REGULAR COUNCIL MEETING

The Regular Council Meeting was held on August 27, 2012 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mr. Lynn, Mr. Perza, Mr. Bonar, and Mr. Hutchison. Mrs. Russell, Mrs. Williams, and Mr. Hare were absent.

Council staff members present were Police Chief Hosfelt, Mrs. Teal, Mrs. Townshend, Deputy Fire Chief West, Mr. Koenig, Deputy City Solicitor Pepper, 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.

There was no one present wishing to speak during the Open Forum.

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

AGENDA ADDITIONS/DELETIONS

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

Mr. Lynn moved to include Item #8A, Request for Proposals - Banking Services, on the Consent Agenda, seconded by Mr. Bonar and unanimously carried.

Mr. Bonar moved for approval of the consent agenda as amended, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Mrs. Russell, Mrs. Williams, and Mr. Hare absent).

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF AUGUST 13, 2012

The Minutes of the Regular Council Meeting of August 13, 2012 were unanimously approved by motion of Mr. Bonar, seconded by Mr. Hutchison, and bore the written approval of Mayor Carey.

ADOPTION OF MINUTES - SPECIAL COUNCIL MEETING OF AUGUST 13, 2012

The Minutes of the Special Council Meeting of August 13, 2012 were unanimously approved by motion of Mr. Bonar, seconded by Mr. Hutchison, and bore the written approval of Mayor Carey.

PUBLIC HEARING/FINAL READING - ORDINANCE #2012-20 - REAPPORTIONMENT OF COUNCIL DISTRICT BOUNDARIES

Council President Leary reminded the public that copies of Proposed Ordinance #2012-20, Reapportionment of Council District Boundaries, were available at the entrance of the Council Chambers or could be obtained from the City Clerk's Office. He reminded members that a public hearing and the First Reading of the Proposed Ordinance took place during the Regular Council Meeting of August 13, 2012 and that a public hearing was duly advertised for this time and place to consider approval of the proposed reapportionment of Council district boundaries.

Mr. Bonar moved that the Final Reading of Proposed Ordinance #2012-20 be acknowledged by title only, seconded by Mr. Hutchison and unanimously carried.

Ms. Janelle Cornwell, Planner II, reminded members that the intent of the redistricting was to create four (4) voting districts with an evenly distributed population and that met the requirements of the 1988 Consent Decree between the Central Delaware Branch of the National Association for the Advancement of Colored People (NAACP)/Cecil Wilson and the City of Dover. She advised members that the 2010 U.S. Census total population for the City of Dover was 36,047 and that, equally divided, the target number for each district would be 9,012 people. Ms. Cornwell stated that the proposed redistricting would distribute the population as follows: District 1 - 8,933 (24.8% of the total population); District 2 - 9,138 (25.3% of the total population); District 3 - 9,076 (25.2% of the total population); and District 4 - 8,900 (24.7% of the total population). She noted that the percentage of population in all four (4) districts would vary by less than 1%. The Consent Decree requires that the City have a minority district with a 65% African American population, a majority of which is of voting age. As presented, Ms. Cornwell stated that District 4 would have an African American population of 70.6%, with 54.5% of voting age, and that both of these percentages exceeded the requirements of the Consent Decree.

Council President Leary declared the public hearing open.

Ms. Roxie Smiley-Carter, resident of Towne Point and President of the Local Chapter of the NAACP, read a statement from Central Delaware Branch #2028 of the NAACP into the record ***(Exhibit #1)***.

There being no one else wishing to speak, Council President Leary declared the hearing closed.

Mr. Bonar moved for the adoption of the proposed ordinance, seconded by Mr. Hutchison, and by a unanimous roll call vote (Mrs. Russell, Mrs. Williams, and Mr. Hare absent), Council adopted Ordinance #2012-20, as follows:

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

That Chapter 2 - Administration, Article II - City Council, Division 1 - Generally, of the Dover Code be amended by striking Section 2-31 - District Boundaries in its entirety and inserting in lieu thereof a new Section 2-31 to read as follows:

Sec. 2-31. - District boundaries.

In order that the members of the council shall be distributed over the city, the city shall be divided into four representative districts and two members of the council shall be residents of each district. Such districts are to be distributed as follows:

(1) *District 1*. District 1 is defined as the area within the corporate limits of the city contained within the following boundaries:

Beginning at the boundary line of the corporate limits of the city, at a point in the centerline of McKee Road; then running in a westerly direction following the boundary line of the corporate limits of the city to its intersection with the centerline of Hazletville Road; then running in an easterly direction with said line of Hazletville Road to the to its intersection with the centerline of Saulsbury Road; then in a northerly direction with said line of Saulsbury Road to its intersection with the centerline of Walker Road; then in a westerly direction with said line of Walker Road to its intersection with Kenton Road; then in a northerly direction with said centerline of Kenton Road to its intersection with the centerline of College Road; then running in a northeasterly direction with said line of College Road to its intersection with McKee Road; then in a northwesterly direction with said line of McKee Road to the point of beginning, excluding within these given boundaries any areas not within the corporate limits of the city.

(2) *District 2*. District 2 is defined as the area within the corporate limits of the city contained within the following boundaries:

Beginning at the boundary line of the corporate limits of the city, at a point in the centerline of Hazletville Road; then running in an easterly direction with said line of Hazletville Road which becomes North Street, to its intersection with the centerline of West Street; then running in a southerly direction with said line of West Street to its intersection with the centerline of Queen Street; then running in a southwesterly direction with said line of Queen Street to the intersection of the centerline of Westview Terrace; then running in a southeasterly direction with said line of Westview Terrace to its intersection with the centerline of Dover Street; then running in a easterly direction with said line of Dover Street to its intersection with the centerline of New Street; then running in a northerly direction with said line of New Street to its intersection with the centerline of South Street; then running in a easterly direction with said line of South Street to its intersection with the centerline of State Street; then running north with said line of State Street to its intersection of the centerline of Water Street; then running in an easterly direction with said line of Water Street to its intersection with the south west side of Legislative Avenue; then running southerly with said intersection of Water Street and the west line of Legislative Avenue to its intersection with the southeast corner of parcel number ED-05-077.09-05-56.00; then running with said east property line of said parcel to the intersection of the centerline of the Saint Jones River; then running in a southerly direction with said line of the Saint Jones River to its intersection with the centerline of State Route 13; then running northeasterly with said line of State Route 13 to its intersection with the centerline of Court Street; then running in a westerly direction with said line of Court Street to its intersection of the centerline of the Saint Jones River; then running northwest with said line of the Saint Jones River to its intersection with Loockerman Street; then running westerly

with said line of Loockerman Street to its intersection of the centerline of Governors Avenue; then running in a northerly direction with said line of Governors Avenue to its intersection of the centerline of Reed Street; then running in an easterly direction with said line of Reed Street to its intersection of the centerline of State Street; then running in a northerly direction with said line of South State Street to its intersection of the centerline of Division Street; then running in a easterly direction with said line of Division Street to its intersection of the centerline of Kings Highway; then running in a northerly and northeasterly direction with said line of Kings Highway to its intersection of the centerline of White Oak Road; then running in a northeasterly direction with said line of White Oak Road to its intersection of the Willis Road; then running in a southerly direction with said line of Willis Road to its intersection of the centerline of Division Street which becomes North Little Creek Road; then running in an easterly direction with said line of North Little Creek Road to the eastern corporate limits of the city; then running in an easterly and southerly direction with said corporate limits of the city to the place of beginning, excluding within these given boundaries any areas not within the corporate limits of the city.

(3) *District 3*. District 3 is defined as the area within the corporate limits of the city lying within the following boundaries:

Beginning at the boundary line of the corporate limits of the city, at a point in the centerline of North Little Creek Road; then running in a westerly direction with said line of North Little Creek Road which becomes Division Street to its intersection with the centerline of Willis Road; then running in a northerly direction with said line of Willis Road to its intersection with the centerline of White Oak Road; then running in a westerly direction with said line of White Oak Road to its intersection with the centerline of Kings Highway; then running in a southerly direction with said line of Kings Highway to its intersection with the centerline of Division Street; then in a westerly direction with said line of Division Street to its intersection with the centerline of State Street; then running in a southerly direction with said line of State Street to its intersection with the centerline of Reed Street; then running in a westerly direction with said centerline of Reed Street to its intersection with the centerline of Governors Avenue; then running in a northerly direction with said line of Governors Avenue to its intersection with the centerline of Mary Street; then running westerly with the said line of Mary Street to the western edge of the railroad tracks; then running a northwesterly direction with the western edge of the railroad tracks to the intersection of the centerline with Walker Road; then running in a easterly direction with said line of Walker Road to the intersection of State Street; the running in a north easterly direction with the said line of State Street to the centerline of State Route 13; the running in a northwesterly direction with said line of State Route 13 to the southeastern portion of parcel

ED-05-057.01-02-01.00; then running south 57 degrees 05 minutes west 620 feet to the corner of said parcel; then running north 27 degrees 12 minutes west 201.0 feet; then continuing north 27 degrees 12 minutes west to the intersection of the centerline of Scarborough Road; then running southwesterly with said line of Scarborough Road to the intersection of the centerline of McKee Road; then running northerly with said line of McKee Road to the corporate limits of the city; then continuing east and south with the corporate limits of the city to the place of beginning, excluding within these given boundaries any areas not within the corporate limits of the city.

