as follows:

Sec. 46-5. - Open burning

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

*Barbecuing - Commercial*. The preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the sale to and/or consumption by the general public.

*Barbecuing—Recreational*. The preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the consumption by a family and/or guests or by the membership of a private organization or church congregation.

*Open burning*. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

*Outdoor fireplace*. Any homemade or commercially produced fireplace, fire pit, or fire ring used for the kindling of wood.

(b) *Permit required*. Open burning of structures, brush, or bonfires shall not be permitted without a permit obtained from the fire marshal.

(c) *Fire dimensions*. Open burning, when permitted, shall be kindled in such a manner as not to be a danger to other campers, recreational vehicles, tents, or structures and shall not be of a size greater than 18 inches by 18 inches by 18 inches. Height of the fire shall be measured from the ground or from the bottom of the inside of the container being used to kindle the fire. Open burning shall not be kindled directly on the ground unless contained in a fire ring.

(d) *Fire clearances and time restrictions*. Outdoor fireplaces shall have 36 inches clearance from all combustibles when in use. Portable fireplaces, fire pits, or fire rings shall be extinguished in a residential area between the hours of 12:00 midnight and 8:00 a.m.

(e) *Commercial barbecuing*. Commercial barbecuing shall be permitted under the following conditions:

(1) The location has been approved by city licensing and inspections and the fire marshal and an outdoor public gathering permit has been obtained.

(2) One fire extinguisher of not less than five pounds ABC is to be located within ten feet of the cooking area. Cooking area and cooking fuels shall be secured from public access.

(3) Approval from the board of public health has been obtained.

(4) The operator shall make all reasonable attempts to avoid causing a nuisance to nearby property owners with smoke, fumes, or sparks.

(5) All compressed flammable gas containers used for cooking shall be secured in such a way as to prevent them from being knocked, tipped, or blown over.

Any commercial barbecuing operations which are a continual nuisance because of smoke, fumes, or sparks shall be terminated by the code official or fire marshal and the outdoor public gathering permit revoked until such time as the director of licensing and inspections is satisfied that the problem has been corrected.

Barbecuing of any kind shall not be kindled within 200 feet of any fuel pump or storage tank fill. Cooking grease shall not be disposed of by placing it directly on the ground or in storm water drains.

(f) *Prohibited.*

(1) *Multifamily residential dwelling units*. In apartment buildings, condominiums, or any other multifamily residential dwelling of three or more units by any other name, the storage of propane tanks inside units or on balconies is prohibited. Recreational barbecuing shall be prohibited on any balcony or under any overhanging portion or within 15 feet of any structure, except that the use of electrical ranges or electrical grills shall be permitted. The use of outdoor fireplaces on balconies is prohibited.

(2) *Unattended burning*. It shall be prohibited for open burning, commercial barbecuing, and outdoor fireplaces to be unattended at any time. In the event that any open burning, commercial barbecuing, or outdoor fireplaces are found to be unattended, the fire marshal, code official, fire officer, or police shall order the open burning extinguished.

(g) *Fines*. Any owner, occupant, contractor, or body corporate found to be in violation of this section shall be issued a summons as provided for in Appendix F—Fees and Fines.

(h) *Authority of the fire marshal*. The fire marshal is authorized to impose a ban on open burning if weather conditions do not safely permit open burning. The fire marshal or fire officer shall order any fire extinguished that is deemed unsafe or not in compliance with this section of the Dover Code.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-7 - Preventable and Malfunctioning Alarms to the Fire Company, be amended to read as follows:

Sec. 46-7. - Preventable and malfunctioning alarms to the fire company.

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

*Automatic telephone dialing device* and *digital alarm communicator system* mean an alarm system which automatically sends a prerecorded voice message or coded signal over regular telephone lines, by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

*Fine* means the assessment of a monetary charge, payable to the city, authorized pursuant to this section, to defray the expenses of responding to a preventable alarm or alarm malfunction.

*Fire alarm installation report* means a report, in a form approved by the fire marshal, with the following minimum information:

(1) The name, address, business and home telephone number of the owner, lessee, operator, manager or person in possession of the premises wherein the alarm system is installed.

(2) The name, address, and telephone number of a minimum of two persons who can be notified by the Robbins Hose Company in the event of the activation of the alarm system, who shall be capable of responding to the premises within 30 minutes, and who are authorized to enter the premises to ascertain the status thereof.

*Fire alarm malfunction* means the activation of any alarm, which results in the response of the fire department, caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance.

