REGULAR COUNCIL MEETING

The Regular Council Meeting was held on April 9, 2012 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mrs. Russell, Dr. McGlumphy, Mr. Lynn, Mrs. Williams, Mr. Hare, and Mr. Hutchison. Mr. Bonar was absent.

Council staff members present were Police Chief Hosfelt, Ms. Russell, Mrs. Mitchell, Mrs. Townshend, Fire Chief Fortney, 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 is not in official session and cannot take formal action.

Mr. Ted George, 77 Billings Drive, requested that members consider providing customers with all electric homes a discount during the months of December, January, and February. He advised members that several years ago, such a discount was provided to these customers for 16 years, after which members of City Council eliminated the discount. He noted that in 1975, the electric rate was 6.3 cents per kilowatt and that during the discount months, it was 5 cents (a 20% discount). In addition, with reference to the employee union negotiations, he requested the use of restraint for people's salary in the City.

Mr. Herb Konowitz, 55 Lloyd Avenue, stated that he serves as Vice-Chair of the Dover Inner Faith Mission for Housing (homeless shelter) that has been recognized numerous times by the City for the work done in the rehabilitation of homeless men in the central Delaware area. He relayed objections to the proposed Sex Offender Ordinance (#2012-08), explaining his belief that the State law prohibiting sex offenders from living and/or working within 500 feet of a school is restrictive enough to control the lives of these sex offenders. Mr. Konowitz noted that according to federal statistics, only 7% of sex offenders victimize someone that they do not know. He stated that according to case studies and after interviewing men at the shelter, he has found these same statistics to be true locally. He urged members of Council not to support the proposed ordinance.

Ms. Heather Smith-Chandler, 848 Townsend Boulevard, addressed members regarding her opposition to the proposed Sex Offender Ordinance #2012-08. She explained that there is a lack of true evidence of any safety that would be provided to children or the community based on the restrictions included in the proposed ordinance. She also explained the re-entry issue and stabilization of offenders as they attempt to reintegrate back into communities, noting that the restrictions cause isolations, remove individuals from urban areas where they can access transportation, jobs, employment, housing, etc. Ms. Smith-Chandler stated that there are a lot of legal challenges that such restrictions are going to be upheld constitutionally and questioned if members of Council would be willing to spend taxpayer dollars to defend the restrictions.

Referring to the Jacob Weatherling Resource Center, Ms. Smith-Chandler explained that it educates families and communities to prevent the abduction and exploitation of children and has played major roles in significant legislation that has been passed in this regard. However, she advised members of their opposition on residency restrictions since they have been shown to be ineffective at

preventing harm to children and provide a false sense of security while sapping resources that could better produce results elsewhere. She requested that members of Council vote no when the ordinance is presented for its adoption.

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

AGENDA ADDITIONS/DELETIONS

Council President Leary noted that since Governor Markell has not signed SB 173, item #3 - Proposed Resolution No. 2012-04 - Authorizing Bank Qualified Loan, should be removed from the agenda.

Mr. Hutchison moved for approval of the agenda as amended, seconded by Mrs. Williams and unanimously carried.

Council President Leary advised members that item #10C - Assignment of Emergency Management Coordinator Responsibilities, was inadvertently omitted from the consent agenda and requested that it be added to the consent agenda.

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

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF MARCH 12, 2012

The Minutes of the Regular Council Meeting of March 12, 2012 were unanimously approved by motion of Mr. Hutchison, seconded by Mrs. Williams and bore the written approval of Mayor Carey.

PRESENTATION - FRIENDS OF THE DOVER LIBRARY PRESENTATION OF DONATION

Mr. N.C. Vasuki, President of the Friends of the Library, presented a $15,000 donation to Mayor Carey and Ms. Dorothy Snyder, President of the Dover Library Foundation, as a part of their commitment to support the new Library. He stated that the Friends of the Library is a unique organization, consisting of a small group of volunteers who do extraordinary work raising money to support the Dover Library and disseminate information.

Ms. Snyder relayed appreciation for the donation and the membership of the Friends of the Library. Mayor Carey also relayed appreciation for the contribution for the new Library.

PRESENTATION - AWARDS BY DOWNTOWN DOVER PARTNERSHIP - ST. PATRICK'S DAY PARADE

Mr. Bill Neaton, Executive Director of the Downtown Dover Partnership and Economic Development Manager, introduced Mr. Gary Chaffee, volunteer for the Downtown Dover Partnership who served as the organizer for the parade. Mr. Chaffee presented an award to the Kent County Amateur Radio Club in appreciation for their communications support. He explained that the Kent County Amateur Radio Club monitored the parade, assured there were no problems,

accidents, etc. and remained in constant contact throughout the parade. He presented the 18th Annual St. Patrick's Day Parade awards, as follows:

Category	Recipient
Pot O' Gold Award - Anything with Wheels (except car clubs)	THE WHEELMEN
Rainbow Award - Car Clubs Only	LONE WOLF OUTLAW CRUISERS
Blarney Award - Best Mascot	CHICK-FIL-A
The Green Machine Award - Best Float	IRISH SOCIETY OF DELMARVA
Aran Award - Best Animal (Large)	COZY CORNERS 4-H
Aran Award - Best Animal (Small)	DIAMOND CHIHUAHUAS
Harp Award - Best Musical Group (not a band)	DOVER POLICE DEPARTMENT BAGPIPERS
Emerald Isle Award - Most Authentic Irish Theme	STEPPIN' SENIORS
Leprechaun Award - Best Brigade/Marching Unit (not a band)	436TH AIR WING & 373RD TRAINING GROUP - DOVER AIR FORCE BASE
McNamara Award - Best High School Marching Band	POLYTECH HIGH SCHOOL
Shamrock Award - Best Adult Band	DELAWARE TECH TERRY CAMPUS HAMMERIN' HAWKS DRUMLINE
Mary Fitzpatrick Award - Best Overall	IRISH SOCIETY OF DELMARVA

PRESENTATION - POLICE DEPARTMENT ANNUAL REPORT

Members were provided the Police Department Annual Report. Police Chief James Hosfelt reviewed a presentation depicting the highlights of the reports ***(Exhibit #1)***.

Chief Hosfelt provided a brief video of what a violent crime looks like in Dover, noting that the incident occurred at a local establishment at approximately 3:00 a.m. when most people are in bed asleep. He noted that the incident started as a fist fight between two men, and then people with handguns and automatic rifles began to surround the fight. He noted that a gentleman in the back was holding an AK47 assault rifle and that the incident was an example of what occurs in Dover on any given night.

Mr. Hutchison stated his feeling that the Dover Police Department represents a premier police department which is the result of policies and selection of good employees and officers. He relayed congratulations and appreciation to all the employees of the Dover Police Department.

Dr. McGlumphy indicated his appreciation for the department working on diversity and explained the importance of the City's workforce representing the community which it serves.

Mr. Hutchison moved for acceptance of the Police Department Annual Report, seconded by Mr. Anderson and unanimously carried.

PRESENTATION - CERTIFICATE OF RECOGNITION - DOVER POLICE DEPARTMENT - COMMISSION ON ACCREDITATION FOR LAW ENFORCEMENT AGENCIES, INC. (CALEA) ACCREDITATION WITH EXCELLENCE AWARD

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

Certificate of Recognition
presented to
Dover Police Department

in recognition of being accredited for the 5th consecutive time
and by being selected by the Commissioners of CALEA
(Commission on Accreditation for Law Enforcement)
to receive the "Accreditation with Excellence Award"
which is the Gold Standard for Public Safety.

This award has only been issued to 34 police agencies nationwide
and the Dover Police Department is the first
law enforcement agency in the State of Delaware.

Congratulations to all members of the
Dover Police Department for your continued dedication
and in receiving such a prestigious honor!

Mayor Carey presented the Certificate to Police Chief Hosfelt and explained the criteria required to attain this award, noting that the City of Dover's Police Department has been designated an excellent police department.

APPEAL OF DENIAL - D&S INVESTMENT COMPANY - 149 SOUTH GOVERNORS AVENUE - ADMINISTRATIVE BUILDING PERMIT (*Tabled at Council March 12, 2012)*

During their Regular Meeting of March 12, 2012, members considered an appeal of the denial of permit #12-229 related to 149 South Governors Avenue, owned by D&S Investment Company and tabled the matter.

Mr. Hutchison moved to remove the matter from the table, seconded by Mr. Hare and unanimously carried.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that her department received a building permit application for property located at 149 South Governors Avenue, owned by D&S Investments, for a change in occupancy classification in order for the tenant to open a salon at this location. In accordance with Section 1-13 of the Dover Code, staff denied the building permit due to tax delinquencies for 2010 and 2011 for several properties owned by D&S Investments. In addition, at that time, the property owner had delinquent fines and had not renewed rental permits and, although the owners had made payment on some of their obligations due to the City, there remained outstanding obligation.

Mrs. Townshend advised members that based on current information from the Customer Service Department, D&S Investments currently owe the City $6,217.56 for a variety of outstanding debts, including utility fees, return check fees, and taxes.

Mrs. Donna Mitchell, Controller/Treasurer, indicated that according to the Customer Service Department, the delinquencies are going to monition and noted that all such outstanding debts are in the monition stage.

Mr. Hutchison moved to deny the appeal of D&S Investment Company, seconded by Mrs. Williams and carried by a unanimous roll call vote.

PUBLIC HEARING - VIOLATION OF DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 344 WEST WIND DRIVE, OWNED BY ROCHELLE ROSS *(EMERGENCY CASE)*

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. A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 344 West Wind Drive, owned by Rochelle Ross.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided a chronological history and presentation ***(Exhibit #2)*** on the conditions of the house located at 344 West Wind Drive. She noted that the two story wood framed duplex was condemned as unfit for human habitation on February 28, 2012 due to the degree of damage to the structure from a fire that occurred on the night of February 27, 2012. Currently the structure is still vacant with no utilities and in a serious state of disrepair. She noted that the other side of the duplex is occupied.

Staff recommended that City Council: 1) Declare this building on this property dangerous; 2) Order the property repaired or demolished by April 23, 2012 by the owner or equity owner at their own risk; 3) Order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Responding to Mrs. Williams, Mrs. Townshend stated that if Council proceeds with the demolition, it will be necessary for the City to hire a structural engineer to ensure that the demolition of the structure does not damage the attached house.

In response to Mr. Lynn, Mrs. Townshend stated her understanding that Bank of America presumed the property remained vacant; therefore, homeowners insurance was not mandated. With regards

to the attached structure, she assured members that the City would make any necessary repairs, such as siding. She anticipates that the City would actually conduct the demolition in late May 2012.

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

Mr. Hare moved that the structure located at 344 West Wind Drive be declared a dangerous building and subject to demolition, as recommended by staff. The motion was seconded by Mr. Lynn and carried by a unanimous roll call vote (Mr. Bonar absent).

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 726 SLAUGHTER STREET - OWNED BY JOE BURDEN

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 726 Slaughter Street, owned by Joe Burden. Mrs. Townshend, Director of Planning and Community Development, stated the property consists of a two story cape cod wood frame dwelling. The dwelling was condemned as unfit for human habitation on October 28, 2011 due to the degree of damage to the structure from a fire that occurred on the night of October 27, 2011. Currently the structure is still vacant, with no utilities and in a serious state of disrepair.

Mrs. Townshend provided a chronological history and presentation on the conditions of the house located at 726 Slaughter Street ***(Exhibit #3)***.

Staff recommended that City Council: 1) Declare this building on this property dangerous; 2) Order the property repaired or demolished by May 9, 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, and the removal of a 10' x 10' concrete pad, 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 reminded members that a renovation permit applied for in December 2011 was denied due to non-payment of taxes. She advised members that Mr. Burden made payments to the City last week and is now current on all City obligations and the building permit for renovation of the property was issued on April 3, 2012. Should Council declare the building dangerous, she assured members that it would not preclude the owner from making improvements but would essentially hold the owner responsible for making those improvements in the time specified. She noted that staff's recommendation is for the property owner to make repairs within 30 days; however, if Council wishes to grant more time, she indicated no objections.

Council President Leary declared the public hearing open.

Mr. Joe Burden indicated that repairs have begun and he felt confident that it should not be much longer before all repairs have been completed.

Responding to Mr. Anderson, Mr. Burden requested 60 days to complete the repairs since he is making repairs to another house located at 28 North Kirkwood Street.

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

Mr. Lynn moved that the structure located at 726 Slaughter Street, owned by Joe Burden, be declared a dangerous building and subject to demolition, as recommended by staff, with the caveat that the property owner be afforded 60 days to make the necessary repairs. The motion was seconded by Mr. Hutchison and carried by a roll call vote of seven (7) yes, one (1) no (Mrs. Russell) and one (1) absent (Mr. Bonar absent).

PUBLIC HEARING/FINAL READING - REZONING OF PROPERTIES LOCATED AT 4 MIFFLIN ROAD, OWNED BY PETER AND BONNIE REIDY; 24 MIFFLIN ROAD, OWNED BY ROBERT KLEWANS AND CAROL CANDOR; AND 1510 FORREST AVENUE, OWNED BY DOREEN E. LUCAS

A public hearing was duly advertised for this time and place to consider rezoning of properties located on the southwest corner of Mifflin Road and Forrest Avenue (Route 8), as follows: 4 Mifflin Road, consisting of $1.25^{+/-}$ acres, owned by Peter and Bonnie Reidy; 24 Mifflin Road, consisting of $0.55^{+/-}$ acres, owned by Robert Klewans and Carol Candor; and 1510 Forrest Avenue, consisting of $0.41^{+/-}$ acres, owned by Doreen E. Lucas. The properties are currently zoned R-8 (One Family Residence) and subject to COZ-1 (Corridor Overlay) and the proposed zoning is C-2A (Limited Central Commercial) and subject to COZ-1. (TAX PARCELS: ED-05-076.09-01-08.00-000, ED-05-076.09-01-11.00-000, ED-05-076.09-01-12.00-000).

Mrs. Williams moved that the Final Reading of the proposed rezoning ordinance be acknowledged by title only, seconded by Mr. Anderson and unanimously carried.

Council President Leary reminded members that the First Reading of this ordinance was accomplished during the Council Meeting of January 23, 2012 and that on February 27, 2012, this item was postponed and the Public Hearing rescheduled from March 12, 2012 to this evening.

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 advised members that staff had recommended that the applicant and Planning Commission consider modifying the rezoning to CPO (Commercial and Professional Office) zoning instead of C-2A (Limited Central Commercial). Staff felt that this would permit a number of less intense commercial (non-retail) uses that would be more compatible with the adjacent residential uses. She noted that the CPO zone has frequently been used as a transition or buffer zone between more intense commercial zones and residential areas. This is also the zoning classification of the bank property to the east at the southeast corner of Mifflin Road and Forrest Avenue. In addition to providing a transition between the commercial and residential areas, this would be consistent with the recommendation provided by DelDOT.

In addition, Mrs. Townshend advised members that staff also recommended that the properties remain subject to the COZ-1 (Corridor Overlay Zone) due to their frontage on/or proximity to Forrest Avenue (Route 8). She reminded members that the purposes of the COZ-1 are to promote superior urban corridor development; to foster coordination and linkage among corridor properties; to preserve functionality and efficiency of the roadway for traffic movement; and to achieve a visually balanced streetscape environment friendly to the pedestrian and motorist.

Mrs. Townshend indicated that the applicant agreed to the CPO zoning classification. The Planning Commission recommended approval of the CPO zoning classification, subject to the COZ-1.

Public Hearing

Council President Leary declared the hearing open.

Mr. A. C. Lucas, 178 Humphries Drive in Camden, addressed members indicating he is one of the owners of the three (3) parcels and that the expansion of commercial development on Route 8, west of the railroad tracks, is noted in the Comprehensive Plan and that all owners have agreed to the less intense CPO zoning classification. With $2.2^{+/-}$ acres and over 600' of road frontage, he stated their desire to have an engineering firm review the area for possible improvements in the area, including the intersection at Mifflin Road and Route 8.

Mr. Pete Reidy, 4 Mifflin Road, stated that the owners were willing to have the property rezoned as CPO and that, as property owners, they have observed commercial properties develop in the area and that they should also be permitted to do so. He requested that members approve the CPO rezoning as requested.

Ms. Carol Candor, Brandywine Court Apartment Condominiums, stated that she owns 24 Mifflin Road, which is a rental property, and that her current residence is located adjacent to the intersection of Route 8 and Mifflin Road. She agreed that the traffic in the area is bad; however, it was her feeling that the improvements that would be made as a result of the rezoning would improve the traffic problems in the area. She stated that since she acquired the property approximately 20 years ago, she has observed commercial properties develop in the area. She felt confident that changing the area from residential to commercial would require that improvements be made to the intersection, which would be beneficial to the City.

There being no one else wishing to speak, 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 Mr. Hutchison and by a unanimous roll call vote (Mr. Bonar absent), Council adopted Ordinance #2012-04, as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF DOVER BY CHANGING THE ZONING DESIGNATION OF PROPERTIES LOCATED AT 4 MIFFLIN ROAD, 24 MIFFLIN ROAD, AND 1510 FORREST AVENUE

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 properties described below from R-8 (One Family Residence Zone) and subject to COZ-1 (Corridor Overlay Zone) to C-PO (Commercial/Professional Office 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 R-8 (One Family Residence Zone) and subject to COZ-1 (Corridor Overlay Zone) to C-PO (Commercial/Professional Office Zone) and subject to COZ-1 (Corridor Overlay Zone) on those properties located at 4 Mifflin Road, consisting of 1.25+/- acres, owned by Peter and Bonnie Reidy, and 24 Mifflin Road, consisting of 0.55+/- acres, owned by Robert Klewans and Carol Candor, and 1510 Forrest Avenue, consisting of 0.41+/- acres, owned by Doreen E. Lucas.
   (Tax Parcels: ED-05-076.09-01-11.00; ED-05-076.09-01-12.00; and ED-05-076.09-01-08.00; Planning Reference Z-12-01)

ADOPTED: APRIL 9, 2012

UTILITY COMMITTEE REPORT - MARCH 12, 2012

The Utility Committee met on March 12, 2012 with Chairman Bonar presiding.

Request for Amendment to Resolution #2010-07 (Adopted August 9, 2010) - Wesley College Alley and Street Abandonment

During their Regular Meeting of August 9, 2010, City Council adopted Resolution #2010-07, vacating and abandoning the alleys and streets surrounding Wesley College on the condition that the Wesley College Plan include the replacement of existing parking and an increase in total parking, that the utility easements remain in effect, that public access easements for Fulton and Cecil Streets be part of the plan, that the timing of the street and alley closures be coordinated with the site plan approval, and that the aforementioned Development Advisory Committee (DAC) comments generated by this process and those included in the DAC Application Review Commentary *(see Exhibit #9 to the July 12, 2010 Council Minutes)* were included as part of the plan, and that public access easements be provided through the campus along Fulton and Cecil Streets.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that Wesley College has requested a revision to the conditions of approval for the abandonment of several improved streets and alleys in the vicinity of Wesley College. Specifically, City Council had adopted staff's recommendation that the City maintain ownership and maintenance of the streets and alleys until they are physically altered by construction in accordance with site plan approval from the Planning Commission. She indicated that the College is requesting that these streets and alleys

be abandoned immediately so that they can complete the parcel consolidation and other aspects of their site plan.

Mrs. Townshend assured members that the Wesley College project has been moving forward. Members were advised that in the Summer of 2011, a Site Development Master Plan (S-11-13) was filed for review outlining the site planning and streetscape campus enhancements associated with the abandonment of designated sections of North Bradford Street, Fulton Street, Cecil Street, and several alleys in the Wesley College campus area. The submission included the Record Plan for vacated right-of-way and a Master Plan consisting of five (5) phases of site improvements, including pedestrian amenities, paving, landscaping, and parking lot reconfiguration/construction. At their meeting of August 15, 2011, the City of Dover Planning Commission granted conditional approval of the Site Development Master Plan for the Wesley College Master Plan for Streetscape Campus Enhancements. The approval was granted in accordance with the conditions of approval outlined in the DAC Report dated August 4, 2011. In addition, members were advised that the applicant had taken the next steps and filed the Administrative Site Plan (S-12-01) for the Wesley College Streetscape project, including an overall plan showing the areas to be vacated. This submission is currently under review by staff and other City Departments and agencies.

Staff recommended approval of the request to allow the street and alley abandonment of the designated areas (Areas #1-7) to occur immediately rather than coinciding with physical construction activities. The previous concerns of staff regarding the abandonment of the public streets and alleys occurring without an approved plan for redevelopment and incorporation of the areas into the Campus has been mitigated through actions taken by Wesley College. The College has presented and received conditional approval from the Planning Commission for a Site Development Master Plan to develop a series of streetscape and campus enhancements in these areas. Wesley College is also working on the Record Plans to document the formal transfer of ownership. In addition, staff recommended that, upon abandonment, the one-way segments of North Bradford Street that will remain public streets be open to two (2) way traffic to provide adequate access and circulation for those properties that are accessed off these segments of North Bradford Street.

Mrs. Townshend advised members that the Planning Commission recommended approval of the revisions requested by Wesley College to allow for the immediate abandonment of the streets and alleys.

In response to Mr. Lynn's concerns regarding the rights of third parties, Mr. Scott Koenig, City Manager, stated that the utilities that have pole attachments associated with these areas have been working with the City's Electric Department. He assured members that all the utilities with facilities in the area are aware of the project and all work is being coordinated between the City and the project managers for Wesley College and the utility companies.

The committee recommended approval of the Planning Commission's recommendation to approve the request by Wesley College for an Amendment to Resolution #2010-07 to allow for the immediate abandonment of the streets and alleys. *(It is Recommended that a Public Hearing be Set to Consider Resolution No. 2012-05 Amending Resolution No. 2010-07.)*

Mr. Anderson moved to accept the committee's recommendation and to set a public hearing before City Council for the consideration of Resolution No. 2012-05 amending Resolution No. 2010-07 for April 23, 2012 at 7:30 p.m. The motion was seconded by Mr. Hare and unanimously carried.

Request for Alley Abandonment (Improved) - East Side of North Bradford Street (Additional Alley in Conjunction with the Wesley College Streetscape Master Plan)

Members considered a request of Wesley College that the City abandon an alley located on the Wesley College campus on the east side of North Bradford Street. This request is being made as part of the implementation of the Wesley College Master Plan. Members were reminded that in August 2010, a related request to abandon a series of street segments and alleys (Areas #1-7) in the vicinity of the Wesley College Campus was approved by City Council. As part of the work to develop the Record Plat to document the vacation of those streets and alleys, this additional alley, known as the Fulton Street Alley South, was discovered.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that the subject right-of-way requested for abandonment consists of a public alley dedicated to the City of Dover. This segment of Fulton Street Alley South is approximately 125.35 feet in length and ten feet in width. However, this alley (Area #8) does not function as an alley that is a path of travel between two connecting streets/alleys. She noted that the alley is part of the current layout of an existing parking lot and is adjacent on both sides to other properties owned by Wesley College. She indicated that the Site Development Master Plan (S-11-13), Wesley College Master Plan for Streetscape Campus Enhancements, shows that this parking lot is proposed to be reconfigured to improve the traffic circulation and layout of the parking lot.

The Planning Commission recommended approval of the alley abandonment for Area #8 - Fulton Street Alley South, as requested by Wesley College. In formulating this recommendation, the Commission considered staff's support of the alley abandonment request since the specific alley does not function as an alley within the overall street network of the area. In addition, portions of the street and the alley immediately connecting to this alley segment were approved for abandonment by City Council with Resolution #2010-07. The area is to be incorporated into an improved parking lot area associated with the site improvements to create a pedestrian-oriented campus for Wesley College. To the extent that long-term abandonment of the subject alley will help accomplish this objective, staff recommended approval of the request.

The committee recommended approval of the request for abandonment of a segment of the Fulton Street Alley South located on the east side of North Bradford Street, as recommended by the Planning Commission. *(City Clerk's Note: In accordance with the City's Procedure for Alley Abandonments, Resolution No. 2012-03 setting the Public Hearing was presented to Council for consideration for adoption.)*

Mrs. Williams moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and by a unanimous roll call vote (Mr. Bonar absent), Council adopted Resolution No. 2012-03, as follows:

A RESOLUTION PROPOSING THE VACATING AND ABANDONMENT OF A CERTAIN ALLEY SITUATED IN THE CITY OF DOVER.

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

Section 1. The Council of the City of Dover favors the vacating and abandoning of the following alley:

> All that certain piece, parcel, or tract of land situated in the City of Dover, Kent County, State of Delaware, lying on the east side of North Bradford Street, being bounded on the north by lands of Wesley College, on the east by North State Street Alley West, on the south by other lands of Wesley College, and on the west by North Bradford Street, and being more particularly described as follows:
>
> Beginning at a point in the easterly right of way line of North Bradford Street at the northwest corner of a 10-foot-wide public alley and lands now or formerly of Wesley College, said point of beginning being South 16°13'11" West 92.67 feet, as measured from the southeast intersection of North Bradford Street and Fulton Street right of way lines, thence from said point of beginning and running with said lands of Wesley College; 1) North 73°46'49" East 125.35 feet to a point in the westerly right of way of North State Street Alley West, thence turning and running with said right of way of North State Street Alley West; 2) South 16°13'11" West 10.00 feet to a point at a corner of said public alley and other lands now or formerly of Wesley College, thence turning and running with said lands of Wesley College; 3) South 73°46'49" West 125.35 feet to a point at a corner of said public alley and in line of the easterly right of way line of North Bradford Street, thence turning and running with said easterly right of way line of North Bradford Street; 4) North 16°13'11" West 10.00 feet to the point and place of beginning and containing 1,254 square feet of land be the same, more or less.

Section 2. The Council of the City of Dover will sit on Monday, April 23, 2012, at 7:30 p.m., in the Council Chambers at City Hall, Dover, Delaware, to hear the objections of such residents of the City or owners of the property affected as shall attend, in accordance with the provisions of Section 27 of the Charter of the City of Dover.

Section 3. The Clerk of Council is hereby directed to post copies of this Resolution in five or more public places in the City of Dover.

ADOPTED: APRIL 9, 2012

Review of Utility Related Capital Investment Plan (CIP) ***(Electric and Water/Wastewater)***
Members were provided a Project Tracking Report, as of January 31, 2012, for the Utility (Electric and Water/Wastewater) Related Capital Investment Plan (CIP).

