REGULAR COUNCIL MEETING

The Regular Council Meeting was held on March 12, 2012 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mr. Lynn, Mr. Bonar, Mrs. Williams, Mr. Hare, and Mr. Hutchison. Mrs. Russell and Dr. McGlumphy were absent.

Council staff members present were Police Chief Hosfelt, Ms. Russell, Mrs. Mitchell, Mrs. Townshend, Fire Chief Fortney, Mr. Koenig, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Carey was absent.

OPEN FORUM

The Open Forum was held at 7:15 p.m., prior to commencement of the Official Council Meeting. Council President Leary declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

Mr. Charles Moore, 405 Division Street, yielded his time to Pastor Gregory Gordon.

Pastor Gregory Gordon, 54 S. New Street, addressed members regarding an issue involving Mr. Charles Moore. He noted that the residence of Mr. Moore at 405 Division Street is owned by Mr. Joe Burden. In an attempt to have the electric service for his residence put into his name, Mr. Moore overheard City employees confirming that no action was to take place for properties owned by Mr. Joe Burden. Pastor Gordon stated that he understood that Mr. Burden had outstanding debts owed to the City; however, he noted that Mr. Burden had paid more than $25,000 in property taxes, a substantial amount toward his rental fees, etc. Although he understood the City's position regarding delinquent landlords, he noted that this type of action also penalizes the tenant. He stated that without tenants, Mr. Burden would not have the income to pay the fees owed to the City.

Pastor Gordon advised members that one of Mr. Burden's tenants has an outstanding electric bill in the amount of $1,200. Since the electric service was in Mr. Burden's name, Mr. Burden requested that the City disconnect electric service to the property; however, he was advised that he did not have the authority to disconnect the electric service at the property. In addition, he noted that the City would not permit tenants to transfer electric service into their own names, resulting in a "Catch 22."

Pastor Gordon stated that Mr. Moore is required to wear a monitoring machine and has not been able to do so for two (2) weeks, and although he has paid his rent, his security deposit, and is ready to pay for electric service, the City refused to turn on the electric service to his residence and he requested City Council's assistance with this matter.

Ms. Lori Alberts, 444 North School Lane, Smyrna, stated that she had several questions and concerns regarding Proposed Ordinance 2012-08, which would prohibit registered Tier II and Tier III sex offenders from living or working within 500 feet of a daycare center and from participating in certain events involving children. Although she supported efforts to protect the safety of children, she felt that the proposed ordinance would not accomplish anything but placing a burden on individuals who have already paid their debt to society and would also impair their ability to be a part of society. Ms. Alberts stated that the ordinance would not prohibit a registered sex offender who lives 501 feet away from a daycare center from walking or driving by it, or parking across the street from a daycare. She stated that the ordinance addresses all Tier II and Tier III sex offenders rather than specifying

"child predators." It was her feeling that this would violate the civil rights of some sex offenders by creating prejudice against a certain group of citizens and forcing them to move.

Ms. Alberts questioned if the ordinance addresses all licensed daycare facilities including those in private residences. Referring to children who are in facilities that are not licensed, she asked how the City intended to provide them protection. She questioned if the City would be zoning daycares between schools and parks to prevent sex offenders from living in particular neighborhoods and if the area the City would be zoning for sex offenders (a "concentration camp") would include enough affordable housing and jobs. Ms. Alberts also questioned if it is a good idea to have a group of sex offenders residing together in a concentrated area and if there would be children in the area. She asked if daycare facilities would be prevented from opening within 500 feet of registered sex offenders.

Mrs. Lynne Sadusky, 137 Brandywine Drive, relayed her concerns regarding Proposed Ordinance #2012-08, which would prohibit registered Tier II and Tier III sex offenders from living or working within 500 feet of a daycare center and from participating in certain events involving children. Having seven (7) children herself, she assured members of her support for protecting children; however, she did not feel that the proposed ordinance takes into account the reality of the situation. Mrs. Sadusky explained that although not all registered sex offenders have committed crimes against children, the ordinance would "lump" all sex offenders into the same group, which she felt was unfair, even for those who may have committed a serious crime against an adult. She questioned the logic of preventing such sex offenders from living in locations that are close to daycare centers if their crimes were committed against adults and they obviously have no interest in children. It was her feeling that a reasonable ordinance should address pedophiles specifically and not all sex offenders.

Mrs. Sadusky advised members that she volunteers at the Smyrna Prison and that registered sex offenders have often served time and are doing their best to reform when released. She explained that these men have very little support once released and have difficulty obtaining employment and a place to live. Mrs. Sadusky did not feel that registered sex offenders who have established themselves should be required to move due to close proximity to a daycare facility. She relayed her understanding for the need for such an ordinance involving pedophiles; however, she did not feel that it was just to penalize all registered Tier II and III sex offenders.

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

AGENDA ADDITIONS/DELETIONS

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

Mr. Anderson requested that Item #10-A, Monthly Budget Report, be removed from the consent agenda.

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

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF FEBRUARY 27, 2012

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

ADOPTION OF MINUTES - SPECIAL COUNCIL MEETING OF FEBRUARY 27, 2012

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

PRESENTATION - FIRE DEPARTMENT ANNUAL REPORT

Fire Chief Jack Fortney reviewed a Presentation of the Dover Fire Department Annual Report.

In response to Mr. Bonar, Chief Fortney indicated that he would provide members with the costs for responding to false alarms and assured members that the Fire Marshal's Office issues fines for false alarms. *(Clerk's Office Note: Subsequent to the meeting, the Fire Department provided an estimate indicating that approximately $51,048.90 of City funds were spent responding to false alarm calls during the previous fiscal year, based on 365 false alarms at a cost of $139.86 per incident.)*

Mr. Bonar explained that the Dover Fire Department is a volunteer fire organization but if it were a paid fire department, it would require $14M in additional tax revenue. As a result, he felt that the City and its residents owe a great deal of gratitude to the Dover Fire Department and its volunteers. He noted that recruitment and retention are some of the biggest challenges for the Fire Department, which welcomes prospective new members if they meet the required qualifications and complete a background investigation.

Mr. Hutchison relayed appreciation to the volunteers of the Dover Fire Department and commended the membership for an outstanding safety record.

Mr. Hare noted that the Dover Fire Department has had a faster response time than paid fire departments in the State. Noting that he had been hospitalized during a recent hurricane, he relayed appreciation to the Fire Department for ensuring that the hospital retained power during the emergency.

Mr. Hare moved for acceptance of the Fire Department Annual Report, seconded by Mrs. Williams and unanimously carried.

PROCLAMATION - EARTH HOUR (SATURDAY, MARCH 31, 2012 AT 8:30 P.M.)

The City Clerk read the following Proclamation into the record:

WHEREAS, our nation's use of energy continues to increase, resulting in damaging effects on the world's climate; and

WHEREAS, Earth Hour encourages individuals, businesses, and governments to show leadership on environmental solutions through their actions and to use Earth Hour as a platform to showcase to the world what measures they are taking to reduce their environmental impact; and

WHEREAS, it has been estimated that turning non-essential lights out in America for one hour could save as much as 15% of the energy consumed on an average Saturday night; and

WHEREAS, the energy savings will reduce carbon emissions into our air, preserve the natural resources used to produce this energy, set a positive precedent for the rest of our nation, and result in ongoing reduced costs for the taxpayers and businesses of the City of Dover; and

WHEREAS, residents' participation in Earth Hour shows a commitment to protect the one thing that unites us all – the planet.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby support the observation of Earth Hour in the City of Dover, Delaware, on March 31, 2012, and recommend residents and businesses participate by turning out non-essential lights from 8:30 p.m. – 9:30 p.m.