*Fire alarm system* means any mechanical, electrical or radio-controlled device which is designed to emit a sound or transmit a signal or message when activated or any such device which emits a sound and transmits a signal or message when activated because of smoke, heat or fire. Without limiting the generality of the foregoing, the term "fire alarm system" shall be deemed to include audible alarms at the site of the installation of the detection device, proprietor alarms and automatic telephone direct dial devices or digital alarm communicator systems. A single station alarm device shall not be deemed to be an alarm system under this section.

*Fire alarm technician* means any person who inspects, installs, repairs or performs maintenance on fire alarm systems and is licensed by the state or works under a state licensed alarm contractor.

*Operative alarm system* means an alarm system which the owner of a premises is required to maintain in an operative condition pursuant to statute, law, ordinance, rule or regulation of the state or the city.

*Owner* means any person who owns the premises in which an alarm system is installed or the person or persons who lease, operate, occupy or manage the premises.

*Premises* means any building or structure, or combination of buildings and structures, which serve as dwelling units, single-family or multifamily, or any other area within a building or structure, or combination thereof, which is used for any purpose, other than residential, wherein an alarm system is installed.

*Preventable alarm* means the activation of any alarm, which results in the response of the fire department, caused by the negligence or intentional misuse of the system by the owner or his/her employees, servants or agents; or any other activation not caused by heat, smoke or fire, exclusive

of a "fire alarm malfunction" as defined in this section. An alarm is not considered a preventable alarm if the alarm is activated due to malicious causes beyond the control of the owner.

*Serve* means hand-delivery, by a representative of either the fire department or police department, to the owner or authorized representative who responded to the premises. In the event the owner or authorized representative fails to respond to the premises within 30 minutes, the term "serve" shall mean placing the form or other matter in the United States mail, addressed to the owner or authorized representative.

*Single-station alarm device* means an assembly incorporating the detector, control equipment and alarm-sounding device in one unit, operated from a power supply either in the unit, or obtained at the point of installation.

(b) *Responsibility for malfunctioning and preventable alarms, owner response, and corrective action.*

(1) *Generally*. The responsibility for a preventable or malfunctioning alarm shall be that of the owner of the premises in which the fire alarm system is installed. A response to a preventable or malfunctioning alarm shall result when any fire marshal or member of the fire department shall be dispatched to the premises where the alarm has been activated or learns of the activation of the alarm system, by any means whatsoever, and responds thereto by traveling to that premises. After responding to a malfunctioning or preventable alarm, the responding official shall notify the owner or his/her authorized representative and such person shall thereupon travel to the premises to ascertain the status thereof. Should the person notified fail to appear at said premises within 30 minutes after being notified to do so, the fire marshal may issue the owner of the premises a fine as provided for in Appendix F—Fees and Fines. The official or member of the fire department who responded to said premises shall notify the fire marshal's office.

(2) *Malfunction*. In the event of a fire alarm deemed by the responding official to be the result of a fire alarm malfunction, the owner will be served a notice of violation form, indicating that the activation was deemed to be the result of a fire alarm malfunction, and requiring the owner to provide documentation that the fire alarm component that caused the fire alarm malfunction has been corrected, to the satisfaction of the fire marshal, and that the fire alarm system in question has actually been examined by a fire alarm technician and that a bona fide attempt has been made to identify and correct any defect of design, installation or operation of the fire alarm system which was identifiable as the cause of the fire alarm malfunction. Failure to return documentation of service/repair within the period of time stated on the notice of violation, which is satisfactory to the fire marshal, will result in assessment against the owner of a fine for the fire alarm malfunction as provided for in Appendix F—Fees and Fines.

(c) *Fine charges; multiple fire alarm malfunctions or preventable alarms.*

(1) *Amount of fine*. A fine may be assessed for the third and subsequent malfunctioning or preventable alarms at the same premises responded to by the fire department within the

prior 12-month period. Thereafter, the fines, as provided for in Appendix F - Fees and Fines, shall be paid by the owner for each preventable or malfunctioning fire alarm responded to by the fire department at the same premises during a 12-month period beginning with the date of the first alarm.

(2) *Panel reset*. Once a preventable alarm or fire alarm malfunction has been responded to by the fire department, it shall be unlawful for the alarm panel to be reset by any person until the authorization of the fire department has been obtained. A fine as provided for in Appendix F—Fees and Fines may be assessed to the owner of a premises where the fire alarm has been reset before the fire department or assisting fire department arrives.