(4) *District 4*. District 4 is defined as the area within the corporate limits of the city lying within the following boundaries:

Beginning at a point in the west edge of State Route 13 and the southeast corner of parcel ED-05-057.01-02-01.00; then running south 57 degrees 05 minutes west 620 feet to the corner of said parcel; then running north 27 degrees 12 minutes west 201.0 feet; then continuing north 27 degrees 12 minutes west to the intersection of the centerline of Scarborough Road; then running southwesterly with said line of Scarborough Road to the intersection of the centerline of McKee Road; then running southerly with said line of McKee Road to the intersection of the centerline of College Road; then running westerly with said line of College Road to the intersection of the centerline of Kenton Road; then running southerly with said line of Kenton Road to the intersection of the centerline of Walker Road; then running north easterly with said line of Walker Road to the intersection of the centerline of Saulsbury Road; then running southerly with said line of Saulsbury Road to the intersection of North Street; then running easterly with said line of North Street to the intersection of West Street; then then running in a southerly direction with said line of West Street to its intersection with the centerline of Queen Street; then running in a south westerly direction with said line of Queen Street to the intersection of the centerline of Westview Terrace; then running in a south easterly direction with said centerline of Westview Terrace to its intersection with the centerline of Dover Street; then running in a easterly direction with said centerline of Dover Street to its intersection with the centerline of Monroe Terrace; the running in a northerly direction with said line of Monroe Terrace to its intersection with South Street; then running in an easterly direction with said centerline of South Street to its intersection with the centerline of State Street; then running in a northerly direction with said centerline of South State Street to its intersection with the centerline of Water Street; then running in an easterly direction with said line of Water Street to its intersection with the west side of Legislative Avenue; then running southerly with said intersection of Water Street and the west line of Legislative Avenue to its intersection with the southeast corner of parcel number ED-05-077.09-05-56.00; then running with said east property line of said parcel to the intersection of the centerline of the Saint Jones River; then

running in a southerly direction with said line of Saint Jones River to its intersection with the centerline of State Route 13; then running northeasterly with said line of State Route 13 to the intersection with the centerline of Court Street; then running in a northwesterly direction with said line of Court Street to the intersection of the Saint Jones River; then running northwest with said line of the Saint Jones River to the intersection with Loockerman Street; then running westerly with said line of Loockerman Street to the intersection of the centerline of Governors Avenue; then running northerly with said line of Governors Avenue to the intersection of the centerline of Mary Street; then running westerly with said line of Mary Street to the western edge of the railroad tracks; then running northwesterly with said western edge of the railroad tracts to the intersection of the centerline with Walker Road; then running in a easterly direction with said line of Walker Road to the intersection of State Street; the running in a north easterly direction with said line of State Street to the centerline of State Route 13; then running in a northwesterly direction with said line of State Route 13 to the beginning point, excluding within these given boundaries any areas not within the corporate limits of the city.

ADOPTED: AUGUST 27, 2012

Several members of Council relayed appreciation to staff for their hard work on this project, noting the difficulty of the redistricting process.

VIOLATION OF DANGEROUS BUILDING ORDINANCE (EMERGENCY CASE) - PROPERTY LOCATED AT 39 PRIMROSE DRIVE, OWNED BY BARBARA PIERCE, WALLACE ZIMMERMAN, DAVID ZIMMERMAN, ROXANNE HORSEMAN, AND JOHN P. ZIMMERMAN

In accordance with Article XI - Dangerous Buildings, Sec. 22-388 - Emergency cases, of the Dover Code, in cases where it reasonably appears that there is an immediate danger to the life or safety of any person, unless a dangerous building is immediately repaired, vacated and closed, or demolished, the building inspector shall report such facts to the Council, which may cause the immediate repair, vacation, or demolition of such dangerous building.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided a chronological history and presentation on the conditions of the house located at 39 Primrose Drive ***(Exhibit #2)***. She noted that the property is a one (1) story, double-wide manufactured home. The dwelling was condemned as unfit for human habitation on June 28, 2012 due to having no utilities and to the state of disrepair. She advised members that a previous resident of the home had been returning to the structure and removing parts of the structure to sell at a recycling center. Staff had all the windows and doors to the property boarded on July 2, 2012. Since that time, someone was gaining entry to the home through the crawl space entrance and up through the floor by a duct opening. As a result, staff returned to the property and secured the crawl space entrance. Mrs. Townshend stated that the structure remained vacant, with no utilities, and was in a serious state of disrepair, and indicated that there continued to be concerns that people had been gaining access to the property.

Staff recommended that City Council: 1) declare this building on this property dangerous; 2) order the property repaired or demolished by September 27, 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.

Council President Leary declared the public hearing open.

Ms. Susan Krs, 106 Susan Place, advised members that she serves as the President of the Persimmon Park Place Condominium Council and Homeowners Association. She relayed support for the demolition, noting that the property, as it currently exists, was a hazard to the community, and served as a dangerous eyesore. She advised members that the owners were responsible for unpaid assessments in the amount of $2,297.81, plus attorney and court fees for JP Court 16. In order to protect the community and its residents, she requested that Council approve staff's recommendation.

Responding to Ms. Krs, Mrs. Townshend stated that although the City would incur the costs associated with the demolition, the owners would be billed for these costs and a lien would be placed on the property so that the costs could be recovered at the time of a sale.

There being no one else wishing to speak, Council President Leary declared the public hearing closed.

Mr. Bonar moved to declare the property located at 39 Primrose Drive a dangerous building and subject to demolition, as recommended by staff. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Mrs. Russell, Mrs. Williams, and Mr. Hare absent).

Mr. Bonar announced that the City was aware of the issues occurring in the Persimmon Park Place development and was taking proper steps to assure that it did not become another area similar to what Capital Park became over the last several years, noting that Capital Park was " just now starting to "turn around." He relayed a warning to those individuals who are creating such problems throughout the entire City that efforts will be made to locate them.

VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - 38 SOUTH NEW STREET - OWNED BY HOUSE OF PRIDE, INC.

Council President Leary reminded members that a public hearing was held on February 27, 2012 to consider a violation of the Dangerous Building Ordinance at 38 South New Street, owned by House of Pride. At that time, Council tabled the matter to allow staff the opportunity to review the possibility of amending the Clean Hands Ordinance to allow exceptions.

Mr. Anderson moved to remove the matter from the table, seconded by Mr. Bonar and unanimously carried.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that during the public hearing, Ms. Sandra Dean testified on behalf of House of Pride and objected, not to the dangerous building declaration, but to the recommendation to demolish the structure. Mrs. Townshend explained that the City of Dover had demolition liens on two (2) House of Pride properties, and the provisions of the City's Clean Hands ordinance prohibited the City from issuing building permits for House of Pride to make the repairs at the property located at 38 South New Street. Mrs. Townshend provided a chronological history and presentation on the conditions of the property since February 2012 ***(Exhibit #3)***. She advised members that on August 20, 2012, House of Pride obtained a building permit and that the organization had received funds from the insurance company to make the necessary repairs to the property.

Staff recommended that City Council: 1) declare this building and all accessory structures on this property dangerous; 2) order the property repaired or demolished by November 27, 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.

Mr. Bonar moved that the structure located at 38 South New Street be declared a dangerous building and subject to demolition, as recommended by staff. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote (Mrs. Russell, Mrs. Williams, and Mr. Hare absent).

PUBLIC HEARING - APPEAL OF NOTICE TO VACATE - 110 SOUTH NEW STREET, OWNED BY HOUSE OF PRIDE

Members were provided details regarding an appeal of notice to vacate issued for property located at 110 South New Street, owned by House of Pride.