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

With regard to the National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Permit, Mr. Scott Koenig, City Manager, reminded members that the City has submitted a report to the Department of Natural Resources and Environmental Control (DNREC) and that, to date, no response has been received. He noted that the report was submitted in December and that a response from DNREC is not expected for 60-90 days, which is the typical response time.

30-Day Update - Garrison Oak Technical Park Project

Mr. Scott Koenig, City Manager, stated that staff met last week with Mr. Greg Moore, Becker Morgan Group, who is the design engineer for the Garrison Oak Technical Park Project. It is anticipated that the subdivision plats will be signed and recorded in the very near future. He advised members that there have also been discussions with the County Engineer's Office regarding the sewer layout, which will enhance wastewater service on the east side of the City.

As mentioned during previous meetings, Mr. Koenig stated that staff is continuing discussions with Calpine Corporation regarding the proposed construction of the Garrison Energy Center, a new power plant, and that representatives of Calpine are continuing to work with local representatives as well as State legislators on the project. The Calpine Project is scheduled for consideration by the Planning Commission on March 19, 2012.

Mrs. Williams moved for acceptance of the Utility Committee Report, seconded by Mr. Anderson and unanimously carried.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - MARCH 12, 2012

The Legislative, Finance, and Administration Committee met on March 12, 2012 with Councilman Hare presiding in the absence of Chairman McGlumphy.

Recommendation of Civilian Pension Board - Cost of Living Adjustment (COLA)

Mrs. Donna Mitchell, Controller/Treasurer, reported that during their meeting of February 9, 2012, the Civilian Pension Board considered a Cost of Living Adjustment (COLA) for current retirees and surviving spouses, with the following motion being made by Mr. Lester Blakeman:

> That all members of the Civilian Pension Plan who retired on or before June 30, 2007 receive a 4% cost of living adjustment effective January 1, 2013, that the retirement income of a retired member of the Civilian Pension Plan shall be increased by 2% per annum every January 1, and that this increase in retirement pay shall be cumulative and the previous year's increase shall be included in the retired member's retirement income for the purposes of calculating the annual 2% increase, and that the first 2% increase would be effective on January 1, 2014.

It was noted that although the motion did not specifically include surviving spouses, this was the intent of the maker, and that Mr. Blakeman's calculation of the increase presented to the Board was $126,335, which included all retirees, not only those retired on or before June 30, 2007.

Mrs. Mitchell noted that no funding sources for a COLA have been identified by staff at this time. However, she advised members that Mr. Blakeman had provided the Pension Board with three (3) recommendations for funding the increase, as follows: 1) a one-half cent increase in electric rates; 2) collection of property tax receivables; and 3) use of excess budget balance.

Mrs. Mitchell also advised members that staff could not support an automatic cost of living provision. She stated that staff understood the rationale behind the motion; however, she indicated that retirement plans have been moving away from this provision in general, as demonstrated by the City's other retirement plans. She indicated that all of the State of Delaware Pension Plans with these provisions are now closed.

Should Council approve the 4% Cost of Living Adjustment for the Civilian Pension Plan, staff recommended that the City Manager be directed to budget each year for the cost of the COLA as follows: General Fund $52,400, Water/Wastewater Fund $5,300, and Electric Fund $40,800. Mrs. Mitchell explained that these amounts would fund a COLA only for the individuals who retired on or before June 30, 2007, as stated in Mr. Blakeman's motion.

Responding to Mr. Hare, Mrs. Mitchell stated that, as indicated in the minutes of the Civilian Pension Board Meeting of February 8, 2012, the motion failed by a roll call vote of four (4) no (Dr. McGlumphy, Mr. Bonar, Mr. Koenig, and Mrs. Mitchell) and three (3) yes (Mr. Blakeman, Mr. Clendaniel, and Mrs. Hettinger).

In response to Dr. Jones, Mrs. Mitchell stated that retirees received a stipend in 2009. She explained that, at that time, $100,000 was allocated to retirees based on age and, as a result, older retirees received higher amounts.

Mr. Lynn questioned the cost of providing a one-time COLA to retirees. Responding, Mrs. Mitchell indicated that a one-time 4% COLA for retirees would cost $98,500; however, she explained that if a 4% COLA were added to the base pension for retirees, the City would be required to budget for this additional $98,500 each year. Prior to 2009, the last adjustment provided to retirees was in 2006.

In response to Mr. Shevock, Mrs. Mitchell stated that in January 2012, the State of Delaware provided a 2% COLA to their retirees and that the last COLA provided by the State was in 2006.

As mentioned by Mr. Hare, Mrs. Mitchell confirmed that the State of Delaware pensioners are not provided with Medicare Part B reimbursement.

Mrs. Williams questioned the cost of the retirees' Medicare Part B reimbursement benefit as compared to the cost of a COLA. Mrs. Mitchell stated that she did not have that information readily available and it would require calculations; however, she offered to provide it to members at a later

date. *(Clerk's Office Note: Following the meeting, Mrs. Mitchell advised the City Clerk's Office that the current cost of Medicare Part B premium reimbursements for all City of Dover retirees is $117,500 annually and the cost of a 4% COLA increase for employees who retired prior to 2007 would be $98,500.)*

Mr. Blakeman, 209 Falmouth Way, member of the Civilian Pension Board, thanked the Director/Controller and the City Clerk's Office for their support and assistance. He provided members with several documents, as follows: A) List of Retirement Payments Being Issued to Members of the Civilian Pension Plan; B) Reasons for Unfunded Liability (Council President Leary advised members that at one point in the 1990s, the pension fund was almost fully funded.); C) City of Dover Finance Department Pay Plan and Benefit Comparisons - Contract Wage Increase (Mr. Blakeman noted that the addition of the far left column reflects Consumer Price Index increases and the far right column reflects Social Security increases); D) General Pension Plan Cost of Living Adjustment History; E) Example of Effects of a 2% COLA for Police and 0% COLA for Civilians, which included an excerpt from the Comprehensive Annual Financial Report (CAFR) as to when these pension plans started and a Statement of Changes in Pension Trust Fund Net Assets (He noted that the average pension for General Fund retirees is $16,371 and that the average pension for Police Fund retirees is $30,336.); F) Electric Revenue - Sample Increases by Year and Costs to Customers; G) Real Estate Transfer for Sample Revenue Increases; and H) An Excerpt from State Law (77 Del. Laws, c. 130, §3, which states the City's ability to create a pension and includes a paragraph mentioning the City's authority to institute a property transfer tax. Mr. Blakeman felt that, due to the paragraph being located within the text granting the City the ability to create a pension, it would not be inappropriate to utilize general revenue from the property transfer tax to fund the pension plan.) Mr. Blakeman explained that this information was distributed to members to provide them additional facts to consider during their deliberations of this matter.

Mr. Shevock noted that there are several residents who could not afford any increase in electric rates, and that there would be many complaints from local realtors if there were an increase in the transfer tax, explaining that attempts are being made to bring businesses to the area and that an increase would be a deterrent. Responding, Mr. Blakeman stated his understanding of such concerns; however, he reminded members that police retirees receive an annual COLA and that civilian retirees questioned why police retirees would be treated differently. Although 75% of the COLA for police retirees is paid by the State, he noted that the City budgets for the remaining 25%. He advised members that there are several retirees who receive a very small pension amount each month and that this problem for them is compounded each year that a COLA is not provided.

Mr. Shevock felt that additional information should be provided regarding the City's deficit prior to making any decision regarding the possibility of a COLA.

Mr. Hutchison reiterated that no current police officer will retire under the City's plan and receive a 2% COLA. Confirming, Mr. Blakeman stated that the City's Police Pension is a closed plan; however, he noted that current members will continue to receive a 2% COLA each year. He reminded members that employees who retired in 1970 and who have been without a COLA for the past several years have seen their pensions eroded by the cost of living.

Noting that the Civilian Pension Board had two (2) parts to their motion, Dr. Jones questioned if members would be receptive to a one-time COLA adjustment. Responding, Mr. Blakeman stated that retirees would be grateful for any action in this regard, explaining that retirees are also affected by the economic times. He reiterated that it was also the desire of the civilian members of the Pension Board to bring to Council's attention the disparity between the two (2) pension plans. In addition, he reminded members that prior to the last one (1) or two (2) years, active employees have been provided substantial salary increases.

Mr. Bonar applauded Mr. Blakeman for his work on this matter and the retirees for their attendance and participation at the Pension Board Meeting; however, he noted the difficult economic times for the City. He felt that approval of an automatic COLA at this time would be irresponsible of City Council. However, he felt that a one-time COLA might be an acceptable solution.

Mr. Hutchison felt that Council has the responsibility to review this matter and make decisions. He reminded members that Council would be holding their Annual Retreat on March 26, 2012 and suggested the possibility of further discussion regarding this matter at that time.

Mr. Anderson also relayed appreciation to Mr. Blakeman for the research provided and stated that he was "disturbed" that the City had not provided retirees with an increase for several years. Although he stated he could not support a 4% COLA at this time, he felt that once the City has moved through the next fiscal year, Council should take action to address this matter. It was his feeling that it was unfair for retirees to bear the brunt of the budgetary shortfall when others were not subjected to it for the past several years.

Mrs. Mitchell advised members that the concerns of staff were not in regard to providing a COLA but in regard to ensuring that it is funded. The funding source would be a decision required of Council.

Mr. Hare suggested that such a COLA be "tied to" another system, such as the State or Federal governments and that the City should negotiate for the COLA by eliminating Medicare Part B reimbursement.

After much discussion, Mr. Bonar suggested that this matter be tabled by the Committee and that staff be requested to add this for Council's consideration for discussion during the Council Retreat consideration of possible funding to provide a one-time COLA.

The committee recommended tabling consideration of a Cost of Living Adjustment (COLA) for retirees and that staff include this item to be discussed during the Council Retreat to consider possible funding to provide a one-time COLA.

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

Approval of Transfer of Additional Reciprocal Borrowing Funds

Members were advised that Kent County collects a special Library Tax from each County property owner who does not reside within a municipality. This tax is used to reimburse the municipal libraries in the County for each item loaned to a County resident who is not a resident of a municipality.

Mrs. Donna Mitchell, Controller/Treasurer, advised members that in 2011, residual library tax was distributed at a rate of $30,000 to each municipal library to be used for capital purposes. The Dover City Council approved transfer of the City's allotment to the Library Reserve Fund. In 2012, residual tax was disbursed by the Kent County Levy Court at a rate of $15,000 per library.

Staff recommended approval of a transfer in the amount of $15,000 from the General Fund (contributed by Kent County residual reciprocal borrowing funds) to the Library Reserve Fund for the capital project. It was noted that this item has been included in the proposed budget amendment scheduled to be considered later in the evening and that if it was not approved, it would be removed from the proposed budget amendment.

The committee recommended approval of staff's recommendation to transfer $15,000 (residual reciprocal borrowing funds contributed by Kent County) from the General Fund to the Library Reserve Fund.

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

Proposed Ordinance #2012-09 - Budget Amendments for Fiscal Year 2012

Members reviewed Proposed Ordinance #2012-09 - Budget Amendments for Fiscal Year 2012. Mrs. Donna Mitchell, Controller/Treasurer, advised members that the proposed budget amendment included adjustments to the Beginning Budget Balances for the major operating and capital funds now that the City's audit has been completed. It also included a transfer to the Other Post-Employment Benefits (OPEB) Trust toward the unfunded liabilities in the following amounts, as approved by Council action on September 12, 2011: General Fund $239,532; Water/Wastewater Fund $372,417; Electric Fund $573,547. Members were provided details regarding additional adjustments included in the proposed ordinance.

In response to Mr. Anderson, Mrs. Mitchell confirmed that there was a shortfall of 7.8%; however, there are several vacant positions which will result in more than enough savings to cover the shortfall. She explained that the proposed amendments affect only the operating funds and that no projects will be affected.

The committee recommended adoption of proposed Ordinance #2012-09 - Budget Amendments for Fiscal Year 2012.

By consent agenda, Mr. Hutchison moved for approval of the committee's recommendation, seconded by Mrs. Williams and carried by a unanimous roll call vote (Mr. Bonar absent). *(The First Reading of the ordinance will take place during the latter part of the meeting).*

Public Comment Period
There was no one present wishing to address members.

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

SPECIAL PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE REPORT - MARCH 15, 2012
A Special Parks, Recreation, and Community Enhancement Committee meeting was held on March 15, 2012 with Chairwoman Russell presiding.

Community Development Block Grant (CDBG) Application Review
Mrs. Tracey Harvey, Community Development Manager, noted that members would be serving as the Community Development Block Grant (CDBG) Review Panel for the CDBG Applications for Fiscal Year 2012. As such, members were provided a list of applicants, a CDBG Interview Schedule, a breakdown of federal resources available for use and the total amount of grant funds requested, CDBG scoring criteria, a 2012 CDBG Review Panel Scoring Sheet for each applicant, and staff reports summarizing each application. She requested that members summarize their evaluation of each application on the CDBG Grant Application Review Sheet and provide a score based on the information presented. Members were advised that the numbers in parenthesis next to each measure indicated the maximum score for a given category and that the maximum total points was 100.

Mrs. Harvey advised members that the total amount of grant funds available for activities was $188,286 and explained the allocation requirements of the grant, as follows:

CDBG Funds Allocation	$226,803
Anticipated Program Income	$ 8,554
Total Grant Allocation	$235,357
20% of the grant must be allocated for Program Administration	$235,357 x.20
	$47,071
Grant Funds Available for Activities	$188,286
Total Grant Funds Requested by Applicants	$248,000

Mrs. Harvey cautioned that, according to CDBG requirements, funds awarded for public service activities could not exceed 15% of the total grant allocation ($35,303).

Oral Presentations

Each applicant was provided an opportunity to make oral presentations before the committee, as follows:

Dover Interfaith Mission for Housing

Ms. Jeanine Kleimo, Chair, Board of Directors, Dover Interfaith Mission for Housing (DIMH), reviewed a grant application in the amount of $27,500. She explained that DIMH is an interfaith community organization which provides shelter, meals, and assistance to homeless men from the greater Dover community. Ms. Kleimo indicated that DIMH's shelter at 684 Forest Street can accommodate up to 36 lodgers. She stated that the organization sheltered 142 men during 2011 and has sheltered more than 700 over the past four (4) years. Mrs. Kleimo explained that the organization has maintained a success rate of approximately 60% in transitioning men from the shelter into permanent employment and private housing, with an estimated impact of $1.5M on the local economic community (based on the assumption that individuals work full-time and earn only minimum wage) and also provides employees for difficult to fill, entry-level jobs in the community. The organization uses volunteer services whenever possible and has no full-time staff, with the Board of Directors performing most of the day-to-day tasks that paid staff members typically perform in other facilities. DIMH partners with local colleges to obtain interns, provide employment, and alcohol/drug counseling, as well as nursing assistance. Mrs. Kleimo noted that CDBG funds would be used for operational, maintenance, and repair costs for the shelter. She advised members that DIMH hopes to match CDBG funds with funds from the Delaware State Housing Authority (DSHA) and Delaware Grant-in-Aid and that the organization receives significant support from local faith communities, businesses, and private citizens of Dover.

Mr. Anderson expressed appreciation for the work performed in the community by DIMH.

Mrs. Russell noted the need for similar services for the City's female population.

In response to Mrs. Horsey, Ms. Kleimo stated that the 36-bed shelter has been sustained on a relatively low budget through the generosity of those who volunteer and provide support to the organization and that it would be difficult to expand at the current time. In addition, expansion would be problematic at the current location because the property is leased. Mrs. Kleimo explained that most shelters in the State limit residents to 30 days lodging and the average cost of serving each client is $2,000. In contrast, she noted that DIMH's clients are allowed to stay for 90 days at an average cost of $675 per resident.

Milford Housing Development Corporation (MHDC) Housing Rehabilitation Program

Ms. Valerie DeMarco, Development Director, and Mr. Russell Huxtable, Vice President and Chief Operating Officer, reviewed a grant application in the amount of $60,000 for the Milford Housing Development Corporation (MHDC) Housing Rehabilitation Program. Mr. Huxtable explained that MHDC is a private, non-profit housing development organization established 35 years ago and that the application was being submitted in regard to the home ownership program. He noted that 140 "sweat equity" homes have been built through MHDC's self-help housing program in and around Kent and Sussex County and that the organization has been partnering with the City of Dover since 2006.

Mr. Huxtable explained that in November 2011, MHDC combined with First State Resource Conservation and Development (RC & D) and acquired this organization's emergency home repair project and staff. He noted that MHDC had submitted two (2) proposals for CDBG funding, one for housing rehabilitation and one for emergency home repair. Mr. Huxtable stated that the rehabilitation project would serve six (6) to eight (8) homeownership units per year with up to $15,000 of rehabilitation per unit. Since the application was for a multi-year grant, the work would be accomplished over three (3) years, for a total of 18-24 total units. All those served would meet the low-to-moderate income qualifications. Mr. Huxtable explained that MHDC works with City of Dover to identify qualified individuals on the CDBG waiting list. He noted that funding this program would help to preserve the City's affordable housing stock and allow some of the City's elderly residents to age in place by keep their homes livable.

Milford Housing Development Corporation (MHDC) - Home Repair Project

Mr. Fred Traute, Preservation Manager, reviewed a grant application for the Milford Housing Development Corporation's (MHDC's) Home Repair Project in the amount of $40,000. He advised members that he previously worked with First State Resource Conservation and Development's (RC & D's) Home Repair Project and that partnering with MHDC has allowed the Project to leverage more resources. Members were provided a Memorandum from Mr. Traute dated March 15, 2012, Grant Request for Community Development Block Grant, 2012-2013 outlining the details of the request and accomplishments of the program.

Mr. Traute explained that the repairs performed under this program typically cost a few thousand dollars and initially address emergency repair needs, such as lack of heat, rather than long-term rehabilitation. The goal of the program is to take care of immediate hazards in the home, followed by a site visit to determine if there are other needs present. He noted that 58 homes in the City of Dover have been served through the use of CDBG funds for this purpose over the past six (6) years. The organization partners with the Senior Employment Program through the First State Community Action Agency in Sussex County and through the Modern Maturity Center in Kent County. Through this program, a staff construction supervisor leads two (2) or three (3) senior employees who receive job training and provide labor at no cost.

In response to Mr. Lewis, Mr. Traute explained that previously expenditures on each home were limited to $2,500; however, with the increased costs of performing heat or electrical work, this figure was increased to $7,500.

Mr. Huxtable provided members a Success Profile that featured the account of Mary B. Ashley**,** an 82-year-old client who was living in substandard housing and was successfully placed in a new two (2) bedroom home. He emphasized that clients are evaluated to determine which of the organization's programs will help them meet their goals of decent, safe, and affordable housing, which is the goal and mission of MHDC.

In response to Mr. Anderson, Mr. Traute explained that the estimate of 45 units to be repaired through the use of CDBG funds referred to independent repairs rather than the number of individual clients, since homes often require more than one repair. He noted that he requires all contractors to complete work to his satisfaction.

Responding to Mrs. Horsey, Mr. Huxtable stated that the organization receives funds from some sources that are specifically allocated for a particular geographic or population demographic. He emphasized that any home repair funds received from the City of Dover would be expended within City limits.

For clarification, Mrs. DeMarco explained that MHDC was founded in 1977 in Milford by residents who saw the need for affordable housing. Since that time, the organization has expanded State-wide and into Maryland. She noted that MHDC staff have had internal discussions regarding the possibility of changing the name of the organization because the title of Milford Housing Development Corporation is misleading.

National Council on Agricultural Life and Labor Research Fund, Inc. (NCALL)

Mr. Joe Myer, Executive Director, and Ms. Denise Freeman, Pre-Purchase Housing Counselor and Housing Counseling Director, National Council on Agricultural Life and Labor Research Fund, Inc. (NCALL), reviewed a grant application in the amount of $12,500. Mr. Myer advised members that NCALL has been addressing affordable housing in the area since 1976. He explained that NCALL provides homeownership counseling, foreclosure prevention, and financial literacy; has been approved by the Department of Housing and Urban Development (HUD); has been recognized by HUD for its performance; and has attained high rankings nationally as an affordable housing and community development organization. He noted that CDBG funds were being sought for home ownership and foreclosure prevention programs and that NCALL has previously partnered with the City of Dover in the First State Program, which provides down payment and settlement help.

Mr. Myer advised members that, over the past year, NCALL assisted 215 first-time homebuyers in closing on their first homes and prevented 206 foreclosures in Delaware. He noted that $12,500 in grant funds were being requested in 2012, $7,500 for homeownership counseling and $5,000 for foreclosure prevention, with the same amounts being projected for Fiscal Years 2013 and 2014.

Members were provided with an NCALL Dover CDBG Application Summary for their review. Mr. Myer estimated that 40 households in the City would benefit from the program, resulting in a potential impact of $6,000,000 in new mortgages leveraged and mortgages saved. He noted that it was estimated that 25 of the 40 households served would be in the low-to-moderate income bracket.

In response to Mrs. Horsey, Mr. Myer explained that median incomes in Kent and Sussex Counties are 25% lower than New Castle; however, the cost of home construction is the same or more, so clients in these areas are disadvantaged in terms of meeting income guidelines. He indicated that the internal goal of the agency is to serve lower income households and solicit tools, such as the First Start Program, that help NCALL to bridge that gap. Mr. Myer noted that HUD guidelines dictate that anyone requesting foreclosure prevention assistance must be served regardless of income. He assured members that the estimate provided for low-to-moderate income households served was conservative and that NCALL would have no difficulty meeting program goals in this regard.

Responding to Mr. Anderson, Mr. Myer stated that NCALL was a CDBG subgrant recipient previously, but not in recent years. NCALL is currently a Neighborhood Stabilization Program (NSP) partner, which involves working with the CDBG, although NCALL does not receive grant

funds. He stated that the multi-year approach that the City is currently utilizing for CDBG funding attracted NCALL to apply this year because housing programs tend to require an extended period of time.

Serenity Place

Mr. William Boyles, Executive Director, and Mrs. Lisa Boyles, Member of the Board of Directors and volunteer staff member, Serenity Place, presented a grant application in the amount of $30,000. Mr. Boyles explained that Serenity Place is a State-licensed treatment facility for adult males with substance abuse problems who are homeless and unemployed. He noted that the program has been in existence for 21 years and has served more than 1,000 men. All residents are required to make at least a three (3) month commitment to the program; however, many stay an average of nine (9) months. Residents are provided licensed treatment, including individual and group counseling. They are required to seek employment and pay approximately $100 for room and board once they are employed. Residents share responsibilities for maintaining the facility, meal preparation, and performing chores.

Mr. Boyles advised members that in June 2011, a fire occurred at Serenity Place, resulting in the loss of the main building. A small building next door survived and has been made into an administration office where counseling, meetings, and administration takes place. A new building is planned which will double the capacity of the facility from 10 to 20, and a capital campaign drive has begun to raise funds. Mr. Boyles explained that insurance proceeds for damage to the building were approximately $300,000 and the full project cost will be approximately $600,000. Approximately $60,000 of the additional funds needed have been raised to date.

Mr. Boyles noted that Serenity Place provides an invaluable service to the community by providing treatment to homeless and unemployed individuals, many from criminal backgrounds, thus making the community a safer place. He indicated that many of those who complete the program stay in the Dover area, occupy low-wage jobs, pursue their education or start businesses, and are successful in terms of staying clean and sober and becoming productive members of society.

In response to Mrs. Russell, Mr. Boyles noted that Serenity Place is well established and is well known throughout the State by community organizations that serve this segment of the population. He stated that clients pay $100 per week, which covers room and board. Their stay at Serenity Place is subsidized and they are encouraged to save the remainder of their earnings for future needs. Mr. Boyles advised members that the program is highly structured and there is a 10:00 p.m. curfew Sunday through Thursday and 11:00 p.m. on weekends.

Responding to Mrs. Russell, Mr. Boyles stated that the organization has continued to serve its clients following the fire. Clients are being housed in a building on State Street on an interim basis and services, including counseling, are being provided out of the office at 327 Martin Street. He indicated that the program would continue with or without CDBG funds. He noted that the organization is seeking additional contributions through grant funds and community organizations.

In response to Mr. Anderson, Mr. Boyles stated that the request was for a one-time grant for a capital contribution to the rebuilding project. Agreeing with Mr. Anderson, he stated that there was a tremendous need for a similar facility for women and that Serenity Place would like to address this in the future.

Responding to Mrs. Russell, Mr. Boyles stated that Serenity Place is not technically a religious-based organization; however, men are strongly encouraged to pursue spiritual growth and the program utilizes the Alcoholics Anonymous 12 steps of recovery utilized by Alcoholics Anonymous. Mrs. Boyles stated that the organization is not affiliated with any one church and the men come from all spiritual walks.

In response to Mr. Lewis, Mr. Boyles stated that the organization is working with the City of Dover Planning Department to coordinate the details of the building project and hopes to break ground this summer.

In response to Mrs. Harvey, Mr. Boyles assured members that the project would proceed even if not all of the requested funding was received and that any CDBG funds awarded would be utilized. He noted that the project's capital campaign would remain open indefinitely and the organization would secure bank financing if needed.

Elizabeth W. Murphey School, Inc.

Mr. Michael Kopp, Executive Director, Elizabeth W. Murphey School, Inc., reviewed a grant application in the amount of $38,000. He advised members that the Murphey School is a group home that serves neglected and abused homeless children. Mr. Kopp explained that the organization is seeking to reduce utility costs in order to remain solvent and continue serving the children of the State. All referrals are made from the State of Delaware Children's Department, Division of Prevention and Behavioral Health Services. Children are cared for until they can return to their homes, are placed in a suitable foster home, or age out of care. Mr. Kopp stated that children typically remain and age out of care. He advised members that the Murphey School has opened an additional building for 16-17 year-olds who are learning independent living skills. He indicated that CDBG funds would be used to convert the building's heating system from a steam boiler to geothermal heating and air conditioning and to replace old steam pipes within the walls. The school has experienced a dramatic decrease in utility costs as a result of utilizing this type of energy system for their other buildings and would like to do the same for the building that was recently opened. Mr. Kopp stated that the building will house four (4) individuals and the downstairs area will be used as a teaching area for cooking and homemaking skills.

Mr. Kopp noted that, although an endowment was left by Mr. Murphey for the school in 1922, it contains specific instructions regarding the amount of funds that the school receives per year and the amount is proportional to income earned. As a result, the organization is struggling and staff is anxious to complete the project as soon as possible to realize utility savings.

In response to Mr. Anderson, Mr. Kopp stated that if all of the requested CDBG funding were not granted this year, the geothermal well system would be installed at this time and the interior wall work would be postponed until subsequent years.