(3) *Insufficient alarms*. When any premises are protected by a fire alarm system that, in the opinion of the fire marshal or his/her deputy(ies), will not safely alarm the occupants of a fire, the fire marshal or his/her deputy(ies) may close said building, or a portion of said building, to human occupancy until the problem with the fire alarm is corrected and a written report from a licensed fire alarm company is submitted to the fire marshal.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article I - In General, be amended by inserting a new Section 46-9 - Fire Hydrants and Fire Department Connections, to read as follows:

Sec. 46-9. - Fire hydrants and fire department connections.

(a) It shall be unlawful for any person to park, place, or keep any vehicle or object within ten feet of a fire hydrant or fire department connection on any city street or public property.

(b) Fire hydrants public and private shall have their tops painted with the appropriate color to indicate flow, and the remainder of the hydrant shall not be painted any color other than red unless approved by the fire marshal and public works department.

(c) It shall be unlawful to knowingly impair or tamper with a fire hydrant or fire department connection so as to make it non-operational when needed.

(d) It shall be unlawful for any person other than members of a fire department engaged in the performance of their duties, any person in the event of an emergency endangering life or property, or any city department for authorized purposes to open, use or take water from any fire hydrant.

(e) During times of inclement weather, snow shall not be plowed or piled as to obstruct the use of fire hydrants on private property.

(f) Fire hydrants shall be installed per the requirements of City of Dover Public Utilities Water/Wastewater Handbook, NFPA requirements, and Delaware State Fire Prevention Regulations.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article I - In General, be amended by inserting a new Section 46-10 - Notifying the Fire Department, to read as follows:

Sec. 46-10. - Report of fires required; spreading of alarm.

It shall be the duty of the owner, manager, occupant, responsible person or any person in direct control of any building or premises of any kind, upon discovery of a fire or evidence of there having been a fire even though it has apparently been extinguished, or upon receiving information that there is or was a fire on the premises, to immediately and with all reasonable dispatch and diligence call or otherwise notify the fire department of the existence, circumstances, and location of such fire and to spread an alarm to all occupants of the building. This requirement shall not be construed to forbid any person to use all diligence necessary to extinguish such fire prior to the arrival of the fire department.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article I - In General, be amended by inserting a new Section 46-11 - Unlawful Regulation or Order, to read as follows:

Sec. 46-11. - Unlawful regulation or order.

No person shall make, issue, post, or maintain any regulation or order, written or verbal, that would require any person to take any unnecessary delaying action prior to reporting a fire to the fire department.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article I - In General, be amended by inserting a new Section 46-12 - Maintaining Records for Inspections, to read as follows:

Sec. 46-12. - Maintaining records for inspections.

The building or property owner or manager of any occupancy required to have an annual fire/life safety inspection conducted by the fire marshal's office shall maintain a fire inspection log with the documentation pertinent to that occupancy for the preceding three years, as follows:

(a) Annual fire alarm system certificate of inspections
(b) Annual fire suppression system certificate of inspections
(c) Annual hood suppression system certificate of inspections
(d) Annual elevator certification of inspection
(e) Annual fire extinguisher inspection paperwork
(f) Six-month steam cleaning paperwork for hood suppression system
(g) Two year boiler inspection paperwork
(h) Three or five year electrical inspection paperwork

(i) Current respondent information
(j) Monthly fire extinguishers visual check
(k) Monthly exit lights test
(l) Monthly emergency lighting test.
(m) Monthly generator run
(n) Self-closing fire door & exit hardware
(o) Fire drills

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-124 - Fire Marshal, be amended by inserting the text indicated in bold, blue, italics as follows:

Sec. 46-124. - Fire marshal.

(a) *Selection*. There shall be a fire marshal, who shall be selected by the city council at its annual meeting.

(b) *Fire prevention*. The fire marshal or his/her authorized agent shall enforce this article and any other fire prevention provisions of this Code and any other fire prevention regulations applicable to the city.

(c) *Investigation of fires*. The fire marshal or his/her deputies shall be responsible for the investigation of the origins and causes of fires and explosions within the corporate limits of the city, which involve the loss of life or injury or cause destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion. Upon request of the fire marshal, the city police shall be authorized to assist the fire marshal in the performance of his/her duties. When any fire or explosion is found to be suspicious or criminal in nature or causes serious injury or death, the fire marshal or his/her deputies shall contact the city police and, per the agreement of the fire marshal and chief of police, conduct a joint investigation into the origin and cause of the fire or explosion.

