# REGULAR COUNCIL MEETING

The Regular Council Meeting was held on September 10, 2012 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Lynn, Mr. Perza, Mr. Bonar, Mrs. Williams, Mr. Hare, and Mr. Hutchison. Mr. Anderson and Mrs. Russell were absent.

Council staff members present were Police Chief Hosfelt, Mrs. Mitchell, Mrs. Townshend, 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.

Pastor Gregory Gordon, 54 S. New Street, shared the success of the First Annual New Street Block Party held on August 28, 2012. He noted that the community came together, along with City staff and other supportive local groups, businesses, and individuals to share and celebrate positive changes in the community.

The invocation was given by Councilman William F. Hare, 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. Leary requested that Item #8D - City Planner's Report, be removed from the Consent Agenda. Mr. Lynn requested that Item #6C - Safety Advisory and Transportation Committee Report of August 29, 2012 - Update - Dover High School Construction be added to 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 (Mr. Anderson and Mrs. Russell absent).**

## ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF AUGUST 27, 2012

**The Minutes of the Regular Council Meeting of August 27, 2012 were unanimously approved by motion of Mrs. Williams, seconded by Mr. Bonar and bore the written approval of Mayor Carey.**

## REZONING REQUEST - PUBLIC HEARING/FINAL READING OF PROPOSED ORDINANCE #2012-19

A public hearing was duly advertised for this time and place to consider the rezoning of property located at 870-872 Forest Street (on the south side of Forest Street east of Gibbs Drive), consisting of $0.747^{+/-}$ acres, owned by Bennie L Smith. This property is currently zoned C-PO (Commercial/Professional Office Development District) and subject to the COZ-1 (Corridor Overlay Zone) and the proposed zoning was C-1A (Limited Commercial) and subject to the COZ-1 (Corridor Overlay Zone). (TAX PARCEL: ED-05-076.12-01-08.00-000, FOURTH COUNCIL DISTRICT; PLANNING REFERENCE: Z-12-02)

**Mr. Hare moved that the final reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Bonar and unanimously carried.** *(The First Reading of Ordinance #2012-19 was accomplished during the Council Meeting of July 23, 2012.)*

Planner's Review

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the petition to amend the zoning district and the findings and recommendations of the Planning Commission. She noted that the Planning Commission recommended approval of the rezoning request. Mrs. Townshend advised members that the purpose of the rezoning was to allow retail on the site.

Public Hearing

Council President Leary declared the hearing open.

Mr. Phil McGinnis, McGinnis Commercial Real Estate Compnay, 555 E. Loockerman Street, stated that he was present representing Mr. Smith in the rezoning and they were pleased that both the staff and Planning Commission were in favor of the rezoning.

Ms. Faye D. White, 101 Babb Drive, stated that she was in favor of the rezoning because it would be an asset to the community and would bring jobs to the area.

Council President Leary declared the hearing closed.

**Mr. Hare moved for approval of the rezoning request, as recommended by the Planning Commission. The motion was seconded by Mrs. Williams and by a unanimous roll call vote (Mr. Anderson and Mrs. Russell absent), Council adopted Ordinance #2012-19, as follows:**

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF DOVER BY CHANGING THE ZONING DESIGNATION OF PROPERTY LOCATED AT 870-872 FOREST STREET

WHEREAS, the City of Dover has enacted a zoning ordinance regulating the use of property within the limits of the City of Dover; and

WHEREAS, it is deemed in the best interest of zoning and planning to change the permitted use of property described below from C-PO (Commercial/Professional Office Development District) and subject to COZ-1 (Corridor Overlay Zone) to C-1A (Limited Commercial Zone) and subject to COZ-1 (Corridor Overlay Zone).

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

1. That from and after the passage and approval of this ordinance the Zoning Map and Zoning Ordinance of the City of Dover have been amended by changing the zoning designation from C-PO (Commercial/Professional Office Development District) and subject to COZ-1 (Corridor Overlay Zone) to C-1A (Limited Commercial Zone) and subject to COZ-1

(Corridor Overlay Zone) on that property located at 870-872 Forest Street (on the south side of Forest Street east of Gibbs Drive), consisting of $0.747^{+/-}$ acres, owned by Bennie L. Smith. (Tax Parcel: ED-05-076.12-01-08.00-000; Planning Reference Z-12-02; Council District 4)

ADOPTED: SEPTEMBER 10, 2012

**PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - 126 N. ANN AVENUE, OWNED BY JESSE L. WORKMON**

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 126 N. Ann Avenue, owned by Jesse L. Workmon. Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that the property was a one-story, wood framed, single-family home. The dwelling was condemned as unfit for human habitation on April 4, 2012 due to the degree of damage to the structure from a fire that occurred on the night of October 5, 2010. Since the fire, numerous windows to the structure have been broken, causing the owner to have all windows and doors boarded. Currently the structure was still 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 126 N. Ann Avenue: 1) declare this building and all accessory structures on this property dangerous; 2) order the property repaired or demolished by October 10, 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.

Mrs. Townshend noted that she spoke with the owner, his attorney, and a prospective buyer earlier in the day and they all confirmed that a contract for the purchase of the property was being prepared. The prospective buyer intended to rehabilitate the house. She recommended changing the repair or demolish date from October 10, 2012 to November 10, 2012 based on the possible sale of the property. Mr. Hare suggested keeping the October 10, 2012 date because there was currently no contract.

Council President Leary declared the public hearing open and, there being no one present wishing to speak, the public hearing was closed.

**Mr. Bonar moved that the structure located at 126 N. Ann Avenue be declared a dangerous building and ordered that the property be demolished or repaired by October 10, 2012, in accordance with the process recommended by staff. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Mr. Anderson and Mrs. Russell absent).**

**UTILITY COMMITTEE REPORT - AUGUST 27, 2012**

The Utility Committee met on August 27, 2012 with Chairman Bonar presiding.

**Annual Review and Approval of Governing Policy for Energy Commodity Risk Management**
***(Deferred by Committee on August 13, 2012 Pending Further Information)***

During their meeting of August 13, 2012, members reviewed the Governing Policy for Energy Commodity Risk Management. Due to questions and concerns of members, this matter was deferred to allow staff the opportunity to respond. Members reviewed the following documents: 1) Two (2) pages from the 2011 Comprehensive Annual Financial Report (CAFR) for the City of Dover; 2) Counterparty Credit Risk as of 6/29/2012; 3) Dover Monthly Credit Report for August 2012; and 4) Governing Policy for Energy Commodity Risk Management (provided at the August 13, 2012 Utility meeting and included again in this meeting packet).