Mr. Anderson advised members that a meeting had been scheduled for later in the week for the Planning Office, Fire Marshal, and the House of Pride Board and staff to discuss options regarding the property located at 110 South New Street.

Mr. Anderson moved to postpone, until the next Regular Council Meeting scheduled for September 10, 2012, the public hearing on the appeal of notice to vacate the property located at 110 South New Street, owned by House of Pride. The motion was seconded by Mr. Hutchison and failed by a roll call vote of four (4) no, two (2) yes (Mr. Anderson and Mr. Hutchison), and three (3) absent (Mrs. Russell, Mrs. Williams, and Mr. Hare).

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that on July 12, 2012, inspectors from the City Code Enforcement Division and Fire Marshal's Office conducted an inspection of 110 South New Street. During this inspection, numerous life safety code violations were found, many of which had been chronic violations in recent years. Due to the high occupancy of the structure and the repeated lack of compliance with basic life safety

requirements, the Department of Planning and Inspections ordered the building to be vacated and closed on July 19, 2012. Mrs. Townshend explained that this action was taken in accordance with Dover Code, Chapter 22 - Buildings and Building Regulations, Article XI - Dangerous Buildings, Section 22-382(2). House of Pride appealed this order to City Council in accordance with Dover Code Chapter 22 - Buildings and Building Regulations, Article XI - Dangerous Buildings, Section 22-384(5)(d).

Mrs. Townshend provided a chronological history and presentation regarding the property located at 110 South New Street ***(Exhibit #4)***. She noted that one (1) item not listed in the violations was a door that was padlocked from the outside on an apartment located on the third floor, which she stated was a serious concern from a fire code standpoint, explaining that it could prevent someone from escaping in the event of a fire.

Staff recommended that City Council uphold the action of the Department of Planning and Inspections to order the property at 110 South New Street to be vacated and closed.

Responding to Mr. Bonar, Deputy City Solicitor Pepper explained that the terminology "morals," as included in Chapter 22, Article XI, Sec. 22-381 - Definitions. (5), Unfit for habitation, would relate to properties being used as a brothel, crack house, gambling facility, etc. Mrs. Townshend indicated that the matter was being brought forward due to safety and general welfare issues.

Bishop Marion Lott, 218 Reed Street, addressed members as a House of Pride Board Member, relaying concurrence that, during the inspection, the violations existed and the building was dangerous; however, he noted that the violations were such that they could be repaired. He explained that House of Pride is run by volunteers and that some improvements have been made that should enable them to make the necessary repairs to bring the property up to Code and meet the requirements of the City.

Responding to Mr. Lynn regarding elements of the usage of the building that were "grandfathered," Mr. Dave Truax, Fire Marshal, explained that the first floor of the property was office space, which is a business occupancy. The second floor was originally used as apartments but had been transitioned into residential board and care, which would require a sprinkler/fire alarm. If the facility were not being used as residential board and care, it would be considered lodging and rooming, which would also involve a sprinkler/fire alarm, if it were new construction. He stated that these issues had been "grandfathered;" however, in 1993, the State of Delaware required all apartment and multi-residential buildings to have a fire alarm system retrofitted by July 1996, which was accomplished. Mr. Truax indicated his concern that House of Pride had no one on staff who was capable of maintaining requirements, explaining that steps had not been taken to address several of the Fire Marshal's concerns prior to an inspection, even when staff knew that an inspection was to occur. In addition, he stated that no emergency plan or rules had been in place and noted that the Fire Marshal's Office could assist in this matter.

At the request of Mr. Lynn, Mr. Truax confirmed that if Council approved staff's recommendation, House of Pride would be required to re-apply for a certificate of occupancy and would be required to install a sprinkler system in the facility; however, advances in technology would allow various

options to meet this requirement without utilizing City water, such as the use of tanks. He stated that the cost of installing a sprinkler system could range from $10,000 to $20,000; however, he stated that installing a sprinkler system would create cost savings in other areas since some improvements, such as opening of stairways, removal of walls, etc., would not be required.

In response to Mr. Anderson, Mr. Truax explained the importance of not allowing individuals to return to the building until safety measures were taken. He confirmed that during the upcoming meeting scheduled with representative of House of Pride, options would be discussed regarding the measures that must be taken in order to return to the building, obtain financing, etc.

Mr. Anderson noted that, if the appeal were laid on the table by City Council, the current order to vacate would stand until addressed by City Council; therefore, since the building could not be re-occupied, it would not cause people to be in danger.

Mr. Lynn relayed his disappointment in the inaction of House of Pride, explaining that not only had they put their residents at risk of serious injury or death but, if a fire were to occur, they would also be placing adjoining land owners at risk, as well as volunteers of the Fire Department who would respond to a preventable fire. He felt that failure to take action was an indication of House of Pride's recklessness and negligence. However, he understood the significant property right that would be lost by having to reapply for a certificate of occupancy and being required to spend between $10,000 to $20,000 for a sprinkler system.

Mr. Lynn moved to table the matter to allow for the meeting with the Planning Office, Fire Marshal, and House of Pride Board and staff to be held to discuss options regarding the property located at 110 South New Street, seconded by Mr. Anderson and failed by a roll call vote of four (4) no, two (2) yes (Mr. Anderson and Mr. Lynn), and three (3) absent (Mrs. Russell, Mrs. Williams, and Mr. Hare).

Mr. Anderson moved to uphold the action of the Department of Planning and Inspections to order the property at 110 South New Street to be vacated and closed, seconded by Mr. Bonar.

Mr. Anderson indicated his belief that House of Pride would not want any harm to come to anyone, just as he would not, and felt confident that House of Pride would not allow anyone to re-enter the building without the violations being addressed. He suggested that if members of Council did not uphold the appeal, the appropriate actions would take place within the next few days and the safety of the residents would be upheld.

The motion to uphold the action of the Department of Planning and Inspections to order the property at 110 South New Street to be vacated and closed failed by a roll call vote of four (4) yes, two (2) no (Mr. Anderson and Mr. Lynn), and three (3) absent (Mrs. Russell, Mrs. Williams, and Mr. Hare).

Since this matter was not tabled, Deputy City Solicitor Pepper explained that the usually rule is that when the appellant panel fails to reach a definitive conclusion, the judgement below is upheld; therefore, the order of the Building Inspector was upheld.

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE REPORT - AUGUST 13, 2012

The Parks, Recreation, and Community Enhancement Committee met on August 13, 2012 with Acting Chairman Bonar presiding.

Presentation - Affordable Housing

Mrs. Ann Marie Townshend, Director of Planning and Community Development, and Mrs. Tracey Harvey, Planner I, reviewed a presentation entitled "Affordable Housing in the City of Dover". In regard to fair housing, Mrs. Townshend advised members that the Delaware Human Relations Commission would be providing training regarding fair housing to the Planning Commission at the next quarterly workshop scheduled for August 21, 2012 at 4:00 p.m.

Responding to Mr. Bonar, Mrs. Harvey explained that the average time spent on the waiting list to obtain Section 8 vouchers varies depending upon the applicant; however, she estimated a wait time of approximately two (2) to three (3) years. She stated that Section 8 housing is offered through the private market and that the Delaware State Housing Authority has a list of landlords who provide this type of housing. Mrs. Harvey advised members that the State is developing a website to be launched in September that will provide an easier way for individuals/families to determine if they would qualify for Section 8 housing and access a list of participating landlords and houses for consideration. Mrs. Townshend suggested that the library staff be made aware of the website to assist City residents. Mr. Bonar requested that staff ensure that a link to this website is placed on the City's website.

Referring to the Housing Balance issue, Mr. Anderson expressed his concerns regarding zoning designations in the City. He stated that when the Traditional Neighborhood Design (TND) designation was developed 10 years ago, he was concerned that it would not be used beyond the Eden Hill development since there was a flaw in its design related to economic viability. He noted that other developments have a 25% threshold for open space; however, the TND has a 35% threshold, and he felt that this threshold was the reason that several projects have not come to fruition. Mr. Anderson also felt that there were too many sub-zones. He suggested that staff review the TND zoning and other policies included in the Comprehensive Plan for possible amendment.

Mrs. Townshend advised members that staff has made it a priority to meet with the business and real estate communities to review the commercial, office, and industrial zones. She noted the need for a review of the residential zones as well.