Mr. Kopp reminded members that the children in long-term care at the Murphey School are legally considered to be homeless.

City of Dover Homeownership Assistance Program

Mrs. Tracey Harvey, Community Development Manager, reviewed a grant application in the amount of $40,000 for the City of Dover Homeownership Assistance Program. She indicated that this program provides first-time homebuyers assistance with down payment or closing costs, allowing them to purchase affordable housing in the City of Dover. Mrs. Harvey advised members that there is a high demand for this program and that CDBG funds would be used to provide up to $10,000 to each of four (4) first-time homebuyers to assist in the purchase of properties in the City. She noted that all purchasers must complete a homeownership counseling session with the National Council on Agricultural Life and Labor Research, Inc. (NCALL) before signing a sales contract. Mrs. Harvey stated that 2011 has been an exceptional year for the program, with seven (7) first-time homebuyers closing on properties and an eighth closing planned before the end of the year. She explained that housing is more affordable now because the depressed economy has created a buyer's market, which has resulted in increased opportunities for first-time homebuyers. Mrs. Harvey indicated that there is a definite need for the program and that she receives frequent inquiries about the program.

Review/Scoring of Community Development Block Grant (CDBG) Applications

Members reviewed and discussed the various CDBG grant applications to develop a score for each applicant.

After a period of discussion, members conducted a review of each grant application and provided individual scores on the CDBG Grant Application Scoring Sheet for applicants *(as on file in the Office of the City Clerk)* and staff tallied the scoring sheets.

Mrs. Townshend reminded members that the funding of public service projects would be limited to $35,303 (15% of the total grant allocation).

Mrs. Russell stated that, due to her position on the Board of Directors of the Dover Interfaith Mission for Housing, she would not participate in the scoring or ranking of public service applications.

The Committee recommended that the full amount of CDBG funds permitted for public service activities ($35,303) be dedicated for this purpose.

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

The Committee recommended that $27,500 of the City's CDBG grant allocation for public service activities be distributed to the Dover Interfaith Mission for Housing and $7,803 be awarded to the National Council on Agricultural Life and Labor Research Fund, Inc. (NCALL).

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

Members then scored the CDBG applications for non-public service programs.

Based on the scoring of the grant applications by the Committee, the committee recommended approval of the distribution of the City's Community Development Block Grant (CDBG) monies for non-public service programs as follows:

Applicant	Amount Requested	Amount Recommended
MHDC - Housing Rehabilitation	$ 60,000	$ 40,000
MHDC - Emergency Home Repair	$ 40,000	$ 35,000
Serenity Place	$ 30,000	$ 27,983
Elizabeth W. Murphey School	$ 38,000	$ 20,000
Homeownership Assistance Program	$ 40,000	$ 30,000

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

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

SPECIAL LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - MARCH 27, 2012

The Legislative, Finance, and Administration Committee met on March 27, 2012 with Councilman Hare presiding in the absence of Chairman McGlumphy.

Consideration of Re-titling and Re-grading - City Clerk and Assistant City Clerk Positions

Members considered a request for the retitling and regrading of positions within the City Clerk's Office. Mrs. Traci McDowell, City Clerk, reviewed information that supported the retitle/regrade of the Assistant City Clerk to a pay grade of 124 at a salary of $58,571 (current salary $40,452), with the title Deputy Director of Council Affairs and Constituent Services and the retitle/regrade of the City Clerk's position to a pay grade of 133 at a salary of $90,864 (current salary $66,459.92), with the title of Director of Council Affairs and Constituent Services. She assured members that funds were available in the FY12 Budget to implement the requested regrades on May 13, 2012 at the proposed rates.

Chairman McGlumphy noted that several individuals had requested the opportunity to speak on this subject; therefore, he suggested that public testimony be heard prior to the Committee's deliberations.

Mr. Bob Hartman, 35 Lotus Street, questioned the reasons for the submission of the proposal and the City's process in bringing this matter before the Committee. He assured members that it was not his intention to criticize any employee currently serving in these positions, explaining that he felt that the City Clerk and Assistant City Clerk are outstanding employees who work very hard. However,

with budget shortfalls threatening the City year after year and the City's financial obligations increasing, Mr. Hartman questioned how management could consider submitting a proposal that would increase annual salaries for any employee by such an "embarrassing" amount. He reminded members that ultimately it would be City taxpayers and fee payers who pay the City's bills, including salaries. He stated that the proposed salary increases were outrageous and urged members to deny the request. Mr. Hartman felt that such proposals should be brought forth for consideration across the organization and that individual requests should not be considered.

Mrs. Ann Marie Townshend, Director of Planning and Community Development and resident at 52 Washington Street, stated that she was hesitant to address members regarding this matter; however, as a staff member who works very closely with the City Clerk's Office, she felt called upon to speak. Mrs. Townshend read the following statement into the record:

> *"I don't believe I need to sell you on the value of the City Clerk's Office, because you probably know their value better than anyone. Of the City departments and staff, I probably have more interaction and work more closely with the City Clerk's Office than anyone in the City. This is why I feel compelled to share my support for their staffing requests. I want to summarize this support into three areas: Expertise, Retention, and Succession.*
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> *The City Clerk and her staff are the City's experts on many of the legal requirements and processes within which the City works. This is not to equate them to our legal staff, but they are knowledgeable about the City Code, the City Charter, and the State statutes that affect municipalities. The Clerk is knowledgeable on parliamentary procedure, open meeting requirements, FOIA, record retention, elections, and many other things that are important to the competent management of the City. To summarize, they keep us out of trouble. There are many questions that come up during the course of business, where the best answer we can give in our department is, "Ask the Clerk's Office." They ensure that legal notice requirements are met for code amendments, that matters are referred to the proper committee, and that department staff follow up on requests by Council and Council committees. The amount of training and experience required to ensure that the City Clerk is able to provide the level of expertise expected is overwhelming to think about.*
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> *That brings me to my second point, retention. The City Clerk's Office is responsive to the needs of constituents and Council alike. They make sure that the little things don't fall through the cracks. They make sure that packets are prepared in time for delivery, which frequently includes reminders to departments of items they need to submit. They are responsible for ordinance preparation and review of ordinances prepared by department staff. The workload and the demands on the Clerk's Office are a lot, and everything has firm deadlines and legal implications. The staff is committed, so is often here late hours, even when there isn't a meeting, simply because the work needs to get done. This high-stress situation causes burnout, which has made it difficult for the Clerk's Office to retain staff.*

In order to avoid burnout, adequate staffing and fair compensation are necessary.

And finally, succession. I hate to think about this, but Traci is eligible for retirement. While I think we all know her commitment to the City, the reality is that she won't be here forever. In order to ensure that there is viable succession when Traci ultimately decides to retire, a job description and title with the appropriate level of compensation is necessary. Adequate staffing to reduce burnout and staff turnover is important to the long-term success of the City."

Mrs. Jody Stein, 522 Woodsedge Road, read the following statement into the record:

"My name is Jody Stein and I have been employed in the Clerk's Office for the past 3½ years. I just wanted to give you an idea of what it is like to work in the Clerk's Office. The Clerk's Office has the potential to be the greatest place in the world to work. You couldn't ask for a more dedicated, hardworking or supportive supervisor or co-workers. The work is interesting, varied, and the days just fly. You deal with a huge variety of people: senators; council representatives, staff from every department, and of course the public, ranging from irate individuals who just want someone to vent to, to the thankful group that brought me fresh daffodils for performing a minor service this week.

I know that Council and Committee members are familiar with the meeting process but often do not see the work that precedes and follows actions and the different factors involved:

1) *Preparing for and following up on Council's decisions involves a large number of detailed procedures. We have worked hard to develop written guidelines for some of the processes.* [She displayed examples of Alley Abandonment and Elections Procedures and a meeting packet.] *We have not had the time to document others and must rely heavily on staff experience. You are familiar with our meeting packets, but may not be aware of the "blood, sweat, and tears" that goes into them.*

2) *While performing work, there is a constant stream of interruptions, including telephone calls, office visitors, and email.*

3) *All work is driven by the cyclical preparation and follow up on Council, Committee, and Board meetings, which dominates everything that happens in the Clerk's Office. These are deadlines that must be met while performing the regular duties (FOIA, records, Council's calendar, etc.) and special projects, such as Charter changes that wreak havoc with priorities.*

4) *There is a huge variety of technology, including Wordperfect, Word, Excel, Quattropro, Adobe, Access, Fortis, and website posting. It takes time to learn these programs, and technology is constantly changing, so additional learning*

is required. Staff must become and remain well versed in these programs. Training is on the fly and much of the learning is accomplished through making mistakes.

I recently submitted my resignation. You may be wondering why I would want to leave a job that I enjoy so much.

The problem with working in the Clerk's Office is that the volume of work exceeds what can be done in a 40 hour week. No tasks are optional and many have legal consequences, so we are constantly having to make the choice about which responsibilities will be neglected, and sooner or later that catches up with you. There are frequent regular night meetings and many unscheduled ones that crop up, so it is difficult to plan your home life. Numerous hours of comp time are accumulated and remain unused (particularly with the new policy that limits accumulation to 80 hours). Everything that we do is very detailed and there are constant interruptions; it is very difficult to concentrate on the task at hand. You constantly worry about what you are forgetting. After a time, the pressure gets to you. You feel that if only you could work smarter or faster you should be able to keep up with it.

During my 3½ years in the Clerk's Office, I saw two very capable and dedicated co-workers leave to accept other positions, in one case for a higher salary, and in another for similar pay for a job that involves very little pressure and no extra hours.

I also witnessed my supervisor working countless hours; providing invaluable procedural and legal advice to Council members, staff, and the public; guiding the City through the development and passage of ordinances and Charter amendments; and preventing significant losses to the City through the wealth of experience she has accumulated, while being compensated at a lower rate than nearly every other department head in the City.

When our staff was cut from four to three, I concluded that my work situation was no longer sustainable. I was fortunate enough to be offered a position with the State. The training and experience that I have accumulated over the last three years with the City of Dover has highly qualified me for position with the Delaware Public Archives that will require me to work 37.5 hours per week at a salary that (within one year) will be comparable to my present salary.

I urge members to give careful consideration to allowing for the staffing needs of the City Clerk's Office."

Mr. Lynn relayed appreciation for the service Mrs. Stein provided to the City.

Mr. Hare noted that, as a neighbor, he spoke with Mrs. Stein regarding her leaving the City's employment and realized that there is a quality of life issue working in the City Clerk's Office.

Responding, Mrs. Stein stated that there were two (2) considerations: 1) equitable compensation for the amount of work involved, noting that paid salaries amounted to lower hourly rates due to extra hours worked, and 2) stress due to the reduced staffing in the office that cannot be compensated for.

Dr. McGlumphy also relayed appreciation for the service provided and wished her well in her future endeavors.

Mr. Eugene Ruane, 122 Shadow Court (previously served as a member of Council), stated that the issue is not strictly monetary but also recognition for what the positions are and what they do, and that one way to do this is with money. He reminded members that there has been discussion regarding the upgrading of these positions for a minimum of 10 years and he appreciated that the proposal was finally presented for consideration. He advised members that the Dover City Clerk's Office is considered the number one clerk's office in the State of Delaware. He stated that the current and former City Clerks for the City of Dover have had a reputation for being model City Clerks in the State of Delaware, and he felt that they should be recognized as such. During the 10 years he served as a member of Council, Mr. Ruane stated that there were innumerable times when a new issue would be presented (such as double taxation) whereby the City Clerk would be required to gather information, conduct research, develop presentations, etc. He noted that the City Clerk's Office serves nine (9) members of Council, all of whom utilize the office for providing information or performing requested work. He explained that the employees of the office are required to have a variety of experience and understanding, as well as a willingness to stick to tasks. In addition, he explained the importance of the confidentiality required of the Office and that a price cannot be put on respecting the Code of Ethics as has been done by the employees of the City Clerk's Office.

Mrs. Traci McDowell, City Clerk, relayed appreciation for the supporting comments and understanding of the concerns stated by Mr. Hartman. She explained that the matter was being presented at this time due to the upcoming budget review process. Mrs. McDowell advised members that each year, prior to the preparation of the budget, the City Manager asks department heads if there are any position regrades and/or retitlings that should be considered. She advised members that this information was prepared last year; however, due to the economy, she decided not to submit the request. Prior to September 2011, she stated that the City Clerk's Office had a full complement of staff, which consisted of four (4) employees. In September 2011, one employee left to work with the Delaware Public Archives and, since the City was in a hiring freeze and she wished to be a "team player," that position has remained vacant. She stated that the amount of work required in the City Clerk's Office is a lot for four (4) employees and too much for the three (3) that have continued to serve, which is why the request was submitted (see next agenda item).

Mrs. McDowell advised member that there was a crisis looming in the Clerk's Office. She noted that the revised job descriptions detail the unique nature of the work and the stresses associated with the office. Mrs. McDowell stated that the only way the work can be accomplished is by having a dedicated and experienced staff to protect the City's interests and that longevity of staff is very important. She indicated that employee retention has been an ongoing program in the Clerk's Office due to the workload and stress.

Mrs. McDowell noted that she began working in the Clerk's Office in 1998 and made a promise at that time to ultimately assume the City Clerk position, although that was not her desire due to the workload and stress involved. She explained that it was her goal to put a full staff in place prior to retiring; however, the recent loss of one staff member in September 2011 and the resignation of Mrs. Stein were presenting challenges to this goal. Mrs. McDowell stated that she did not wish to minimize the contributions of other City employees, noting that the City has a "great team of hardworking, dedicated people." However, she advised members that she felt it was inequitable that identical job descriptions and qualifications are applied to all Administrative Assistant positions in the City and that this position in the Clerk's Office is the lowest paid of all the Administrative Assistants, in spite of the long hours and stressful conditions involved.

Mrs. McDowell noted that some of the employees who have transitioned out of the Clerk's Office have made lateral moves to reduce the pressure; others have been promoted within the City to jobs that may not be quite as stressful or require the number of hours. She advised members that 14 individuals have transitioned through the Clerk's office since 1994.

Mr. Lynn explained his concerns regarding the potential for litigation issues. He advised members that, although he has been to law school and performs legal research, he has had to call on the City Clerk on several occasions regarding legal issues and he received accurate information from her. He felt it was extremely important for the City to have staff with this type of knowledge. In addition, Mr. Lynn relayed concerns regarding the succession planning issue and requested a commitment from the City Clerk to remain with the City beyond the eligible date of retirement. Responding, Mrs. McDowell stated that her plan is not to retire, explaining that she could not leave until the City and, more particularly, the City Clerk's Office, is in much better condition.

Council President Leary advised members of a recent incident whereby a City board attempted to move a published meeting to an alternate location, which would have been a violation of the Freedom of Information Act (FOIA). He explained that, due to the knowledge and response of the City Clerk, the meeting location remained as published and the FOIA violation was avoided. It was his opinion that the vacant positions in the City Clerk's Office should be filled and he felt that no organization could be expected to continue with such a lack of manpower.

Mr. Hare indicated that he was aware of the City Clerk working on weekends on several occasions and was advised that, due to the numerous interruptions through the week, she could accomplish much more when the office is closed. He noted that, following a recent surgery, Mrs. Stein brought work to his home after work hours. Mr. Hare stated that members of Council, as well as the City, could not function without the City Clerk's Office. It was his opinion that it was time to take action and approve the retitling and regrading of the positions within the City Clerk's Office.

Mrs. Russell stated her support of the request and commended Mrs. McDowell and her staff for their dedication and professionalism.

Referring to comments made by Mr. Hartman, Mr. Lynn stated that the increase in salaries would be justified if members applied a cost-benefit analysis, explaining that the increase in salaries is a small sum of money compared to the legal fees and court costs that would be engendered if the City

did not have the experience that is currently in the City Clerk's Office. Not providing proper notices, violations of FOIA, etc., all have financial consequences, both in terms of hiring legal staff and potential damages. He felt that the requested salary increases was a meager sum of money to avoid such legal issues. Mr. Lynn advised members that Mrs. McDowell has demonstrated the ability to assist the City in avoiding those types of problems. As a result, he urged members to approve the retitling and regrading of the City Clerk and Assistant City Clerk and also approve the hiring of the two (2) vacant positions (see next agenda item).

Responding to Mr. Shevock, Mrs. McDowell confirmed that City Charter authorizes the position of City Clerk and that it has been her observation that some municipalities use the title "City Clerk" along with a different title.

Dr. Jones relayed appreciation to the employees of the City Clerk's Office for their efficiency and professionalism. Responding to the question regarding the crisis situation facing the Clerk's Office, Mrs. McDowell stated that the crisis was created both by the need to retitle and regrade the positions and the need to fill the vacant positions. She indicated that extremely qualified, compatible individuals can be hired to fill the vacant Administrative Assistant positions; however, if there is no differentiation in compensation, frustration results. She stated her feeling that these positions in the City Clerk's Office are not properly titled, explaining that any member of Council, staff, or the public can call the office with a question regarding the Dover Code, Delaware Law, etc., and any employee of the office can respond; they do not have to depend upon the City Clerk.

Responding to Dr. Jones, Mrs. McDowell stated that the most recent pay raises provided to the employees of the City Clerk's Office was in July 2010 and that the percentage was consistent with what was provided to all non-bargaining employees.

Mr. Hutchison relayed his appreciation for the work provided by the City Clerk's Office. Having almost 40 years of experience working with the office, he indicated an understanding of the value of the Clerk's Office. He felt that no other department in the City is regularly required to "change gears" several times during the course of a day.

Mr. Anderson noted that the City Clerk's Office has experienced evolution, explaining that it once served as a clerical office and now serves as a complex, administrative office, handling a host of specialized functions; however, the salaries have not changed to reflect the change in responsibilities. It was his feeling that the City Clerk's Office employees have been underpaid for several years and he relayed support for the request, with the possibility of phasing in the changes over the next couple of years.

Thee committee recommended approval of the retitling and regrading of the City Clerk and Assistant City Clerk positions, as recommended by staff.

Dr. McGlumphy explained his opposition to the request was due to it being excessive and his belief that the Pay for Performance evaluation process is severely flawed. He noted that the Salary and Benefits Compensation Comparison Committee would present its findings in the near future

regarding this issue. Although he supported filling the vacant positions, he stated that the retitling and regrading would cause other departments to submit similar requests.

Responding to Dr. Jones, Mr. Koenig stated that when the Management Advisory Group (MAG) study was conducted, a desk audit approach was not taken; however, it has been mentioned by several members of Council in the past. He stated that concerns regarding inequities are raging and will continue. He agreed that the City should conduct desk audits.

In response to Dr. McGlumphy, Mr. Hare advised members that he has performed many desk audits and explained that it is not necessary for an outside firm to perform the work and that it could be accomplished internally.

Mr. Anderson moved for approval of the committee's recommendation for approval of the retitling and regrading of the City Clerk and Assistant City Clerk positions, as recommended by staff, seconded by Mrs. Russell.

Mr. Hare noted that since the committee meeting, the City Manager, along with the City Clerk, submitted an alternative for the re-titling and re-grading of the positions ***(Exhibit #4)***.

Mr. Hare moved to amend the motion for approval of the re-titling and re-grading of these positions as indicated on the alternative submitted, seconded by Mr. Hutchison.

Responding to Dr. McGlumphy, Mr. Hare noted that there were significant salary increases provided to other employees throughout the City (as high as 52% and 22% in one year); however, no salary increases were provided to the employees in the City Clerk's Office.

Dr. McGlumphy indicated his grave concerns regarding the re-titling and re-grading of the positions, as well as the process, feeling that the process lacked integrity. He recommended that members eliminate the current system and start over. It was his feeling that the system utilized for re-titling and re-grading of positions is divisive and promotes a "me too" attitude for every employee in the organization. Dr. McGlumphy read the following statement into the record:

> "March is a time to lay low and beware of taking risk. Disaster is certain. Beware the Ides of March." This can be no clearer than the forewarning given to Council regarding the reclassification of current positions in this economic climate. How will Council explain to employees that no funds are available for salary increases. How will Council explain the decision to the citizens of Dover as they seek to increase revenues with proposals of increases in taxes, rates, and fees. How can you justify that?
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> Two years ago, in 2010, Dover increased taxes 8.69%, increased water rates 11.1%, increased wastewater rates 26.2%, increased business licenses 3.3%, added a wastewater adjustment fee of 44.9%, and doubled the trash fee. Since 2007 (the recession), salaries have increased in our workforce under Pay for Performance guidelines 9% - 18.7%. Residential electric rates increased 18.3%, overall budget

shortfalls ranged around $11M, and essential infrastructure projects have been deferred to the tune of $5M.

Tonight's vote to increase the salaries adds to increases that were already given. This position has received in the past a 20% increase since 2007. I am not saying that maybe it deserves more or less, but the fact of the matter is that increases were given. Don't let anyone tell you that increases were not given.

On trial here tonight is the integrity of a process, a process that I have already said to you is flawed and broken. Throw it out or fix it. You don't fix it by throwing more money at it. We presently have a Salary and Benefits Compensation Comparison Committee getting ready to make recommendations that have not been brought forth yet. Hopefully they will be brought forth shortly. I feel we are jumping the gun in this particular situation. We are presently involved in contract negotiations with three of our unions. We are presently involved and will be in contract negotiations with our non-bargaining staff. I will say that our non-bargaining staff is the only group in this organization to date, over the last five years, that have received a 0% pay increase last year. The process that I am referring to is called Pay for Performance. I took the liberty of listing some of my concerns regarding the Position Analysis Factor scoring system and developed a scenario that actually took place in 2009 to show the discrepancies in the assignment of these values."

Members were provided a memorandum dated April 9, 2012, entitled "Concerns Regarding Position Analysis Factor (PAF) Scoring" ***(Exhibit #5)*** and Dr. McGlumphy read this memorandum into the record. He reiterated his opposition to the increase in salaries at this time and reminded members of information received from individuals within the organization.

Mr. Anderson stated that he is not making judgement based upon the clearly flawed and broken pay-for-performance system, which should probably be abandoned and a new system developed. He explained his judgement is based upon the free market. He noted that the positions in the City Clerk's Office require a high degree of technical skill, and that it has changed dramatically over the past several years, and now involves finance, legal matters, legal compliance, clerical, research, human resources, etc. He advised members that the office is imploding and if Council does not take the necessary action to resolve the issue, it could threaten the legal compliance of the City, the backup work for finance will be stressed, and the fact that the office is constantly losing employees to other entities due to the market. Mr. Anderson advised members that the value in the market place is consistent with the recommendations of the City Clerk and that his position for support of the recommendation is based on the free market. He suggested that members take the leadership and approve the reclassifications since it more accurately reflects the job requirements of 2012 and not of those in 1998.

Mr. Lynn referred to the over-time and comp-time accumulated by employees of the City Clerk's Office and that the City would actually be saving by re-titling and re-grading the positions given the fact that the employees would not be generating the huge over-time and comp-time, which is an expense for the City.

Responding to Mr. Lynn, Mr. Hare stated that during February and March of 2012, the employees of the Clerk's Office have accumulated 271 additional work hours, which would equate to an $8,000 expense to the City for only two (2) months.

Council President Leary reminded members that there has been a problem with turnover of employees in the City Clerk's Office most particularly since 2003, the advent of the pay-for-performance system.

On a call for the question by Mrs. Russell, the motion to amend by reducing the paygrade for the City Clerk from 133 to 132, and that the proposed salary of $90,864 be reduced to $86,538; to reduce the paygrade for the Assistant City Clerk from 124 to 123, and that the proposed salary of $58,571 be reduced to $48,763; to reduce the paygrade for the Administrative Assistant from 118 to 117 at a proposed salary of $43,707 be reduced to $39,724, was carried by a roll call vote of five (5) yes, three (3) no (Mr. Anderson, Dr. McGlumphy, and Mrs. Williams), and one (1) absent (Mr. Bonar).

The motion approving the committee's recommendation for the re-titling and re-grading of the City Clerk and Assistant City Clerk positions, as amended, was carried by a roll call vote of six (6) yes, two (2) no (Dr. McGlumphy and Mrs. Williams), and one (1) absent (Mr. Bonar).

Review and Recommendation - Filling Critical Positions

During their Regular Meeting of January 23, 2012, City Council approved an amendment to the process for filling critical positions, which was approved by City Council on August 22, 2011, to specify that if a position becomes vacant that will affect public or employee safety or cause financial harm to the City, Permission to Recruit, Hiring Justification Outline, and Wage and Benefit Information for Employee Hiring and Transfers forms shall be submitted to the Legislative, Finance, and Administrative Committee, and that such requests would be forwarded to the City Manager and Controller/Treasurer for their review and recommendation prior to the Committee's consideration.

Administrative Assistants (2) - City Clerk's Office *(This Request Includes Re-titling and Re-grading of the Positions)*

Mrs. Traci McDowell, City Clerk, reviewed a request to fill two (2) vacant Administrative Assistant positions within the City Clerk's Office. She reviewed documentation provided to members which outlined the request to re-title, re-grade, and fill two (2) vacant or soon to be vacant positions within the department and to hire one (1) temporary, full-time position to assist the department until the vacant positions are filled. Due to department vacancies in the current fiscal year, she assured members that funds were available to hire the requested positions at the proposed rate. In addition, she stated that the FY 2013 budget should be able to accommodate the level of staffing as a result of vacancies throughout the organization.

With regard to the request to hire a temporary employee, Mrs. McDowell advised members that there is a retiree who would be interested and has served in the office during previous occasions on a temporary basis; therefore, due to her familiarity with the City's departments and functions of the office, it would not be necessary to train or familiarize this individual.

Mrs. McDowell explained that the positions being requested were critical to the function of the City Clerk's Office and must be filled. The estimated FY 2012 budget impact of the upgrades would $17,142.67, which she stated was available in the City Clerk's Office budget. She indicated that the recommendation was being made to address the Clerk's Office employee retention issue and her belief that the requested re-titling, re-grading, and recruitment was in the best interests of the department and the City of Dover.

Staff requested approval to fill the two (2) Administrative Assistant positions to include the re-titling to "Assistant to the Director of Council Affairs and Constituent Services" and re-grading from 112 to 118, and the hiring of a temporary Administrative Assistant at a pay grade of 112.

In response to Dr. Jones, Mrs. McDowell stated that the temporary position would serve until the two (2) permanent employees were hired. Dr. Jones suggested that in-house candidates be considered for filling the vacancies. Responding, Mrs. McDowell stated that due to current employees' knowledge of the work required in the office, rarely are there in-house applicants; however, she assured members that consideration would be given to any current employee who applies for a position in the office.