Referring to Page 13 of the Governing Policy, Mr. Scott Koenig, City Manager, noted the statement, "At no time will the City incur a credit exposure with any counterparty greater than $60,000,000." He explained that the City now has several counterparties (approximately 11) and that the $60M limit was based on having only a few counterparties. He also advised members that in order to obtain a $60M credit limit, a triple A bond rating would be required. As detailed on the information provided regarding the Counterparty Credit Risk, he noted that if those individual amounts were totaled, the City's exposure would be significant. He stated that the amount of power (power hedges) that the City purchased last year totaled approximately $40M and that in years past, the City has purchased as much as $70M-$80M. It was his feeling that since the cost of power was decreasing, the City's exposure on the hedges was coming down, and the per counterparty exposure was decreasing (due to the City developing several counterparty agreements).

Mr. Koenig requested that the $60M limitation remain in the Governing Policy for this year and that the matter be reviewed again in the next year. He anticipated this issue being considered again in April or May of 2013 to prepare for Fiscal Year 2014. He explained that the amounts included in the Governing Policy were based on the risk associated with the counterparty. Mr. Koenig stated that the City's liability per counterparty must be reflected in the CAFR and felt that this was being reported very transparently. He reiterated that staff would review this matter over the next 12 months and would specifically ask The Energy Authority (TEA) if the number should be adjusted in the Policy at that time.

The Committee recommended approval of the Governing Policy for Energy Commodity Risk Management, as presented.

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

**Update - Green Energy Funding and Programming**

Mr. Scott Koenig, City Manager, reviewed an update on the Green Energy Funding and Programming. He stated that $802,265.68 had been collected since the City developed the Green Energy component of the bill. He advised members that the program involves an application process, an approval process, and a reimbursement process, and reimbursement often takes a

significant amount of time. Mr. Koenig advised members that some applications from 2011 had not been completely paid off. Due to this backlog, the City has not accepted any new grant applications and is waiting for the funding stream to catch up, when grants will be opened to interested parties.

Responding to Mr. Bonar, Mr. Koenig stated that it was his recollection that the waiting list for reimbursement under the program was "a couple of years" and stated that he would obtain the exact timeframe.

Mr. Koenig explained that the second component of the program involved a large sum of money reserved by the City for reimbursement for green energy improvements to the Library. He stated that the City would be making application to the fund. He reminded members that the City made application last fall in the amount of $48,267; half of these funds were available for others who applied for a grant, and the remaining half was reserved (as authorized by the City) for City of Dover projects.

**Update - Garrison Oak Technical Park Project**

Mr. Scott Koenig, City Manager, stated that the Performance Standards Review Application for the Garrison Energy Center (Calpine Project) was discussed at the Planning Commission meeting held on August 21, 2012 and that, to his knowledge, the project was moving forward. He indicated that there was an ongoing issue between White Oak Solar Energy and the Calpine Project and, although there had not been resolution, meetings had been held regularly and he had heard no statements that related discussions have been negative; therefore, he was hopeful that they were moving toward conclusion.

As previously reported, Mr. Koenig reminded members that the Calpine Project went before the Department of Natural Resources and Environmental Control (DNREC) for air permitting. An objection was filed by White Oak Solar Energy and comments were filed by the Environmental Protection Agency (EPA). It appeared that Calpine was taking action to obtain the necessary permits and design approval so that the project could be delivered to the grid in June 2015.

In response to Mr. Blakeman, Mr. Koenig confirmed that PJM had identified a list of improvements. It was his understanding that meetings were held with PJM and the required improvements had been negotiated. He stated that discussions were held at those meetings and that a final letter would be issued in the Fall (October) that would give Calpine details regarding access to the grid.

Responding to Mr. Hutchison with regard to gas lines, Mr. Koenig stated that, to his knowledge, Eastern Shore Natural Gas was working on alignments with Calpine and that there had been no negative comments regarding the pipeline being delivered in time.

**By consent agenda, Mrs. Williams moved for acceptance of the Utility Committee report, seconded by Mr. Bonar and carried by a unanimous roll call vote (Mr. Anderson and Mrs. Russell absent).**

**LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - AUGUST 27, 2012**

The Legislative, Finance, and Administration Committee met on August 27, 2012 with Chairman Lynn presiding.

**Auditor's Responsibility for Communicating with Audit Committee - Fiscal Year 2012 Audit Program**

Mrs. Peggy Teal, Assistant Finance Director, reviewed a presentation entitled Auditor's Responsibility for Communicating with Audit Committee. She reminded members that City Council decided that the Legislative, Finance, and Administration Committee would also serve as the City's Audit Committee.

The Committee recommended acceptance of the presentation, as reviewed by staff.

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

**Civilian Pension Board Recommendation - Adjustment to the Minimum Payment for Pension**

During the Civilian Pension Board Meeting of August 15, 2012, members considered an adjustment to the minimum payment for pension and recommended approval of Option #1, as outlined in the information provided by Mr. Les Blakeman in reference to the Discussion - Adjustment to the Minimum Payment for Pension, increasing the minimum payment for pension to $500 per month, at the next scheduled City Council meeting, and to order an actuarial study based on $500 per month. *(City Clerk's Office Note: Recommendations of the Civilian Pension Board are forwarded to the Legislative, Finance, and Administration Committee for their review and recommendation to be forwarded to City Council for final action.)*

Mr. Les Blakeman, 209 Falmouth Way, addressed members as an elected member of the Civilian Pension Board and reviewed information related to the discussion regarding an adjustment to the minimum payment for pension including three (3) proposals, along with historical information.

Responding to Mr. Shevock regarding the effect the recommendation would have on the total pension fund, Mr. Scott Koenig, City Manager, stated that a request was submitted to the actuary and read a portion of an email received, as follows: *"On the funding aspect, we would recommend that the entire increase be paid immediately. The funded percentage of the plan is about 40% as of the last study in total, and was only 60% for retirees alone."* He explained that the actuary indicated that there were enough assets at present to cover only 60% of the benefits promised to current retirees and no remaining assets for other members. As a result, he stated that the actuary recommended that if the City wished to approve the proposal, it should be paid all at once, since the plan was underfunded at this time. While the calculated cost was $64,000, Mr. Koenig was unsure of the amount that this would translate to for the actuary.