In response to Mr. Bonar, Mrs. Townshend stated that the next Comprehensive Plan will be completed by 2013. She noted that shelters are permitted in the Institutional Zone; however, this is not explicitly stated. Mrs. Townshend explained that transitional housing is absent from the Zoning Ordinance and this has created a problem in determining the difference between transitional homes and boarding houses. Staff has had to put non-profit transitional homes through the conditional use process. Mrs. Townshend advised members that she has been working with the Deputy City Solicitor on developing definitions and provisions to address the continuum of housing and hoped to present recommendations to the Committee by October 2012.

When developing rules for transitional housing, Mr. Anderson cautioned staff not to allow them to get in the way of natural transitional housing and suggested that staff ensure that a level of fairness is maintained.

Responding to Mr. Bonar, Mrs. Harvey stated that according to the 2000 Census, the vacancy rate for rental housing was 6½%. Since there continues to be a demand for rental housing, she felt confident that the 2010 Census would reflect a similar percentage. She assured members that she would obtain this information and forward it to them.

Mr. Anderson requested that staff provide members with a breakdown of the average rent versus the average wage to obtain affordable housing parameters for the target area.

In response to Mr. Lewis regarding substandard homes, Mrs. Townshend stated that when staff conducts rental inspections, a list of repairs that are necessary to meet Code requirements is developed. Typically, homeowners are provided 30 days to make any necessary repairs; however, she stated that if there are critical issues, such as no running water or working smoke detectors, a much shorter response time is granted. If repairs are not made within 30 days and no progress is being made, the rental permit is suspended and tenants are given 30 days to relocate. The homeowner would then be charged $100 to reinstate the rental permit.

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

Operational Procedures for Altering the Water Level at Silver Lake

As requested during the Open Forum Segment of the Regular Council Meeting on July 23, 2012, Mr. Scott Koenig, City Manager, provided an update regarding the lowering of the water level at Silver Lake. He advised members that during previous years, the operation of the valve in the Silver Lake Dam has been a cooperative effort between the Parks and Recreation Department and the Grounds Division of the Public Works Department. The City does not have a prescriptive written procedure regarding the operation of the valve.

Mr. Koenig reminded members that relatively high temperatures and low rainfall had been experienced since June. He stated that Grounds Division staff visits the park and spillway area daily for trash removal and weekly for landscaping or grass mowing and noticed a significant decline in the amount of water coming over the spillway due to the drought. In years past, Grounds Division staff would work with the Parks and Recreation Department to address such concerns. He advised members that Grounds Division staff visited the lake on Friday, July 6, 2012 and found only a small amount of water coming over the fish ladder and the timber area associated with the spillway. As a result, staff removed one of the boards that are in place to adjust the flow of water to allow water to come over the spillway to oxygenate an area of water below the spillway for the fish. On Monday, July 9th, staff noticed that there were numerous gizzard shad coming to the top of the water below the spillway. Staff felt that there was not enough water flowing to support fish life just below the spillway; therefore, they opened the valve slightly. By Wednesday, July 11th, staff observed mature carp coming to the top of the water, which they felt was an indication that there was an oxygen problem below the spillway. Mr. Koenig stated that by Monday, July 16th, the valve remained halfway open and the level of the lake had dropped significantly over that time period. Staff reduced

the valve to approximately five (5) inches open and then closed it upon direction from the City Manager's Office and Public Works Department on Tuesday, July 17th. He advised members that on July 18th there was a large fish kill; therefore, it was believed that the efforts to oxygenate the fish area below the dam had delayed the fish kill in the area. The City contacted Environmental Compliance to assist in the removal of approximately 3.2 tons of fish, which were taken to the landfill. According to a press release issued by the Delaware Department of Natural Resources and Environmental Control (DNREC), 1,300 to 1,900 fish were killed. On Friday, July 20th, there was a smaller fish kill (200-300 fish), after which the oxygen level appeared to stabilize; however, the level of the lake had been reduced.

Mr. Koenig stated that, since these occurrences, it has been made clear that the City engineers and City Manager's Office need to be involved with the opening/closing of the valve on Silver Lake and that this should be a coordinated effort with DNREC.

Mr. Koenig indicated that the level of Silver Lake dropped approximately three (3) feet; however, it appeared that the lake was rebounding. Water was coming over the board section of the spillway and fish were no longer at the top of the water. He stated that the Silver Lake Commission suggested providing low-cost aeration just below the spillway over the long term so that the valve would not have to be opened. He noted that other recommendations made by various biologists with the State of Delaware included the possibility of an on/off working of the valve.

Mr. Koenig stated that he had been in contact with several adjacent property owners who expressed concern regarding the lack of notification about the lowering of the lake. He assured members that these procedures would be refined.

Mr. Bonar reminded members that Silver Lake was manmade and that sediment has washed into the lake for over a century, it has never been cleaned, and is in horrible need of expensive remediation, at an estimated cost of approximately $8M. He suggested that staff attempt to find funding from foundations and environmental protection organizations to assist the City. Mr. Bonar also noted that there was an aerator at the City Warehouse that has not been used in over two (2) years and felt that it would be beneficial to put it to use, although he noted that, in the past, sediment quickly filled the trap in the aerator, causing it to stop running. He suggested that the City explore a means of remediating not only the St. Jones Watershed but Silver Lake itself. He felt that the citizens deserve a pristine body of water that could be utilized to its fullest extent.

Mr. Koenig advised members that DNREC and the City have worked cooperatively on several projects in the spillway area and downstream and would soon be working on a project involving Mirror Lake. He confirmed that the problems with Silver Lake extend to areas beyond the City's control, including farmland outside City limits.

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

Benchmarks Established for the Economic Development Office

Mr. William Neaton, Economic Development Director, reviewed the benchmarks and results that were established for the Economic Development Office, which included the Downtown Dover

Partnership (DDP). With regard to events for which the DDP served as the lead organizer or partner, he noted that the benchmark was for 10 events to be held and 21 events were held. He stated that the DDP continues to work toward their fundraising goal of $25,000 and is becoming proactive and progressive with fundraising activities. Mr. Neaton stated that the DDP continues to monitor downtown merchant satisfaction and felt that this continuously improves. He advised members that the City of Dover Police Department has done an excellent job providing walking security in the downtown area, which has resulted in an increase in merchant satisfaction.

At the request of Mr. Anderson, Mr. Neaton indicated that he would provide members with a copy of the merchant survey and results.

Mr. Neaton stated that the DDP has been working on developing a recruitment strategy to attract new businesses in the downtown area. He stated that staff maintains a list of vacant and available properties for those looking for a place to do business. He stated that a meeting was held recently with ING Direct, who considered the downtown area and assisted the City in identifying areas that are considered highly distressed properties and can use new market tax credits. The DDP met with two (2) developers to discuss properties that are owned by the DDP and have the potential to use new market tax credits to enhance these properties.

Mr. Neaton advised members that EDiS previously had a contract on one (1) of the DDP's properties and requested an extension while conducting due diligence. Although EDiS remained interested in the property, based on the short-term extension offered by the DDP, they elected not to continue with the contract. However, he stated that another developer was interested in the property.

In response to Mr. Anderson, Mr. Neaton indicated that EDiS would still be interested in pursuing the property if the DDP had granted the 180-day extension they requested. The DDP Board offered a 60-day extension.

Responding to comments of Mr. Bonar, Mr. Neaton advised members that several downtown projects will be coming to fruition by the end of the year and, by that time, the downtown area will be a completely different area. These projects include the new Library, Bayard Plaza, North Street Parking, renovation of North Street for burying communication cables, the Loockerman Way Plaza, the Wesley College Connector and Walkable Campus, etc.

Mr. Neaton noted that one (1) of the benchmarks for City-wide economic development includes the Garrison Tract and that work on this project was continuing. He advised members that the City has attracted a second tenant and recently completed negotiating the ground lease with Calpine. He relayed appreciation to members of City Council for their approval of the infrastructure at the Garrison Tract. Mr. Neaton advised members that a partnership has been established with Delaware State University for the development of a marketing plan for the Garrison Tract. However, he relayed the importance of completing the infrastructure in order to move forward with attracting new businesses to the site.

No further action was taken by the Committee.

Semi-Annual Review - Statistics Regarding Jobs and Businesses Gained and Lost in the City of Dover

Mr. William Neaton, Economic Development Director, reviewed the semi-annual report of employment statistics for the 14 largest employers in the Dover area and reminded members that this information was updated and presented to the committee on a semi-annual basis. He advised members that he and the Mayor have been meeting with several of the larger businesses. He indicated his impression that the economic climate is changing and that the individuals he has been meeting with now relay a sense of confidence.