(d) *Hazardous conditions*. When, in the opinion of the fire marshal or code official, a fire or life safety hazard is of imminent danger to occupants of a building, structure or outdoor event, the fire marshal or code official may order the unsafe condition removed, said building or structure evacuated or outdoor event terminated.

(e) *Right of entry*. The fire marshal or his/her designee is authorized at all reasonable times to enter and examine any building, marine vessel, vehicle, or premises for the purposes of making fire safety inspections. Before entering a private building or dwelling, the fire marshal or his/her designee shall obtain the consent of the occupant thereof or obtain a search warrant authorizing his/her entry for the purpose of inspection, except in those instances where an emergency exists. As used in this section, "emergency" means circumstances which the fire marshal or his/her designee knows or has reason to believe exist, and which reasonably may constitute immediate and grave danger to life or property.

(f) *Implied consent*. Application for, or acceptance of, any license or permit requested or issued pursuant to City Code constitutes agreement and consent by the person making the application or accepting the license or permit to allow the fire marshal or his/her designee to enter the premises at any reasonable time to conduct such inspections as required by this code or deemed necessary by the fire marshal or his/her designee to determine compliance with the requirements for such license or permit.

(g) The fire marshal or code official may placard any building damaged by fire or explosion as being a health hazard and unsafe to enter. No one shall enter any building having been placarded by the fire marshal or code official as being a health hazard and unsafe without first contacting the fire marshal.

(h) It shall be unlawful to enter any premise, structure, building, or vehicle which has been damaged by fire or explosion for the purpose of removing, altering or tampering with any part of the structure, appliance, or object identified and tagged by the fire marshal as being a possible ignition source or cause of the fire or explosion, without approval of the fire marshal, until the conclusion of the investigation.

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, be amended by inserting a new Section 46-128 - Marking Rated Walls, to read as follows:

Sec. 46-128. - Marking Rated Walls

(a) Fire walls, fire barriers, shaft enclosures, fire partitions, and smoke barriers shall be labeled with their rating. Markings shall be red in color, located on both sides of the separation wall, a minimum of four inches in height, and no more than fifteen feet apart for the length of the wall. Markings shall be visible when ceiling tiles are removed for inspection.

(b) Ratings are to be marked as follows:

One hour separation. . . . . 1HR
Two hour separation. . . . . 2HR
Three hour separation.. . . . . 3HR
Four hour separation. . . . . 4HR
Smoke Barriers.. . . . . SB

**BE IT FURTHER ORDAINED THAT**

Chapter 46 - Fire Prevention and Protection, Article IV - Public Occupancies, Section 46-168 - Reinspection Fee, be amended to read as follows:

Sec. 46-168. - Reinspection fee.

(a) *Amount*. There is hereby created a reinspection fee as provided for in Appendix F—Fees and Fines that shall be charged for any repeated violation cited by the fire marshal, determined

to be a violation and which requires a follow up inspection to confirm the correction of the violation.

(b) *Fee attached*. A fee may be attached to any summons written for any violation found to still be uncorrected upon reinspection.

**BE IT FURTHER ORDAINED THAT**

Appendix F - Fees and Fines, be amended to read as follows:

| | | | |
|---|---|---|---|
| Sec. 46-3 | Impairment of Fire Protection Equipment | | |
| | Subsec. (f) | Fines ..... | $50.00 first offense; $100.00 second and subsequent offenses |
| Sec. 46-7 | Preventable and malfunctioning alarms to the fire company | | |
| | Subsec. (b)(1) | Responsibility for malfunctioning and preventable alarms, owner response, and corrective action; Generally ..... | Should the person notified fail to appear at said premises within 30 minutes after being notified to do so, the city may charge the owner of the premises a fine of $75.00 |
| | Subsec. (b)(2) | Responsibility for malfunctioning and preventable alarms, owner response, and corrective action; Malfunction ..... | Failure to return documentation of service/repair within the period of time stated on the notice of violation, which is satisfactory to the fire marshal, will result in |

| | | | | |
|---|---|---|---|---|
| | | | | assessment against the owner of a fine for the fire alarm malfunction |
| | Subsec. (c)(1) | Fine charges; multiple fire alarm malfunctions or preventable alarms; Amount of fine | | |
| | | Number of preventable or malfunctioning fire alarms ..... | | Fine per preventable or malfunctioning fire alarm |
| | | | Third ..... | $75.00 |
| | | | Fourth ..... | $100.00 |
| | | | Fifth ..... | $200.00 |
| | | | All over fifth, each ..... | $250.00 |
| | Subsec. (c)(2) | Fine charges; multiple fire alarm malfunctions or preventable alarms; Panel reset ..... | | A $25.00 fine may be assessed to the owner of a premises where the fire alarm has been reset before the fire department or assisting fire department arrives |
| Sec. 46-168 | Reinspection Fee | | | |
| | Subsec. (a) | Amount | | $25.00 for any repeated violation cited by the fire marshal, determined to be a violation and which |

| | | | |
|---|---|---|---|
| | | | requires a followup inspection to confirm the correction of the violation |
| | Subsec. (b) | Fee Attached | A fee may be attached to any summons written for any violation found to be uncorrected upon reinspection. |