PROCLAMATION - IRISH-AMERICAN HERITAGE MONTH

The City Clerk read the following Proclamation into the record:

WHEREAS, Americans of Irish heritage have lived in the United States since the 17th century, and since the earliest days of our Republic, the faith, values and hard work of Irish-Americans have played an integral part in helping shape our nation and communities; and

WHEREAS, many people of Irish heritage came to America and the State of Delaware fleeing famine and poverty. They came with dreams of opportunity and they helped to build our democracy and advance the cause of liberty; and

WHEREAS, Irish-Americans have made everlasting contributions to our nation, and we honor their service. Throughout our history, Irish-Americans have helped shape this nation by participating in the signing of the Declaration of Independence and serving as Presidents of the United States; and

WHEREAS, during this month of March it is fitting to pay tribute to the contributions made by the Irish and to celebrate their history, heritage and culture, as we reflect upon the legacy bestowed by St. Patrick, the Patron Saint of Ireland; and

WHEREAS, we recognize that we are fortunate to have a thriving population of Irish-Americans, who strengthen our communities, and fellow citizens of Irish ancestry with their many achievements, which have earned them admiration and respect from people worldwide.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby proclaim the month of March 2012 as Irish-American Heritage Month in the City of Dover and encourage all citizens to celebrate the culture and traditions of Ireland.

Mayor Carey presented the Proclamation to Ms. Sandra Kinkus, President of the Irish Society. Mrs. Kinkus relayed appreciation for the recognition.

APPEAL OF DENIAL OF ADMINISTRATIVE BUILDING PERMIT - 149 SOUTH GOVERNORS AVENUE (D&S INVESTMENT COMPANY)

In accordance with Chapter 1 - General Provisions, Section 1-13 - Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings, of the Dover Code, an appeal hearing has been scheduled for this time and place to consider the denial of permit #12-229 related to 149 South Governors Avenue.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated 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. Mrs. Townshend noted that staff had provided updated information regarding these delinquencies. She indicated that on Friday, March 10, 2012, the owner paid the rental permit renewals and the delinquent code enforcement fines and, based on information from the City's Customer Service Supervisor, the owner was now current on 2011 taxes. She noted that the appeal was filed prior to the owner making these payments.

Responding to Mr. Hare, Mrs. Townshend confirmed that as of the current date, D&S Investments had no outstanding payments due to the City and that staff could issue the building permit if it was in compliance with the application requirements. Members were provided a spreadsheet of the D&S Investment Company, LLP, Schedule of Real Estate Taxes Due as of March 12, 2012 ***(Exhibit #1)***. Mrs. Townshend stated her understanding that payments were made as recently as earlier in the day and noted that the property owners were present.

At the request of Council President Leary, Mrs. Townshend clarified that, although additional payments had been made, there were still outstanding monies due to the City.

In response to Mr. Anderson, Mrs. Townshend stated that the 2010 taxes have been satisfied.

Responding to Mr. Lynn, City Solicitor Rodriguez explained that, in accordance with the Dover Code, all violations must be made current and staff was directed not to issue permits if there are any delinquencies whatsoever. He noted that this policy applied not only to the particular property but to any real estate owned by the applicant in the City of Dover. He confirmed that the rule of law is that if there are any funds owed, the City cannot grant a permit.

City Solicitor Rodriguez explained that although City Council could discuss the appeal, Council was bound by the ordinance and there could be no exception.

Mr. Lynn felt that the property owners have shown good faith in making their debts with the City current and questioned the ramifications if Council granted the appeal and violated the ordinance.

Responding, City Solicitor Rodriguez stated that although Council would have the right to grant the appeal it would be in opposition to the enforcement of the ordinance and would create an exception. He confirmed that this would create a dangerous precedent.

Concurring with Mr. Hutchison, Mr. Lynn suggested that since the property owners have shown a good faith effort, members of Council could table the matter for 30 days to provide the property owners time to address the outstanding tax bill.

Mr. Hare felt that there would be no need to table the matter, explaining that if the property owners pay their outstanding debts, staff could issue the building permit.

Mr. Doug Doyle, 16 Tam O'Shanter Court, and Mr. Scott Slacum, 349 North Bradford Street, introduced themselves as representatives of D&S Investment Company. Mr. Doyle advised members that in addition to businesses, D&S Investment Company owns 16 properties in Dover. The real estate investment company began 16 years ago and has paid taxes every year and other fees until recent difficult economic times caused outstanding debts. With regard to concerns about setting a precedent, he advised members that a precedent was set in October 2011 when the City required them to have an agreement to pay their outstanding taxes in order for a new tenant to move into a commercial space, which was accomplished. Mr. Doyle requested that they be provided an opportunity to set up a payment plan for their outstanding 2011 taxes, with the understanding that a new tenant could open their business at 149 South Governors Avenue.

Mr. Anderson moved to deny the appeal of D&S Investment Company, seconded by Mr. Hare.

In response to Mr. Hare, Mrs. Townshend stated that if a property owner has a payment agreement with the City and is current, then a building permit can be granted; however, when this building permit was requested, the owners were not current with their agreement, resulting in a denial of the building permit. She noted that the ordinance does not affect business license renewals.

The motion to deny the appeal failed by a roll call vote of four (4) yes, three (3) no (Mr. Lynn, Mr. Bonar, and Mr. Hutchison), and two (2) absent (Mrs. Russell and Dr. McGlumphy). Council President Leary explained that in accordance with Section 10 of the City Charter, an affirmative vote of a majority of the members elected to Council (five (5) members) was required for approval.

Mr. Anderson moved to table the matter, seconded by Mr. Bonar and carried by a unanimous roll call vote (Mrs. Russell and Dr. McGlumphy absent).

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - 26 NORTH KIRKWOOD 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 26 North Kirkwood Street, owned by Mr. Joe Burden. Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that the property consists of a two (2) story, wood-framed dwelling. The dwelling was condemned as unfit for human habitation on November 18, 2010 due to the degree of damage to the structure from a fire that occurred on the night of November 17, 2010. On May 20, 2011, City staff registered the

structure as a vacant building; however, no fees have been paid. Mr. Burden attempted to obtain a renovation permit on December 9, 2011 but was denied by the City due to unpaid taxes, fees, citations, and other outstanding charges due to the City of Dover. Currently, the structure is still vacant, with no utilities and in a serious state of disrepair. Mrs. Townshend reviewed a presentation depicting the condition of the structure ***(Exhibit #2)***.

With regard to the outstanding charges owed to the City, Mrs. Townshend advised members that although there are still outstanding fees, when the renovation permit was denied, it was denied based on a larger delinquency.

Staff recommended that City Council: 1) declare this building on this property dangerous; 2) order the property repaired or demolished by April 12, 2012 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within 10 days of the date established by City Council; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Mr. Anderson noted that the owner had paid the taxes due and that the City has limited funds remaining in the budget for demolitions and questioned why the City should pursue demolition when the property owner was willing to make the necessary repairs. Responding, Mrs. Townshend stated that when the renovation permit was submitted and the outstanding fees brought to the owner's attention, staff was advised that there was no money to satisfy the debts. She reminded members that the issuance of a building permit does not indicate that the necessary repairs will be made. She indicated her uncertainty and felt that the issuance of a building permit would only delay the issue. She stated that her concerns were due to the large delinquency that the City has continuously had (and continues to have) with this property owner.

Mr. Anderson noted that the current delinquencies were due to code enforcement issues and that all property taxes have been paid. He questioned why staff would not issue the necessary permits to the property owner in order for him to complete the work required by the City if property owners are given a certain number of days to make repairs. Responding, Mrs. Townshend explained that the "clean hands" ordinance does not provide staff the flexibility to issue permits. Mr. Anderson felt that the demolition ordinance specifically indicates that the City can grant the opportunity to repair a property that is dangerous and, since this would be a public health issue, it would outweigh the "clean hands" ordinance, particularly since the property owner had paid all property taxes.