Mr. Neaton explained that he and Mayor Carey understood the importance of small and mid-size businesses; therefore, they will begin visiting with these smaller businesses in September and information regarding this will be provided to members in the future.

The Committee recommended acceptance of the Semi-Annual Review of Statistics Regarding Jobs and Businesses Gained and Lost in the City of Dover.

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

UPDATES

The following updates were provided to members:

Planning and Funding for New Library

Ms. Margery Cyr, Library Director, reminded members that the library received a $100,000 donation with a matching challenge pledge and that this challenge pledge had been met, resulting in a total of $200,000. She reiterated that the family who donated the $100,000 requested to remain anonymous at this time.

Ms. Cyr stated that the capital campaign has been successful and that their fundraising goals have been met. She stated that the Dover Library Foundation will remain in existence and, once all bills have been paid for the new library, an endowment fund will be created to provide operational support for the library in the future.

Responding to Mr. Bonar, Ms. Cyr stated that the public meeting room will perform various functions, explaining that as a single room, it can seat 150 people. A divider wall will provide for two (2) separate rooms that will occupy one-third and two-thirds of the total room. The City Manager had recording equipment installed in the room which will allow for City Council to hold meetings that can accommodate more attendees. With regard to video conferencing, Ms. Cyr stated that the State Library received a $3M federal stimulus grant three (3) years ago, and part of that funding was to provide video conferencing for the five (5) anchor libraries in the State; therefore, the library will become a video conferencing center for central Delaware.

Ms. Cyr stated that the library located at 45 South State Street will close to the public on Friday, August 24, 2012. During the period between the closing of the current library and opening of the

new library, the Kent County Bookmobile will be parked at either the current or new location on Fridays to allow individuals the opportunity to return materials and/or check them out.

Ms. Cyr stated that the new Library will be opening on Thursday, September 20, 2012, and that the ribbon cutting for the event is scheduled for 10:00 a.m.

Mr. Scott Koenig, City Manager, advised members that expanded library hours would be offered on Friday nights from 5:00 p.m. to 8:00 p.m. and that Ms. Cyr was working on programming. Elaborating, Ms. Cyr stated that the additional hours would be referred to as "Fabulous Fridays." She explained that this concept began a few years ago when the "In Harmony" Concert Series was held on the first Friday evenings in an effort to support the work of the Downtown Dover Partnership with their "First Friday" program to encourage people to stay in the downtown area after 7:00 p.m. when the "First Friday" program ended. She stated that an event or activity would be planned for every Friday night at the Library year round.

The Committee recommended acceptance of the Update on the Planning and Funding for the New Library.

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

CDBG Program

Mrs. Tracey Harvey, Planner I, reviewed the Status of Community Development Block Grant (CDBG) Projects for FY 2011/2012 and monthly statistics for August 2012.

Housing and Recovery Act of 2008 Funds (Neighborhood Stabilization Fund)

Mrs. Tracey Harvey, Planner I, reviewed the Update on the Housing and Recovery Act of 2008 Funds (Neighborhood Stabilization Program) for Fiscal Year July 1, 2011 through June 30, 2012.

Dover Youth Advisory Committee

There was no update provided for the Dover Youth Advisory Committee.

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

UTILITY COMMITTEE REPORT - AUGUST 13, 2012

The Utility Committee met on August 13, 2012 with Chairman Bonar presiding.

Dedication of Rights-of-Way and Public Infrastructure - Clearview Meadow Subdivision, Phase I

Members were advised that the Knollwood Development Corporation, responsible party for completing the public infrastructure within Phase I of the Clearview Meadow Subdivision, has requested that all public infrastructure improvements related to this phase be dedicated to the City

of Dover for permanent ownership and maintenance. Members reviewed a map depicting the general location and configuration of the subject rights-of-way. The Knollwood Development Corporation completed construction of the improvements within Phase I in accordance with City standards and specifications. After construction was completed, staff inspected the public improvements and developed a list of repairs to be made to meet the City of Dover Standards and Specifications for Public Works Construction. As of this date, all work required has been completed. A one (1) year Maintenance Agreement and associated Bond will be submitted as part of the dedication process. All other requirements of dedication have already been provided to staff.

Staff recommended acceptance of the dedication of rights-of-way and public infrastructure in Phase I of the Clearview Meadow Subdivision, with dedication to include all of the referenced public improvements, as follows:

Sewer Utility Infrastructure (Construction Value = $166,221):		
12" SDR-35 PVC Sanitary Sewer Main	-	252 l.f.
8" SDR-35 PVC Sanitary Sewer Main	-	2,094 l.f.
6" PVC Sanitary Sewer Laterals	-	2,483 l.f. (75 laterals)
4' Diameter Sanitary Sewer Manholes	-	10 ea.
Water Utility Infrastructure (Construction Value = $180,016):		
10"Ductile Iron (Class 52 Cement Lined) Water Main	-	940 l.f.
8" Ductile Iron (Class 52 Cement Lined) Water Main	-	2,363l.f.
6" Ductile Iron (Class 52 Cement Lined) Water Main	-	75 l.f.
1" Type K Copper Water Services	-	2,483 l.f. (75 services)
10" Gate Valves	-	7 ea.
8" Gate Valves	-	9 ea.
Fire Hydrants	-	5 ea.
Storm Water Infrastructure (Construction Value = $85,697):		
Catch Basins Type J	-	18 ea.
Catch Basins Type JJ	-	2 ea.
18" Type III Reinforced Concrete Pipe	-	379 l.f.
15" Type III Reinforced Concrete Pipe	-	958 l.f.

Street Infrastructure (0.7685 miles) (Construction Value = $559,912):		
John Hunn Brown Boulevard	Station 0+00 to Station 12+14	1,214 l.f.
Mer Way	Station 0+00 to Station 7+97	797 l.f.
Lady Bug Drive	Station 0+00 to Station 6+60	660 l.f.
Nob Hill Road	Station 28+00 to Station 33+50	550 l.f.
Babb Drive	Station 2+50 to Station 5+35	285 l.f.
Nob Hill Road South Alley	Babb Drive to JH Brown Blvd.	560 l.f.

Mr. Scott Koenig, City Manager, advised members that the total construction value of the public improvements was $991,846.

The Committee recommended approval of staff's recommendation for the acceptance of the dedication of rights-of-way and public infrastructure for the Clearview Meadow Subdivision Phase I, to include all of the referenced public improvements.

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

Annual Review and Approval of Governing Policy for Energy Commodity Risk Management

Members reviewed the Governing Policy for Energy Commodity Risk Management. Mr. Scott Koenig, City Manager, reminded members that during their meeting of July 23, 2012, Mr. Jamie Mahne, Chief Client Officer for The Energy Authority (TEA), gave a presentation regarding Dover Risk Policy Modifications. As the City's Energy Manager, TEA had recommendations for modifications to the City's Energy Risk Policy. Mr. Koenig indicated that the Governing Policy for Energy Commodity Risk Management was inadvertently omitted from the material presented for consideration during that meeting.

Mr. Koenig advised members that, in accordance with the policy, the Utility Committee must conduct an annual review and approval of the Governing Policy For Energy Commodity Risk Management. He stated that in the future staff would present the policy for review and approval in April or May of each year to coincide with the annual budget process.

In response to Mr. Blakeman regarding minutes of the Executive Risk Management Committee (ERMC), as indicated on Page 5, Mr. Koenig stated that although the minutes are not automatically forwarded to the Utility Committee, they are available upon request. Mr. Bonar requested that he be provided copies of the minutes as well as any presentations. Mr. Koenig indicated that two (2) separate types of meetings are held: 1) Management Committee meetings with North American Energy Services (NAES), TEA, and City staff, and 2) ERMC meetings with City staff and TEA.

Mrs. Donna Mitchell, Controller/Treasurer, explained that the ERMC meetings are not public since counterparties, hedges, etc., are discussed; however, the Management Committee meetings have always been public. She stated that, although minutes are maintained for both committees, the ERMC minutes are not public.

Referring to Page 13, Mr. Blakeman questioned if the limit of $60M was a total limit or applied to each company. Mrs. Mitchell confirmed that the policy mandates that at no time will the City incur a credit exposure with any one (1) counterparty greater than $60M; therefore, the City's credit exposure could be much higher than $60M. However, she explained that the City diversifies the portfolio and tries to obtain more counterparties. She assured members that the City's limit was never that high with any one (1) counterparty and noted that the City did not need that many hedges for its load; therefore, it would never reach the maximum allowed. She stated that the City's credit exposure has never exceeded $10M to $15M for any counterparty. Mr. Blakeman suggested the possibility of revising the limit to a total of $60M (or other amount recommended).