Mr. Anderson encouraged the City Clerk to consider the lack of diversity that exists in City employment.

The committee recommended approval of the request to fill the two (2) Administrative Assistant positions, with the re-titling and re-grading of the positions, and the hiring of a temporary Administrative Assistant, as recommended by staff.

Dr. McGlumphy explained his opposition was not to filling the critical positions but rather the retitling and re-grading of the positions due to his belief that the Pay for Performance (PFP) evaluation process is severely flawed.

Mr. Hare relayed his concurrence with Dr. McGlumphy with regard to the job descriptions for the City and the PFP; however, he explained that his support for the request was based on the amount of work, time, expertise, etc., that is required of the positions in the City Clerk's Office.

Mr. Anderson agreed that the current system, although a good concept, was fatally flawed and broken.

Responding to Dr. McGlumphy, Council President Leary indicated that as a result of action taken on the previous item, Council must take action regarding the filling of the two (2) Administrative Assistant positions as well as the hiring of a temporary Administrative Assistant. *(City Clerk's Office Note: Exhibit #4 - Summary of Original Proposal Compared with Alternative Proposal includes details regarding staff's recommendations for filling the vacant Administrative Assistant positions, which include upgrading the currently occupied Administrative Assistant position to a Grade 117 at a salary level of $39,724 and making no changes to the existing grade level or salary range for the vacant Administrative Assistant position.)*

Mr. Lynn moved to approve the request to fill the two (2) Administrative Assistant positions, and the hiring of a temporary Administrative Assistant for the City Clerk's Office, seconded by Mr. Hutchison and carried by a roll call vote of five (5) yes, two (2) no (Dr. McGlumphy and Mrs. Williams), and two (2) absent (Mr. Bonar and Mrs. Russell).

There being no objections, Council President Leary declared a 10 minute recess.

Meeting recessed at 9:32 p.m. and reconvened at 9:40 p.m.

Payroll Specialist - Finance Department

Mrs. Donna Mitchell, Controller/Treasurer, reviewed a request to fill a Payroll Specialist position within the Finance Department. She explained that the department has struggled to maintain focus on deadlines and matters that impact the financial well-being of the City during the past fiscal year. The vacancy is the result of the extended military deployment of Mr. Turhan Jordan.

Mrs. Mitchell stated that the vacancy has resulted in certain staff members working as many as 10 to 12-hour days and weekends and that several employees are experiencing health and family issues. She reminded members that the vacancy resulted in a request for two (2) extensions for the City's annual audit. She noted that the total cost of the position for annual wages and benefits is estimated at $60,571.

Responding to Mr. Shevock, Mrs. Mitchell stated that Mr. Jordan has not been able to provide an estimated date of return and that his absence has exceeded the extended military deployment timeframe. She assured members that the Human Resources Director and City Manager are aware of the military leave procedure and that, upon his return, the City would be required to offer Mr. Jordan a comparable position within the organization.

Council President Leary noted that the employees in the Finance Department have also been required to put in extra hours, including weekends, to get the job done and that there are critical financial issues involved.

In response to Dr. McGlumphy, Mrs. Mitchell stated that there was no change in the pay grade for the Payroll Special position; however, she included a revised job description to include experience in the ADP system. In addition, she stated that qualifications for the position previously included only preference for Associate's degree and that the revised job description now requires the individual to have accounting knowledge.

The committee recommended approval of the request to fill the position of Payroll Specialist in the Finance Department, as recommended by staff.

Dr. McGlumphy moved for approval of the committee's recommendation, seconded by Mr. Lynn and carried by a unanimous roll call vote (Mr. Bonar absent).

Inspector I - Planning and Community Development

Mrs. Ann Marie Townsend, Director of Planning and Community Development, reviewed the request to fill an Inspector I position in the Code Enforcement Division of the Planning and Community Development Department. She explained that the vacancy is the result of the recent resignation of Mr. Ed Graves.

Mrs. Townshend stated that leaving the position vacant would hamper the City's ability to move forward to resolve problem property cases, follow up on vacant buildings, proceed with the demolition of dangerous buildings, and provide support to other City divisions and departments in offering services to maintain and improve the quality of life in Dover. This would also make it harder to respond to citizen complaints in a timely manner and resolve the violations that are generating complaints.

The committee recommended approval of the request to fill the position of Inspector I in the Code Enforcement Division of the Planning and Community Development Department, as recommended by staff.

Dr. McGlumphy moved for approval of the committee's recommendation, seconded by Mr. Hutchison and carried by a roll call vote of seven (7) yes, one (1) no (Mr. Anderson), and one (1) absent (Mr. Bonar).

Library Clerk I (4) - Dover Public Library

Members were provided a request for permission to recruit for four (4) part-time Library Clerk I positions. Dr. McGlumphy noted the receipt of correspondence, as follows: 1) Bob and Beverly Bresnahan; 2) Judi Leaming; and 3) N.C. Vasuki.

Mr. Scott Koenig, City Manager, reviewed the request of Ms. Margie Cyr, Library Director, to hire four (4) permanent, part-time Library Clerk I positions, designated at 18 hours per week, for the Dover Public Library. He explained that the request was the result of a need at the current Library that has been present since the beginning of the budget year. Members were advised that in December 2011, due to staffing levels, operating hours were reduced from 68 hours per week to 63 hours per week. Since then, there has continued to be a reduction in staffing levels at the Dover Public Library. Mr. Koenig stated that staff recently received another resignation from a part-time employee, which created the Library's eighth vacancy. As a result, he submitted a recommendation, via a memo to City Council, to further reduce the scheduled hours of the Library from 63 hours to 59 hours per week and close the facility on Sundays. Subsequently, Mr. Lynn contacted him and inquired if an alternative action could be taken. Responding, Mr. Koenig stated his intention to discuss the Library vacancies at the Council Retreat, which occurred on March 26, 2012. He stated that his intent is to submit a request to Council to fill those vacant positions that are in the budget for the Library before the opening of the new building. Mr. Koenig stated that in next year's budget, it was anticipated that the library staff would expand to include a part-time librarian and a custodial position. During the Budget presentation at the Council Retreat, this request was not submitted. Instead, Mr. Koenig recommended opening the new Library with the existing staff complement authorized in the budget and then analyzing the Library's ability to deliver service.

Mr. Koenig explained his long-range plan to expand the hours of the existing temporary employees to cover system operations for the new Library and then conduct a service audit to determine if those positions that were originally identified for future budgets were necessary to maintain a high level of service at the Library. He stated that the short-range plan is to hire four (4) Library I positions, maintain the reduced schedule at the Library, and have staff focus on the closing of the old Library and the opening of the new Library, which is scheduled for September 2012. Mr. Koenig noted that the four (4) Library I positions would earn an hourly was of $12.65, which equates to approximately $228 per week, per person. He felt that this was a minimal expense to maintain the current level of service and prepare for moving into a new facility.

Referring to the previous request for filling the Inspection I position in the Planning and Community Development Department, Mr. Anderson explained his opposing vote was not due to his opposition to fulfilling the request but rather due to the requirement to consider filling positions that are critical to the safety, financial well-being, or legal liability of the City. He questioned how this request fell into the required criteria for approval of such requests. Responding, Mr. Koenig indicated that the request was being submitted in an effort to maintain the current level of public service. However, he reminded members that the new library has a $10M commitment from the State for financing; therefore, it was his opinion that the City has a commitment to adequately staff the new facility.

Responding to Mr. Lynn, Mr. Koenig explained that the request for the four (4) Library I positions was the "first wave," referred to as Tier I during the City Council Retreat, and that the Tier II request will include several utility-related positions he intends to present to the Committee during their second meeting in April. He stated that there may be a change in the pay rate of Page positions, which represents three (3) of the four (4) additional openings. The remaining positions are slated as a Tier III request and will be presented for consideration in late May/early June in order to have staff in place prior to the opening of the new Library. He stated that if he knew that the hiring freeze would be lifted effective July 1, 2012, it would not be necessary to submit these requests for consideration.

At the request of Mr. Lynn regarding the plan to fill the remaining vacancies, Mr. Koenig stated that one of the positions was related to custodial services. Rather than filling a new position, it was planned to utilize existing custodial employees to accommodate the new Library as well as the City Hall complex.

Mr. Koenig advised members of concerns relayed by the Governor's Office regarding recent newspaper articles that mentioned the reduction of hours of operation at the existing Library and their expectation that the new Library would open at a service level that is respectful of the current level of service and mindful of new services that will be offered at the new Library. In regard to the actual level of staff that will be required at the new Library, Mr. Koenig stated the need to evaluate how that building will actually be funded before determining definitively whether another librarian or additional part-time employees are necessary, if the hours of part-time staff should be expanded, etc. He stated that a facility audit will be conducted to determine if service is being met at a level that Council and the patrons expect.

The committee recommended approval of the request to fill the four (4) Library Clerk I positions for the Dover Public Library, as recommended by staff.

Dr. McGlumphy moved for approval of the committee's recommendation, seconded by Mr. Lynn and carried by a unanimous roll call vote (Mr. Bonar absent).

Assignment of Emergency Management Coordinator Responsibilities

Mr. Scott Koenig, City Manager, advised members that the lack of an Emergency Management Coordinator (EMC) was recently discussed at the Safety Advisory and Transportation Committee Meeting. He provided members with a history of the EMC, noting that over the past ten (10) years, the duties of EMC have been executed by various positions and departments throughout City government. These departments include the former Community Services Department, the Police Department and, most recently, the Public Services Department. After September 11, 2001, federal and state emergency management requirements became more complex, including requiring and tracking National Incident Management System (NIMS) training and having a NIMS compliant Emergency Management Plan. These complexities caused a need for a full-time Emergency Management Coordinator. The City's first EMC, Mr. Wayne Hutchison, was promoted from an Inspector position in the Fire Marshall's Office on June 2, 2008, and he retired on December 23, 2010. His final salary and benefit load was roughly $75,566 ($53,216 + $22,350). Mr. Hutchison performed an admirable job and completely rewrote the City's Emergency Management Plan, created an emergency call center, developed notification protocols, equipped an EMC trailer, and applied for Homeland Security grants. In addition, Mr. Hutchison was assigned safety-related duties such as the routine inspection of Silver Lake Dam and providing safety training for various City employees. Due to the economic environment at the time of Mr. Hutchison's announced retirement, staff elected to not fill the position at that time. The duties of the position were divided among various staff members including the Public Services Manager, the Public Affairs Coordinator, and the City Manager.

Mr. Koenig advised members that Ms. Kay Dietz-Sass, who currently serves as the City's Public Affairs Coordinator, has been a key member of the City's Emergency Management Team. He stated that, after considerable thought, he felt the best option for continuing the City's Emergency Management efforts was to request permission from City Council to assign the EMC responsibilities to Ms. Dietz-Sass on a permanent basis. Ms. Dietz-Sass has degrees in Business Management, General Business, and Marketing. In addition, he stated that she has completed the entire Professional Development Series for Emergency Management as well as successfully completing the Advanced Public Information Officer course through the Federal Emergency Management Agency (FEMA). He provided members with a list of completed courses through the U.S. Department of Homeland Security, FEMA, and the Delaware Emergency Management Agency (DEMA). Mr. Koenig noted that Ms. Dietz-Sass worked closely with Mr. Hutchison on various emergency procedures for the City and has proven to be a well-organized, decisive, and a dedicated individual in several emergency situations. She played a key role in opening a shelter for 126 fire victims when Dover experienced its largest apartment fire in many years. She has also worked closely with the NASCAR events, attended meetings for the implementation of the Dover Downs Joint Operations Center, and handled weather and emergency notifications and bridge calls with the State of Delaware, DEMA, the National Weather Service, and more. In addition, Ms. Dietz-Sass

was the primary point of contact for the City's most recent FEMA reimbursements related to a hurricane in 2011.

As a result of an organizational assessment of this function, Mr. Koenig stated his opinion that it would be in the best interest of the City to permanently assign the duties of the EMC position to the City's Public Affairs Coordinator. If this request were approved, he explained that Ms. Dietz-Sass would have the dual title of Public Affairs Coordinator/Emergency Management Coordinator. He noted that staff conducted a preliminary analysis of the combined position using the Point Factor Analysis (PFA) system. The preliminary review yielded a grade of 129 for the position with a salary range of $62,784 (minimum) - $76,010 (market) - $98,701 (maximum). If authorized, staff would finalize the analysis, confirm a pay rate, and inform members of Council of the final results of the analysis.

Staff recommended authorization to permanently assign the duties of the Emergency Management Coordinator position to Ms. Kay Dietz-Sass. The proposal salary would be based on a final analysis of the position using the PFA system with a preliminary grade of 129 for the dual-titled position.

Responding to Dr. Jones, Mr. Koenig stated the need to complete the analysis and required paperwork; therefore, he anticipated an effective date of the first of May.

In response to Mr. Hare, Mr. Koenig stated that Mr. Hutchison's final salary was $53,216.

Dr. McGlumphy suggested that the Committee defer taking action to allow staff the opportunity to prepare the necessary paperwork for a title and grade change.

Mr. Koenig stated that he would not be present at the April 9, 2012 Committee Meeting; however, he requested the opportunity to submit a recommendation for consideration during that meeting.

Responding to Mr. Anderson, Mr. Koenig stated that recent action authorized City Hall to be designated as the Emergency Operations Center for the City and that the Police Department serve as a backup location.

Mayor Carey requested the opportunity to provide information regarding this matter. It was suggested that he discuss the recommendation with the City Manager prior to providing members this information.

The committee recommended postponing action regarding the assignment of Emergency Management Coordinator responsibilities until the Legislative, Finance, and Administration Committee Meeting scheduled for April 9, 2012.

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

Mr. Anderson noted that the majority of the committee members had relayed concerns regarding the City's pay-for-performance system and that it was necessary for the system to be completely re-structured. He stated that the Chairman had requested that this matter be made a part of the record and requested that staff list this matter as an agenda item for the committee's consideration.

Dr. McGlumphy moved for acceptance of the Special Legislative, Finance, and Administrative Committee Report, seconded by Mr. Anderson and unanimously carried.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - APRIL 9, 2012

The Legislative, Finance, and Administration Committee met on April 9, 2012 with Chairman McGlumphy presiding. *City Clerk's Office Note: Except for the following time sensitive issue, the Committee's report from their April 9, 2012 meeting will be presented to Council during the Regular Council Meeting of April 23, 2012 for review and consideration.*

Review and Recommendation - Filling of Critical Position - Patrolman (Police Department)

During their Regular Meeting of January 23, 2012, City Council approved an amendment to the process for filling critical positions, which was approved by City Council on August 22, 2011, to specify that if a position becomes vacant that will affect public or employee safety or cause financial harm to the City, Permission to Recruit, Hiring Justification Outline, and Wage and Benefit Information for Employee Hiring and Transfers forms shall be submitted to the Legislative, Finance, and Administrative Committee, and that such requests would be forwarded to the City Manager and Controller/Treasurer for their review and recommendation prior to the Committee's consideration.

During the committee meeting held earlier this evening, members considered Review and Recommendation - Filling of Critical Position - Patrolman (Police Department).

Chief Hosfelt reviewed a request to fill a vacancy for a Patrolman which was created by the impending retirement of Capt. Steven Getek, which was announced during the week of April 2, 2012. Members were provided a revised Wage and Benefit Information for Employee Hiring and Transfer Request and advised that it was Chief Hosfelt's hope to fill the position in time for the new officer to attend the State Police Academy, which was scheduled to begin on April 23, 2012.

The Committee recommended that permission be granted to recruit for a Patrolman position, as recommended by staff. The motion was seconded by Mr. Shevock and unanimously carried. Due to time constraints, it was noted that this matter has been placed on the Council agenda for the meeting being held later in the evening.

Dr. McGlumphy moved for approval of the Committee's recommendation, seconded by Mr. Hutchison and carried by a unanimous roll call vote (Mr. Bonar absent).

MONTHLY REPORTS - FEBRUARY 2012

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

Budget
Chief of Police
City Assessor
City Manager
City Planner
Dover Fire Department
Capital Investment Plan (CIP)

APPOINTMENT RECOMMENDED BY MAYOR CAREY - PLANNING COMMISSION - KATHLEEN H. STILL (*To Fill the Unexpired Term of Michael Hemmig - Term to Expire June 2013)*

Mayor Carey recommended the appointment of Ms. Kathleen H. Still to serve on the Planning Commission for a term to expire June 2013 (to fill the unexpired term of Michael Hemmig).

By consent agenda, Mr. Hutchison moved for approval of the appointment of Ms. Kathleen H. Still, as recommended by Mayor Carey. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote (Mr. Bonar absent).

FIRST READING - PROPOSED ORDINANCE #2012-09

Council President Leary reminded the public that copies of the proposed ordinance are available at the entrance of the Council Chambers or can be obtained from the City Clerk's Office. Final action by Council on the proposed ordinance will take place during the Council Meeting of April 23, 2012.

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:

PROPOSED ORDINANCE #2012-09 - BUDGET AMENDMENTS FOR FISCAL YEAR 2012

FIRST READING - PROPOSED ORDINANCE #2012-11

Council President Leary reminded the public that copies of the proposed ordinances are available at the entrance of the Council Chambers or can be obtained from the City Clerk's Office. Since the ordinances are amendments to the Zoning Code, a public hearing is required. Staff recommended referral of the amendments to the Planning Commission on May 21, 2012, and that a public hearing take place during the Council Meeting of June 11, 2012, at 7:30 p.m., at which time, final action by Council will take place.

Mr. Hare moved to refer the amendments to the Planning Commission on May 21, 2012 and that a public hearing be set before City Council for June 11, 2012 at 7:30 p.m. as recommended by staff. The motion was seconded by Mr. Anderson and unanimously carried.

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

> PROPOSED ORDINANCE #2012-11 AMENDING THE ZONING MAP, SOURCE WATER PROTECTION OVERLAY ZONE - TIER 3 EXCELLENT RECHARGE AREA IN THE VICINITY OF NORTH DUPONT HIGHWAY AND LEIPSIC ROAD *(PLANNING OFFICE FILE NUMBER MI-12-06)*

FINAL READING - PROPOSED ORDINANCE #2011-31 AMENDING CHAPTER 102 - TAXATION, ARTICLE I - IN GENERAL, SECTION 102-1 - VALUATION AND ASSESSMENT WITH LF&A-1 AND SENATE AMENDMENT NO. 1 TO SB 166

The First Reading of the following proposed ordinance was accomplished during the Council Meeting of November 28, 2011.

Mr. Hare moved that the Final Reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Hutchison and unanimously carried.

Mr. Hare moved for adoption of LF&A-1 to Ordinance #2011-31, seconded by Mr. Anderson and unanimously carried.

Mr. Hare moved for adoption of the proposed ordinance, as amended, seconded by Mr. Hutchison and by a unanimous roll call vote (Mr. Bonar absent), Council adopted Ordinance #2011-31, as follows:

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

That Chapter 102 Taxation, Article I - In General, Section 102-1 - Valuation and assessment, be amended to read as follows:

Sec. 102-1. - Valuation and assessment.

Section 47 of the Charter provides that an impartial valuation and assessment of all real property within the city may be conducted by the city assessor or assessors. The council may also direct that in lieu of the assessment and valuation by the city assessor, a reassessment and revaluation may be done by the assessor or assessors or an outside mass appraisal company or a consortium of appraisers chosen by the council.

Commencing with the year 2010 and every fifth year thereafter, unless otherwise directed, the revaluation and reassessment of all real property may be conducted, under the supervision of the assessor or in conjunction with the assessor, by an outside mass appraisal company or a consortium of appraisers chosen by the council. The mass appraisal company or consortium of appraisers shall be licensed to conduct business in the State of Delaware and the City of Dover and shall employ

appraisers who are licensed by the Delaware Division of Professional Regulations. All property shall be valued as to its status; as of its ownership; as of its current market value as of the January 1 assessment date and shall reflect fair market value.

ADOPTED: APRIL 9, 2012

FINAL READING - PROPOSED ORDINANCE #2012-07 WITH LF&A-1 - NEW APPENDIX E - COMMERCIAL BUILDING REDEVELOPMENT

The First Reading of the following proposed ordinance was accomplished during the Council Meeting of March 12, 2012.

Mr. Hare moved that the Final Reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Anderson and unanimously carried.

Mrs. Williams moved for approval of LF&A-1 to Ordinance #2012-07, seconded by Mr. Anderson and unanimously carried.

Mr. Anderson stated that the intent of the ordinance was to bring jobs to Dover and was intended to include industrial businesses. For clarification, he suggested that the ordinance be amended to specifically include industrial.

Mr. Anderson moved for adoption of Council Amendment #1 to Ordinance #2012-07, to include industrial, seconded by Mrs. Williams.

Mrs. Townshend advised members that staff has been working with a potential industrial employer to occupy a partially vacant industrial building in the City of Dover. There was concern that the proposed ordinance may preclude industrial businesses and it was suggested by the City Solicitor's Office that the ordinance be inclusive if that were the intent of Council.

On a call for the question by Mrs. Williams, the motion to adopt Council Amendment #1 to Ordinance #2012-07 was carried by a unanimous roll call vote (Mr. Bonar absent).

Mr. Anderson moved for adoption of the proposed ordinance, as amended, seconded by Mr. Hutchison and by a unanimous roll call vote (Mr. Bonar absent), Council adopted Ordinance #2012-07, as follows:

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

That the City of Dover Code of Ordinances be amended by inserting a new Appendix E - Commercial and Industrial Building Redevelopment, as follows:

APPENDIX E - COMMERCIAL AND INDUSTRIAL BUILDING REDEVELOPMENT

ARTICLE I. - INTENT.

The city council has deemed it to be in the best interests of the residents of the city and in furtherance of their health, safety, and welfare to promote the renovation and utilization of commercial and industrial buildings on the city's principal commercial corridors. In order to promote the business growth and reutilization of vacant commercial buildings along these corridors, city council has determined that incentives in the forms of tax abatements, impact fee waivers, and building permit waivers should be offered.

ARTICLE II. - ELIGIBILITY.

Section 1. - Eligible project.

Eligible project shall mean the renovation and establishment of a business in an existing commercial or industrial building or tenant space which:

(a) Is a minimum of 5,000 square feet of floor area;
(b) The fair market value of the materials to be used in and the labor to be performed on the project exceeds the sum of $15,000.00;
(c) Is for commercial, industrial, or office use;
(d) The establishment of a new business is proposed; and
(e) Conforms to the intent of this ordinance.

Construction or renovation of accessory buildings as defined in Appendix B - Zoning, Article 12 - Definitions, of the Dover code of ordinances shall not be eligible for redevelopment incentives. Construction or renovation which constitutes ordinary replacement or routine maintenance shall not qualify as an eligible project. Construction of new buildings shall not qualify as an eligible project.

Section 2. - Redevelopment incentive ineligibility.

An otherwise eligible project shall be ineligible for redevelopment incentives if:

(a) An application for a building permit for the project was filed prior to the effective date of this ordinance; or
(b) Construction or renovation commenced prior to the effective date of this ordinance;
(c) Issuance of the certificate of occupancy and/or the completion and finalization of the building permit occurs before the application for redevelopment incentives is received;
(d) Construction or renovation commenced prior to the issuance of a building permit by the city of Dover;

(e) Applications for incentives provided in this ordinance shall be subject to the provisions of Chapter 1 - General Provisions, Section 1-13 - Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings.

ARTICLE III - INCENTIVES.

Section 1. - Waiver of fees.

Renovations meeting the eligibility requirements shall be eligible for the following incentives:

(a) Partial waiver of permit fees. Fifty percent of the fees for building, plumbing, mechanical, and fire protection permits shall be waived for eligible projects. Sign permit fees shall not be waived.

(b) Partial waiver of impact fees. For projects where renovation will constitute an increase in equivalent dwelling units (EDU's) and require payment of impact fees, fifty percent of the City's portion of the water and sewer impact fees shall be waived. The Kent County impact fees and administrative charges shall not be waived.

Section 2. - Tax abatement.

Eligible projects shall receive property tax waivers for a period not to exceed ten years so that improvements to the properties made in accordance with the intent of this ordinance will not be taxed for a period of time not to exceed ten years from the date of the making of the improvements. The said ten-year period will commence with the date of issuance of a building permit. The property tax waiver shall apply only to the improvements and not to the property value assessed prior to the improvements.

ARTICLE IV. - ADMINISTRATION.

The city manager and his staff shall develop the administrative procedures necessary to implement this ordinance. The city manager and his staff shall promulgate reasonable standards to be used in determining whether an eligible project shall receive redevelopment incentives and, if so, which incentives shall be granted. Administrative staff shall review applications for redevelopment incentives and grant incentives to eligible projects. Applicants shall be notified in writing of the action taken on their applications.

ARTICLE V. - APPEALS.

Applicants denied redevelopment incentives shall have the right to appeal the decision to the city council within 30 days from the date of mailing of the formal notification. Such appeal shall be in writing, signed by the owner of the property in question, and filed with the city clerk.

ARTICLE VI. - SEVERABILITY AND EFFECTIVE DATES.

Section 1. - Severability.

Should any section or provision of this ordinance be declared to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid.

Section 2. - Effective dates.

This ordinance shall be effective as of April 15, 2012. The provisions of this ordinance shall no longer apply after December 31, 2015.

ADOPTED: APRIL 9, 2012

FINAL READING - PROPOSED ORDINANCE #2012-06 CREATING A NEW CHAPTER 59 - JUVENILE CURFEW

The First Reading of the following proposed ordinance was accomplished during the Council Meeting of March 12, 2012.

Mr. Hare moved that the Final Reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Anderson and unanimously carried.

Mr. Anderson stated that although he supports the intent of the ordinance, he has concerns with criminalizing behavior that is not necessarily criminal. As an example, he stated that his family had a foster child that was taught to stop and take a walk to relax themselves, and that it did not matter what time it was, even in the middle of the night. This individual went from being institutionalized to being a mother with coping skills. He noted that there are not enough police officers to enforce the curfew law uniformly and questioned if it would be enforced properly, certain neighborhoods being targeted, etc. and, as a result, his constituents are requesting that he vote no.

Mr. Hare assured members that the problems he observed were not in the Fourth District and suggested that the Fourth District be exempt from the law. He noted that although he had requested letters from anyone who felt that their child should be "walking" the streets at 1:00 a.m., he has received no such letters to date.