Mrs. Townshend reminded members that the "clean hands" ordinance applies to all outstanding fees, not just property taxes, and noted that one of the charges due to the City was out of pocket expenses in the amount of $5,800 to remediate a property.

At the request of Mrs. Townshend, City Solicitor Rodriguez explained that the "clean hands" ordinance must be applied to all permits. Responding, Mr. Anderson did not feel that it was the intent of the "clean hands" ordinance to refrain from taking safety issues into consideration and explained his desire to submit an amendment to address this issue.

In response to Mr. Hare, Mrs. Townshend stated that since the property owner had paid some of the fees owed earlier in the day, the estimated remaining balance owed to the City was $17,000-$18,000. Of this amount, the bulk trash fee had been due since April 2011 and some of the Code Enforcement fines had been due since 2009. She noted that this property owner had not paid any of the vacant building registration fees since the inception of the vacant building program.

Responding to Mr. Bonar, Mrs. Townshend indicated that notices of outstanding fees and fines are always sent to property owners by certified mail and that the mailing receipts are maintained in the office files.

Mr. Lynn noted that the City has no discretion to issue a building permit, so the choice for the City was regarding the demolition of the building, and he questioned if the building posed an immediate public safety risk. Responding, Mrs. Townshend stated that there have been quite a few vacant buildings in the area that have burned due to arson and three (3) properties across the street were constantly being entered by vagrants and were demolished. She advised members that although vagrants have not been an issue with the property located at 26 North Kirkwood Street, vacant buildings in this area that are not being repaired and are in a state of deterioration tend to attract vagrancy and concerns associated with vagrancy, such as arson. The nearest structure is located approximately 20 feet from the property; therefore, if the property were to catch fire, it would pose a danger to surrounding structures. She stated that the building has been vacant since the 2010 fire and that there have been no subsequent fires or vagrants. She assured members that the property had been secured (boarded).

Council President Leary declared the public hearing open.

Mr. Joe Burden, owner of the property located at 26 North Kirkwood Street, read the following letter into the record:

> *"To Whom it May Concern:*
>
> *This letter is to appeal the decline of two (2) building permits for fire damage at 726 Slaughter Street and 26 N. Kirkwood Street because my taxes are not up to date for 2011. These two (2) houses were set on fire and the tenants had rental insurance. If you check the record, you will see that I paid $16,000 toward my taxes in January. I am trying hard to pay the taxes but my tenants are not paying their rent. That is why I am behind in my taxes. I received a letter from the inspector's office stating that I need the permits by February 27th or they will take action to demolish my houses. Most of my tenants are unemployed. That is the reason I have been trying to work with them - so that they will not be homeless.*
>
> *I am also appealing a fine of $100 I received from inspector Ed Graves for 28 N. Kirkwood Street because he could not inspect the unit. I called Mr. Graves two (2) weeks ago and left a message on his phone to set up a time and he never returned my call. I received the fine three (3) days after I had called and scheduled the inspection with the clerk. I think her name is Ms. Loretta.*

I am also appealing the $100 fine I received from Ron Coleman for 45 S. Queen Street about a small shed that a person can store something in like a lawn mower. It is not a new shed but I have seen sheds in other areas of the City look worse then that one.

They can see all the problems on my properties but they can not see the same things on other properties. I have been documenting these situations for future reference.

I realize I do not have the best tenants because I try to help people that need a roof over their head. If I did background and credit checks, about 70% of the people would not be in my houses.

Thank you very much for your thought about letting me get permits for my two (2) houses so I can fix them up and let two (2) families move in. The plans for the repairs have been drawn up and submitted to the planning department.

Thank you,
Joe W. Burden"

Mr. Burden advised members that earlier in the day, he paid $9,800 to the City for taxes and $1,344 for rental fees.

Responding to Mr. Anderson, Mr. Burden indicated his understanding of the need for residents to pay taxes and advised members that he paid $16,000 to the City and $27,000 to Kent County in January. He stated that he was doing the best he could with his income and attempting to assist those who were less fortunate by providing them with a place to live.

In response to Mr. Lynn, Mr. Burden stated that he would attempt to pay all fees owed to the City within 30 days; however, he stated his objections to the $5,800 bulk trash fee since the City removed items (appliances such as refrigerators, stove, air conditoning units, etc.) from his property and took them to the dump. He was not allowed to obtain a permit to erect a fence to obscure the view of the items due to outstanding fees owed to the City.

Mr. Anderson relayed concerns regarding the inability of tenants to obtain electric service to properties owned by Mr. Burden due to outstanding debts owed to the City.

Mr. Scott Koenig, City Manager, reminded members that by the time that violations are presented to City Council, staff has exhausted most avenues for obtaining payment of outstanding debts. He noted that the cases brought before City Council at this time involve chronic issues related to the property owner and their non-payment of outstanding debts. He explained that these types of properties are increasing the cost of government due to property maintenance issues, etc. Staff submitted this matter to Council as a last resort and is required to honor the ordinances adopted by City Council.

In response to previous comments of Mr. Anderson regarding electric service, Mrs. Townshend explained that in order for service to be put in a tenant's name, there must be an active, valid rental permit. If the permit was suspended due to code violations, utilities cannot be put into a tenant's name. She advised members that there are several reasons (in addition to delinquent taxes) why tenants would be denied electric service.

Mr. Burden reiterated his attempts to assist those who are less fortunate, particularly during the current economic times and stated that several of his tenants would otherwise be homeless. It was his belief that if such individuals were not provided shelter, there would be more crime in the City.

Pastor Gordon, 54 S. New Street, stated that Mr. Burden was trying to help those who are helpless and noted that he had made attempts to pay the City for his outstanding debts. He suggested that members of Council allow Mr. Burden to continue to rent some of his properties to assist him in making required payments to the City.

Dr. Joe Burden Jr., 2914 Hamilton Avenue, Orlando, Florida, stated that his attendance was in support of his father. He relayed concern with the racial tone in the City and advised members of some of the comments made by City inspectors in this regard. He assured members that he and his father are cognizant of the fact that the City needs tax revenues in order to pay their bills. Due to the racial episodes, he questioned if this is an issue of deteriorated properties or racism and social injustice. He requested that members be aware of the racial overtones and dialogue that are occurring in the City.

Responding to Mr. Anderson, Dr. Burden indicated that he and his father were willing to agree to a payment plan with the City.

Mr. Charles Moore, 405 Division Street, stated that although Mr. Burden may not have the best rental properties, there are worse properties throughout the City. As a tenant, he explained his inability to acquire electric service and suggested that if the City allows Mr. Burden time, he would be able to satisfy his debts.

Mr. Bobby Wilson, 1561 Nathaniel Mitchell Road, requested that members authorize a payment plan for Mr. Burden, explaining that Mr. Burden provides a lot of housing for the less fortunate and that if he was unable to do so, there would be an increase in crime throughout the City.

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

Mr. Anderson moved to table the matter. The motion failed due to the lack of a second.

Mr. Bonar moved to table the matter for a period of 60 days, at the end of which time, if the fees and fines or other monies owed to the City are not paid, that staff be authorized to move forward with demolition based on the findings and the facts that there is a history of code violations dating back to 2000; there are interior and exterior violations, tall grass and weeds, trash violations and debris; the dwelling was subject to a fire on November 17, 2010, was condemned as unfit for human

habitation on November 18, 2010, was registered as vacant by staff on May 20, 2011; the owner applied for a renovation permit on December 9, 2011 which was denied due to outstanding fees, fines, and taxes, which, in part, have now been satisfied; there are outstanding payments due on the subject property for water charges and a vacant building registration fee; and there are outstanding payments on other properties owned by the same owner, including code enforcement fines and fees, bulk trash fees, water, and penalties. The motion was seconded by Mr. Hare.