Mrs. Mitchell explained that this matter was negotiated individually by PACE with each counterparty in accordance with the countparties' requirements, so each counterparty may desire a different threshold. She noted that they might not all accept a certain limit.

Responding to Mr. Snaman regarding the cost of producing solar energy, Mr. Koenig stated that members had been provided a spreadsheet that reflected the cost of SunPark activity. Mr. Snaman noted that the data reflected only what the City was charged. He explained that if the Sun Park was being subsidized by the Federal Government and if that subsidy ends, the City would be exposed. He requested that staff determine the City's exposure. For clarification, Mr. Bonar indicated that staff should provide members with the cost of producing one (1) kilowatt of solar energy versus the amount being reimbursed from the Federal Government.

Mrs. Mitchell explained that the solar energy issues are separate from the Policy, since the Policy regulates the City's hedge program and solar is a separate Purchased Power Agreement (PPA).

Mr. Snaman moved to recommend approval of the Governing Policy for Energy Commodity Risk Management. The motion failed for the lack of a second.

In response to Mrs. Williams' concerns, Mr. Koenig indicated that no additional information had been requested that was related to consideration of the Policy, explaining that solar energy was a separate issue. He stated that, as previously explained by Mrs. Mitchell, there is a $60M risk per party; however, since the City needs to purchase only $60M of power per year, the City's risk is only $60M annually.

Mrs. Mitchell stated that the exposure, by counterparty, is included in the Comprehensive Annual Financial Report (CAFR) in the financial disclosure notes.

Mr. Bonar requested that staff respond to the questions and concerns of members during their next meeting scheduled for August 27, 2012.

Review of Utility Related Capital Investment Plan (CIP) ***(Electric and Water/Wastewater)***

Members reviewed a Project Tracking Report, as of June 30, 2012 (preliminary), for the Utility (Electric and Water/Wastewater) Related Capital Investment Plan (CIP).

Responding to Mrs. Williams regarding the Troon Road Pump Station, Mr. Scott Koenig, City Manager, stated that the project was complete, the grass had not grown due to dry weather and would be re-seeded in September, and repaving of the roadway would be a part of a street program.

In response to Mr. Anderson regarding the Lincoln Park Center, Mr. Koenig explained that the project was funded through a planning and transportation grant from the Federal Government. The preliminary engineering phases were complete and the project was now entering the final engineering phase. A report was submitted to the Federal Highway Administration and the City was waiting for a finding of no significant impact so that the City could move on to the final design phase and begin purchasing rights-of-way.

No further action was taken by the Committee.

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

Mr. Scott Koenig, City Manager, stated that the Director of Planning and Community Development indicated that an intern had been working for the City on the National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Permit, to help keep the City permit compliant. He stated that once the new library opens, a lecture and presentation are planned for an informational meeting on the MS4 Permit. In addition, he stated that there were several projects taking place in the watershed related to the MS4, including Delaware Department of Natural Resources and Environmental Control (DNREC) projects and actions being taken by the City to reach compliance. He noted that the City does not have an active permit and is waiting for DNREC to respond to the City's application for a new permit.

Update - Garrison Oak Technical Park Project

Mr. Scott Koenig, City Manager, stated that an air permit hearing was held regarding the Calpine Project and the record has been closed. He advised members that Calpine received comments from the Federal Government as well as LS Power. He noted that during the Council Meeting scheduled for later in the evening, members would be considering revisions to the Engineering Services Agreement to finish design of the sewer system and other land planning related items that were not definitively known at the time the original contract was signed.

Mr. Koenig advised members that Calpine was moving ahead with their project and the City was working on finalizing the City's issues with the project in order to begin construction on or about the same time the Calpine project moves forward.

In response to Mrs. Williams, Mr. Koenig stated that he had spoken with residents of Wild Meadows recently and that the Garrison Oak Technical Park Project was not mentioned. He felt that the majority of the residents were now relatively satisfied with the project and noted that Calpine had made tremendous efforts to interact with the residents and consider their concerns with the project. To his knowledge, Calpine had cleared all of their federal requirements and were working with the Federal Emergency Regulatory Commission (FERC) on the gas line extension.

Mr. Koenig stated that, to the best of his recollection, there would be a certificate or document in approximately October that would solidify what Calpine will need to do for the PJM, which would be their final hurdle. During the air permit hearing, he stated that there was no public testimony against the project; however, LS Power submitted a letter relaying concerns related to the construction of the power plant, dust, water vapors, "film" buildup on solar array, etc. He noted that these concerns were being worked out between LS Power and Calpine.

Responding to Mr. Hutchison, Mr. Koenig stated that Calpine was hoping that all permitting would be completed and planned to obtain a City building permit in January 2013. It was their desire to begin testing in February or March 2015, with full operation to the PJM Grid in June 2015 since that is the auction for which they have bid.

Update - Dover Sun Park

Mr. Scott Koenig, City Manager, noted that members received a summary of Dover Sun Park activity for Fiscal Year 2012 and offered to respond to any questions. As indicated, he stated that the Sun Park cost the City approximately $367,000 more than if the power were purchased off the grid.

Responding to Mrs. Williams, Mrs. Donna Mitchell, Controller/Treasurer, stated that $1.6M was budgeted for purchased power in FY2012, which netted out to be a $366,850 cost for the City. She stated that she would provide members with the budget details.

Mr. Blakeman requested that staff provide members with the cost per kilowatt or megawatt hour for what the City is paying and also the costs for kilowatt or megawatt hour that is being bought off the grid each month. Responding, Mrs. Mitchell indicated that she would forward the requested information to members.

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

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - AUGUST 13, 2012

The Legislative, Finance, and Administration Committee met on August 13, 2012 with Chairman Lynn presiding.

Request for Proposals - Banking Services

Members were advised that the City solicited proposals for bank services and received proposals from four (4) banks. The proposals were evaluated by a team selected from the Finance, Administrative Services, and Information Technology Departments. A considerable amount of information was requested in the Request for Proposals (RFP) and additional information was submitted to the City in response to three (3) addendums. The RFP required each bank to submit their current audited financial statement, including footnotes and the auditor's opinion. It also required each bank to submit their current Securities and Exchange Commission Form 10K or Form 10Q. The submission and review of these statements are imperative to the City of Dover's due diligence to ensure the security of the City's assets. The RFP requested a copy of each bank's SAS 70 [Statement on Auditing Standards No. 70]. This statement is prepared by independent auditors and attests to the bank's internal controls in regard to their online banking tools, which will be utilized by the City of Dover. This last piece of due diligence ensures the City of Dover's funds are safeguarded while being transferred using the bank's online software.

A mix of responses were received in regard to the City's requirement to submit the above reports, and were reflected in a Summary Scoring Sheet. In today's economy, especially with all of the changes occurring in the banking industry, it is critical the City of Dover perform as much due diligence as possible before selecting a bank.

Each bank was also given the opportunity to meet with the City's banking RFP selection team to present their proposal. This provided each potential bank the opportunity to share additional

information that could be helpful in the analysis process. It also gave the team an opportunity to finalize any outstanding questions.

All of the proposals were scored on several factors that included quality, reputation, location of branches, ability to meet the City's cash management requirements, completeness of the proposal, record of performance, technology, future enhancements, government banking experience, and the qualifications of the team assigned to the City of Dover. The pricing score was based on a calculation that included the proposed net earnings using each bank's net service fees and interest rates applied to Calendar Year 2011's average balance and transaction activity. All four (4) banks provided earnings credits or interest, but only one (1) bank guaranteed the interest rate over the life of the contract. One (1) of the banks agreed to waive all monthly bank service fees except for the lockbox fee.

Two (2) ratios taken from each bank's 2011 Annual Report, Tier 1 Capital Ratio and Total Risk Based Capital Ratio were also included. Risk-based capital requirements exist to protect the bank, their investors and customers, and the economy as a whole. Placement of risk-based capital requirements ensures that each financial institution has enough capital to sustain operating losses while maintaining a safe and efficient market.

References were checked for the recommended bank, with good results.

The Finance Department recommended selecting WSFS Bank as the City's banking services provider.