In response to Mr. Shevock regarding the amount of Social Security benefits paid to pensioners, Mr. Blakeman indicated that it was not possible to obtain specific information; however, he suggested that it could be assumed that these individuals were not receiving very much in the way of Social Security based on the fact that they were not receiving much of a pension.

Responding to Mr. Shevock, Mr. Koenig stated that the source of funds required to pay for the proposed increase would have to be determined by City Council and debated by the Committee. He stated that the Treasurer/Controller had suggested that the increase should be paid by adjusting the pension contributions of current employees.

At the request of Mr. Lynn, Mr. Koenig stated that a copy of the email received from Mr. Scott Porter, the actuary, would be provided for inclusion in the record. It was his understanding that the actuary would provide the cost to conduct a study to accommodate the recommendation and that no costs had been incurred to date as a result of the Civilian Pension Board's recommendation.

Mr. Anderson suggested that some pensioners have income from sources other than Social Security and questioned the demographics of the pensioners. Responding, Mr. Blakeman stated his feeling that such information would be impossible to determine.

In response to Mr. Bonar, Mr. Koenig stated that current employees of the General Pension Plan pay 3.5% of their salary into the Plan and employees of the Police Pension Plan pay 7% of their salary into the Police Pension Plan. Noting that the City's Pension Plans are one of its biggest liabilities, Mr. Bonar felt that the time had come for the City to request employees to contribute a larger share to their pension. He suggested that the civilian employees also be required to contribute 7% of their salary to the General Pension Plan. He indicated the importance of the City developing a means of getting the Pension Plans under control, and expressed his feeling that the City could only ask so much of their citizens and that employees should have a role in this regard.

Responding to Mr. Perza, Mr. Koenig stated that staff had no objections to requesting an actuarial study to determine costs and that his personal preference would be to request the members of the General Pension Plan to vote in favor of paying for any increase. He explained the delicacy of this matter as an employer. Staff recommended that the actuarial study be performed to be presented to the Committee for their review and consideration of how an increase would be funded.

Council President Leary noted that the Pension Plan and its benefits were codified many years ago and that the life expectancy of its members had increased since that time, which created a problem with the unfunded pension liability. He felt that any action taken by the City affecting taxpayers would only increase this liability.

In response to Mr. Anderson, Mrs. Peggy Teal, Assistant Finance Director, indicated that the City Manager had already requested details regarding all pensioners, such as years of service (10, 20, 25, etc.). She indicated that although staff had begun to work on this information, it was not yet complete. She stated that the cost of an actuarial study should be minimal since the actuary already had specific records. Since he was scheduled to conduct an update on the unfunded and funded liabilities this year, he would be "piggy backing" the requested actuarial study.

Referring to the 60% unfunded liability, Mr. Hutchison questioned if the City would be required to increase its funding each year to reduce this liability under new regulations. Responding, Mrs. Teal stated that the American Institute of Certified Public Accountants (AICPA) recently released new information that was currently being reviewed by staff to determine what, if any, impact it would have on the City. Council President Leary indicated that staff had suggested the possibility of a workshop being held with members of City Council to review the extensive new regulations.

In response to Mr. Bonar, Mrs. Teal stated that the 60% unfunded pension liability equated to approximately $40M.

Mr. Koenig reiterated the awkwardness of staff's position in this matter with former employees, noting that they served the City well and that the City would like to take care of them during their retirement years. However, he felt it important that members understood that the information provided did not distinguish between those employees who served 10, 20, or 25 years. He also noted that some employees who worked 10 years, became vested, and then left the City's employment were not on the list, since they had not reached 65 years of age; therefore, the list of retirees was not comprehensive. He explained the importance of obtaining all information prior to making any final decision in this matter. Referring to the Pension Board's recommendation, he requested that the Committee authorize an actuarial study of all three (3) options originally presented to the Board by Mr. Blakeman, or at least obtain the cost to conduct all three (3) options rather than just one (1).

Mr. Koenig stated that if it was Council's desire to consider providing an increase in the minimum payment for pensioners, that members should consider the possibility of requesting pension members to pay for the costs involved so that there would be no effect on the City's budget. He reminded members that the General Pension Plan is a closed plan and that there were employees in the Defined Contribution Pension Plan (401(a) Plan) who were not receiving such consideration. Mr. Koenig stated the need to conduct an actuarial study to determine if the City could afford to fund the proposed increase and what would be the best method with the least impact on the public.

Mr. Shevock moved to recommend that the matter be tabled to allow staff to determine how an adjustment would be funded, seconded by Mr. Rushe.

Mr. Lynn reminded members that Council's authorization would be required for an actuarial study; therefore, if the study were not authorized, staff would not be able to obtain the necessary information to determine the costs of such an adjustment or how the adjustment would be funded.

The Committee recommended retaining the actuary to determine the cost of providing a minimum payment of $300, $400, and $500 to all retirees or their surviving spouses, and that staff determine how an adjustment would be funded.

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

**Salary and Benefits Compensation Comparison Committee Report**

Members were provided a Salary and Benefits Compensation Comparison Committee Summary Report - June 2012. As Chairman of the Salary and Benefits Compensation Comparison Committee, Mr. Perza reminded members that City Council established the Committee, consisting of citizens, to compare City of Dover municipal employee salary and benefit packages to the salaries and employee benefits provided by the State of Delaware and other local governments. He explained that the municipalities under review were limited to Delaware, and subgroups within the Committee were provided flexibility to seek out those municipalities most comparable to their assigned employee classifications. He stated that it was the Committee's general observation that the combined salary and benefit compensation packages paid to City of Dover employees compared favorably to other municipalities in Delaware.

Mr. Lynn reminded members that he had argued against the formation of the Salary and Benefits Compensation Comparison Committee from its inception. With no disrespect, he stated his belief that it was flawed not only in its application, but in its poor mandate. Mr. Lynn noted that, as stated by Mr. Perza, the Committee determined that there was no municipality comparable to the City of Dover in the State of Delaware, with the possible exception of the City of Newark; therefore, the mandate given to the Committee by City Council was flawed from its inception. Rather than looking at municipalities which fall within the City's Consumer Price Index (CPI) region, the Committee focused on comparing municipalities within the State of Delaware, none of which are comparable to Dover. In addition, he stated that it was flawed in its application because the Committee solely considered job titles rather than job responsibilities or qualifications. In addition, Mr. Lynn noted that old and/or outdated data (older than two (2) years) was utilized by the Committee to reach its conclusions; therefore, any information provided to members by the Committee (through no fault of their own) was not reliable and should not be given any weight. As a result, Mr. Lynn suggested the rejection of the report.