Responding to Mr. Lynn's concerns, Fire Chief Fortney stated that there are many properties in the City which are in similar condition to the subject property.

The motion to table the matter for 60 days and to authorize staff to move forward with demolition if the fees and fines and other monies owed to the City are not paid at that time was carried by a unanimous roll call vote (Mrs. Russell and Dr. McGlumphy absent).

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - 14 SOUTH QUEEN STREET, OWNED BY CHARLES E. MARSHALL

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 14 South Queen Street, owned by Charles E. Marshall. Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that the property consists of a two (2) story, wood frame dwelling. On September 12, 2008, the property was posted for not having any electrical service and then condemned as unfit for habitation on September 15, 2008 due to having no utilities and the degree to which the property was in disrepair. She noted that there were numerous broken windows, missing siding, missing gutters, an unsecurable rear door, and a collapsed rear roof. She advised members that the building was registered by staff as a vacant building on February 12, 2009, and that the owner was ordered to secure the building. No vacant building fees have been paid. Mrs. Townshend reviewed a presentation depicting the condition of the structure ***(Exhibit #3)***.

Mrs. Townshend advised members that staff was preparing to present this building to Council as a dangerous building on November 22, 2010, when the owner requested additional time to make repairs to the structure. The owner obtained the necessary permit on December 1, 2010, but after six (6) months, the permit expired with little work done to the home. The work that was done was not completed to Code specifications. The home is currently still vacant, with no utilities, in a serious state of disrepair, and the rear utility room and part of the rear second story wall are still open to the elements.

Staff recommended that City Council: 1) declare this building on this property dangerous; 2) order the property repaired or demolished by April 12, 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 Council President Leary regarding the work that was done when the owner obtained a permit in December 2010, Mrs. Townshend stated that almost none of the work was completed.

In response to Mr. Anderson, Mrs. Townshend indicated that although the previous notices in 2010 were signed for and picked up, all of the notices recently sent to the property owner were returned to the City by the Post Office as "unclaimed."

Council President Leary declared the public hearing open.

Mr. Charles Marshall, 14 South Queen Street, indicated that he has been unable to bring the property up to Code due to illness and requested that members provide three (3) months to complete the necessary repairs.

Responding to Mr. Hare, Mrs. Townshend stated that Mr. Marshall could obtain an extension for the building permit that was issued and assured members that it has always been staff's intention that demolition be used as a last resort. She explained that if staff observes continuous progress being made toward restoring the property, no further action would be taken to demolish the property.

Mr. Hare suggested that Mr. Marshall obtain the necessary permit to begin restoration of the property and that a minimum of one-third of the work be required to be completed by April 12th, considering that the property owner requested three (3) months to complete the repairs.

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

Mr. Hare moved that, if a valid permit is obtained, the property owner be provided 30 days prior to inspection by City staff to determine if one-third of the work has been completed and if so, that the permit be extended and the property be inspected every 30 days until the end of the 90 days requested; however, if one-third of the required work has not been accomplished at the end of each 30-day period, that the structure located at 14 South Queen Street be declared a dangerous building and subject to demolition, as recommended by staff. The motion was seconded by Mr. Bonar and carried by a unanimous roll call vote (Mrs. Russell and Dr. McGlumphy absent).

By unanimous consent, Council President Leary declared a five (5) minute recess.

Meeting recessed at 9:17 p.m. and reconvened at 9:23 p.m.

PUBLIC HEARING/FINAL READING - PROPOSED ORDINANCE #2012-02 AMENDING THE 2008 COMPREHENSIVE PLAN BY REPLACING TABLE 12-1: LAND DEVELOPMENT PLAN, MAP 13-1: ANNEXATION AREAS, AND MAP 13-2: POTENTIAL LAND USE FOR ANNEXATION AREAS

A public hearing was duly advertised for this time and place to consider approval of Ordinance #2012-02 amending the 2008 Comprehensive Plan by replacing Table 12-1: Land Development Plan, Map 13-1: Annexation Areas, and Map 13-2: Potential Land Use for Annexation Areas.

Mrs. Williams moved that the final reading of the proposed zoning text amendment be acknowledged by title only, seconded by Mr. Bonar and unanimously carried. *(The First Reading of Proposed Ordinance #2012-02 was accomplished during the Council Meeting of January 23, 2012.)*

Planner's Review

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the petition to amend the Land Development Plan Map of the Comprehensive Plan and the findings and recommendation of the Planning Commission. She advised members that the proposed ordinance consists of two (2) amendments to the 2008 Comprehensive Plan, as follows: 1) Land Development Plan Amendment – Change of land use classification for three (3) parcels located at the southwest corner of Forrest Avenue (Route 8) and Mifflin Road from Residential Low Density to Commercial. This amendment has been requested by the affected property owners, in conjunction with a rezoning request, as specified in the 2008 Comprehensive Plan; and 2) Annexation Plan Amendment – Addition of property south of South Little Creek Road and east of Horsepond Road as "Category 2 Annexation Area" with a land use classification of Agriculture. This amendment has been requested by the affected property owner in anticipation of developing the property as a solar power generation facility.

Referring to the Land Development Plan Amendment, Mrs. Townshend noted that in January and February of 2009, several residents of Mifflin Road had objected to the area being classified as commercial and that City Council voted to keep the area residential. She advised members that the Delaware Department of Transportation (DelDOT) submitted comments recommending that if the area were to be commercial, a lower intensity commercial use be considered that would have less traffic generation than the zoning classification. At this point, she advised members that the rezoning is on a separate track since the public notice requirements were not completed. The rezoning associated with the Land Development Plant Amendment is scheduled to go before the Planning Commission on March 19, 2012 and the applicant has agreed to request a lesser zoning, CP-O, which would permit offices, banks, insurance agencies, etc., rather than retail uses that tend to be high traffic generators and less consistent with residential areas. Mrs. Townshend explained that a separate public hearing would be held for the rezoning request; however, if the Comprehensive Plan were not amended, the zoning could not change.

In response to Mrs. Williams' concerns regarding owners of Brandywine Condominiums, Mrs. Townshend explained that any owner of a condominium unit within 200 feet, as well as the Condominium Association, would have received notice of the rezoning hearing. In regard to traffic concerns, she stated that if the intersection were to develop into a commercial zoning, DelDOT would control the access. It was her feeling that DelDOT would not permit full access (left and right turns) that close to the Mifflin Road intersection.

Mrs. Townshend advised members that following a public hearing before the Planning Commission on February 21, 2012, where two (2) members of the public spoke in opposition to the Land Development Plan Amendment, the Planning Commission recommended that City Council deny the requested Comprehensive Plan Amendment. She stated that no members of the public spoke in regard to the Annexation Plan Amendment and the Planning Commission recommended that City Council approve the requested Comprehensive Plan Amendment.

Responding to Mrs. Williams, Mrs. Townshend stated that residences in the area have deteriorated and that the property at 1510 Forrest Avenue is on a septic system which is failing. Since there is no frontage on Mifflin Road, access to the sewer would require boring under Route 8, which she felt was not realistic or feasible; therefore, if the property remains residential, another septic system would be required. From a utility standpoint, that would not be the City's desire. She stated that if the area were to develop commercially, the utility issues would be less complicated and traffic issues would need to be addressed. The Planning Commission recommended denial of the Land Development Plan Amendment primarily due to concerns of the impact on the residential character of the area. She explained that from staff's analysis, the character of the Route 8 corridor in the City of Dover is not residential; therefore, it is a unique area in the City and finding a compatible land use is a challenge, which led to staff's recommendation for a lower-density commercial rather than a retail classification.