Mr. Hare moved for adoption of the proposed ordinance, seconded by Mr. Hutchison and by a roll call vote of six (6) yes, two (2) no (Mr. Anderson and Mrs. Russell), and one (1) absent (Mr. Bonar), Council adopted Ordinance #2012-06, as follows:

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

That the Dover Code of Ordinances be amended by inserting a new Chapter 59 - Juvenile Curfew, to read as follows:

Chapter 59 - JUVENILE CURFEW

Sec. 59-1. - Definitions.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Dover, Delaware, with administrative offices at 15 Loockerman Plaza, Dover, Delaware.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Establishment means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Juvenile or *Minor* means any unemancipated person under the age of 17 or, in equivalent phrasing often herein employed, any person 16 or fewer years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Parent means any person having legal custody of a juvenile:

(1) As a natural or adoptive parent.

(2) As a legal guardian.

(3) As a person who stands in loco parentis.

(4) As a person to whom legal custody has been given by court order.

Public Place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. As a type of public place, a street is a way or place, of whatever nature, open to the use of the public as a matter of right for purposes of vehicular travel or, in the case of a sidewalk thereof, for pedestrian travel. "Street" includes that legal right-of-way, including, but not limited to, the cartway of traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass plots or other grounds found within the legal right-of-way of a street.

Remain means to stay behind, to tarry, and to stay unnecessarily in a public place, including the congregating of groups (or of interacting minors) totaling four or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere

passage or going home, or to fail to leave the premises of an establishment when requested to do so by a police officer or the operator of an establishment. To implement this provision with additional precision and precaution, numerous exceptions are expressly defined in this chapter. More exceptions become available with a juvenile's increasing years and advancing maturity as appropriate in the interest of reasonable regulation.

Time of Night means based upon the prevailing standard of time, whether Eastern standard time or Eastern daylight savings time, generally observed at that hour by the public in the city, prima facie the time then observed in the city administrative offices and police station.

Years of Age means continues from one birthday, such as the 16th, to (but not including the day of) the next, such as the 17th birthday, making it clear that 16 or fewer years of age is herein treated as equivalent to the phrase "under 17 years of age." Similarly, for example, 11 or fewer years of age means "under 12 years of age."

Sec. 59-2. - Curfew established.

(a) *School year curfew*. It shall be unlawful for any person 16 years or fewer of age (under 17) to be or remain in or upon a public place within the City of Dover during the Caesar Rodney/Capital School District designated school year for the period ending at 6:00 a.m. and beginning:

(1) At 12:00 midnight on Friday and Saturday nights; and

(2) At 11:00 p.m. on all other nights.

(b) *Summer curfew*. It shall be unlawful for any person 16 years or fewer of age (under 17) to be or remain in or upon a public place within the City of Dover during the Caesar Rodney/Capital School District designated summer break for the period ending at 6:00 a.m. and beginning:

(1) At 1:00 a.m. on Friday and Saturday nights; and

(2) At 12:00 midnight on all other nights.

Sec. 59-3. - Exceptions.

(a) The following shall constitute valid exceptions to the operation of this chapter:

(1) *Accompanied by parent*. When a juvenile is accompanied by a parent of such juvenile.

(2) *Accompanied by authorized adult*. When a juvenile is accompanied by an adult authorized by a parent of such juvenile to take said parent's place in accompanying said juvenile for a designated period of time and purpose within a specified area.

(3) *Errand directed, in writing, by parent*. When the juvenile is on an errand as directed by his/her parent, provided that such juvenile shall have on his/her person a written note, signed by the juvenile's parent, stating:

a. The date and time that the note was written (which shall not be more than 24 hours before the time of the errand);

b. The name of the juvenile;

c. The name, address, and telephone number of the parent; and

d. The specific errand directed by the parent.

(4) *Emergency*. When a juvenile is assisting in an emergency, including, by way of example and not in limitation, responding as a member of a volunteer fire company to a fire company or paramedic call.

(5) *First amendment rights*. When a juvenile is exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, by first delivering, to the person designated by the city's chief of police to receive such information, a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile, with his/her home address and telephone number, specifying when, where, and in what manner the juvenile will be in a public place during hours when this chapter is applicable to said minor in the exercise of a first amendment right specified in such communication.

(6) *Reasonable necessity*. In case of reasonable necessity for the juvenile remaining in a public place, but only after the juvenile's parent has communicated to the chief of police or the person designated by the chief of police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a described purpose, including points of origin and destination. A copy of the communication, or of the police record thereof, duly certified by the chief of police to be correct, with an appropriate notation of the time it was received and of the names and addresses of the parent and juvenile, shall be admissible evidence.

(7) *On own or neighbor's property*. When a juvenile is on the sidewalk or property where the juvenile resides, or on either side of or across the street from the place where the juvenile resides, and the adult owner or resident of that property has given permission for the juvenile to be there.

(8) *Returning home within one hour of official activity*. When a juvenile is returning home from, and within one hour of, the termination or closing of an official school, religious, or other recreational activity supervised by adults, sponsored by the City of Dover, a recognized charitable, benevolent, or civic association, or a similar entity that takes responsibility for the minor.

(9) *Special permit (individual)*. When authorized by special permit from the chief of police carried on the person of the juvenile thus authorized, as follows:

a. When necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this chapter, then recourse may be had to the chief of police, either for a regulation as provided in subsection (a)(10) or for a special permit as the circumstances warrant.

b. Upon a finding of undue hardship and reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile and by a parent of the juvenile, if feasible, stating: the name, age, and address of the juvenile; the name, address, and telephone number of a parent thereof; the height, weight, sex, color of eyes and hair, and other physical characteristics of the juvenile; the necessity that requires the juvenile to remain upon a public place during the curfew hours otherwise applicable and the undue hardship that will result if such permit is not granted; the public place; and the beginning and ending of the period of time involved, by date and hour, the chief of police may grant a permit, in writing, for the juvenile's use of a public place at such hours as in the opinion of the chief of police may reasonably be necessary and consistent with the purposes of this chapter. In an emergency, this may be handled by prior telephone or other effective communication, with a corresponding record being made contemporaneously by the chief of police or by the person designated by the chief of police to act on his/her behalf in an emergency at the police station.

(10) *Special regulation (group)*. When authorized by regulation issued by the chief of police in other similar cases of reasonable necessity, similarly handled but adapted to reasonably necessary nighttime activities of more juveniles than can readily be dealt with on an individual special permit basis, but only where such juveniles will be under the active supervision of adults responsible for such juveniles. Normally such regulation by the chief of police permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies, such as the schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved, not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that the regulation is reasonably necessary and is consistent with the purposes of this chapter.

(11) *Employment necessity*. When the juvenile is legally employed, going to or returning home from employment, and carries a certified card of employment, renewable each calendar month when the current facts so warrant, dated or reissued not more than 45 days previously, signed by the parent and employer and briefly identifying the juvenile, the addresses and telephone numbers of the juvenile's home and place of employment, and the juvenile's hours of employment. The city shall prepare a form to be used by employers for purposes of this subsection.

(12) *Interstate or intrastate travel*. When the juvenile is, with parental consent, engaged in normal interstate or intrastate travel through the city or originating or terminating in the city.

(13) *Married*. When the juvenile is married or has been married pursuant to state law.

(14) *Operator of establishment*. In the case of an operator of an establishment, when the operator has notified the police that a juvenile was present on the premises of the establishment during curfew hours and refused to leave.

(b) *Continuing consideration of exceptions*. Each of the foregoing exceptions and their several limitations, such as provisions for notification, are severable, as hereinafter provided but here reemphasized, and will be considered by Council when warranted by future experience.

Sec. 59-4. - Parental responsibility.

(a) The foregoing exceptions to the operation of this chapter shall act only to create a waiver of enforcement and affirmative defense(s) to such enforcement. By authorizing such exceptions, neither the city nor any member of the police department shall assume any affirmative obligation or duty to supervise the well-being of any juvenile acting pursuant to such authorized exception.

(b) It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any city public place under circumstances not constituting an exception to, or otherwise beyond the scope of, this chapter. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such juvenile.

(c) It shall be unlawful for any parent to knowingly (as defined above) provide any false authorization, information or certification, written or verbal, to the Dover police department in order to obtain an exception to the operation of this chapter under Sec. 59-3 hereof.

Sec. 59-5. - Operator responsibility.

It shall be unlawful for any operator of an establishment to knowingly permit a juvenile to remain at the establishment under circumstances not constituting an exception to, or otherwise beyond the scope of, this chapter. The term "knowingly" includes knowledge that an operator should reasonably be expected to have concerning the patrons of the establishment. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's position should have known that the patron was a juvenile in violation of this chapter.

Sec. 59-6. - Enforcement.

(a) If a police officer reasonably believes that a juvenile is in a public place in violation of this chapter, the officer shall notify the juvenile that he/she is in violation of this chapter and shall require the juvenile to provide his/her name, address, and telephone number and how to contact his/her parent or guardian. In determining the age of the juvenile and in the absence of convincing evidence, such as a birth certificate, a police officer shall, in the first instance of violation of the chapter, use his/her best judgment in determining age.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of this chapter and order the juvenile to go promptly home. The chief of police shall send the parent or guardian of the juvenile written notice of the violation pursuant to subsection (f) hereof.

(c) Police procedures shall constantly be refined in the light of experience and may provide that the police officer may deliver to a parent or guardian thereof a juvenile under appropriate circumstances; for example, a juvenile of tender age, near home, whose identity and address may readily be ascertained or are known.

(d) Notwithstanding subsection (b) of this section, when a juvenile has received one previous written warning for violation of this chapter or a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the procedure shall then be to take the juvenile to the police station where a parent or guardian shall immediately be notified to come for the juvenile, whereupon the parent or guardian and the juvenile shall be questioned. This is intended to permit ascertainment, under constitutional safeguards, of relevant facts and to centralize responsibility in the person designated there and then on duty for accurate, effective, fair, impartial, and uniform enforcement and recording, thus making available experienced personnel and access to information and records.

(e) When a parent or guardian, immediately called, has come to take charge of the juvenile and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the juvenile authorities, except to the extent that, in accordance with police regulations approved in advance by juvenile authorities, the juvenile may temporarily be entrusted to an adult, neighbor, or other person who will on behalf of a parent or guardian assume the responsibility of caring for the juvenile pending the availability or arrival of a parent or guardian.

(f) In the case of a first violation of this chapter by a juvenile, the chief of police shall, by certified mail, send to a parent or guardian written notice of the violation, with a warning that any subsequent violation will result in full enforcement of this chapter, including enforcement of parental responsibility and of applicable penalties.

(g) For the first violation of this chapter by an operator of an establishment who permits a juvenile to remain on the premises, a police officer shall issue a written notice of the violation with a warning that any subsequent violation will result in full enforcement of the chapter, including enforcement of operator responsibility and of applicable penalties.

(h) In any event the police officer shall, within 24 hours, file a written report with the chief of police or shall participate, to the extent of the information for which he/she is responsible, in the preparation of a report on the curfew violation. It is not the intention of this section to require extensive reports that will prevent police officers from performing their primary police duties. The reports shall be as simple as is reasonably possible and may be completed by police department personnel other than sworn police officers.

Sec. 59-7. - Violations and penalties.

(a) *Parents*.

(1) *Offenses by the parent*. If, after the warning notice pursuant to Sec. 59-6 of a first violation by a juvenile, a parent violates Sec. 59-4 (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent. For offenses by a parent, the fines shall be as provided for in Appendix F - Fees and Fines. [First offense by a parent - $50, and for each subsequent offense by a parent the fine shall be increased by an additional $20: e.g., $70 for the second offense and $90 for the third offense.[Locate in Appendix F] Any court of competent jurisdiction, upon finding a parent guilty, shall sentence the parent to pay this fine and the cost of prosecution.

(2) *Personnel costs.* The parent or legal guardian having custody of a juvenile subject to this section shall be liable for all costs incurred by the City of Dover for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the city that the city is detaining the juvenile for a curfew violation. The amount to be paid by the parent or guardian shall be as provided for in Appendix F - Fees and Fines. [Locate in Appendix F] [based on the hourly wage of the city employee who is assigned to remain with the juvenile plus the cost of benefits for that employee.]

(3) The parent or legal guardian having custody of a juvenile subject to this section shall be liable for any fine or condition of restitution or reparation imposed by a court upon a curfew violator, provided that the curfew violator has not paid the fine or made restitution or reparation within the time ordered by the court and further provided that the parent or legal guardian has been made a party defendant in all enforcement proceedings against the curfew violator and shall be served with all citations, summons, complaints, notices, and other documents required to be served on the curfew violator defendant.

(b) *Juveniles*. Any juvenile who shall violate any of the provisions of this chapter more than three times shall be reported by the chief of police to the juvenile authorities as a juvenile in need of supervision, and the chief of police may proceed to file such charges with the courts as he/she may deem appropriate.

(c) *Operators*. If, after the warning notice pursuant to Sec. 59-6 of a violation of this chapter, an operator of an establishment violates Sec. 59-5 a second time, this shall be treated as a first offense by the operator. For offenses by an operator, the fines shall be as provided for in Appendix F - Fees and Fines. [Locate in Appendix F] [$50, and for each subsequent offense

by an operator the fine shall be increased by an additional $20: e.g., $70 for the second offense and $90 for the third offense.]

(d) *False certification*. Any parent convicted of knowingly providing any false authorization, information or certification, written or verbal, to the Dover police department in violation of Sec. 59-4(c) shall pay a fine as provided for in Appendix F - Fees and Fines. [Locate in Appendix F] [$50 for the first offense, and for each subsequent offense the fine shall be increased by an additional $20, plus costs.]

Sec. 59-8. - Advisory opinions.

The city manager, after consultation with the city solicitor, is hereby authorized to give advisory opinions, in writing, which shall be binding and shall be adhered to by the police until the chapter is amended in such respect, interpreting terms, phrases, parts, or any provisions. Normally such advisory opinions shall be in response to good faith, signed letters addressed to the city manager or to a member of the city council questioning this chapter as ambiguous, having a potentially chilling effect on constitutional rights specifically invoked or otherwise invalid, in all three categories with respect to proposed conduct definitely described. This administrative remedy must be exhausted prior to presenting to any court a question in any of the three categories. The city council does not intend a result through the enforcement of this chapter that is absurd, impossible of execution, or unreasonable. Council intends that the chapter be held inapplicable in such cases if anywhere its application would be unconstitutional under the Constitution of the State of Delaware or the Constitution of the United States of America.

Sec. 59-9. - Continuing evaluation.

The city council shall continue its evaluation and updating of this chapter through methods including but not limited to the following:

(a) Within six months after the implementation of this chapter, the chief of police shall provide the city council with a report concerning the effect of this chapter on crimes committed by and against minors and of the number of warnings issued and arrests of minors, parents, and operators hereunder and such other information as council may request.

(b) On a regular basis, the city council shall receive informal reports of all exceptional cases hereunder of reasonable necessity, the notices of school and other activities, the special permits and the regulations authorized above, and the advisory opinions for consideration by the council in further updating and continuing evaluation of this chapter.

Sec. 59-10. - Notice.

Notice of the existence of this chapter and of the curfew regulations established by it shall be posted in, on, or about such public or quasi-public places as may be determined by the city manager or the police department in order that the public may be constantly informed of the existence of this chapter and its regulations.

City of Dover
Juvenile Curfew Ordinance
Employment Certificate

Pursuant to Sec. 59-3(a) - 11 of the City of Dover Juvenile Curfew Ordinance, this shall certify that:

_____
Juvenile's name

_____
Address

_____
Address

is currently employed by:

_____
Employer's name

_____
Employer's address

_____
Employer's address

_____
Employer's telephone no.

and that he/she is scheduled to work during the following hours:

Sun. _____ Mon. _____ Tue. _____ Wed. _____

Thur. _____ Fri. _____ Sat. _____

_____
Parent's name (print)

_____ _____
Parent's signature Employer's signature

BE IT FURTHER ORDAINED THAT Appendix F - Fees and Fines, be amended by inserting the following text:

Chapter 59 - Juvenile Curfew			
Sec. 59-7	Violations and penalties.		
	Subsec. (a)(1)	Offenses by the parent	First offense by a parent - $50; each subsequent offense by a parent shall be increased by an additional $20: e.g., $70 for the second offense and $90 for the third offense.
	Subsec. (a)(2)	Personnel costs incurred by the City of Dover for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent or guardian does not pick up the juvenile within one hour after receiving notice from the city that the city is detaining the juvenile for a curfew violation.	The hourly wage and cost of benefits of the city employee assigned to remain with the juvenile
	Subsec. (c)	Operators - Any operator who knowingly permits a juvenile to remain at the establishment under circumstances not constituting an exception	$50 for first offense by an operator; for each subsequent offense the fine shall be increased by an additional $20: e.g., $70 for the second offense and $90 for the third offense.
	Subsec. (d)	False certification - Any parent convicted of knowingly providing any false authorization, information or certification, written or verbal, to the Dover police department in violation of Sec. 59-4(c)	$50 for the first offense; for each subsequent offense the fine shall be increased by an additional $20, plus costs.

FINAL READING - PROPOSED ORDINANCE #2012-08 WITH S-1 - AMENDING CHAPTER 70 - OFFENSES AND MISCELLANEOUS PROVISIONS

The First Reading of the following proposed ordinances was accomplished during the Council Meeting of March 12, 2012.

Mr. Hare moved that the Final Reading of the proposed ordinance be acknowledged by title only, seconded by Mr. Anderson and unanimously carried.

Council President Leary noted the receipt of correspondence regarding this matter ***(Exhibit #6)***.

Mr. Lynn moved to strike Staff Amendment #1 and reinsert the deleted language, seconded by Mr. Anderson.

Mr. Lynn applauded Mr. Konowitz and Ms. Chandler for voicing their opinions regarding the ordinance, as well as the individuals that sent letters in support of the ordinance. He stated that, after reviewing their concerns, he thought striking Staff Amendment #1 and reinserting the original language would address the fundamental fairness concerns raised.

Mr. Lynn read the following statement into the record:

> "This Ordinance was engendered through concerns raised by my constituents in the Third District, specifically at Homeowners Association Meetings and Neighborhood Watch meetings.
>
> It should be noted that at least 30 states and many cities throughout the United States have implemented some sort of residency restrictions, including our own state, the State of Delaware.
>
> I would note that scholarly research regarding residency restrictions and recidivism rates, albeit limited, has been openly discussed during the Committee meetings giving rise to this Proposed Ordinance, and contemporaneous with its First Reading before Dover's City Council. Specifically, I have discussed at length, both before the Safety Advisory and Transportation Committee and City Council, research that has examined the relationship between recidivism rates and residency restrictions among sex offenders, such as this Proposed Ordinance #2012-08.
>
> I would note that the Zandbergen Study, early in its empirical analysis, states unequivocally that little is known about the ways in which the residential locations might influence sex offense recidivism. This is the study that is cited in the bibliography of almost every other study, such as those generated by the Association for the Treatment of Sexual Abusers. However, studies that examine the link between recidivism rates and residency restrictions suggest statistical probabilities of recidivism. Many of the studies conclude, despite their limitations, that sex offenders who lived in closer proximity to schools and day cares were not statistically more likely to reoffend than those who lived further away. None of the studies that I have reviewed suggest that there are no reported incidences where sex offenders have reoffended in geographical proximity to their homes, day cares, or schools,

merely that a connection between recidivism and residential residency restrictions cannot be proven yet through statistical data. I would cite the Minnesota study conducted between 1990 and 2005 that tracked 224 sex offenders, as well as a Colorado Department of Public Study in 2004 which used mapping software to examine the residential proximity to school and day care centers of 13 sexual offenders who sexually recidivated in a study of 130 sexual offenders over a 15-month follow-up period.

I am not without sympathy to the Tier II and Tier III sex offenders whom this Proposed Ordinance may affect. During the drafting of this Proposed Ordinance, great care was taken to ensure that it was as narrowly tailored as possible. It is applicable only to Tier II and Tier III sex offenders, applies only to commercial day care centers, and has an exception for sex offenders who are minors. I am cognizant of the relationship between homelessness and recidivism rates, which is exactly why this Proposed Ordinance was so narrowly tailored.

Further, and most importantly, if you look at the State Law on this topic, the current State law says that Tier II and Tier III sex offenders cannot live within 500 feet of a school. A strict application of that law would lead to an absurd result where day care centers are concerned. As the ACLU acknowledged, the current State law prohibits sex offenders from residing within 500 feet of a school. However, commercial day care centers do not squarely fall within the definition of "school" as set forth in the Delaware Code. In point of fact, according to a News Journal article entitled "ACLU: Don't evict sex offenders," from August 14, 2011, the ACLU, specifically the Executive Director, Kathleen MacRae, argued against day care centers being construed as "schools" as defined in the Delaware Code, which raises the most integral question in this debate: why would children from birth to school age be afforded less protection than school age children? Similarly, many parents, due to work schedules, place school age children in day care centers for "before care" and "after care." Why would these school age children receive more protection while in school than they would in day care?

The purpose of this ordinance is to protect children, and to address the loophole in the State law, as aptly described, ironically, by the ACLU. I think the only thing abundantly evident in this debate is that neither the law on this topic, nor the scholarly research, is well settled. When dealing with the safety of Dover's children, I would rather err on the side of caution."

In addition, Mr. Lynn noted that Mr. Konowitz had quoted a statistic which stated that 93% of sex crimes committed against children are perpetrated by offenders known to the victim prior to the offense; however, Mr. Lynn clarified that this statistic applies to victims of all sex crimes (not sex crimes against children). He noted that this is a figure that was provided by the Bureau of Justice in 2002. Mr. Lynn stated that, when applied to children, Bureau of Justice statistics indicate that 60% of sex offenses take place in the victim's home or the home of someone they know; therefore, Mr. Lynn inferred that 40% of offenses take place outside of this category.

In response to Ms. Chandler's concerns, Mr. Lynn explained that there was a lack of statistical data that has been compiled on this matter; for example, in 2008, only one (1) study had examined this issue. He felt it was important to focus on the safety of Dover's children and, when dealing within an area where the scholarly research is not well settled, to err on the side of caution.

Mr. Anderson stated that he felt that the amendment to reinsert the original language was essential because if a daycare center decides to open knowing that a person is already living there, particularly a homeowner, he did not want a homeowner potentially dispossessed of their property or the use of their property, which would be a regulatory taking issue for the City. He felt that the amendment would also protect those individuals currently living in shelters.

The motion to strike Staff Amendment #1 and reinsert the original language was unanimously carried.

Mr. Lynn moved for adoption of Ordinance #2012-08, as amended, seconded by Mr. Anderson and by a roll call vote of six (6) yes, one (1) no (Mrs. Williams), one (1) abstention (Mrs. Russell), and one (1) absent (Mr. Bonar), Council adopted the following:

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

That Dover Code, Chapter 70 - Offenses and Miscellaneous Provisions be amended to insert a new Section 70-7 - Registered Sexual Offenders:

70-7. - Registered Sexual Offenders

(a) *Registration Required*. Sex offenders, as defined under the provisions of 11 Del. C., c. 41, §4120A, shall register their places of residence and employment as required under the provisions of 11 Del. C., c. 41, §4120.

(b) *Prohibition on Residency and Employments*.

(1) Sex offenders assigned as Risk Assessment Tier II or Tier III under the provisions of 11 Del. C., c. 41, §4120, shall be prohibited from residence or employment within 500 feet of a day care center as defined in Appendix B - Zoning, Article 12 - Definitions, of the Dover Code.

(2) Any sex offender assigned as Risk Assessment Tier II or Tier III who maintains residence or employment within 500 feet of a day care center on the date of adoption of this ordinance shall comply with the provisions of the ordinance within 12 months.

(3) Any sex offender who is under 18 years of age and resides with a parent or legal guardian shall be exempt from the provision of subsection (b)(2) of this section.

(c) *Prohibition on rentals and leaseholds*.

(1) It is unlawful for a property owner to knowingly and intentionally with actual knowledge and after being made aware the person is a sexual offender let or rent any place, structure, or part thereof, to a sexual offender, with the knowledge that it will be used as a permanent or temporary residence, if such place, structure or part thereof, is located within 500 feet of any day care center. In any prosecution for a violation of this section it must be shown:

a. That the property owner knowingly and intentionally with actual knowledge and after being made aware the person is a sexual offender let or rented the premises to a person who was a registered sexual offender; and

b. The property owner had actual knowledge that the place, structure, or part thereof would be used by the registered sexual offender as a permanent or temporary residence of property located within the residential zoning classification.

Nothing herein shall be deemed to require the property owner to make any independent determination whether the person is a sexual offender.

(2) *Exclusions*. A sexual offender abiding, lodging, or residing in a permanent or temporary residence within 500 feet of any day care center does not commit a violation of this section provided the sexual offender is in full compliance with probation, parole, or conditional release, and does not commit another sexual offense, and is in compliance with the residency restrictions, if any of the following:

a. The sexual offender was a minor when committing the offense causing the designation as a sexual offender and was not sentenced as an adult for that offense.

b. The sexual offender is under the age of 18.

c. The day care center was opened or established after the sexual offender established the permanent residence; and the residence was reported and registered.

It is not the intent of this article to impair valid, existing and bona fide contract rights, provided however that the provisions of this article shall apply upon final termination. Extensions or renewals of any leasehold relationship is prohibited. When a person who is the subject of this article changes residences, this article shall fully apply to such persons.

(d) *Measurement of distance*.

For purposes of measuring separation of a residence from a day care center, all distances shall be measured from the entrances and exits of the residence or place of employment running in a direct line to the outermost entrances and exits of the day care center.

(e) *Prohibited Activities for Sexual Offenders.*

(1) It is unlawful for any Sexual Offender to participate in a holiday event or practice involving children under 18 years of age, such as distributing candy or other items to children on Valentine's Day, Halloween, Christmas, or any other holiday or event. Participation is to be defined as attendance at, or taking part of, or cooperation with an event.

(2) It is unlawful for any Sexual Offender to wear costumes for the primary purpose of entertaining, attracting, or encouraging interaction with children.

(3) Any person designated a sexual offender shall be required on October thirty-first of each year or any other day upon which Halloween is celebrated to:

a. Avoid all Halloween related contact with children;

b. Post a sign at his/her residence stating, "No candy or treats at this residence." Such signs shall be in letters at least two inches high and shall be legible from the street or road adjacent to the residence;

c. Except for lighting provided on a year round basis by a sexual offender or the owner or manager of a multi-family residential unit for the purpose of security or walkway or hallway illumination, all outside residential lighting shall be off during the evening hours after 5:00 p.m., and no exterior holiday decorations shall be exhibited on the sexual offender's residence or on the property upon which the residence is located.