Mr. Anderson moved to recommend acceptance of the report and thanked the Committee for their work, recognizing there were limitations and, if taken into account, he felt that the information provided was extraordinarily useful. The motion failed due to the lack of a second.

Responding to comments of Mr. Lynn, Mr. Perza stated that the concerns regarding the comparability of Dover to other municipalities in Delaware was addressed by members of the Committee to the best of their ability by removing cities that did not apply, such as those that did not have an electric department. Members discussed the CPI early in the process and this was rejected since members were not concerned with employees leaving the City of Dover to go to municipalities outside of the State of Delaware (such as Annapolis or New Jersey). The Committee's concern was with employees leaving for employment with another municipality within the State of Delaware. Mr. Perza stated that several members actually spoke directly with employees of other municipalities about job titles and felt that it was an overly broad statement to indicate that the research consisted only of a job title comparison.

Responding to Mr. Lynn, Mr. Perza confirmed that there was difficulty in assessing non-bargaining employees, since there was a wide array of duties and responsibilities of the positions.

Mr. Bonar suggested that members accept the report and if desired, members of Council could request the Committee to consider some of the suggestions made by Mr. Lynn and request the Committee to conduct another salary and benefits comparison of other cities of similar size in the region.

The Committee recommended acceptance of the Salary and Benefits Compensation Comparison Committee Report as presented.

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

**By consent agenda, Mrs. Williams moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mr. Bonar and carried by a unanimous roll call vote (Mr. Anderson and Mrs. Russell absent).**

## SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - AUGUST 29, 2012

The Safety Advisory and Transportation Committee met on August 29, 2012 with Chairman Hutchison presiding.

### Proposed Ordinance #2012-05 Amending Chapter 46 - Fire Prevention and Protection

Mr. Dave Truax, Fire Marshal, advised members that Proposed Ordinance #2012-05 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 unattended outdoor fireplaces 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; reporting of fires and spreading of alarms; unlawful regulations or orders; maintaining records for inspections; and marking rated walls. Mr. Truax explained that staff met with representatives of the Kent County Association of Realtors and the Central Delaware Chamber of Commerce to receive input on the proposed ordinance.

Staff recommended that the Committee forward Proposed Ordinance #2012-05 to City Council with a recommendation for adoption.

In response to Mr. Davis regarding Lines 250 - 252 of the proposed ordinance, Mr. Truax explained that in some cases building managers have issued verbal advisories or posted written orders that instruct residents to delay notification of the Fire Department when an alarm sounds, stating that the establishment's staff would make sure there was a fire and then notify the Fire Department. Mr. Truax stated that such orders would defeat the purpose of a fire alarm. He also noted that repeated soundings of a fire alarm can alert the Fire Marshal's Office that an alarm system is not being maintained properly.

Responding to Mr. Hutchison in regard to community education about the ordinance, Mr. Truax stated that the ordinance would be posted to the City's website and that the press often publicizes such ordinances. He explained that typically when new provisions are implemented, such as the requirement to keep a log of all fire inspections, staff would not issue a summons or fine for violations during the first year but would use these opportunities to educate those affected regarding the new provisions.

Mr. Hutchison suggested that a summary of the changes be prepared and distributed to larger apartment complexes and day care centers in the City. Mr. Truax stated that the information would be posted on the City's website and that staff would do whatever must be done to get the information out to the public.

The Committee recommended adoption of Proposed Ordinance #2012-05 Amending Chapter 46 - Fire Prevention and Protection, as recommended by staff.

**By consent agenda, Mrs. Williams moved for approval of the Committee's recommendation, seconded by Mr. Bonar and carried by a unanimous roll call vote (Mr. Anderson and Mrs. Russell absent).** *(The First Reading of proposed Ordinance #2012-05 will take place during the latter part of the meeting.)*

**Prioritization of City of Dover State Capital Transportation Program (CTP) Projects**

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that the City develops a list of transportation project priorities and submits them in the form of a letter to the Secretary of Transportation annually. She noted that she and Mr. Scott Koenig, City Manager, reviewed the priorities submitted last year and, in light of more recent discussions and issues, reordered them and included additional projects. Mrs. Townshend reviewed the 2012 Transportation Prioritization List, noting that Project #1, the West Dover Connector, was on track and moving forward. She indicated that Project #2, Sidewalks on Route 8 in the Vicinity of the New Dover High School, had been added to the list for 2012 and that this project should be given very high priority. She stated that she has been very outspoken about concerns regarding the need for signalization and pedestrian access during regular coordination meetings held in connection with the construction of the school. Mrs. Townshend noted that the Route 8/Hazlettville Road Connector project had been placed as Priority #3 and that the Delaware Department of Transportation (DelDOT) had postponed this project, with design now planned to begin in 2017. She expressed concern that traffic problems would occur if this project was not moved forward, since the new high school was scheduled to open in 2014. Mrs. Townshend stated that the Garrison Oak Connector Road was listed as Project #4 and Project #11, Kings Highway/Route 13 Intersection Improvements, was added to the 2012 list. She explained that the cost of transportation improvements needed at the intersection had hindered potential development projects, in particular at the former Playtex site at the southwest side of the intersection. She indicated that this intersection had been assigned a DelDOT Level of Service (LOS) grade of F, which would require improvements for large or small projects at that location. Mrs. Townshend stated that discussions had been held with DelDOT regarding the adoption of a resolution by City Council that would establish the intersection as a study area for transportation planning. She anticipated that the City would be working with DelDOT to bring forward what the County terms a "Transportation Improvement District" (TID), whereby a

defined area would be studied and developers would pay into a fund for associated improvements, rather than bearing the entire cost of improvements. She noted that staff felt it important to get this project on the "radar screen."

Mr. James Galvin, Principal Planner, Dover/Kent County Metropolitan Planning Organization (MPO), noted that DelDOT was in the process of creating its own TID model and it was anticipated that this would be available by the end of 2012. He stated that the State would begin by working with TIDs developed by the County.

In response to Mr. Hutchison regarding the number of failing intersections (are rated LOS F on the DelDOT grading system) in the City that connect with Route 13, Mr. Koenig advised members that some intersections fail only during rush hour and others fail throughout the day. He stated that the Kings Highway/Route 13 intersection fails "a couple of times per day." Mr. Koenig explained that there are a number of small properties at that location (Dunkin Donuts, Capital Cleaners, and Rita's Water Ice) and that expansion of the intersection (except at the Rite Aid property) would involve not only acquiring the right-of-way but buying and relocating the businesses. Mr. Koenig stated that it would not be possible to upgrade many of the Route 13 intersections to LOS A, B, or C because of area restrictions and the fact that large intersections are not desirable there (if not needed) because they create difficulty in crossing the highway. He felt that some intersections that were identified as either failing or almost failing would necessarily be present as part of the transportation system and that a balance must be found between the function and the level of service required. It was his recollection that the City had determined to accept a LOS D for intersections in the Comprehensive Plan.