Mrs. Townshend reminded members that if Council chose not to vote in favor of the Planning Commission's recommendations, dissenting members would be required to state their reasons.

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

Mr. Hare moved for approval of staff's recommendations due to the fact that the character of Route 8 is changing, seconded by Mr. Bonar, and by a roll call vote of five (5) yes (for the reason stated in the motion), two (2) no (Mr. Anderson and Mrs. Williams due to concerns of congestion), and two (2) absent (Mrs. Russell and Dr. McGlumphy), Council adopted Ordinance #2012-02, as follows:

AN ORDINANCE AMENDING THE 2008 COMPREHENSIVE PLAN BY REPLACING MAP 12-1: LAND DEVELOPMENT PLAN, MAP 13-1: ANNEXATION AREAS, AND MAP 13-2 POTENTIAL LAND USE FOR ANNEXATION AREAS.

WHEREAS, the City Council of the City of Dover, on February 9, 2009, adopted the 2008 Comprehensive Plan pursuant to Title 22, Section 702 of the Delaware Code; and

WHEREAS, the Honorable Jack Markell, Governor of the State of Delaware, certified the 2008 Comprehensive Plan on April 24, 2009; and

WHEREAS, the 2008 Comprehensive Plan allows for an annual amendment process; and

WHEREAS, four property owners have requested amendments to the Land Development Plan Map (Map 12-1) and Annexation Plan (Maps 13-1 and 13-2), in accordance with the process set forth in the 2008 Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on February 21, 2012, after which the Commission made a recommendation in regards to the proposed amendments to the Land Development Plan and Annexation Plan related to the above request.

NOW, THEREFORE, BE IT ORDAINED THAT the Mayor and Council of the City of Dover hereby amend Map 12-1: Land Development Plan, Map 13-1: Annexation Areas, and Map 13-2 Potential Land Use for Annexation Areas of the 2008 Comprehensive Plan, as amended on November 23, 2009; March 14, 2011; and April 11, 2011, by replacing the referenced maps with the Amended Map 12-1, 13-1 and 13-2, presented to City Council on March 12, 2012.

ADOPTED: MARCH 12, 2012

UTILITY COMMITTEE REPORT - FEBRUARY 27, 2012

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

Dedication of Rights-of-Way and Public Infrastructure - Lexington Glen - Phase I

Members were advised that Ashburn Homes, Inc., the party responsible for completing the public infrastructure within Phase 1 of the Lexington Glen Subdivision, has requested that all public infrastructure improvements related to this phase be dedicated to the City of Dover for permanent ownership and maintenance. Members reviewed an outline of all public improvements associated with Phase 1 and a map showing the general location and configuration of the subject rights-of-way. The total construction value of the public improvements is $1,184,627. Ashburn Homes, Inc. has completed construction of the improvements within Phase 1 in accordance with City standards and specifications. After construction was completed, City staff inspected the public improvements and developed a list of repairs to be made to meet the City of Dover Standards and Specifications for Public Works Construction. As of this date, all work required by Ms. Sharon Duca, Interim Public Works Director, has been completed.

Mr. Scott Koenig, City Manager, advised members that a one (1) year Maintenance Agreement, Letter of Credit, and a Release of Liabilities is required to be submitted as part of the dedication process. Although the Letter of Credit had not yet been submitted, he stated that it was anticipated that it would be received prior to consideration of the Committee's recommendation by City Council. As-built drawings of the infrastructure have been provided to staff.

Staff recommended acceptance of the dedication of rights-of-way and public infrastructure in Phase 1 of the Lexington Glen Subdivision, with the stipulation that the Letter of Credit must be received prior to Council action, with dedication to include all of the referenced public improvements, as follows:

Sewer Utility Infrastructure (Construction Value = $234,137):			
10" SDR-35 PVC Sanitary Sewer Main	-	1,865 l.f.	
8" SDR-35 PVC Sanitary Sewer Main	-	945 l.f.	
6" PVC Sanitary Sewer Laterals	-	3,430 l.f.	(98 laterals)
4' Diameter Sanitary Sewer Manholes	-	12 ea.	(67.42 v.f.)
8" PVC Sanitary Force Main	-	110 l.f.	

Water Utility Infrastructure (Construction Value = $207,148):			
8" Ductile Iron (Class 52 Cement Lined) Water Main	-	3,815 l.f.	
6" Ductile Iron (Class 52 Cement Lined) Water Main	-	160 l.f.	
1" Polyethylene Water Service Lines	-	3,185 l.f.	(98 services)
8" Gate Valve	-	13 ea.	
6" Hydrant Valve	-	7 ea.	
Fire Hydrants	-	7 ea.	

Storm Water Infrastructure (Construction Value = $335,564):			
Catch Basins	-	45 ea.	
4' Diameter Storm Sewer Manholes	-	3 ea.	
Outfall Structure	-	1 ea.	
15" Type III Reinforced Concrete Pipe	-	2,144 l.f.	
18" Type III Reinforced Concrete Pipe	-	355 l.f.	
24" Type III Reinforced Concrete Pipe	-	1,536 l.f.	
30" Type III Reinforced Concrete Pipe	-	1,023 l.f.	
36" Type III Reinforced Concrete Pipe	-	408 l.f.	
Flared End Sections (Concrete)	-	8 ea.	

Street Infrastructure (0.5771 miles) (Construction Value = $407,778):		
Nicholas Drive	Station 2+82 to Station 15+55	1,273 l.f.
Thornton Street	Station 0+00 to Station 10+00	1,000 l.f.
Lexington Place	Station 11+20 to Station 18+94	774 l.f.

The Committee recommended acceptance of the dedication of rights-of-way and public infrastructure for Lexington Glen - Phase I to include all of the referenced public improvements, as recommended by staff, with the stipulation that the Letter of Credit is received prior to Council action.

Responding to Mr. Bonar, Mr. Koenig advised members that the City received the Letter of Credit and One-Year Maintenance Agreement, dated March 8, 2012.

Mr. Bonar moved for approval of the Committee's recommendation for the acceptance of the dedication of rights-of-way and public infrastructure for Lexington Glen - Phase I to include all of the referenced public improvements, seconded by Mr. Hutchison and unanimously carried.

Cash-In-Lieu of Pump Station Upgrades Agreement - Village of Maple Dale Senior Housing

Mr. Scott Koenig, City Manager, reminded members that the Village of Maple Dale Senior Housing Subdivision is currently under construction and that the subdivision is in the sanitary sewer basin that flows to the Retreat Pump Station, which is located on Pine Valley Road. The Retreat Pump Station is in need of upgrades in order to properly handle the proposed sanitary sewer flow from the complete build out of the Village of Maple Dale Senior Housing Subdivision. He stated that, typically, the developer would have to perform the upgrades to the infrastructure prior to building residences. The complete replacement of the Retreat Pump Station is planned to occur in Fiscal Year 2016. As such, staff believes that it is in the best interest of all to perform the overall

replacement as planned in Fiscal Year 2016 but to utilize a cash-in-lieu of agreement with the developer rather than perform the upgrades now. He assured members that this would ensure that the new components are not removed after only four (4) years of usage.

Mr. Koenig explained that, in lieu of the pump station upgrades, staff and Becker Morgan Group, Inc., (consulting engineer) agreed that a specified number of residences (30 townhomes and 18 condominium units) could be built without affecting the performance of the existing pump station. This was determined after a fairly extensive technical review of the pump station's capacity and performance, as well as projected flows and construction timeframe. The monetary value of the upgrades that would be required for the pump station ($36,570) was established following staff's review and approval of submitted estimates. Members reviewed a draft agreement in which Maple Dale Country Club, Inc., would pay for the necessary improvements to the pump station. This agreement states that only 30 townhomes and 18 condominium units could be built before the Retreat Pump Station is replaced.