In response to Mr. Shevock, Mrs. Donna Mitchell, Finance Director/Comptroller, stated that the institution selected would replace the City's current provider, Citizens Bank. She indicated the RFP was prompted by receipt of notification from Citizens Bank that they were getting out of government banking services. Mrs. Mitchell explained that all of the banks that submitted proposals charge lockbox fees and offer earnings credit or interest. Based on the City's average balances, WSFS Bank would waive all fees (other than lockbox fees) and still offer an earnings credit. She stated that when the earnings credit was netted against the fees, including the lockbox fees, the rates were as follows: Citizens Bank - $63,641; M & T Bank - $101,861; Wells Fargo - $488,297; WSFS - $4,201. She explained that the waiver of fees and earnings credit offered by WSFS helped to reduce the lockbox fees.

The Committee recommended acceptance of staff's recommendation to select WSFS Bank as the City's banking services provider.

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

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

EVALUATION OF PROPOSALS - ELECTRIC UTILITY VALUATION SERVICES

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 Mr. Anderson, Mr. Koenig stated that when Council authorized staff to proceed, it was indicated that staff would be authorized to spend up to $150,000 for the study. The funding was included in the budget for this year and would be paid from the Electric Fund.

Mr. Bonar moved to award the contract for Electric Utility System Valuation Services to GAI Consultants in the amount of $117,500, as recommended by staff, seconded by Mr. Hutchison.

Mr. Bonar stated that this action would result in a professional, complete, and thorough evaluation of the value of the City's Electric Department and all of its appurtenances being conducted for the first time in the history of the City. He noted that the City had depended on electric revenues to balance the budget; however, he felt that there may be a time in the future that this would not be possible or rational.

It was Mr. Lynn's opinion that this valuation service was just the first step toward the road of possibly selling the electric utility, which he adamantly opposed. He noted that during the Legislative, Finance, and Administration Committee Meeting held earlier in the evening, members were discussing the need to do what is fair and equitable and until the City takes care of former City of Dover employees, he could not, in good conscience, vote to spend $117,500 to value the City's electric utility. Although he respected Mr. Bonar's opinion on the matter, he felt this action would be frivolous.

Mr. Anderson advised members that, other than crime and economic development, this issue had been the most talked about within his Council District. He stated that his constituents questioned

why the City would want to spend this much money during the current economic climate and indicated that the vast majority (85%) of these individuals were adamant that they did not want the power plant sold. So, although he agreed with staff's recommendation, as a representative of the Fourth District, he could not vote in favor of the motion.

For clarification, Mr. Koenig read the Scope of Work associated with the project, as follows:

"A. Scope of Work

The consultant retained by Dover as a result of this RFP ("Consultant") must prepare and deliver to Dover an opinion and comprehensive study that will estimate the value of the Electric System under various scenarios. The Consultant must also analyze how Dover's loss of control of the Electric System (that is, sale of the Electric System) would affect Dover and its citizens. At a minimum, the study must establish the Electric System's value utilizing a book value approach, a replacement value of assets depreciated approach, and a comparable Electric System asset sales approach. In addition, the study must consider the following factors:

- *Net book value of the Electric System's generation, transmission, and distribution assets and infrastructure;*
- *Replacement cost new depreciated value (RCND) of the Electric System;*
- *Valuation of the Electric System (revenue analysis) as an on-going enterprise to determine range of values over book value;*
- *Net proceeds that Dover would realize from a sale of the Electric System after subtracting funds for refunding of outstanding debt and other expenses;*
- *Comparison of the Electric System's rates with the rates of other retail electric utilities serving customers in Delaware;*
- *Analysis of the replacement cost of electricity for municipal facilities;*
- *Possible tax revenues (i.e., property taxes and franchise fees) that may be realized by sale of the Electric System;*
- *Impact of loss of Electric System revenue on Dover's General Fund;*
- *Impact of long-term solar energy power supply contract and forward energy positions on valuation;*
- *Dover staffing and payroll changes that are likely to result if the Electric System is no longer a Dover responsibility; and,*
- *Other potential values lost or gained, such as economic development, if the Electric System is sold.*"

In response to Mr. Hutchison, Mr. Bonar reiterated that the research he had conducted indicated that such a study had never been done in the history of the City. He stated that the City's electric utility was worth a great deal of money and that the valuation would not only reveal its worth but also enable the City to determine what its attendant business may be worth in terms of adjusting rates. It was his opinion that, although $117,500 would be spent, it would make sense for the City to proceed with the study and noted that the expenditure in the amount of up to $150,000 (approved by Council in 2011), would come from the electric reserve funds. He felt that the information would

allow the City to determine how it could either better serve or receive benefit from the Electric Department.

Responding to Council President Leary, Mr. Koenig estimated that the valuation would take three (3) to six (6) months to complete and stated that he would provide members with a firm time frame. Mr. Bonar estimated that it would take closer to one (1) year.

Mr. Perza questioned if the valuation would be useful only for the year it was accomplished or if it would have value in five (5) or ten years and questioned if it would be better to defer action until the City was ready to make a decision regarding the electric utility. Responding, Mr. Koenig indicated that the valuation would be a "snap shot" based on the year the appraisal was accomplished and if the valuation were reviewed in five (5) years, it would be necessary to consider depreciated values. He stated that this issue had been pushed because of the differential of rates (between the City of Dover and other providers in the area). He reminded members that the City had worked very hard during the past couple of years and, as a result, the cost of power supply had decreased through the City's long-term power purchases, and rates had decreased in the past year; therefore, the differential between the City and other providers had been reduced over time.

In response to Mr. Bonar, Mr. Koenig indicated that the City had approximately 23,000 metered connections. Mr. Bonar stated that by approving staff's recommendation, the City would be requesting the 23,000 customers to share in the expense of $117,500, which would equate to approximately $6-$7 per customer.

Noting that such a study had never been completed, Mr. Lynn questioned what ill had come on the utility as a result of not having such a study done. Responding, Mr. Koenig felt that the only ill would possibly be rate contention.

Council President Leary noted that this issue had a political component and an economic component. He indicated his concurrence with Mr. Anderson's experience on a political level. However, he felt that knowledge was powerful and that spending a relatively small amount of money to determine the worth of the electric utility could prove beneficial. It was his opinion that, since the electric utility serves as the City's "golden goose," the City should find out how much the "golden goose" is worth.

Mr. Bonar reminded members that just because the City has had something for a hundred years which appeared to have worked well, this does not mean that it cannot work better, which he felt was the purpose of the valuation.

On a call for the question by Mr. Bonar, the motion to award the contract for Electric Utility System Valuation Services to GAI Consultants in the amount of $117,500, as recommended by staff, failed by a roll call vote of four (4) yes, two (2) no (Mr. Anderson and Mr. Lynn), and three (3) absent (Mrs. Russell, Mrs. Williams, and Mr. Hare).

Mr. Anderson moved for reconsideration and to have this entered on the minutes for the next Council Meeting, expressing his hope that this issue was important enough to be considered again when the full Council was present. The motion was seconded by Mr. Bonar.

In response to Deputy City Solicitor Pepper's response to a point of order called by Mr. Lynn, Mr. Anderson questioned if the example mentioned was for the "reconsideration" or "reconsideration and have it entered on the minutes," which would have a different effect.

There being no objections, Council President Leary called for a brief recess.

Meeting recessed at 8:54 p.m. and reconvened at 8:58 p.m.

After review of Roberts Rules of Order, Deputy City Solicitor Pepper confirmed that Mr. Anderson's motion for "reconsideration and have it entered on the minutes" was in order.

The motion for reconsideration and to have it entered on the minutes for the next Council Meeting was carried by a roll call vote of five (5) yes, one (1) no (Mr. Lynn), and three (3) absent (Mrs. Russell, Mrs. Williams, and Mr. Hare).

RESCINDING ACTION TAKEN ON FEBRUARY 27, 2012 - CANCELLATION OF COUNCIL AND COMMITTEE MEETINS FALLING IN THE WEEK OF THE FOURTH MONDAY OF EVERY THIRD MONTH (MARCH, JUNE, SEPTEMBER, AND DECEMBER)

During their meeting of February 27, 2012, members approved the Council President's suggestion for the cancellation of the Utility Committee, Legislative, Finance, and Administration Committee, and City Council meetings falling in the week of the fourth Monday of every third month (March, June, September, and December) and moving the Safety Advisory and Transportation Committee meetings falling in those months to the week of the second Monday of that same month.

Council President Leary noted that there was a period of time when there were very short Council and Committee meetings and it was felt that it may be a good idea to attempt to truncate the workload and cancel some meetings every quarter; however, recent history had proven that this was an imprudent move and advised members that there was extra work facing members of Council that would require these meetings.