Mrs. Townshend concurred; however, she noted that this intersection was rated below LOS D.

Mr. Koenig noted that additional information was needed to determine if only certain aspects of the intersection were failing, such as the turning angles.

Mr. Hutchison noted the importance of economic development at the intersection of Kings Highway and Route 13 and felt that options should be explored.

Mrs. Townshend stated that the other projects included on the 2012 Transportation Prioritization List had been in the queue for a number of years and noted that there were more projects than funds available; however, she felt it important that they remain "on the radar screen."

Responding to Mr. Davis, Mrs. Townshend stated that improvements could be made to the Kings Highway/Route 13 intersection prior to knowing the exact type of development that would occur because some assumptions could be made regarding the type of development expected based on the zoning and the market, and work could begin within those parameters. She noted that since the intersection was constrained, the area could be improved only to a certain point. Priorities would include making the intersection run straight across Route 13 and providing two (2) turn lanes to allow a smoother flow of traffic. She noted that the City could also consider improving Maple Parkway, which is a City street; however, she felt that most businesses at that location would want direct access to Kings Highway and Route 13.

The Committee recommended approval of the 2012 Transportation Prioritization List, as recommended by staff.

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

**Update - Dover High School Construction**

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that she recently attended a Dover High School construction coordination meeting and that the remaining concerns related primarily to signalization and pedestrian access at the school. She reminded members that on June 27, 2012 the Committee recommended that City Council send a letter to the Delaware Department of Transportation (DelDOT) regarding these issues and that this letter was sent on July 9, 2012. She stated that the Secretary of Transportation responded on August 7, 2012, stating that DelDOT could not support the signalization and the sidewalk was not in their capital program; however, a cost estimate could be developed. Mrs. Townshend provided members with correspondence from Natalie Barnhart, Chief Engineer, Delaware Department of Transportation (DelDOT) dated August 29, 2012 which included a cost estimate of $600,500. Mrs. Townshend stated that staff would work with the Dover/Kent County Metropolitan Planning Organization (MPO) to prepare a Transportation Improvement Program (TIP) amendment, explaining that the project must be included in the MPO TIP before it can be submitted to the State Capital Transportation Plan (CTP). She felt that the City should work concurrently with legislators, possibly through the Transportation Enhancement Program, to see if the project could be addressed outside the CTP process, which would likely take at least two (2) years to obtain funding.

Mr. James Galvin, Principal Planner, Dover/Kent County MPO, stated that the Transportation Enhancement Program (TEP) has been discontinued under new federal highway legislation and that projects that previously competed only with other TEP submissions would now compete with all road projects.

Mrs. Townshend stated that the City would continue to bring this issue up and that other sources of funding could be explored, such as the Nemours Foundation.

Mr. Hutchison stated that student safety should be given the highest priority and that this should be emphasized with DelDOT.

Mrs. Townshend stated that if safe pedestrian access were not provided, more parents would be driving their children, requiring more cars on the road. She understood that traffic engineering models dictate how things work; however, she felt that the City must stay on the record stating this must be done correctly because this project differs from other projects in that it is a school and is built around the needs of children.

In response to Mr. Hutchison, Mrs. Townshend was unsure how many children would be walking to school; however, noted bus transportation would not be provided for students residing within two (2) miles of the school.

In response to Mr. John Gaines, Project Manager, Delaware Department of Transportation (DelDOT), Mrs. Townshend stated that high schools were ineligible for DelDOT's Safe Routes to School Program.

Mr. Davis noted that a Certificate of Occupancy would be denied to a restaurant with unsafe conditions and inquired if this were a possible course of action for the new high school.

Responding to Mr. Davis regarding the position of the Capital School District, Mr. Koenig stated that the District had a study performed which indicated that a light was not needed immediately at the east entrance of the school, and the DelDOT engineer who reviewed the project specified the amount of sidewalk that was required and the District had complied. The sidewalk being discussed was beyond the limits of the District's property and was, therefore, an offsite improvement. He indicated that members of the Capital School District have maintained that the new school is a community facility and if the infrastructure around the facility must be expanded to accommodate it, this was not their financial responsibility. Mr. Koenig stated that District members did not consider the District to be a developer and they felt that the District's community mission was to build a school and support the function of the school, not the transportation network.

Mr. Hutchison expressed his opinion that the City's function was to review and make recommendations to DelDOT, who is ultimately responsible. He noted that the City's primary concern was the safety of the students in the school and the traffic pattern.

Mr. Lynn stated his belief that, in Delaware, developers are responsible for the causative effects of projects on the surrounding community. He noted that several heavily litigated ordinances had been set forth by Kent County Levy Court and it was determined that developers are responsible for the effect they have on their surrounding community. He felt that the Capital School District was a developer and had a responsibility to the area infrastructure.

Responding to Mr. Lynn regarding the measures that the City could take to pursue this issue, Mrs. Townshend indicated that the City should begin to appeal to the Capital School Board, maintaining that they are a developer, they have a responsibility in this matter, and these are their students that the City is attempting to get safely to their facility. She felt that the City should work with the School District to "get them vocal" on the issue and to determine if they have funds that could be brought to the table. Mrs. Townshend indicated that the five (5) years that may be required to get the project through the CTP process would be too late. She felt that the District was willing to put the signal in, so the City could not hold them responsible because DelDOT would not allow signalization. Regarding the sidewalk, she suggested that the School District may be able to assist in obtaining funding from legislators.

In response to Mr. Lynn, Mrs. Townshend stated that the project plans submitted did not indicate the light; however, all discussions included two (2) signalized intersections. Staff realized early in the project that because of the location and the scale of the project, this would be one of the most important projects that they would deal with, and the Planning Commission and the Capital School Board held a joint meeting before the application was submitted and specifically discussed

signalization at that time. While staff was aware that the warrants were required, staff received the sense that this was almost a formality and was given no impression from DelDOT that there was a low likelihood that the signal would be approved.

Mr. Lynn inquired if the City could require DelDOT to install the light or shut the project down.