Staff recommended execution of the agreement.

In response to Mr. Hare, Mr. Koenig indicated that construction has already begun on four (4) units and the required building permits have been obtained. He assured members that the City would require payment of the cash-in-lieu amount of $36,570 prior to issuing any additional building permits.

The Committee recommended execution of a cash-in-lieu agreement with Maple Dale Country Club, Inc., with the stipulation that no additional building permits would be issued without receipt of payment in full in the amount of $36,570.

Responding to Mr. Bonar, Mr. Koenig stated that Mr. McAllister submitted a letter dated February 29, 2012 concerning the payment schedule. After reviewing the design review, staff recommended that the agreement be amended to replace paragraphs A and B (of Section I) with a provision that would read essentially as follows:

A. The payment in the amount of $36,570 must be paid prior to the issuance of the thirty first building permit or July 1, 2014, whichever date comes first.

Mr. Bonar moved for approval of the cash-in-lieu agreement with Maple Dale Country Club, Inc., as amended *(Exhibit #4)*, seconded by Mrs. Williams and carried by a unanimous roll call vote (Mrs. Russell and Dr. McGlumphy absent).

North American Energy Services (NAES) Agreement Extension

Mr. Scott Koenig, City Manager, advised members that an Operations and Maintenance (O & M) Agreement for the City's electric generating facilities was entered into with North American Energy Services (NAES) in 2006. The previous City Manager was prepared to extend the agreement as it currently stands through May 31, 2014. Mr. Koenig stated that, given recent discussions regarding electric rates and cost of service, staff believes that the City should renegotiate the terms of the O & M Agreement. Mr. Koenig indicated that, based on the review of Mr. Kirk Betts, the City's

Utility Attorney, the initial term of the NAES contract was four (4) years, ending in June 2010, and the agreement has an evergreen provision that would permit the City to extend the agreement on an annual basis after the initial term. All the compensation provisions remain except escalation, which is an annual adjustment. The City may terminate the agreement by giving notice at least 18 months before the proposed termination date. This notice may be given at any time. A request may be made at any time to enter into sole source negotiations with NAES to adjust the terms of compensation.

Staff recommended that Council authorize the City Manager to: 1) issue a letter advising NAES of the City's desire to review and renegotiate the terms of the O & M Agreement; and 2) issue a letter to Mr. Kirk Betts, Utility Attorney, to commence the contract negotiations.

Responding to Mr. Blakeman, Mr. Koenig indicated that the concept of issuing a Request for Proposals (RFP) was discussed by Mrs. Donna Mitchell, Controller/Treasurer, and Mr. Betts. It was his understanding that once NAES is notified of the City's desire to renegotiate, they will respond with a very favorable contract price; however, he assured members that if this is not the case, the City could solicit proposals through the market.

The Committee recommended approval of staff's recommendation to authorize the City Manager to: 1) issue a letter advising North American Energy Services (NAES) of the City's desire to review and renegotiate the terms of the Operations and Maintenance (O & M) Agreement; and 2) issue a letter to Mr. Kirk Betts, Utility Attorney, to commence contract negotiations.

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

Update - Green Energy Funding and Programming

Mr. Scott Koenig, City Manager, noted that members received an update on Green Energy Funding and Programming and offered to respond to any questions.

Update - Garrison Oak Technical Park Project

Mr. Scott Koenig, City Manager, stated that staff is working on finalizing the plat for the Garrison Oak Technical Park so that lots can be recorded. It was his understanding that Calpine Corporation has filed an application which is scheduled for consideration by the Planning Commission during their March meeting. He noted that the Calpine project will be constructed on one of the lots created by the subdivision of the Garrison Oak Technical Park.

Mr. Koenig advised members that staff has also been working with Becker Morgan Group, the consulting engineer, regarding the construction drawings for the roads and the water and sewer systems associated with the subdivision plan related to the project. He stated that the discussions with Calpine Corporation are separate and on-going.

Mr. Bonar moved for acceptance of the Utility Committee Report, seconded by Mr. Hare and unanimously carried (Mrs. Russell and Dr. McGlumphy absent).

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - FEBRUARY 27, 2012

The Legislative, Finance, and Administration Committee met on February 27, 2012 with Chairman McGlumphy presiding.

Staff Recommendations - Economic Development Office *(Tabled by Committee on February 13, 2012)*

During their meeting of January 9, 2012, Mr. Scott Koenig, City Manager, reviewed a memorandum outlining a recommendation for restructuring the City's Economic Development Office (EDO) and the Downtown Dover Partnership (DDP). Members tabled the matter to allow the DDP Board to submit a response.

During their meeting of February 13, 2012, members again reviewed staff's recommendation for restructuring the City's EDO and, after much discussion, they tabled the matter to allow staff additional time to work with the DDP on the development of a recommendation.

Mr. Koenig stated that, during the deliberations that have taken place over the last two (2) months regarding the recommendation to separate the economic development function of the City from the staffing of the DDP, many details were brought forth, and he felt that the initially proposed concept was lost. In an effort to help move the discussion forward, Mr. Koenig developed a simplified graphic representation of the current EDO/DDP structure and the proposed structure, which would separate the two (2) functions, and he reviewed this concept with members.

Mr. Koenig noted that the long-term cost savings that would be produced by staff's recommendation would apply in two (2) ways: 1) two (2) positions would be cut from the budget and the current employees would be relocated to other departments where vacancies exist; and 2) the City would continue to provide financial support for the DDP; however, there would be no unfunded liability or Other Post-Employment Benefits (OPEB) costs associated with staff hired by the DDP. He reminded members that these are costs that would escalate over time and would impact the budget on a long-term basis under the current structure.

Mr. Koenig reviewed a memorandum that he had prepared to address some of the questions that were posed during the previous Committee meeting regarding this issue. It was noted that one of these questions focused on whether or not the EDO is "profitable." He reviewed an email dated February 21, 2012, submitted by Mr. William Neaton, Economic Development Manager, which supported the profitability of the department. Mr. Koenig stated that some of the information provided in this email was subjective and that the annual budget for this function has averaged approximately $223,000 over the past three (3) fiscal years.

Mr. Koenig stated that one of the reasons for staff's recommendation was to assist with funding the City's budget during the next fiscal year. He reminded members that the EDO was one of the last "umbrellas" of service added to the City's portfolio. It was created in 2008 at a time when the economy started to decline, and since that time this decline has continued. Mr. Koenig noted that there was no revenue stream associated with the services provided when the EDO was created. Since funding resources are constrained, Mr. Koenig stated he felt an obligation to discuss with

members whether the EDO is the most critical service and consideration of: a) the manner in which it is funded; b) how it is operated; or c) the possibility of eliminating it.

It was Mr. Hare's recollection that, in accordance with the City Charter, the Mayor was responsible for the City's economic development and questioned when the Charter was amended to eliminate this responsibility from the Mayor. Responding, Mr. Koenig stated that economic development transferred from the Mayor's oversight to a separate office in 2008.

Mrs. Holly Malone, 115 Shinnecock Road (former member of City Council), stated that the duties of the Mayor are to oversee the Police Department and that the EDO does not fall under the Police Department. Although Mrs. Malone understood that the Mayor promotes economic development, she felt this was not his primary responsibility. She noted that economic development is not currently included in the Mayor's budget.