(4) Holiday events or practices in which the sexual offender is the parent or guardian of the child or children involved, and where no non-familial children are present, are exempt from this section.

(f) *Penalties*. Any person who violates this ordinance shall be fined in accordance with Appendix F - Fees and Fines, Section 70-7. Every day that a violation occurs shall constitute a separate offense.

BE IT FURTHER ORDAINED That Appendix F- Fees and Fines be amended by adding a new Section 70-7 under Chapter 70 - Offences and Miscellaneous Provisions as follows:

Sec. 70-7	Registered Sexual Offenders		
	Subsec. (d)	Penalties	$500.00 for any offense; each day shall constitute a separate offense.

ADOPTED: APRIL 9, 2012

Mrs. Russell stated that she abstained because she had been advised that a resident who rents rooms to sex offenders believed that the Ordinance was written to be used against the resident. She also stated that home day care centers should be included because some residents cannot afford to place their children in commercial day care centers and they should be afforded the same safety provided by the ordinance.

COUNCIL MEMBERS ANNOUNCEMENTS

Council President Leary reminded the public that the Municipal Election will be held on April 17th.

Dr. McGlumphy moved for adjournment, seconded by Mr. Lynn and unanimously carried.

Meeting Adjourned at 10:13 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of April 9, 2012, are hereby approved.

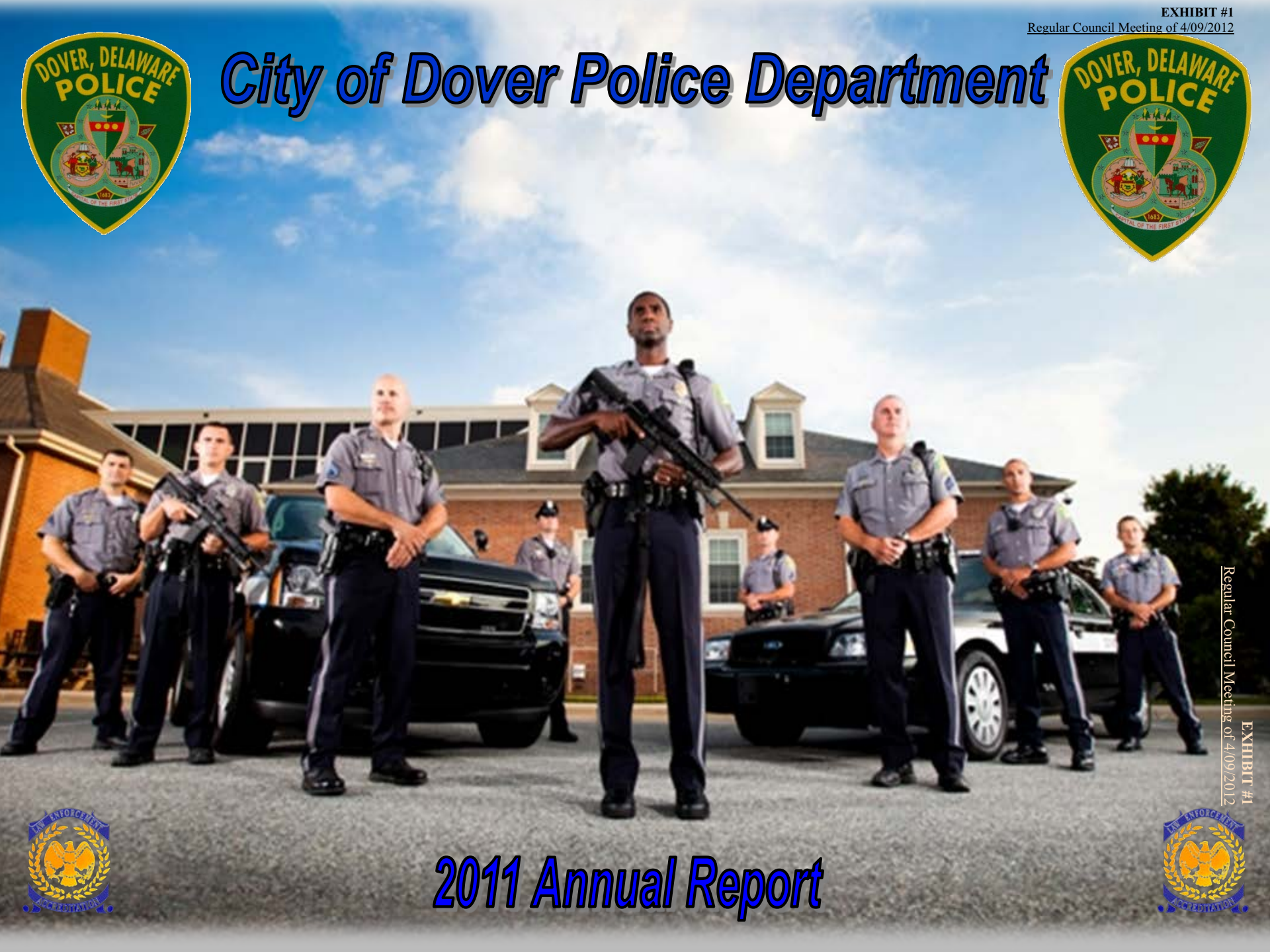
CARLETON E. CAREY, SR.
MAYOR

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Exhibits

Exhibit #1 - Presentation - Police Department Annual Report (Attached to Original Minutes and File Copy)
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - Property Located at 344 West Wind Drive, Owned by Rochelle Ross (Attached to Original Minutes and File Copy)
Exhibit #3 - Presentation - Violation of Dangerous Building Ordinance - Property Located at 726 Slaughter Street, Owned by Joe Burden (Attached to Original Minutes and File Copy)
Exhibit #4 - Summary of Original Proposal Compared with Alternative Proposal
Exhibit #5 - Memorandum Dated 4/9/12 - "Concerns Regarding Position Analysis Factor (PAF) Scoring"
Exhibit #6 - Correspondence Received Regarding Proposed Ordinance #2012-08

City of Dover Police Department



2011 Annual Report

EXHIBIT #1
Regular Council Meeting of 4/09/2012

DEPARTMENT OF POLICE

James E. Hosfelt, Jr.
Chief of Police
F.B.I.N.A.

400 South Queen Street
Dover, Delaware 19904
302/736-7111
Fax 302/672-1842

April 2, 2012

Honorable Carleton E. Carey, Sr., Mayor
Members of Dover City Council
City Hall
Dover, DE 19901

Mayor Carey and Council Members:

It is my pleasure to submit to you the Dover Police Department 2011 Annual Report. This past year proved to be challenging for the employees of this fine organization. The old adage “do more with less” is very appropriate when considering the amount of work completed with reduced staffing throughout 2011. It is my belief that 2012 will prove to be just as challenging for all those involved in public safety, but I assure you the employees of the Dover Police Department are up to the task.

When reviewing this report you will find that the Department’s total calls for service have increased 3%, which is a total of 1,091 more complaints then the previous year. Although the total number of Group A Crimes decreased by less than 1%, Violent Crime in the City of Dover increased by 24%. Violent Crimes encompass murder, forcible rape, robbery and aggravated assault.

The Dover Police Department continues to excel in the area of major crime investigations. In 2011, our case load involving serious crimes were cleared at exceptionally high levels and exceeding that of most police departments in the nation of similar size. This year we experienced 22 more robberies than in 2010 and 64% of these crimes were cleared. There were 146 burglary investigations in 2011, 21 less than 2010. Of the 146 burglaries, 72% of these crimes were cleared. As you view the graphs on pages 8 and 10 you will see that we have greatly exceeded national averages again this year.

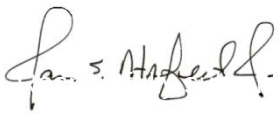
It has long been the philosophy of the Dover Police Department that a very large percentage of crime in Dover is tied to illegal drugs. This year the Drugs, Vice and Organized Crime Section accounted for 1,909 proactive arrests involving drugs, prostitution and counterfeit merchandise. As a result of these arrests, this group of officers seized significant amounts of marijuana, cocaine, heroin and various forms of prescription medication. Additionally, $149,000.00 was seized during these illegal drug investigations.

You will also notice that the number of crashes (accidents) decreased by 4% from the previous year. This is the ninth consecutive year that we have had a reduction in the number of crashes from the previous year. The total number of traffic arrests this year is 19,221 to include 3,461 speeding violations and 689 arrests for the use of cellular device while driving. The use of a Cellular Device While Driving was a new law enacted for calendar year 2011. Additionally, the Dover Police Department issued 2,496 traffic reprimands (warnings). In comparison, these totals from the previous year will indicate a 9% reduction in traffic enforcement and is directly attributed to the temporary reduction in manpower and the increase in assigned complaint load.

In December, a team of CALEA assessors completed an extensive, in-depth examination of all aspects of the Dover Police Department's policies, procedures, management, operations and support services. The assessors reviewed written materials, interviewed individuals, and visited offices where compliance could be witnessed and verified. There are 480 standards of compliance that were reviewed and evaluated. I am deeply gratified to report that the Dover Police Department was found to be in compliance with all 480 standards. As a result, the Dover Police Department was accredited for the fifth time by the Commission on Accreditation for Law Enforcement Agencies (CALEA) and is the first law enforcement agency in the state of Delaware to receive the ***"Accreditation with Excellence Award"***. Additionally, this award has only been issued to 34 police agencies nationwide as well as international departments from Mexico and Canada.

In closing, I would encourage you to review this report in its entirety since I have only taken the time to highlight a few specific areas. As Chief of Police I take great pride in the amount of hard work and dedication put forth by my co-workers, the employees of the Dover Police Department. It is our intention to continue the good work we have completed this year and build upon it in the year 2012 and beyond.

Respectfully submitted,



James E. Hosfelt, Jr.
Chief of Police

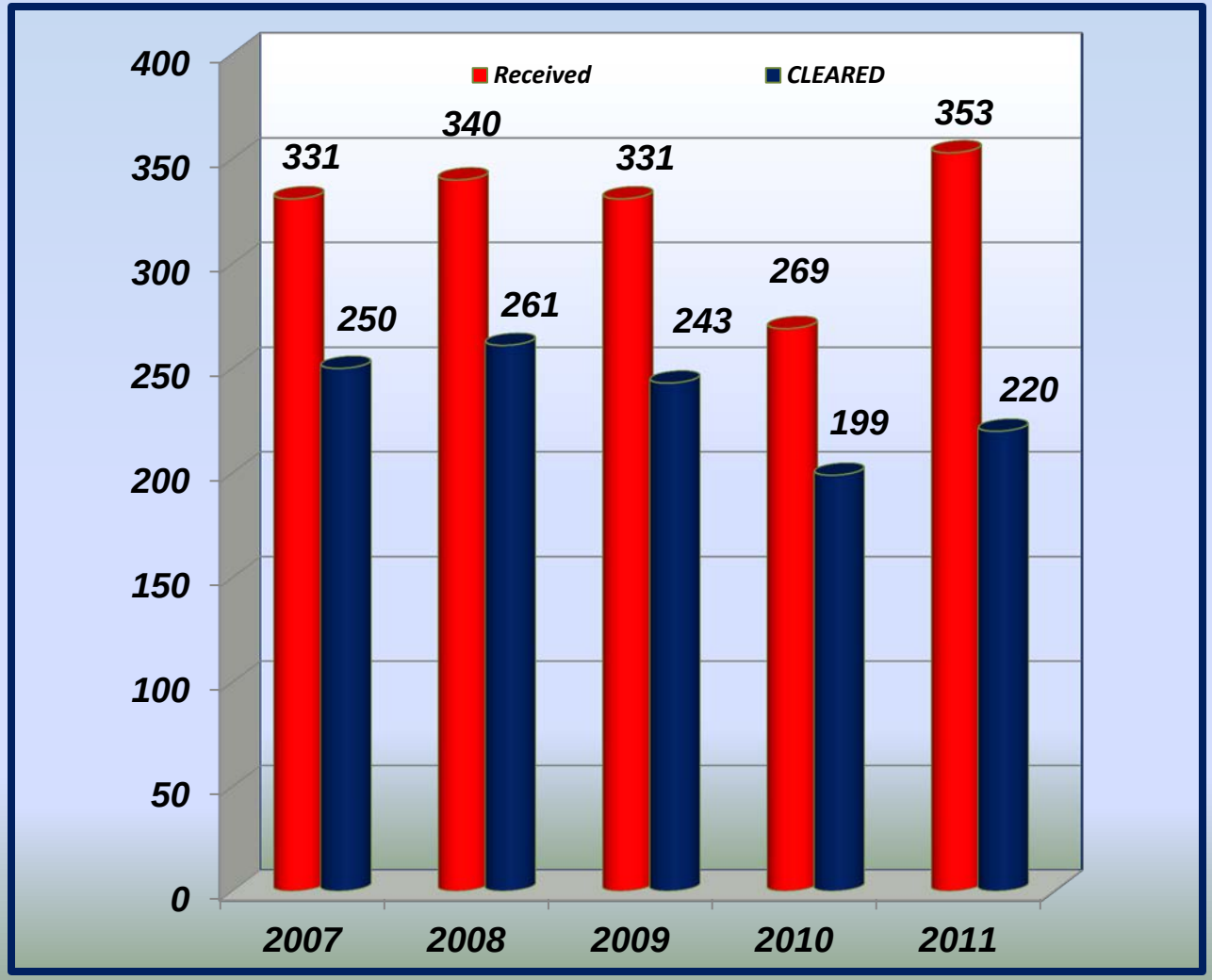
City of Dover Police Department
Annual Report

Complaints
Five Year Comparison



City of Dover Police Department
Annual Report

Violent Crime
(Murder, Forcible Rape, Robbery, Aggravated Assault)
Five Year Comparison

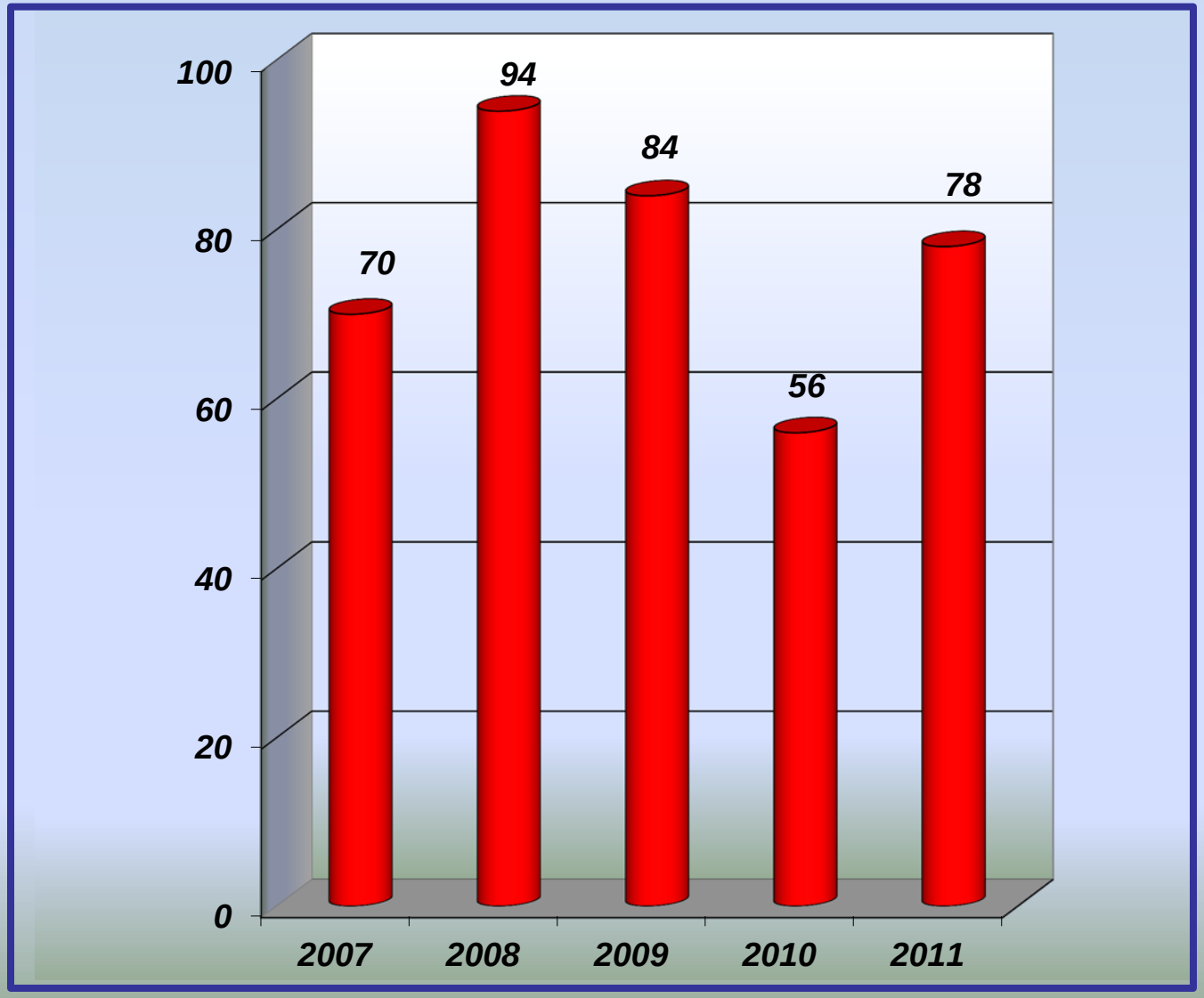


Example of Violent Crime in Dover



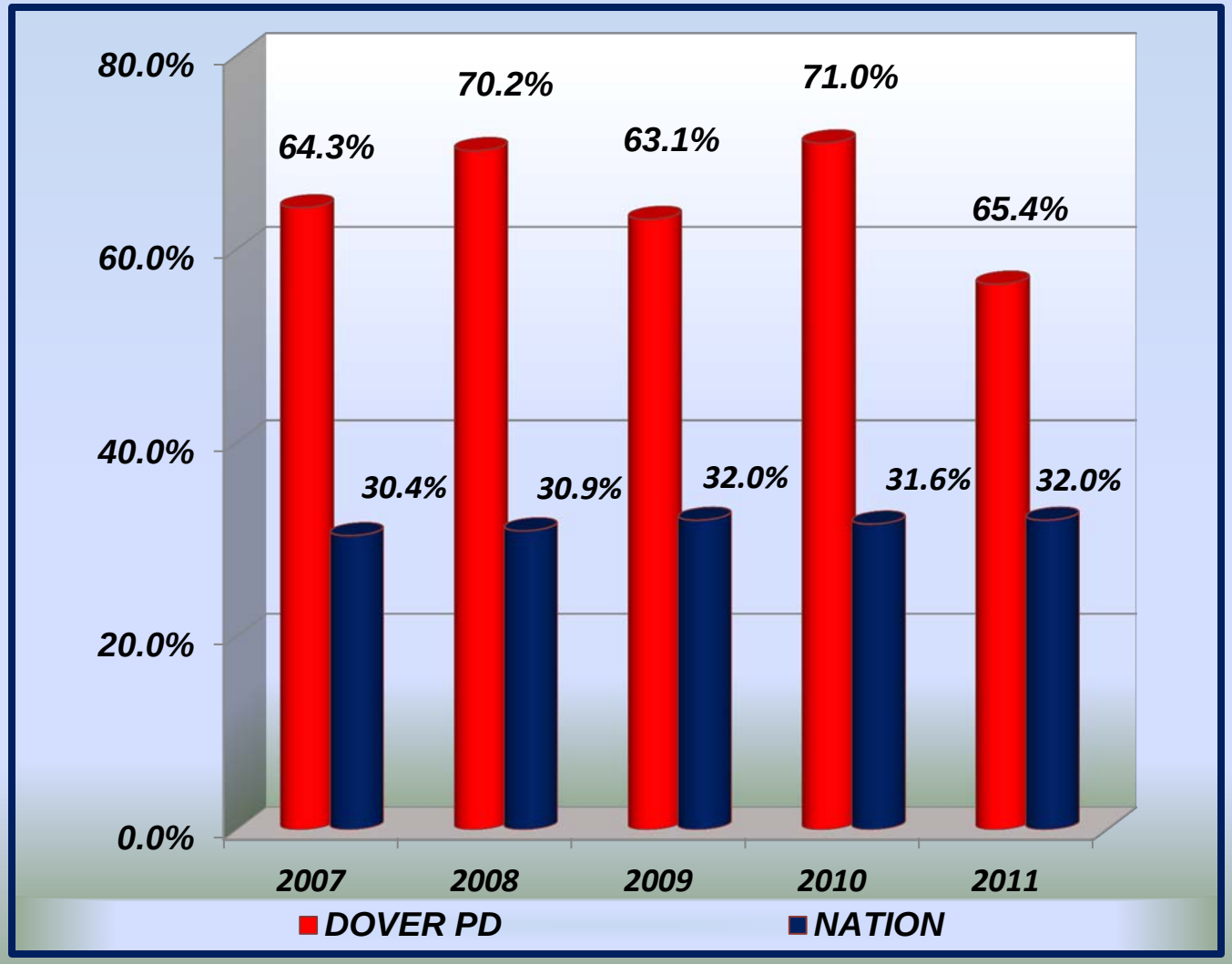
City of Dover Police Department
Annual Report

Robberies
Five Year Comparison



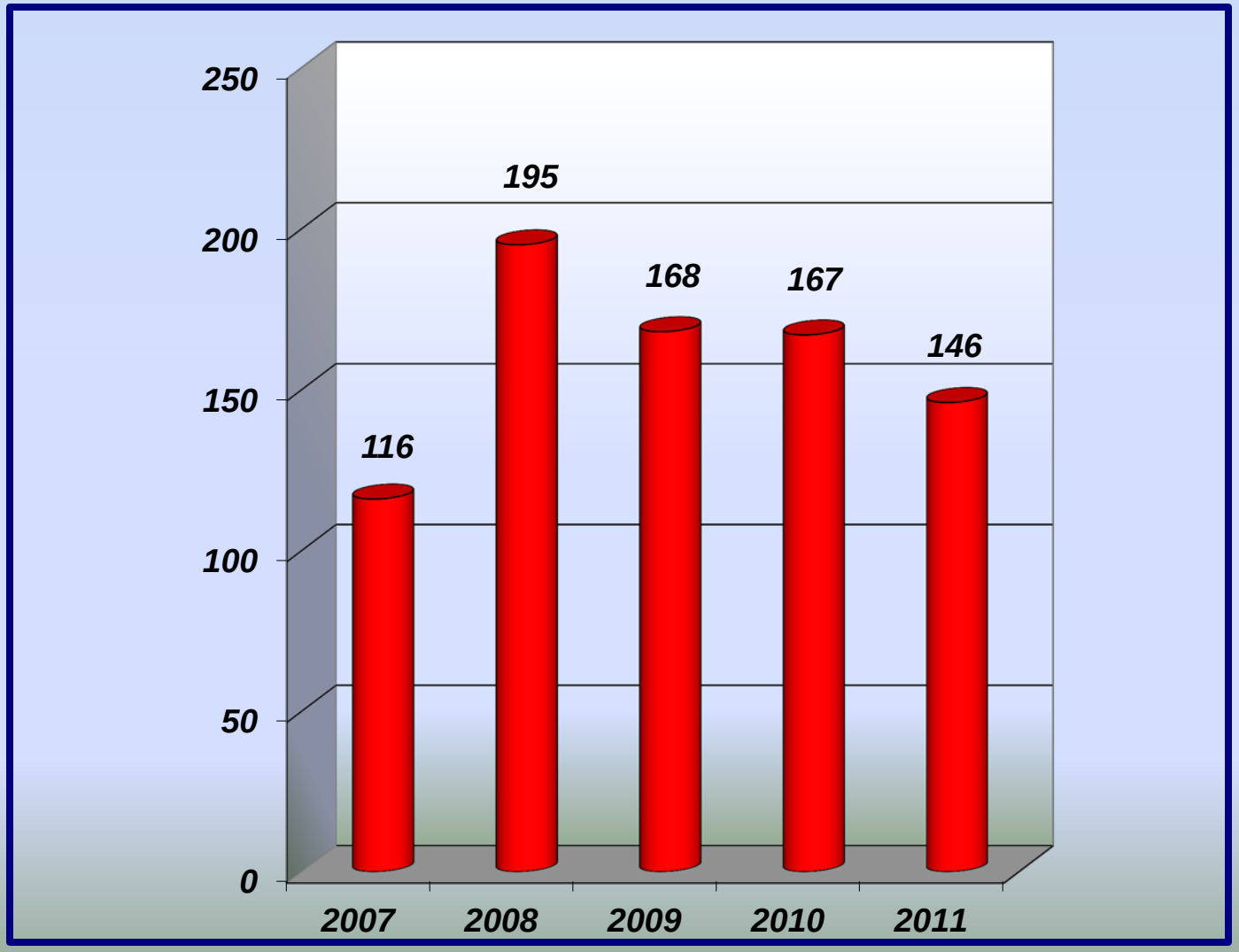
City of Dover Police Department
Annual Report