Mr. Koenig stated that the City would not want to withhold inspections because a massive lawsuit for damages would likely be received from the individual contractors associated with the project; however, the City did have authority to withhold a Certificate of Occupancy. In addition, he noted that there are unusual occurrences of traffic lights within the City, for example, at Gibbs Drive and Route 8,which has little sidestreet traffic. He questioned why this light met the warrants but the area in question did not. He felt that the City should advise the Capital School District about the possibility of not being able to open because of this concern.

Mr. Hutchison suggested reaching out to the President of the Capital School District Board of Education and the District Superintendent to ask them to attend next month's meeting to determine their position on this issue.

Mr. Koenig noted that the new Dover High School was a huge project that would instantaneously change that area of the City on the day that it opens.

Mr. Hutchison requested that staff obtain information from the School District regarding the number of students expected to be walking to the new high school.

Mr. Hutchison requested and members agreed that the President of the Capital School District Board of Education and the District Superintendent be asked to attend the next meeting to discuss signalization and sidewalks on Route 8 in the vicinity of the new Dover High School.

**Briefing on Delaware Department of Transportation (DelDOT) Projects**

Mr. John Gaines, Delaware Department of Transportation (DelDOT), provided members a briefing on DelDOT Projects, as follows:

DelDOT Repaving Project

The Delaware Department of Transportation (DelDOT) Repaving Project encompasses seven (7) locations. The first two (2) projects, College Road and Walker Road, are complete. The method of construction involves three (3) steps, including: 1) concrete work (such as islands, sidewalks, American Disabilities Act (ADA) curbs, and curb ramps); 2) any necessary intersection improvements; and 3) milling, paving, and striping. The first two (2) steps of the Forrest Avenue and Governors Avenue projects are complete, so milling of Forrest Avenue will start the first week of September (depending on weather), followed by paving during the second week, and milling on Governors Avenue will begin during the second week of September, followed by paving. He stated that, ideally, Forrest Avenue and Governors Avenue should be complete in September and DelDOT would then move forward with the remaining three (3) projects.

West Dover Connector

Semi-final right-of-way and construction plans for the West Dover Connector were submitted two (2) weeks ago, which Mr. Gaines stated was a major milestone. The next major milestone would be finalization of the right-of-way plans, which was scheduled for November. Once the final right-of-way is complete, he estimated that it would take DelDOT's real estate acquisition section approximately two (2) years to acquire properties on Charles Polk Road to clear the right-of-way. He advised members that appraisals had already been performed on these properties. Mr. Gaines stated that the project was funded for construction in FY 2015-2017 and indicated that there would be no additional update information before the semi-final and final right-of-way phases were concluded.

Route 8/Hazlettville Road Connector

Mr. Gaines stated that the Route 8/Hazlettville Road Connector project was "pushed out" and was funded for preliminary engineering in 2017. Mr. Gaines stated that this project was included in the Community Transportation Plan; however, due to a breakdown in the procedure, the environmental process was never conducted. He stated that the major landowner who would be affected by the project was not in favor of it, and without an environmental document to support acquisitions, the project could not be approved. He stated his belief that this project may have been postponed in order to work on this step of the process.

Responding to Mr. Hutchison, Mr. Gaines stated that he did not expect to attend future Committee meetings on a regular basis but was asked by DelDOT to provide an update since he was knowledgeable about the projects being discussed.

Briefing on Dover/Kent County Metropolitan Planning Organization (MPO)

Mr. James Galvin, Principal Planner, Dover/Kent County Metropolitan Planning Organization (MPO), stated that the Dover Pedestrian Bike Path planned for the downtown area was originally planned to extend along the St. Jones down to Public Safety Boulevard using funding identified by the Governor for bicycle routes. He indicated that the portion of the project behind Legislative Hall from the St. Jones, down Court Street to Route 13, and along Route 13 to the traffic light at the intersection of Public Safety Boulevard had been funded. This section was currently in the design phase, which should be complete by January 2013, and it was hoped that construction would begin in the Spring of 2013. He indicated that a meeting had been arranged with the City to discuss this first phase. Mr. Galvin advised members that future phases of the project would include the area along Park Drive to Legislative Hall and Court Street (behind the Delaware Public Archives) and a connection from Court Street to the former sewage treatment plant and continuing along the river as far as possible and ultimately connecting with Pine Street.

In addition, Mr. Galvin advised members that the Dover/Kent County MPO was in the process of amending the Transportation Improvement Program (TIP), and one (1) of the items included was approval of additional funding for extending Clarence Street from North Street to Forest Street. He reviewed a plan for the project that was developed by Century Engineering, approved by DelDOT, and was presented through public workshops. An additional $1.4M was being sought which would cover final design into the right-of-way phase, although it would not allow for acquiring all of the necessary right-of-way or for construction of the project. He noted that the route runs through a tar

ditch, goes around an industrial warehouse and buildings that are accessible from Lincoln Street, and runs through two (2) houses on Forest Street, and the net real affect would be on these two (2) houses. Mr. Galvin stated that additional funding was being sought in the TIP to pay for the project to move forward within the next year.

**By consent agenda, Mrs. Williams moved for acceptance of the Safety Advisory and Transportation Committee Report, seconded by Mr. Bonar and carried by a unanimous roll call vote (Mr. Anderson and Mrs. Russell absent).**

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

The Legislative, Finance, and Administration Committee met on September 10, 2012 with Chairman Lynn presiding. *It was noted that, except for the following time sensitive issue, the Legislative, Finance, and Administration Committee Report of September 10, 2012 would be presented to Council during their Regular Meeting of September 24, 2012 for review and consideration.*

**Purchase of Police Department Parking Enforcement System**

Police Chief James Hosfelt presented a request for approval of the sole vendor purchase of a new parking enforcement system for the Police Department from Cardinal Tracking, Inc., to be funded by the US Department of Justice, Office of Justice Programs, Justice Assistance Grant (JAG) Program, in the amount of $47,125.00, and State Aid to Local Law Enforcement (SALLE) Grant funds, in the amount of $2,875.00.

Chief Hosfelt explained that the system currently in use was obsolete and could not be updated to include the features needed to implement the recent changes incorporated by the City. He noted that, currently, data cannot be queried to allow retrieval of necessary information to support scofflaw (repeat/habitual offenders) reporting, which is vital to implementing the City's new Vehicle Immobilization law. The limitations of the current system do not permit the effective collection of unpaid debts. The new system allows for customized queries, which would enable the Department to retrieve data in almost any form; however, the old system does not have this capability. The new parking enforcement system would also update both the hardware and software components and eliminate the need to employ an outside collections agency. The new handheld computer units feature integrated cameras, eliminating the need for enforcement personnel to carry digital cameras, and the images would automatically flow with the violation data. A point-of-sale component in the Records Unit would allow for the immediate posting of payments to accounts. The cost also includes the conversion of current data, as well as on-site system set-up, installation and training.