For clarification, Dr. McGlumphy noted that prior to 2008/2009, economic development was included in the job description and objectives for the Mayor's Office; however, when new job descriptions were developed at that time, economic development was no longer listed under the Mayor's responsibilities. He suggested that Mrs. Malone review the minutes of the Parks, Recreation, and Community Enhancement Committee of June 8, 2009, and September 14, 2009, and the Legislative, Finance, and Administration Committee minutes of November 23, 2009. Dr. McGlumphy explained that these minutes clearly delineate the "power struggle" that occurred regarding the placement of the EDO in the organization, as well as difficulties in the development of its objectives and benchmarks.

Mrs. Malone suggested that the Mayor and City Council work together to enhance construction and building downtown, which is important for the livelihood of the City of Dover.

Noting that there were several concerns regarding staff's recommendation, Mr. Koenig stated no objection to developing an alternative recommendation and expressed his willingness to take direction from the Committee in this regard.

Mr. Lynn reiterated his objections to the EDO being placed under the Planning and Inspections Department, due to potential conflicts of interest. He explained his opinion that it is imperative that the integrity of the Planning Department's opinions with respect to site plans, subdivisions, conditional use, and rezonings be protected from accusations of bias from the opposing public. He felt that the economic development professional would be involved with cultivating projects that would go before the Planning Commission, Board of Adjustment, and City Council. If the economic development professional were placed under the direction of the Planning Director, in his opinion, the Planning Director's independence in these matters would be compromised.

Responding to Mr. Lynn, Mr. Koenig stated that there are numerous models throughout the country that endorse having an economic development professional in the planning area. Although he understood the concerns regarding a potential conflict of interest, he explained that the City's economic development professional does not have independent authority to "make deals" or to offer incentives by his own actions. Any type of proposal for tax abatement or other incentives, over and

above what is prescribed in other plans, would require consideration by Council or another Board for a recommendation and approval. Mr. Koenig stated his belief that the economic development professional for the City would have a relatively small range of items to negotiate within the structure of the City's government. He also felt that no matter where the economic development professional is located, that individual would have to work with the Planning Office in a very integrated fashion, since any proposal presented for economic development would first have the challenge of assuring that it meets land use specifications. Mr. Koenig reminded members that within the City's structure, there are prescribed sets of rules, explaining that the zoning ordinance indicates what can and what cannot be done with a piece of property. The Board of Adjustment is required to be very prescriptive in what is authorized and must provide specific reasons for allowing variances. He assured members that the City of Dover's government is set up in such a sophisticated manner that the City could overcome any related challenges.

Mr. Lynn noted that the definition of recklessness is "the conscious knowledge of risk and a conscious decision to disregard that risk." He felt that staff has stated that there is a potential risk and questioned whether the benefit of placing the economic development professional under the Planning Office would outweigh the risk. He suggested that the economic professional either remain under the City Manager's Office or be moved to the Mayor's Office. Responding, Mr. Koenig felt that there would be risk regardless of where this individual is placed, explaining that challenges would occur under any circumstances when there is opposition to a proposed project. He reiterated his opinion that there would be no more risk for the City if the economic development professional were placed under the Planning Office than any other office, since the City makes professional decisions based on the Dover Code and the best interests of the City.

Mr. Lynn also relayed concern that placing the economic development professional under the Planning Office would diminish the position and give the appearance that they are "less important." Responding, Mr. Koenig stated that prior to the City establishing a dedicated economic development position, economic development for the City was handled through "a committee approach." He explained that parties who were interested in development projects in the City would contact either the Mayor or City Manager and staff would develop an application for the Kent Economic Development Partnership or the Delaware Economic Development Office (DEDO). Several department heads would then fill in their components of the proposal for submission. Mr. Koenig felt that, regardless of whether the economic development position serves as a coordinator or a manager, perceptions of the position would be based on the performance of the individual, in terms of how articulate and engaging they are. He felt that this would determine the amount of respect they are afforded by others in the economic development community. Although he understood that being a department head could add stature to the position, Mr. Koenig reminded members that the City has constrained resources, which was the rationale for staff's recommendation. He explained that placing the position in the City Manager's Office was not considered because Council had previously relayed concerns regarding the number of employees in the City Manager's Office.

Mr. Lynn reminded members that it was previously mentioned that the recommendation was submitted by staff solely for budgetary reasons. He noted that Mr. Neaton testified that the City's EDO has "paid for itself" and referred to the memo provided by Mr. Neaton, dated February 21, 2012, indicating that if the Calpine project (which Mr. Neaton is currently working on) comes to fruition, it would generate $2.3M for the City, which would cover the EDO budget for

10 years. He reiterated his opinion that the City's EDO does "pay for itself" and questioned why there would be any change whatsoever. Mr. Lynn urged members to reject staff's recommendation in its entirety.

Mrs. Williams recalled a previous development project that was handled by the City as a "committee of staff," as previously described by Mr. Koenig, which was a team effort that provided the developer the same message from all facets of the City. She questioned why certain members of Council were attempting to micro-manage staff, explaining that Mr. Koenig was hired as the City Manager and that personnel is not the purview of Council. She suggested that members accept staff's recommendation.

Mr. Hare indicated his concurrence with the concerns of Mr. Lynn regarding the position being placed under the Planning Office. He explained his perspective that the economic development professional seeks businesses to come to the City and that it is not their responsibility to obtain the necessary permits, etc. He suggested that the individual should work with the Mayor and DEDO and should not be a part of the Planning Office.

Mr. Anderson reminded members that in September 2011, he suggested that the EDO be relocated to the Mayor's Office. At that time, it was decided that members should concentrate on the hiring of a City Manager. He suggested that his recommendation be reconsidered, noting that the Mayor's Office is where the businesses are focused, and he stated the need for someone to advocate independently from other City departments. Mr. Anderson stated that technically, in accordance with the City Charter, if the economic development professional is under the City Manager's charge, Council's ability to interact with the professional could be restricted by the City Manager. He noted that if the position were under the charge of the Planning Office, this restriction would not exist. However, if the position were under the charge of the Mayor's Office, he felt it would provide a unified voice for economic development. Mr. Anderson felt that there are sections of staff's recommendation that have merit and suggested that staff reconsider the recommendation for consideration prior to the new budget year. He also relayed concern that staff's recommendation in its current form could risk millions of dollars in State monies by making changes at this time.

Mr. Bob Aellis, 29 Dornoch Way, Townshend, stated that, as a small business owner of Veterans Lighting and Firesigns 1075, approximately two (2) years ago, representatives from his company began working with Mr. Neaton and Mayor Carey to bring a Light-Emitting Diode (LED) manufacturing company from Canada to Dover. He advised members that meetings were held with several representatives of New Castle County, Sussex County, DEDO, Senators Coons and Carper, and several other business persons and entities in an attempt to make the manufacturing facility come to fruition. It was Mr. Aeillis' opinion that these meetings would not have been possible without the assistance of Mr. Neaton and the City's EDO and that Mr. Neaton served as one of the best facilitators he has worked with. He noted that he has since worked with Mr. Neaton in attempts to bring other manufacturing facilities to the City of Dover to produce jobs. Mr. Aellis stated his feeling that the City's EDO is "more than just dollars and cents and balance sheets." He indicated that he is a member of the Delaware Economic Environmental Development (DEED) Committee, which has referred to the City's EDO on numerous occasions and is currently in the process of requesting that Mr. Neaton speak with the DEED Committee. Mr. Aeillis urged members to maintain the City's EDO as it currently is today.

Mrs. Malone clarified her understanding that economic development is a part of the Mayor's responsibility; however, she felt that Council should work with and assist the Mayor to promote economic development in the downtown area, as well as the entire City.

Based on members' comments during the past several meetings, Mr. Bonar suggested that staff go back to the "drawing board" regarding this issue.