Responding to Mr. Anderson, Council President Leary stated that action regarding the second meetings scheduled for December would be taken by Council as the date approaches.

Mr. Anderson moved to rescind the action taken on February 27, 2012 which cancelled the Council and Committee meetings falling on the fourth Monday of every third month (March, June, September, and December) and moved the Safety Advisory and Transportation Committee meetings falling in those months to the week of the second Monday of that same month, seconded by Mr. Lynn and unanimously carried.

COUNCIL MEMBERS ANNOUNCEMENTS

Mr. Hutchison advised members that he had the opportunity to spend time on a "ride-along" with City Inspectors and had observed in excess of 450 units that were in some type of declining status. He relayed appreciation to these employees for their work and noted the outstanding database that includes up-to-date information necessary to address these types of issues. He requested that

members of Council be reminded that areas such as New Street and Queen Street were built and designed for single family dwelling residence. The City converted some of those properties to apartments, and the result was that there were more people residing there, which he felt was one of the reasons for the current conditions in these areas. He suggested that members be sensitive to these types of issues.

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 fund raising event and that registration information could be obtained from www.trisportsevents.com or by calling Mrs. Rebecca Rollison at 302-736-4242.

There being no objections, Council President Leary declared the meeting adjourned.

Meeting Adjourned at 9:04 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of August 27, 2012, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM/jg
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Exhibits
Exhibit #1 - Statement from Central Delaware Branch #2028 of the NAACP
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 39 Primrose Drive (Attached to Original Minutes)
Exhibit #3 - Presentation - Violation of Dangerous Building Ordinance - 38 South New Street (Attached to Original Minutes)
Exhibit #4 - Presentation - Appeal of Notice to Vacate - 110 South New Street (Attached to Original Minutes)

NAACP CENTRAL DELAWARE BRANCH #2028
P.O. BOX 133 • DOVER, DELAWARE 19903-0133 • PHONE (302) 674-0180

NAACP STATEMENT

The Central Delaware NAACP has reviewed the City of Dover's proposed Council Districts, with accompanying Census data. The proposed plan includes a District 4 which is a majority black district with majority black voting age population (VAP). This is consistent with paragraph 6 of the Consent Order between the NAACP and Cecil Wilson and the City of Dover in Civil Action No.85-230-JLL. Proposed District 4 has a black voting age population of 54.5%.

In specifying that the majority black district include at least 65% black population and majority black VAP, the Order also requires that the district have equivalent voter registration. The City consulted with the Kent County Department of Elections to try and determine the race of registered voters but was informed that statistics on race/registration are not available. The City did not check with other outside consultants and/or political parties to help it determine equivalent voter registration.

A broader question involves the population shift in the City from 26.43% BVAP citywide in 1980 to 41.8% BVAP in 2010. Despite this growth in BVAP, one-fourth or 25% of district 25% of the district seats (and less than 25% of all seats when the at-large seat is counted) are held by black councilpersons. While traditional redistricting principles employed by the City, we invite the City to work with the NAACP to creatively develop a municipal election system that better reflects the choice of black voters citywide and that is fair to all voters.

Violation of Dangerous Building Ordinance 39 Primrose Drive

Planning & Inspections Department

Dover, Delaware

August 27, 2012

EXHIBIT #2
Regular Council Meeting of 8/27/2012

39 Primrose Drive
Case History

- Twenty-five code enforcement cases since 1999
  - Interior/Exterior code violations
  - Tall grass and weeds
  - Abandoned/Junked vehicles
  - Vacant Building
- Registered as vacant by the city on June 10, 2012
- The utilities were terminated on February 2, 2012
- Condemned by City Staff on June 28, 2012 due to insanitary conditions and exterior code violations
- Source of neighbor complaints
- Outstanding Charges
  - Fees for securing the building

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

(5) *Unfit for habitation.*

(9) *General welfare.*

(10) *Code violations.*

(12) *Unoccupied buildings.*


39
08/27/2012 11:39


39
08/27/2012 11:37


08/27/2012 11:39


DANGER
08/27/2012 11:39


08/27/2012 11:40


08/27/2012 11:40

Recommended Council Action

- Declare this property dangerous.
- Order the property repaired or demolished by **September 27, 2012** by the owner or equity owner at their own risk.
- Order the Building Inspector to cause the repair or demolition of the property 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 property 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.

Violation of Dangerous Building Ordinance 38 South New Street

Planning & Inspections Department

Dover, Delaware

August 27, 2012

EXHIBIT #3
Regular Council Meeting of 8/27/2012

38 South New Street
Case History

- Numerous violation cases since 1999
  - Vehicles parked on the grass/unregistered vehicles
  - Tall grass & weeds
  - Exterior and interior violations
- Subject of fire on 1/8/2012
- Outstanding Payments
  - Outstanding demolition charges for 106 S. New Street & 35 N. New St.

38 South New Street
Case History Since February 27, 2012

- Dangerous Building case tabled by Council
- Update to “Clean Hands” adopted 6/25/12
- Building permit approved and applicant notified in July 2012
- Board of Adjustment denies variance to restore as two-family dwelling on August 15, 2012
- Building permit picked up on August 20, 2012

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

- (4) *Fire Damage, etc.*
- (5) *Unfit for habitation*
- (9) *General welfare.*


38A
DANGER
WILL BE PROSECUTED
38
01/09/2012 09:20


38
DANGER
38B
01/09/2012 09:20


01/09/2012 09:20


FIRE LINE DO NOT CROSS
01/09/2012 09:21


01/09/2012 09:23







Recommended Council Action

- Declare this building dangerous.
- Order the property repaired or demolished.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner **by November 27, 2011**.
- 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.

Appeal of Order to Vacate 110 South New Street

Planning & Inspections Department

Dover, Delaware

August 27, 2012

EXHIBIT #4
Regular Council Meeting of 8/27/2012

110 South New Street
Order to Vacate – Case Background

- 110 South New Street consists of:
  - 1st floor office for House of Pride (no longer used)
  - 2nd floor – 5 sleeping rooms with common kitchen and sanitary facilities
  - 3rd floor – 2 self-contained apartments
- All House of Pride recovery and transitional housing properties subject to Conditional Use Permit
  - Includes requirement for annual inspections due to past compliance issues
- July 12, 2012 – Code Enforcement & Fire Marshal joint inspection of House of Pride Properties
  - Numerous fire/life safety violations found

110 South New Street
July 12, 2012 Inspection Report

- Excessive Storage on First Floor
- Inoperable/Missing Smoke Detectors
- Improperly Functioning Self-Closing Door Hardware
- Fire Extinguishers Discharged or Inspections Not Up-To-Date
- Ceiling Repair
- Stove Not Properly Functioning – Burner Elements Missing

110 South New Street
History Prior to July 12, 2012

- Property inspected annually since 2010
- Following violation observed on each inspection, then subsequently corrected:
  - Smoke detectors not in working condition
  - Self-latching hardware on doors not working correctly
  - Fire extinguishers either discharged or in need of inspection

110 South New Street
History Prior to July 12, 2012

- Repeated problems with fire alarm phone lines
  - service not restored until ordered by FMO
  - October 2008, April 2009, February 2012
- Unattended cooking responses by Fire Dept.
  - 2010 – 5 responses
  - 2011 – 11 responses
  - 2012 – 2 responses

110 South New Street
History Prior to July 12, 2012

Letter sent by FMO on March 16, 2012 requiring that a fire safety plan be developed with staff on-site to implement it. While there have been e-mails back and forth, no plan is currently in place.

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

(5) *Unfit for habitation* - Those which have become or are so … unsafe … so utterly fail to provide the amenities to decent living that they are unfit for human habitation … so as to work injury to the health, morals, safety or general welfare of those living therein

(9) *General welfare* - Those which, because of their condition or use, are unsafe…

(10) Code violations - Those existing in violation of any provisions of the building code of this city, or any provision of the fire prevention code, or other ordinances of this city

Chapter 22 Article XI, Sec. 22-382 - Standards for repair, vacation or demolition

The following standards shall be followed in substance by the building inspector in ordering repair, vacation, or demolition of dangerous buildings:

(2) *Vacation.* If the dangerous building is in such a condition or is being used as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated and closed. **Buildings ordered closed shall not be reopened until a certificate of occupancy is issued.**


110
DANGER
110


08/27/2012 13:57


NO TRESPASSING
110
08/27/2012 13:57


08/27/2012 13:56

Recommended Council Action

Staff recommends that City Council uphold the action of the Department of Planning and Inspections to order the property at 110 South New Street to be vacated and closed.