Chief Hosfelt stated that Cardinal Tracking, Inc. would host the system; therefore, the City would not be required to purchase a server.

In response to Mr. Shevock, Chief Hosfelt stated that, unfortunately, the existing equipment could not be retrofitted to the new system. He stated that the current system would remain in use until all existing fines were paid and the new system would be used in parallel until that time.

In response to Mr. Hare, Chief Hosfelt confirmed that the existing equipment would not be discarded but kept as backup.

Mr. Lynn noted that, due to time constraints, staff requested that this matter be considered during the Council Meeting later in the evening.

Staff recommended approval of the sole vendor purchase of a new parking enforcement system for the Police Department from Cardinal Tracking, Inc.

**Mr. Hare moved to recommend approval of staff's recommendation, seconded by Mr. Rushe and unanimously carried.**

Responding to Mr. Bonar, Police Chief James Hosfelt stated that the US Department of Justice, Office of Justice Programs, and Justice Assistance Grant (JAG) Program funding in the amount of $47,125 had been approved and was made available for technology upgrades.

Responding to Mr. Perza, Chief Hosfelt stated that there were no ongoing maintenance or licensing fees for the system software.

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

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

**MONTHLY REPORTS - JULY 2012**

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

| | |
|---|---|
| Chief of Police | Dover Fire Department |
| City Assessor | Economic Development |
| City Manager | |

Referring to demolition permits in the City Planner Report, Mr. Leary requested Mrs. Ann Marie Townshend, Director of Planning and Community Development, to provide a status report on the three (3) Wesley College properties located in the 100 block of North Governors Avenue that were being prepared for demolition. Mrs. Townshend advised members that the properties had a fence around them, the asbestos abatement had been done and the paperwork had been turned in, and demolition permits were issued three (3) weeks ago. She stated that she had been in contact with the contractor and Dr. William Johnston, President of Wesley College. Dr. Johnston had advised her that they were working to demolish the buildings as soon as possible. The Director of Security for the college was conducting regular patrols of the houses to be sure they were secured and the maintenance staff would inspect the fencing to ensure that any necessary repairs are made to keep it secure. Dr. Johnston anticipated that the buildings would be demolished soon, although equipment was to have arrived last week and it did not.

Mr. Hare stated that the demolition services were being donated and a little leeway should be given in this matter. He indicated that delays were caused by the asbestos abatement and removal of oil tanks.

Responding to Mrs. Williams, Mrs. Townshend stated that the relocation of staff from White Oak Park to Schutte Park would not disrupt any activities. She noted that the classroom space at the Pitts Center was being converted to staff offices and a number of programs would be relocated to the new library in October.

**Mr. Bonar moved for acceptance of the City Planner Report, seconded by Mr. Hare and unanimously carried.**

**RECONSIDERATION OF EVALUATION OF PROPOSALS - ELECTRIC UTILITY VALUATION SERVICES**

Council President Leary advised members that this item was considered during the Council meeting of August 27, 2012. A motion to award the contract failed to obtain the affirmative vote of a majority of the members elected to the Council, as required by Article II, Section 10, of the City's Charter. Councilman Anderson moved for reconsideration and to have this entered on the minutes for the next Council Meeting for consideration when the full Council was present.

Mr. Scott Koenig, City Manager, advised members that in October 2011, City Council authorized staff to oversee the preparation of a Request for Proposals (RFP) for a Cost of Service Study to determine the valuation of the entire City of Dover Electric System. Due to the technical and legal complexity of the RFP process for this type of request, staff utilized the services of Mr. Kirk Betts, the City's power supply attorney, to develop and prepare the RFP, as well as to review submissions from the consultants who expressed interest in the project.

Mr. Koenig indicated that on June 18, 2012, the City of Dover issued an RFP seeking proposals from qualified independent consultants to provide an opinion and study regarding the value of the City's electric utility system and four (4) proposals were received in response. He explained that the proposal evaluation process included two (2) components: the technical component process, which included compliance with the form and content requirements of the RFP, expertise and experience, valuation approach, comprehensiveness of the work plan and adequacy of analytical procedures; and the second component, which was related to pricing evaluation. Mr. Koenig stated that Betts & Holt, LLP, ranked the proposals as follows: 1) GAI Team; 2) Burns; 3) AERCA Team; and 4) MRV.

Based upon the ranking and the recommendation of Betts & Holt, LLP, staff recommended that the City of Dover award the contract for Electric Utility System Valuation Services to GAI Consultants in the amount of $117,500.

Responding to Mrs. Williams, Mr. Koenig stated that, according to the scope of work, the study must consider the following factors: 1) net book value of the Electric System's generation, transmission, and distribution assets and infrastructure; 2) replacement cost new depreciated value (RCND) of the Electric System; 3) valuation of the Electric System (revenue analysis) as an ongoing enterprise to

determine range of values over book value; 4) net proceeds that Dover would realize from a sale of the Electric System after subtracting funds for refunding of outstanding debt and other expenses; 5) comparison of the Electric System's rates with the rates of other retail electric utilities serving customers in Delaware; 6) analysis of the replacement cost of electricity for municipal facilities; 7) possible tax revenues (i.e., property taxes and franchise fees) that may be realized by the sale of the Electric System; 8) impact of loss of Electric System revenue on Dover's General Fund; 9) impact of long-term solar energy power supply contract and forward energy positions on valuation; 10) Dover staffing and payroll changes that are likely to result if the Electric System is no longer a Dover responsibility; and 11) other potential values lost or gained, such as economic development, if the Electric System is sold. Mr. Koenig stated that if the City moves forward with the study, there would be something of value in the study for everyone, whether it be from a business operations standpoint or a sales standpoint.

Responding to Mrs. Williams, Mr. Koenig stated that the study would include debt released, the impact, and the valuation of any potential power agreement related to Calpine.

Mr. Bonar stated that there was no offer on the table for the sale of the electric department. He felt that the study would provide the tools to thoroughly assess, study, and determine the exact worth of the operation in addition to providing a means to operate more efficiently.