Robberies Clearance Rate
Dover Police Department vs. Nation



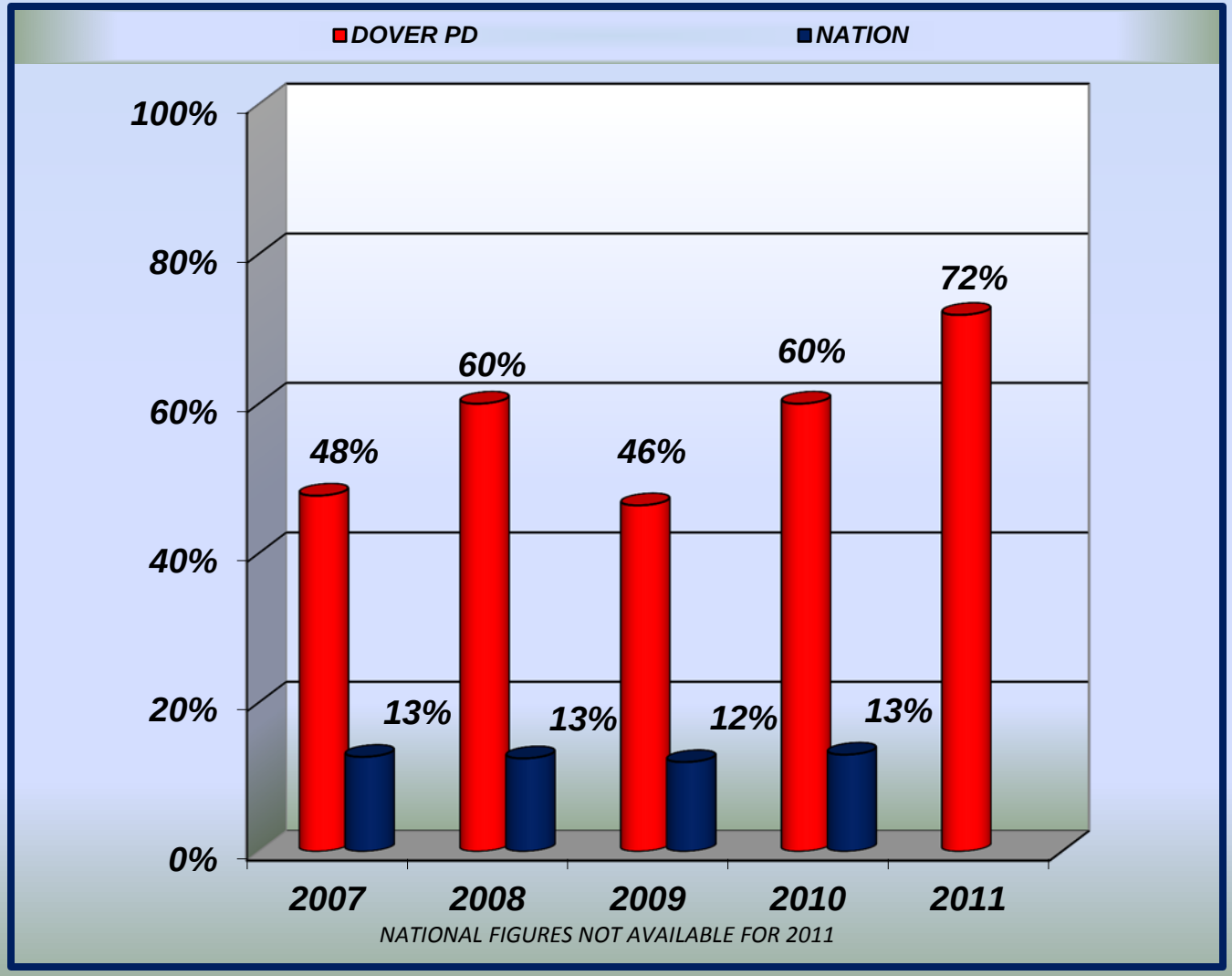
City of Dover Police Department
Annual Report

Burglaries
Five Year Comparison



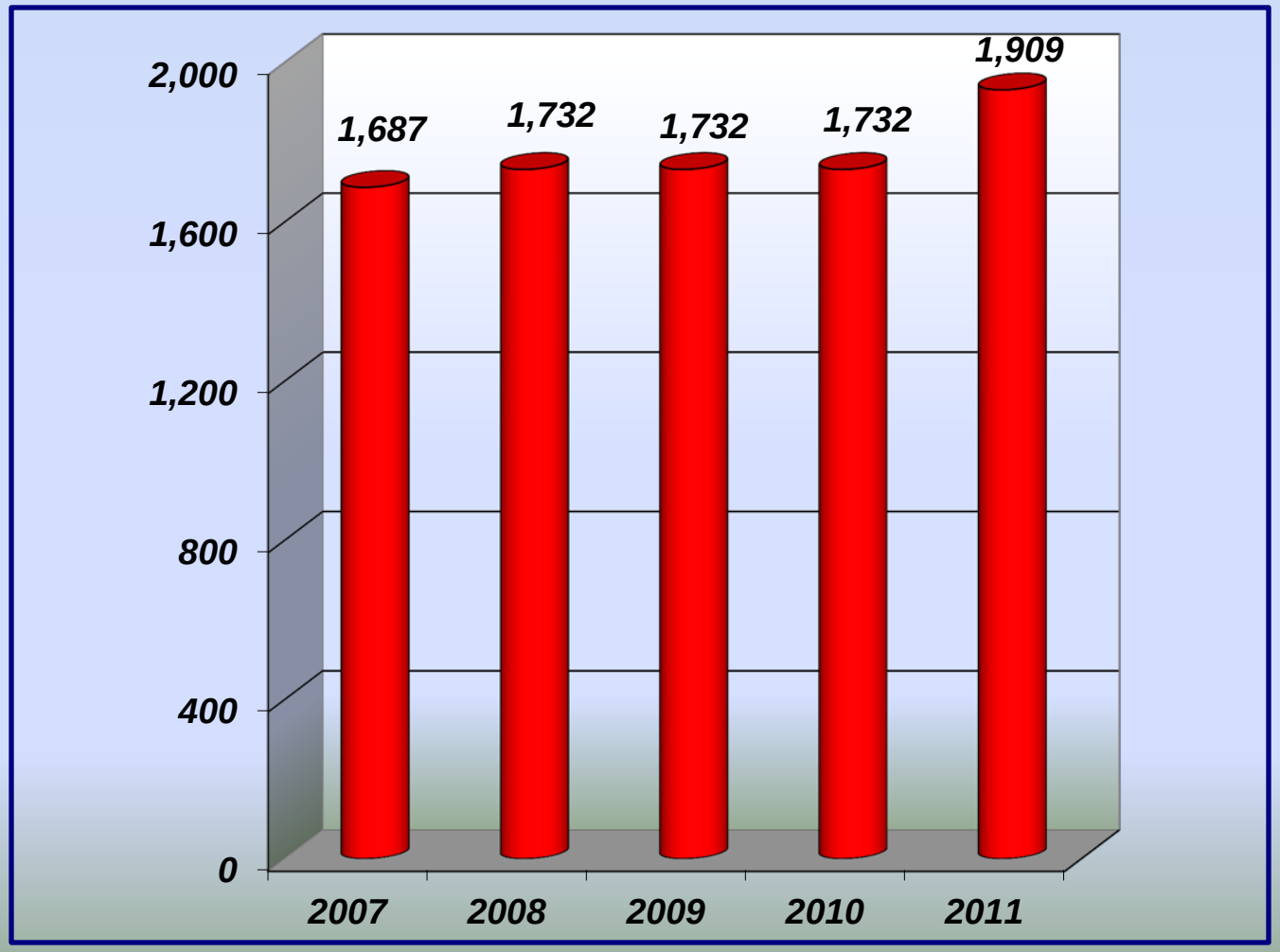
City of Dover Police Department
Annual Report

Burglaries Clearance Rate
Dover Police Department vs. Nation



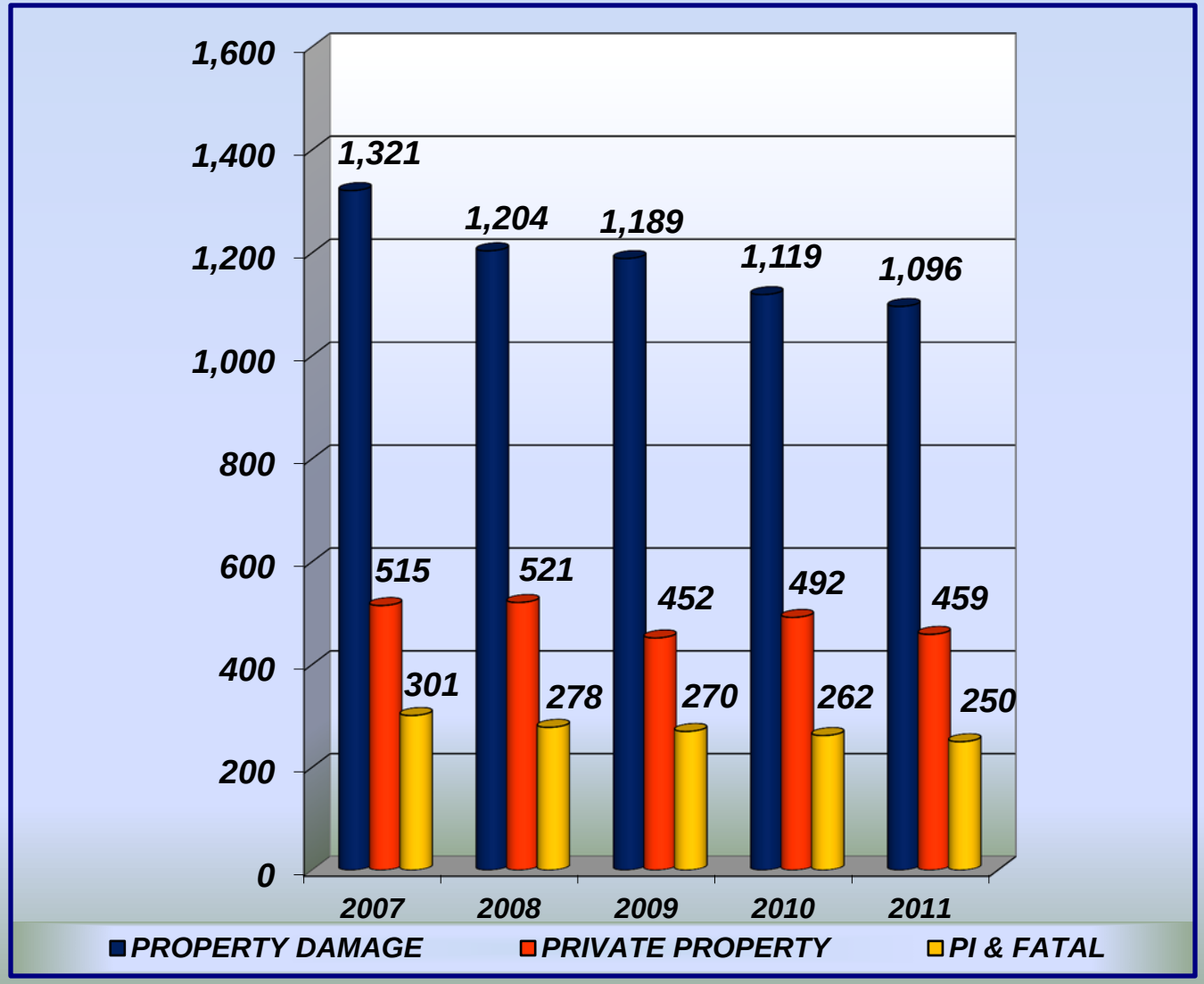
City of Dover Police Department
Annual Report

Actual Drug Arrests made by the Drugs, Vice and Organized Crime Section



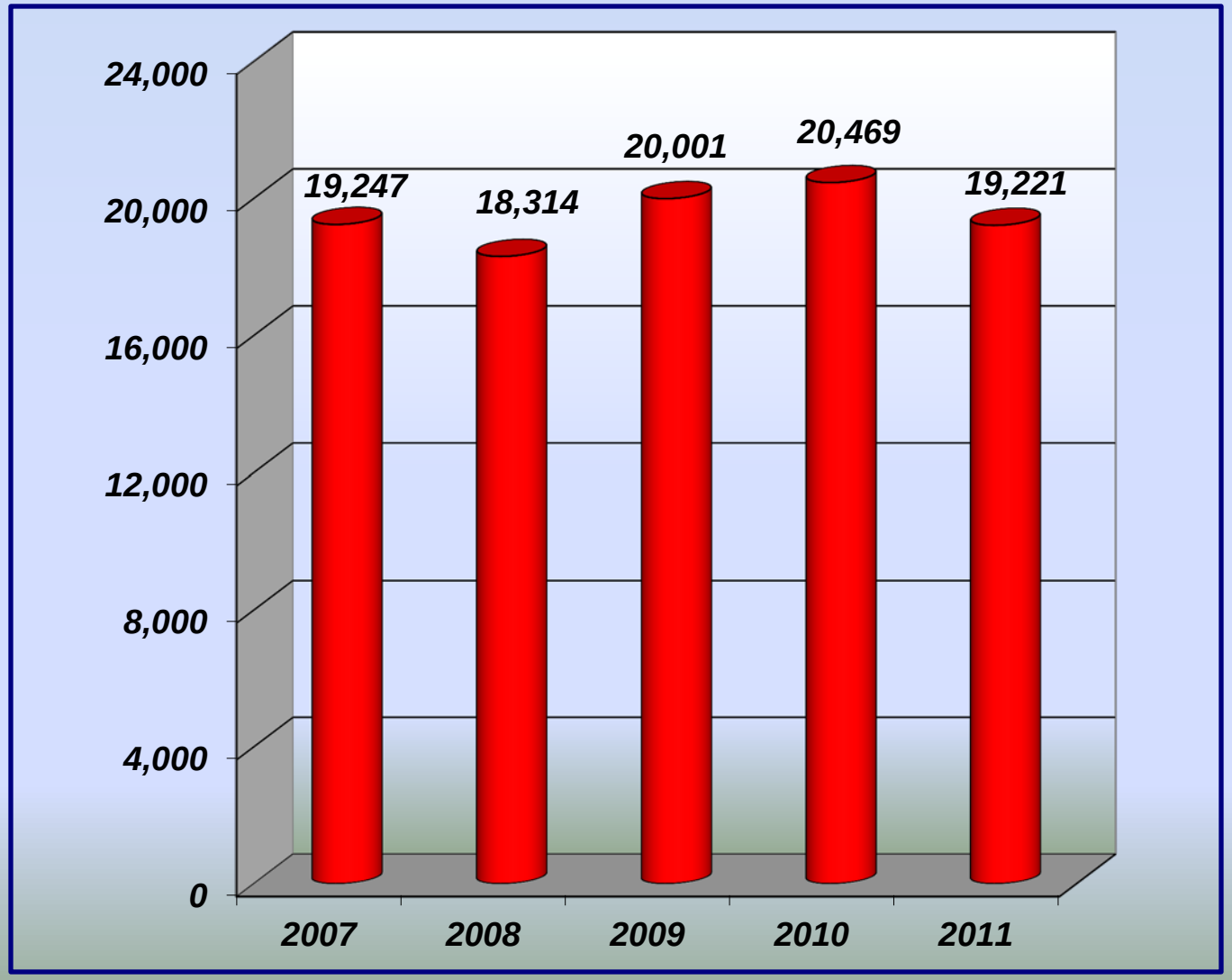
City of Dover Police Department
Annual Report

Crash Breakdown
Five Year Comparison



City of Dover Police Department
Annual Report

Traffic Arrests
Five Year Comparison



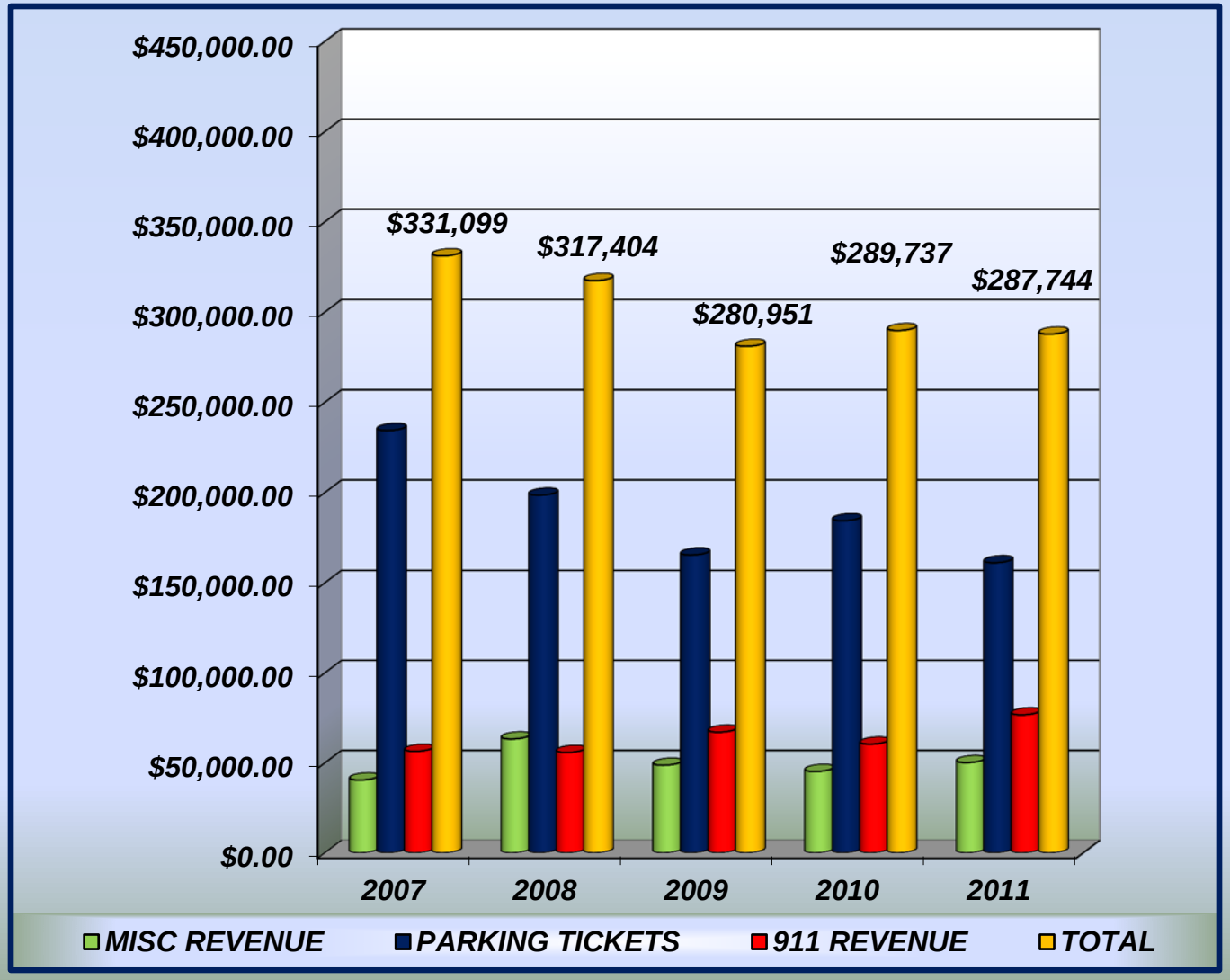
City of Dover Police Department
Annual Report

Traffic Arrests Summary

CLASSIFICATION OF VIOLATIONS	NUMBER OF ARRESTS	
	2010	2011
DANGEROUS MOVING VIOLATIONS		
DRIVING UNDER THE INFLUENCE	180	160
SPEEDING	5097	3461
RIGHT OF WAY	164	145
FOLLOWING TOO CLOSELY	199	218
STOP SIGN	828	660
TRAFFIC SIGNAL	316	263
CARELESS OR INATTENTIVE DRIVING	771	810
SUBTOTAL	**7555**	**5717**
LICENSE & REGISTRATION VIOLATIONS		
LICENSE VIOLATIONS	992	909
SUSPENSION & REVOCATION	1677	1437
REGISTRATION & TITLE	6979	5907
SUBTOTAL	**9648**	**8253**
OTHER VIOLATIONS		
SEATBELT VIOLATIONS	2340	2765
CHILD RESTRAINT VIOLATIONS	159	139
USE OF CELL PHONE WHILE DRIVING	0	689
LEAVING THE SCENE OF AN ACCIDENT	64	61
FAILURE TO REPORT AN ACCIDENT	16	24
EQUIPMENT VIOLATIONS	200	136
ALL OTHER VIOLATIONS	487	1437
SUBTOTAL	**3266**	**5251**
GRAND TOTAL	**20,469**	**19,221**

City of Dover Police Department
Annual Report

Police Revenue
Parking Fines and Reports



City of Dover Police Department
Annual Report

Police Time/Distribution Hours

TIME DISTRIBUTION, HOURS	2010	2011
Total on Duty	155,860.50	154,299.00
Criminal Investigation	71,892.50	77,053.50
Accident Investigation	4,744.50	4,255.00
Special Duty	26,639.00	23,633.00
Foot Patrol	749.50	785.50
Station Duty	15,434.00	14,493.50
Motor Patrol	16,267.00	13,686.50
Traffic Duty	726.50	1,134.50
Court	4,989.50	4,864.50
Administrative	14,418.00	14,393.00
Sick*	1,741.00	2,681.00

*sick time not included in total

PERSONNEL STRENGTH	2010	2011
Authorized Strength	91	93
Actual Strength	91	90

MISCELLANEOUS CONTACTS	2010	2011
Traffic Reprimands	3,379	2,496
Crime Prevention Checks	2,746	2,747

City of Dover Police Department
Annual Report

City Ordinance Summons
Issued/Paid

	ISSUED		PAID		DISMISSED	
CITY ORDINANCE SUMMONS	2010	2011	2010	2011	2010	2011
Parking	6403	6522	3835	4038	305	334
Handicap	307	348	97	84	130	156
Fire Lane	155	174	72	93	10	15
False Alarm	737	565	604	422	17	6
Loud Noise	373	165	209	95	9	3
Underage Consumption	59	49	30	25	0	0
Animals	54	46	41	36	8	4
Other	512	401	267	167	11	10
TOTALS	8600	8270	5155	4960	490	528

CASH RECEIPTS	2010	2011
City Ordinance Summons	$184,263.00	$161,061.00
Police Reports	$35,245.00	$36,360.00
Bicycle License	$1.25	$0.00
Miscellaneous*	$9,881.00	$13,712.59
TOTALS	$229,390.25	$211,133.59

*Miscellaneous funds include monies deposited from collections agency payments

City of Dover Police Department
Annual Report

Miscellaneous Calls for Service

MISCELLANEOUS CALLS FOR SERVICES

THIS REFERS TO THE CATEGORY IN WHICH THE DISPATCHER CLASSIFIED THE CALL FOR SERVICE

SERVICE REQUEST TYPE	2010	2011
ALARMS	2,422	2,175
ANIMAL	962	991
ASSIST OTHER AGENCY	575	664
CITY ORDINANCE VIOLATION	43	52
DRUG OVERDOSE	35	40
ESCORTS, INCLUDES CITY HALL	378	375
LOCK JOCK	1478	1,274
LOST/FOUND PROPERTY	292	250
LOUD MUSIC/PARTY	138	152
COMMUNITY SERVICE REQUESTS	322	544
MEGAN'S LAW (SEX OFFENDER REGISTRATION)	674	744
MENTAL PATIENT	169	164
MISSING PERSONS	320	314
NOISE	778	847
PROTECTION FROM ABUSE ORDER VIOLATIONS	68	81
PROPERTY CHECK	167	476
PROPERTY RETRIEVAL	234	240
PUBLIC ASSISTANCE	559	707
SUDDEN DEATH	34	24
SUICIDE (includes attempts)	103	123
TRAFFIC REQUEST	407	449
UNSECURE BUILDING	79	87
TOTAL	**10,237**	**10,773**

City of Dover Police Department
Annual Report

Dover Police Department FY11 Grand Funding Summary

State Attorney General's Office	Totals
State Law Enforcement Assistance Fund (SLEAF) – funding from state drug cases reallocated for supplemental law enforcement equipment & programs	
State funds received for Delaware Police Chiefs' Council (DPCC) payroll and the annual training seminar held in Rehoboth, DE.	$25,000.00
Criminal Justice Council (CJC) Grants – pass-through funding from the USDOJ for special programs and priorities.	
The Violence Against Women Act (VAWA) grant program funds received for digital cameras for all patrol officers to improve documentation for domestic violence cases.	10,649.97
State Department of Public Safety	
State Aid to Local Law Enforcement (SALLE) Grants – funds received for annual allocation of state funding for supplemental law enforcement equipment & programs.	$9,935.52
State funds received for DPCC annual training seminar held in Rehoboth, DE.	9,421.44
Emergency Illegal Drug Enforcement (EIDE) Grants – fund received for annual allocation of state funding for supplemental drug law enforcement programs.	14,255.29
Highway Safety Grants – funds received for additional enforcement hours in safety focus areas including impaired driving, occupant protection and aggressive driving.	74,901.25
Highway Safety Events – funds received for additional monthly enforcement hours	27,513.86
US Department of Justice	
Edward G. Byrne Memorial, Justice Assistance Grant (JAG) – funds received during the year from this recurring federal grant for supplemental law enforcement initiatives.	139,220.70
Community Oriented Policing Services (COPS) Hiring Recovery Program (CHRP) Payroll costs for one year of the three year federal hiring grant for one officer position.	42,733.91
Grand Total	***$353,631.94***

Officer and Civilian of the Year 2011
Dover's Finest



Officer of the Year

Patrolman First Class

Anthony Toto



Civilian of the Year

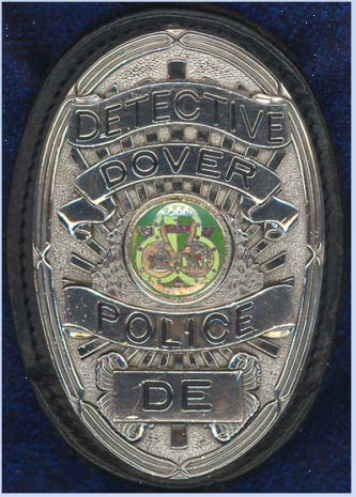
Animal Control Officer

Mr. Mark Moore

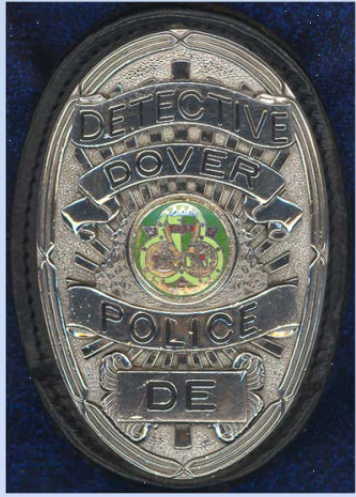
New Officers



Newly sworn Dover Police Officers, Patrolman Nathaniel Warren, Patrolman Brian Berns, Patrolman Matthew Krogh and Patrolman Brooks Ogden



Criminal Investigation Unit
Detective Section

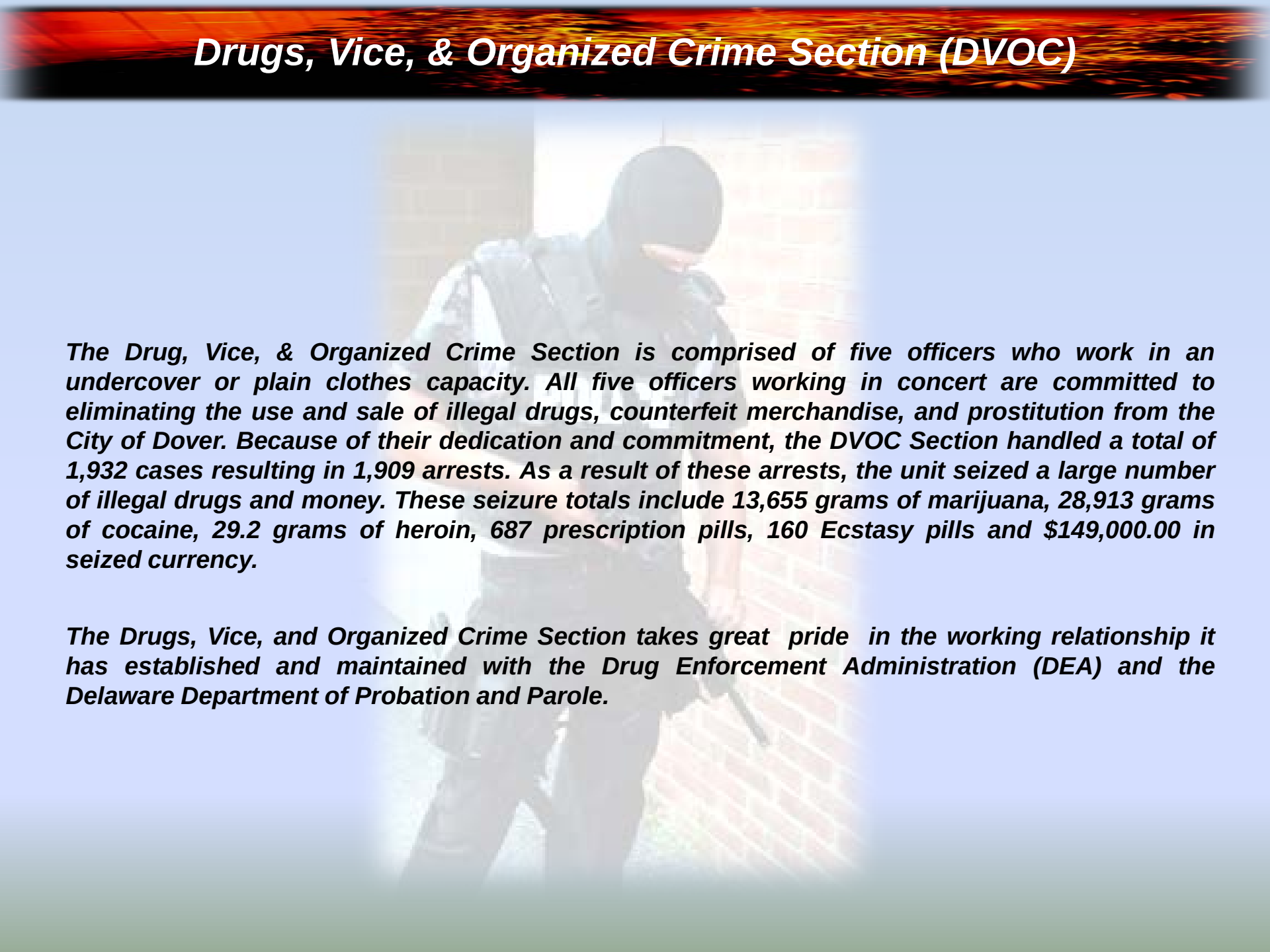


The Dover Police Criminal Investigation Section is tasked with the responsibility to investigate the most serious crimes that occur within the City of Dover. This section also conducts financial and identity theft investigations. In addition to these duties they are called upon to perform background investigations on all civilian and police applicants who are being considered for employment.