ADOPTED: SEPTEMBER 24, 2012

COUNCIL MEMBERS ANNOUNCEMENTS

Mr. Leary extended best wishes to the City's Jewish residents on the day of atonement, Yom Kippur.

**By unanimous consent, the meeting adjourned at 9:03 P.M.**

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of September 24, 2012 are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM
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*Exhibits*
*Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 212 N. Governors Avenue*
*Exhibit #2 - Correspondence from Benjamin Salin dated September 12, 2012*

# Violation of Dangerous Building Ordinance 212 North Governors Avenue

## Planning & Inspections Department

## Dover, Delaware

## September 24, 2012

**EXHIBIT #1**
Regular Council Meeting of 09/24/2012

# 212 North Governors Avenue Case History

- History of code violations since 2002 (14 cases)
  - Interior and exterior violations
  - Tall grass and weeds/Overgrowth
  - Vacant Building
- Registered as a vacant building on 3/21/2011.
- Condemned as unfit for human habitation in July 2012 due to broken windows, no utility service, unsecured doors.
- Dwelling found unsecured multiple times and secured by City staff.
- Fire damage on August 10, 2012, due to people in the structure.
- Repeated source of neighbor complaints.

# Dangerous Building Code – Chapter 22 Article XI, Sec. 22-381

- (4) *Fire Damage, etc.*
- (5) *Unfit for habitation*
- (9) *General welfare*
- *(10) Code violations*
- *(12) Unoccupied buildings*


09/21/2012 10:17


09/21/2012 10:18


09/21/2012 10:20


09/21/2012 10:19


09/21/2012 10:29


Anthony
RASHS
for
WAS Here
09/21/2012 10:24


09/21/2012 10:25


09/21/2012 10:24

# Recommended Council Action

- Declare this building and accessory structure dangerous.
- Order the property repaired or demolished.
- Order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner **by October 24, 2012**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

9/12/12

This letter is in regard to the letter of 9/11/12 by the City of Dover:
Ref. # L50267del
Parcel #ED05-076.08-02-770.000
Case #12-2056

Dear Councilman Anderson & Councilwoman Russell,

I would like to make you both aware that my home, located at 214 N. Governor's Ave., is being placed in considerable jeopardy because of it's very close proximity to the abandoned house, located at **212 N. Governor's Ave.,** right next door. I understand that the building has been deemed a 'dangerous building' by the City of Dover and it is none too soon. The building has been sitting vacant for more than 2 years and has been repeatedly vandalized. Although the building was boarded up to prevent trespassers, a fire was started in the house on Aug. 10, 2012. The fire was extinguished but most of the 2nd and 3rd story windows were broken out in the process and it has remained that way now for more than a month. There is broken glass surrounding the building, overgrown shrubs on the south side of the building's foundation, a garage out back, also with missing windows, sections of fencing both next to Wesley's parking lot and bordering my lot, which have been broken out and feral cats living under the front porch. Sadly, this house is located directly across from Wesley College and is on a main artery leading into the State Capitol. What a disgrace!

My house sits approximately 8' from this aptly-named 'dangerous building' and I am worried about the safety of my home. The decline in the value of my property due to the shameful condition of the building next door is also of concern to me. General neglect seems to be spreading like a cancer throughout this portion of my community - as evidence one simply has to notice the 3 large buildings in the adjacent block, all in various stages of removal and surrounded by temporary chain link fencing. I would be pleased to see 212 N. Governor's Ave. once again be a family home, but at this point it seems that will be unlikely. Won't you vote to **speedily** remove this eye-sore next to my home at your Council meeting on 9/24/12? A home is not a home if it is uncared for and neglected. These abandoned buildings are an invitation to trouble and a hazard in our community!

If you have any questions regarding this matter, you may reach me at 302-233-3849.

Thank you for your time and attention to our neighborhoods issues.

Sincerely,
Benjamin C. Salin