Mr. Lynn stated that he was adamantly opposed to the sale of the electric utility. He noted that although the scope of the study was broader than selling the utility, it was predicated upon selling the electric utility. Mr. Lynn stated that the utility was the backbone of the City's economic infrastructure, selling it would be foolish, and spending $100,000 in these economic times to satisfy the curiosity of certain Council members was not worth it.

Mr. Perza stated that he was very hesitant about selling the asset; however, he was concerned about the maintenance cost to keep the asset. He did not want the City to "go under" because of a decision that they have made. Mr. Perza believed that the information that could be learned from the study would be valuable for the purposes of making the system more efficient and determining how best to use the assets, which would benefit the City.

Mr. Hare noted that he previously proposed the possible sale of the electric utility for a good price. He felt that the study could answer the question of why it should not be sold.

Mr. Hutchison stated that the electric utility was the City's greatest asset. He felt that this would be one of the most important studies that could be conducted to answer questions regarding the utility.

Mr. Lynn stated that he did not know what would be done with the money generated from the sale of the utility, nor how those funds could be insulated from spending by future Councils. He stated that because the Electric Fund was used to subsidize the General Fund on an annual basis, the absence of those funds would be catastrophic to the economic health of the City.

Mr. Bonar stated that the study would provide information and tools to determine how the system was being operated and its true value.

**Mrs. Williams moved for approval of staff's recommendation to award the contract for electric utility valuation services to GAI Consultants in the amount of $117,500 based on the recommendation provided by Betts & Holt, LLP, seconded by Mr. Bonar and carried by a roll call vote of six (6) yes (Perza, Bonar, Williams, Hare, Hutchison, and Leary) and one (1) no (Lynn) (Anderson and Russell absent).**

**ANNEXATION/REZONING REQUEST - 110 AND 136 RUSTIC LANE, OWNED BY TAILILOU, LLC - FIRST READING OF PROPOSED ORDINANCE #2012-21**

A request was received for annexation and rezoning of properties located at 110 and 136 Rustic Lane, owned by Taililou, LLC. 110 Rustic Lane (ED00-057.02-02-38.00-000) consists of $1.118^{+/-}$ acres and is currently zoned BG - General Business (Kent County). 136 Rustic Lane (ED00-057.02-02-40.00-000) consists of $0.56986^{+/-}$ acres and is currently zoned RMH - Residential Manufactured Home District (Kent County). The proposed zoning classification for both parcels is C-2A - Limited Central Commercial (City of Dover). Staff recommended that the request be referred to the Utility Committee on September 24, 2012, the Planning Commission on October 15, 2012, and that a Public Hearing be set for November 26, 2012 at 7:30 p.m.

**Mr. Hare moved for approval of staff's recommendation, seconded by Mr. Hutchison and unanimously carried.**

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

ORDINANCE #2012-21 AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF DOVER BY CHANGING THE ZONING DESIGNATION OF PROPERTY LOCATED AT 110 AND 136 RUSTIC LANE.

**FIRST READING - PROPOSED ORDINANCE #2012-05 AMENDING CHAPTER 46 - FIRE PREVENTION AND PROTECTION AND APPENDIX F - FEES AND FINES**

Council President Leary reminded the public that copies of the proposed ordinance were available at the entrance of the Council Chambers or could be obtained from the City Clerk's Office and that final action by Council on the proposed ordinance would take place during the Council Meeting of September 24, 2012.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that proposed Ordinance #2012-05 was reviewed with representatives of the Chamber of Commerce and the real estate community and there were no issues on their part. She noted that the ordinance would 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. Lynn asked if the unattended burning portion of the ordinance would address the issue of unattended residential meat smokers. Mrs. Townshend stated that open burning, commercial barbecuing, and outdoor fireplaces were addressed. She noted that the challenge would be determining what would be considered unattended and the concern was that the Fire Marshal's Office and Police Department would be regulating backyard barbecuing on a regular basis.

Responding to Mrs. Williams, Mr. Dave Truax, City of Dover Fire Marshal, stated that if a fire extinguisher is necessary to extinguish a fire, the incident should be reported to the Fire Department.

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

ORDINANCE #2012-05 AMENDING CHAPTER 46 - FIRE PREVENTION AND PROTECTION AND APPENDIX F - FEES AND FINES

**COUNCIL MEMBERS ANNOUNCEMENTS**

Mr. Bonar announced that the Delaware Volunteer Firefighters' Association would be meeting in Dover and the annual parade would be held on Saturday, September 14, 2012.

Council President Leary announced that the Dover Fire Department would hold its Second Annual "Getting Hosed" 5K Run and Walk on September 22, 2012 at Buffalo Wild Wings at 9:00 a.m. He noted that this was a fundraising event and that registration information could be obtained from www.trisportsevents.com or by calling Mrs. Rebecca Rollison at 302-736-4242.

Mayor Carey reminded everyone that the following day would be September 11th and requested all to remember those who lost their lives, as well as the men and women who are defending us.

Mr. Bonar announced that, for the first time since 1930, a Dover Fire Department member, Charles Boyer, would be sworn in as President of the Delaware Volunteer Firefighter's Association.

**By unanimous consent, the meeting adjourned at 8:26 P.M.**

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of September 10, 2012 are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM
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*Exhibit*
*Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 126 N. Ann Avenue*

# Violation of Dangerous Building Ordinance 126 N Ann Ave

Planning & Inspections Department

Dover, Delaware

September 10, 2012

Regular Council Meeting of 09/10/2012 **EXHIBIT #1**

# 126 N Ann Ave
# Case History

- Five code enforcement cases since 2010
  - Exterior violations
  - Tall grass and weeds
  - Abandoned vehicle
  - Vacant Building
- Registered by the City as a vacant building in May of 2010
- Subject of fire in October of 2010
- Condemned by City Staff on May 10, 2011
- Source of neighbor complaints

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

(4) *Fire Damage, etc.*

(5) *Unfit for Human Habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*


126
DANGER
FOR SALE
BY OWNER
09/10/2012 09:32


OR SALE
BY OWNER
09/10/2012 09:32


09/10/2012 09:32


09/10/2012 09:32


Sage
AN EXCEPTIONAL EATING EXPERIENCE
Sage
09/10/2012 09:33


09/10/2012 09:33


09/10/2012 09:33


09/10/2012 09:33

# Recommended Council Action

- Declare this building and all accessory structures on this property dangerous.
- Order the property repaired or demolished by **October 10, 2012** by the owner or equity owner at their own risk.
- 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**.
- 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.