In 2011, the seven detectives assigned to this section investigated a total of 2,435 complaints and cleared 2,280 of them. The detectives cleared 93.63% of all cases that they investigated. The detectives also handled a record number six homicides this year with a 100% clearance rate. These clearance rates are significantly higher than the national average. This speaks volumes for their investigative abilities.

In 2011, Detective Jeff Gott won The American Society of Industrial Security (ASIS) investigator of the year award for his remarkable case load and clearance rates. One case in particular, was a double homicide investigation in which Det. Gott arrested the suspect just hours after being assigned the case.

Drugs, Vice, & Organized Crime Section (DVOC)



The Drug, Vice, & Organized Crime Section is comprised of five officers who work in an undercover or plain clothes capacity. All five officers working in concert are committed to eliminating the use and sale of illegal drugs, counterfeit merchandise, and prostitution from the City of Dover. Because of their dedication and commitment, the DVOC Section handled a total of 1,932 cases resulting in 1,909 arrests. As a result of these arrests, the unit seized a large number of illegal drugs and money. These seizure totals include 13,655 grams of marijuana, 28,913 grams of cocaine, 29.2 grams of heroin, 687 prescription pills, 160 Ecstasy pills and $149,000.00 in seized currency.

The Drugs, Vice, and Organized Crime Section takes great pride in the working relationship it has established and maintained with the Drug Enforcement Administration (DEA) and the Delaware Department of Probation and Parole.



Dispatcher Patricia Sapp monitoring 911 calls

In 2011, the 911 center received 119,180 telephones calls, 39,559 of those calls were received on the 911 emergency lines. The 911 center averaged 327 calls daily. In addition, the 911 center logged 41,609 calls for service in CAD.

Sex Offender Enforcement Section

The Sex Offender Section consists of two officers who keep track of all registered sex offenders that reside, work, or go to school in Dover. At any given time there are between 175 to 225 registered sex offenders that meet this criteria in Dover. These officers are responsible for making sex offender public notifications appropriate to the tier of the offender. They will obtain warrants if an offender violates the conditions of the program and aggressively search for the suspect to make the arrest. These officers will conduct audits on all offenders in the city to ensure compliance with the program. Tier 1 offenders which is the lowest level offender, are audited once a year. Tier 2 offenders are audited bi-annually and Tier 3 offenders the highest threat level and are audited four times annually. In 2011, these officers made 219 verifications, 489 re-verifications, 26,179 notifications, obtained 16 non-compliant warrants, of which 14 have been apprehended.



Cpl. Mickie Price and Cpl. Harvey Jaksch conduct a Sex Offender Seminar at the Dover Police Department

CALEA Accreditation

The Gold Standard in Public Safety

The Accreditation Section is tasked with the responsibility of maintaining and organizing the departments General Orders, Procedural Notices and Directive Memoranda. The Section's primary function is to maintain 479 standards which are mandated by CALEA (Commission on Accreditation for Law Enforcement), and the 101 standards which are mandated by DPAC (Delaware Police Accreditation Commission) and to ensure that the police department remains in compliance with these standards.

The Dover Police Department is one of only nine departments in the State of Delaware to hold the prestigious honor of National Accreditation.

The Dover Police Department completed their fifth assessment without discrepancy. On March 24, 2012, the department was selected by the Commissioners of CALEA to receive the coveted Accreditation with Excellence Award, which is the Gold Standard in Public Safety, and is a title that shall attach to the department's CALEA Accreditation for a period of three years.



MCpl. Kelli Burns maintains the accreditation files

2012 Recipient of the CALEA Accreditation with Excellence Award

Violation of Dangerous Building Ordinance 344 West Wind Drive

Planning & Inspections Department

Dover, Delaware

April 9, 2012

EXHIBIT #2
Regular Council Meeting of 4/09/2012

Code Citation
Chapter 22, Article XI

Sec 22-388. Emergency cases.

- In cases where it reasonable 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. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section 22-385(5).

344 West Wind Drive
Case History

- History of code violations since 2008 (5 cases)
  - Tall grass and weeds
  - Vacant building
- Condemned as unfit for human habitation on 2/27/2012 due to fire damage.
- Extreme damage to the home from the fire.
- Registered as vacant by Bank of America on 2/7/2011. Remained vacant until November 14, 2011.
  - Registration fees paid by Bank of America

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

- (4) Fire damage, etc.
- (5) *Unfit for habitation*
- (9) *General welfare*
- *(10) Code violations*

344 West Wind Drive
Fees owed to the City

- $227.45 past due utilities
- $100.00 grass cutting and administration fee
- $50.00 grass citation












02/16/2012

Recommended Council Action

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

Violation of Dangerous Building Ordinance 726 Slaughter Street

Planning & Inspections Department

Dover, Delaware

April 9, 2012

EXHIBIT #3
Regular Council Meeting of 4/09/2012

726 Slaughter Street
Case History

- History of code violations since 1998 (21cases)
  - Interior and exterior violations
  - Tall grass and weeds
  - Unregistered vehicles
- Subject of fire on 10/27/2011
- Condemned as unfit for human habitation on 10/28/2011
- Renovation permit applied for and approved on 4/3/2012

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

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


726
DANGER
202
04/05/2012 10:56













Recommended Council Action

- Declare this building dangerous.
- Order the property repaired or demolished (including removal of concrete pad).
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner **by May 9, 2012**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

EXHIBIT #4
Regular Council Meeting of 4/09/2012

SUMMARY OF ORIGINAL PROPOSAL COMPARED WITH ALTERNATIVE PROPOSAL

POSITION TITLE - CITY CLERK					
	Grade	Salary	Difference	Estimated FY12 Cost (Based on Salary and Overhead Rates)	Estimated FY13 Cost (Based on Salary and Overhead Rates)
Current	127	$66,460.00			
Original Proposal	133	$90,864.00	$24,404.00	$19,973.79	$151,716.69
Revised Proposal	132	$86,538.00	$20,078.00	$19,091.30	$145,013.51

POSITION TITLE - ASSISTANT CITY CLERK					
	Grade	Salary	Difference	Estimated FY12 Cost (Based on Salary and Overhead Rates)	Estimated FY13 Cost (Based on Salary and Overhead Rates)
Current	116	$40,452.00			
Original Proposal	124	$58,571.00	$18,119.00	$10,222.03	$77,611.98
Revised Proposal	123	$48,763.00	$8,311.00	$8,668.47	$65,811.38

POSITION TITLE - ADMINISTRATIVE ASSISTANT (1)					
	Grade	Salary	Difference	Estimated FY12 Cost (Based on Salary, and Benefits for Employee +1)	Estimated FY13 Cost (Based on Salary, and Benefits for Employee +1)
Current	112	$31,443.00			
Original Proposal	118	$43,707.00	$12,264.00	$7,373.87	$57,796.78
Revised Proposal	117	$39,724.00	$8,281.00	$6,862.39	$53,813.78

POSITION TITLE - ADMINISTRATIVE ASSISTANT (1)					
	Grade	Salary	Difference	Estimated FY12 Cost	Estimated FY13 Cost
Current	112	$27,392 - $43,062	VACANT		
Original Proposal	118	$43,707.00			
Revised Proposal	112	$27,392 - $43,062		Dependent on Starting Salary and Benefits Selected	

M E M O R A N D U M

TO: City Council

FROM: William P. McGlumphy



DATE: April 9, 2012

SUBJECT: Concerns Regarding Position Analysis Factor (PAF) Scoring

On April 21, 2009, I emailed the Human Resources Director expressing my concern with the Position Analysis Factor Scoring for the City Manager's position. I was concerned with adjustments that were made in the numerics for Experience, Education, Math, Physical Requirements, Equipment Usage, and Unavoidable Hazards in 2008 compared to the values that were set in 2002 for these categories.

The responses I received to my concerns indicated that there were "many changes to the definitions. Another major difference was an added category, 'Organizational Value/Factor' in the 2008 version." I was also informed that the "factoring is completed by MAG rather than a City staff member."

Following is an account of the responses I received from the HR Department in answer to my questions regarding the grading differences of the City Manager's position.

Experience

I was told that, "While the score is different, the meaning is the same, 10+ years of service. This matches the City Manager's job description."

My concern focused on a comparison of the 2002 Position Analysis Factor (PAF) to the 2008 PAF. In the 2002 PAF, Experience had a maximum value of "9" for 10+ years of experience. The City Manager got a "10." There was no such value as "10."

Education

The response I received was that "a score of '5' was previously assigned, indicating that the City Manager required education or training equivalent to a Bachelor's degree (2002). The 2008 score indicated a Master's degree is required, which is reflected in the City Manager's job description."

The 2008 score of "7," an increase of two points, requires a Master of Science degree in a professional or scientific field, such as physics, engineering, geology, or closely related field.

Math

I was told that "This explanation would need to be provided by MAG." In short, the value of "7" was never listed on the 2002 score sheet. How did the City Manager get a "7"? In 2008, the value increased to an "8," while the job description matches a "4."

Physical Requirements,
The response stated that, "The change in score acknowledges that the City Manager is an active individual throughout the day. He is active in visiting locations and attending meetings both on and off-site." The City Manager's score increased from a "2" in 2002 to a "3" in 2008. Following are descriptions of these rankings:

> 2 - (2002) Requires sedentary work involving standing or walking for brief periods, exerting up to 10 pounds of force on a regular basis, requires some dexterity in operating machines, tools, or office equipment.
>
> 2 - (2008) Sedentary work that involves walking or standing some of the the time and involves exerting up to 10 pounds of force on a regular and recurring basis or sustained keyboard operations.
>
> 3 - (2008) Light work that involves walking or standing most of the time and involves exerting up to 20 pounds of force on a regular and recurring basis or skill, adeptness and speed in the use of fingers, hands, or limbs on repetitive operation of mechanical or electronic office or shop machines or tools within moderate tolerances or limits of accuracy.

Equipment Usage
I was advised that, "The increase reflects that the City Manager establishes polices and procedures." The City Manager's score increased from a "2" in 2002 to a "7" in 2008. Following are the ranking description:

> 2 - (2002) Handles machines, tools, equipment or work aids involving some latitude for judgement regarding attainment of standard or in selecting appropriate items.
>
> 7 - (2002) Establishes methods and procedures for acquiring and handling machines, tools, equipment, or work aids involving extensive latitude for judgement regarding attainment of standard or in selecting appropriate items.
>
> 2 - (2008) Handling or using machines, tools, or equipment requiring brief instruction or experience such as hand and power tools, buffers, floor polishers, vacuum sweepers, outdoor hand-held power equipment, small mowers, commercial kitchen equipment, computers for data entry, Fax, complex copiers, phone systems, and other similar equipment; services office machines including such actions as adding paper and changing toner.
>
> 7 - (2008) Interpreting policy and establishing methods and establishing methods and procedures for acquiring, installing, testing, operating, or repairing complex machinery or equipment that requires extended training and experience such as those described in Item 4 above; preparing specifications for contracts for goods and services.

Unavoidable Hazards
The response was, "Once again the change in score reflects that the City Manager is an active employee thus is exposed to certain environmental hazards." The City Manager's score was increased from "1" to "2."

The 2002 job description states the position is exposed to no unusual environmental hazards, thus a score of "1" on the PAF.

In 2008, the PAF score was increased to a "2," the description of which includes "works in dimly lit areas such as crawl spaces, outdoors in bright sunlight or in other situations where excessively bright or dim light conditions prevail; or works in outdoor or indoor areas under dusty conditions or outdoor areas with pollen producing vegetation prevalent."

Organizational Value/Factor

I was told that, "While you did not inquire about this category, I would like to indicate that I believe that the City Manager has been incorrectly scored. He received a score of zero (trainee or apprentice) when in fact it should be a "9" (director reporting to CEO/CAO) or maybe a 10 (other). If this factor were added, the total points as determined by the MAG software would increase, likely affecting an increase in the grade level, thus affecting another increase in salary."

WPM/js

S:\Correspondence\Council\McGlumphy\Memo - Concerns Position Analysis Factor Scoring 04-09-2012.wpd

Subject: FW: Ordinance of Sex Offenders

From: McDowell, Traci
Sent: Friday, March 30, 2012 5:21 PM
To: City Clerks Office
Subject: FW: Ordinance of Sex Offenders

This e-mail has been blind copied to the Mayor and City Council Members.

From: Sean Lynn [mailto:slynn@thedelawarelawyers.com]
Sent: Friday, March 30, 2012 2:20 PM
To: McDowell, Traci
Subject: Fwd: Ordinance of Sex Offenders

Sent from my iPhone

Begin forwarded message:

> **From:** "Hahn Tanya (DOI)" <Tanya.Hahn@state.de.us>
> **Date:** March 30, 2012 1:50:28 PM EDT
> **To:** Sean Lynn <slynn@thedelawarelawyers.com>
> **Subject: RE: Ordinance of Sex Offenders**
>
> Good afternoon. My name is Tanya Hahn and my son goes to Kenton Childcare on McKee Road. I am in favor of this ordinance and think that daycare needs this just as much schools do. I hope that this works out and the ordinance is passed.
>
> Thank you for your time.
>
> Tanya C. Hahn
> Department of Insurance
> Workplace Safety Program
> 841 Silver Lake Boulevard
> Dover, DE 19904
> 302-674-7377
> Fax 302-736-7910 or 302-739-5280

Subject: FW: "Proposed Ordinance #2012-08"

From: Sean Lynn [mailto:slynn@thedelawarelawyers.com]
Sent: Thursday, April 05, 2012 10:15 AM
To: McDowell, Traci
Subject: Fwd: "Proposed Ordinance #2012-08"

Sent from my iPhone

Begin forwarded message:

> **From:** Christine McDermott <mcdermch@gmail.com>
> **Date:** April 5, 2012 9:07:48 AM EDT
> **Subject: "Proposed Ordinance #2012-08"**
>
> I would like to take this opportunity to let you know that I am in favor of the "Proposed Ordinance #2012-08".
>
> I have a 5 year old son that has been the victim of a sexual assault from a next door child neighbor.
>
> It scares me to think that he could again be in danger from someone else working or residing within 500 feet of his daycare center.
>
> I send my child to a daycare center because of the educational benefits it offers him.
>
> The definition of what constitutes a school needs to be addressed as my son is learning to read, write, spell, complete math problems, etc. Schools teach students. That is exactly what many daycare centers do - educate students.
>
> I urge you to give this ordinance great consideration.
>
> Thank you for your consideration.
>
> Christine McDermott

Subject: FW: Letter regarding proposed sex-offender residency restrictions
Attachments: Letter to Dover City Council re sex offenders.pdf

From: McDowell, Traci
Sent: Friday, March 23, 2012 7:48 AM
To: City Clerks Office
Cc: NRodriguez@schmittrod.com; 'WPepper@schmittrod.com'; Dietz-Sass, Kay; Koenig, Scott
Subject: FW: Letter regarding proposed sex-offender residency restrictions

Please see correspondence from the ACLU (below and attached) regarding the Sex Offender ordinance. In case you didn't see it, there was a piece about this on WBOC this morning.

Thank you,

Traci A. McDowell, CMC
City Clerk
City of Dover
e-mail: tmcdowell@dover.de.us
Ph: 736-7009
Fax: 736-5068

From: Kathleen MacRae [mailto:kmacrae@aclu-de.org]
Sent: Thursday, March 22, 2012 6:36 PM
To: City Clerks Office; nrodriguez@schmittrod.com
Subject: Letter regarding proposed sex-offender residency restrictions

Please send copies of the attached letter to the council members.

If any member of council would like us to address this issue at Monday's meeting, we would be happy to do so. Just let us know by mid-day Monday.

Also, could you confirm that you have received this email and the four page attachment?

Thank you

Kathleen MacRae
Executive Director
ACLU of Delaware
302-654-5326 x102
kmacrae@aclu-de.org

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply E-mail that this message has been inadvertently transmitted to you and delete this E-mail from your system.



March 22, 2012

Members of the City Council
City of Dover
c/o City Clerk
P.O. Box 475
Dover, DE 19903

VIA EMAIL

AMERICAN CIVIL LIBERTIES
UNION of DELAWARE
100 W 10TH ST, SUITE 603
WILMINGTON, DE 19801
T/302-654-5326
F/302-654-3689
WWW.ACLU-DE.ORG

HELEN K. FOSS
PRESIDENT

KATHLEEN M MacRAE
EXECUTIVE DIRECTOR

RICHARD H MORSE
LEGAL DIRECTOR

Dear Council Members:

We write to urge you to vote against proposed ordinance #2012-08 as amended. The American Civil Liberties of Delaware strongly opposes the adoption of this ordinance, which will actually undermine the safety of children in Dover and make them more vulnerable to harm.

The proposed ordinance would prohibit registered sex-offenders from living or working within 500 feet of a licensed daycare center and from other activities related to children. While it is intended to protect children from sexual predators, research shows that the ordinance would have the opposite effect. By limiting the housing and employment opportunities available to registered sex offenders who have been released from prison, it will drive more of them into the shadows and provide parents and the community with a false sense of security.

A memo addressing the issues of sex-offender residency restrictions prepared by another ACLU[i] affiliate provides details that are directly applicable to Dover and should be considered before you vote on the proposed ordinance:

Sex crimes are deplorable. They are often violent, and sometimes involve children. Victims suffer devastating, long-term psychological impacts. Communities, families, and individuals are understandably outraged by such crimes, and want to take all possible measures to protect children from the tragedy of sexual abuse. Residency restrictions are advanced by those who genuinely believe that they are an important measure to prevent children from becoming victims. The theory behind residency restrictions is that by keeping registered offenders from living near places where children gather, communities can prevent these former offenders from victimizing children.

This approach, however, rests on two pervasive misconceptions about registered offenders: one, that they re-offend at a rate that far exceeds that of any other kind of

offender; and two, that those who do re-offend choose victims who live near to them.

Residency Restrictions are Ineffective

Residency restriction laws presume that former sex offenders will commit crimes again if they live close to children. However, all of the empirical research into the efficacy of residency restrictions has found that such restrictions do not reduce the risk of harm to children.

Residency restriction laws assume that children are most often sexually assaulted by strangers and in public places. However, 93% of sexual assault victims under the age of 17 are assaulted not by a stranger, but by a family member or an acquaintance. 70% of sexual assaults take place within the residence of the victim. Such laws may incorrectly lead communities to feel secure by overstating the threat posed by strangers. As a result, families may ignore the fact that children are most likely to be sexually assaulted by people they already know and in their own homes.

Preventing registered sex offenders from living near public places where children gather will not prevent assaults. Research has found that sex offenders are less likely to offend near their homes, and may travel up to three to five miles to access victims. A Colorado study found that sex offenders who committed crimes against children did not live within close proximity to schools or playgrounds, but were scattered randomly throughout the state.

Residency restriction laws like the proposed ordinance are overly broad because they are applied to registered sex offenders regardless of the crime and regardless of whether the crime involved children. Under the proposed ordinance, an adult, who while 17 years old engaged in consensual sex with another 17 year old and ended up in court because of it, could be prohibited from living or working within 500 feet of a daycare center, depending on how he or she were sentenced. (See 11 *Del. C.* §§ 768, 4121.) And someone who has completed his sentence for sexual assault of an adult woman would be prohibited from living or working within 500 feet of a daycare center. Many individuals on the registered sex offender list are not a threat to children; accordingly, there is no reason to limit them from living or working near a daycare center.

Residency Restrictions May Increase the Threat to Public Safety

In actuality, residency restrictions may result in a decrease in community safety by destabilizing registered offenders. Residency restrictions can result in sex offenders living separately from their families, depriving them of an important source of stability. The restrictions push sex offenders to reside in more isolated areas, resulting in decreased access to employment opportunities and valuable social services. Residency restrictions can lead to isolation, economic and emotional stress, and instability, all of which are factors associated with recidivism and technical parole violations. One recently commissioned study on residency restrictions in Colorado concluded that “a tight web of supervision, treatment and

surveillance may be more important in maintaining community safety than where a sex offender resides."

Unable to find an acceptable place to live, registered offenders may choose to stop reporting their locations and "go underground," making it more difficult for law enforcement to keep track of sex offenders in their jurisdiction. Iowa found that it went from having 140 sex offenders who were not reporting their residencies to 400 "underground" registered offenders after enacting a strict residency restriction. Such a result contravenes the purposes of sex offender registry requirements, and limits law enforcement's ability to monitor registered offenders.

Registered Sex Offenders Do Not Reoffend at a High Rate

Residency restriction laws assume that registered sex offenders are responsible for most sexual crimes. In fact, 96% of people arrested for child molestation were first-time offenders. The most recent study by the Bureau of Justice Statistics found that just 3.3% of people convicted of violent sexual offenses against children were rearrested for a new sex crime within three years of their release (the time during which most re-arrests occur). One long-term study of 12,863 individuals convicted of committing sex crimes in New York found that just 2% of released inmates who served time for a sex offense were subsequently convicted of another sex crime. Recidivism rates among sex offenders are in fact much lower than recidivism rates among people convicted of other felonies. There is little evidence to support the conclusion that placing restrictions on where registered sex offenders live prevents future sexual violence.

All of the existing evidence from more than a decade of state experiments with this type of restriction on former sex offenders demonstrates that these restrictions do not work. They fail for several reasons: First, the rate of re-offending among sex offenders is in fact quite low. Second, residency restrictions are premised on the false notion that there is a relationship between where offenders live and where they offend. Third, courts are beginning to strike down residency restriction laws because they effectively leave former offenders with nowhere they can live. And finally, residency restrictions have the counterproductive consequence of driving registered offenders "underground" and ceasing to comply with reporting requirements, which may actually lead to a decrease in public safety.

The Proposed Ordinance is Inconsistent with Delaware Law

The proposed ordinance would go farther than the Delaware General Assembly has seen fit to go. First, unlike Delaware state law, the proposal would create a geographical limitation on where registered sex offenders may work. Thus, it will take people who have served their court ordered prison sentence, and make it harder for them to find work. That will not benefit children or anyone else.

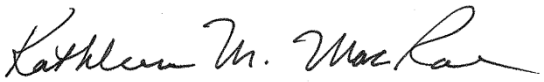
Second, when the state adopted the residency restriction that already applies in Dover, the General Assembly explicitly allowed people living within 500 feet of a school at the time the law was enacted to remain in their homes for as long as they

wanted to live there. (See 70 Del. Laws, chap. 279, § 3) In contrast, proposed ordinance #2012-08 would require them to move within one year.

Dover's possible adoption of a law to regulate a matter that is already governed by state law raises issues under the legal doctrine of preemption, under which local laws are often voided by the courts. In addition, as more and more courts recognize that a residency restriction is a punishment, applying this ordinance to people convicted prior to its enactment could well render it a violation of the *ex post facto* clause of the United States Constitution. Strict residency restrictions amount to wholesale banishment of registered offenders from communities—a permanent punishment that is a cruel and excessive response to the offender's crime.

The passage of ordinance #2012-08 will not promote safety by limiting where registered sex offenders can live. It will result in significant harms to registered offenders, and will likely have the counterproductive effect of increasing the likelihood of re-offense and reducing the level of safety for Dover children. For these reasons, we oppose the ordinance and urge members of the Dover City Council to vote against it.

Respectfully,



Kathleen MacRae
Executive Director



Richard H. Morse
Legal Director

Cc: Nicholas A. Rodriguez, Esq

[i] http://www.nyclu.org/content/legislative-memo-amending-correction-law-relation-residence-of-sex-offender