Referring to Mrs. Williams' comments regarding micro-managing, Mr. Lynn stated that economic development is critically important to the City; therefore, he was not willing to abdicate his thoughts and have "blind faith" in the City Manager and provide him "carte blanche." He explained that economic development promotes fiscal stability; its business activities create revenues that fund local services, and the cost and quality of life of every household in the City are directly dependent on the City's local economic conditions. He did not consider his position to be one of micro-managing but an indication that he was performing the duty that he was elected to do, which is to preserve, maintain, and grow the City's economy. It was his opinion that the budget issues facing the City could not be resolved by making "cuts" and suggested that it is necessary is for the City to "plant seeds" in order to grow its way out of the budget situation.

Mrs. Williams felt that there was a duplication of economic development services provided by the State, County, and City. It was her feeling that there are more than enough economic development personnel to assist the City's growth and that the City should not replicate the efforts of other entities. She suggested that the issue be given to the City Manager to handle.

Mr. Hutchison stated that he worked on economic opportunity during his tenure as Mayor. He indicated that he was not an expert on economic development, but served as a contact person for the City and referred these matter to the experts within the City. Although he understood the importance of maintaining an economic development professional within the City, he explained the importance of the Mayor being a part of the economic development system.

Responding to Mr. Hare, Mr. Koenig confirmed that staff's recommendations regarding this matter were initiated when the City was made aware of the desire of the DDP to hire their own Executive Director. It was his opinion that the only action necessary was for staff to provide a recommended effective date as to when the City's EDO would no longer provide administrative support to the DDP.

The Committee recommended that staff's recommendations regarding the (EDO) be returned to the City Manager for redevelopment.

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

Authorization to Purchase Virtual Server (Police Department)

Chief Hosfelt presented a request to approve a sole vendor purchase of a Virtual Server/Storage Array at a cost of $42,600. Members reviewed detailed information regarding the concept of a virtual server system. Chief Hosfelt explained that migrating to virtual servers and consolidating the

computer data storage in a storage array would yield many benefits and savings over time. The Police Department would be able to reduce their physical hardware footprint and hardware costs, power consumption costs, and possibly some software licensing costs if vendor licensing methods remain the same.

Chief Hosfelt advised members that the purchase would be made from Dell, which is a State contract vendor source for computer hardware. He explained that it is necessary to purchase Dell equipment to ensure that the new hardware integrates and communicates properly with the other existing servers and storage hardware currently in use in the Police Department.

Chief Hosfelt indicated that funds from three (3) grants would be combined for this purchase and no matching funds would be required of the City.

Staff recommended approval of the sole vendor purchase from Dell for a Virtual Server/Storage Array at a cost of $42,600.

The Committee recommended approval of staff's recommendation.

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

Proposed Ordinance #2012-07 - Incentives for Redevelopment of Vacant Commercial Buildings

Staff presented members with Proposed Ordinance #2012-07, which would allow for waiver of half of the building permit fee, half of the City water and wastewater impact fees, and tax abatement on the value of improvements for redevelopment of commercial buildings of 5,000 square feet or greater, located along Route 13, Bay Road, Court Street between Bay Road and Route 13, and Route 8 west of the railroad tracks. The proposed ordinance was modeled after the downtown redevelopment incentives.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that, due to the economic downturn, municipalities in Delaware and elsewhere are offering waivers of certain fees to help spur economic growth. She noted that the proposed ordinance was drafted with a "sunset" date of December 31, 2015; therefore, incentives would be available for a finite period of time while the City attempts to encourage economic growth and filling commercial vacancies on the City's primary commercial corridors.

Mrs. Townshend indicated that the costs involved with this incentive would be associated with loss of revenue related to the waiver and are difficult to quantify, as they would depend upon the cost of specific commercial building renovations, changes in use that would require additional plumbing fixtures, and the demand for the incentives.

Staff recommended that the proposed ordinance be forwarded to City Council for a First Reading on March 12, 2012 and for a Final Reading and Council Action on April 9, 2012.

Mr. Shevock noted that the incentives would be restricted to certain areas of the City and although he understood the reasons for this, he suggested that the City consider offering the incentives to the entire City, reminding members that a sunset clause had been incorporated.

The Committee recommended amending Proposed Ordinance #2012-07 to allow redevelopment incentives City-wide *(removing Lines 17 and 18)* and adoption of the ordinance as amended. *(The First Reading of the ordinance will take place during the latter part of the meeting.)*

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

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

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - FEBRUARY 29, 2012

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

Presentation - Silver Lake to Isaacs Branch Trail Concept

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided members with a map depicting proposed bicycle/pedestrian improvements in the Silver Lake/Isaacs Branch area. She reminded members that there is currently a concrete multi-use path that travels through Silver Lake Park and another path near Public Safety Boulevard, behind Winner Ford, that travels to Route 10 and is referred to as the Isaacs Branch segment. She advised members that the State has expressed an interest in connecting these two (2) trail systems with a St. Jones River Trail. Mrs. Townshend stated that in the last State Bond Bill, monies were earmarked for trails and, as a result, Delaware Department of Transportation (DelDOT) and the Department of Natural Resources and Environmental Control (DNREC) have become very active in cultivating community trails.

Mrs. Townshend indicated that both DNREC and DelDOT contacted the City regarding the possibility of conducting a study (concept plan) regarding a connection between these two (2) trails. Referring to the map, she reviewed a proposed phased project for the Silver Lake to Isaacs Branch Trail Concept, which would provide both recreational and transportation benefits for pedestrians and bicyclists. She noted that the long-term plan would involve several property owners, environmental issues, etc. Mrs. Townshend advised members that public workshops are planned to discuss the concept plan and she felt that this matter should be presented to the Committee for their information prior to the workshops.

The Committee took no further action.

Announcement of Road Closures *(Gary Laing)*

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison, Delaware Department of Transportation (DelDOT), explained that DelDOT has scheduled several repaving projects in the next year and advised members that some of the work includes the City's Historic District and

involves curb ramps, road striping, etc. He assured members that DelDOT has complied with the mandate to notify residents regarding planned night work. Mr. Laing noted that very little response has been received in response to DelDOT's notification, which clearly indicated that non-response from residents would be construed by DelDOT as consent.

Mr. Laing stated that he was not aware of the construction schedule and, therefore, did not have a start date for the project. However, he noted that DelDOT takes certain events, such as Dover Days, NASCAR races, and holidays, into consideration when scheduling work and would not allow street closures during these times.

Chairman Hutchison requested that Mr. Laing provide staff with the details, including the exact dates and streets involved.

Responding to Mr. W. Hutchison, Mr. Laing explained that roadways are constructed so that the water runs off toward the curb and into the drainage system and water can accumulate where American Disabilities Act (ADA) sidewalk ramps are located. He indicated that it is hoped that the drainage system will support the runoff of water; however, water can sometimes build up in these areas, particularly during heavy rains.

Discussion - Establishing City Emergency Operations Center *(January 23, 2012 - Committee Recommended Referral Back to Staff for a Report to the Committee at the Next Committee Meeting)*

During their meeting of January 23, 2012, members reviewed correspondence from Mr. Dave Truax, Fire Marshal, relaying his concerns regarding the City's lack of emergency preparedness awareness (outside of emergency services and emergency management personnel) and the need for an operational Emergency Operations Center (EOC) in the City. After much discussion, the matter was referred back to staff for a report to the Committee at their next meeting.

Mr. Scott Koenig, City Manager, provided members a brief history of the City's Emergency Management Plan (approved by the Mayor in August 2010) and stated that he felt the basic plan would meet the City's current needs, although modifications would be needed as the City moves forward. He advised members that there are updates in the text of the plan that need to become more "fluid" and noted that this has not occurred because the Emergency Management Coordinator retired and a replacement was not hired due to budgetary reasons. The current plan provides for the EOC to be located at City Hall, the designation of the City's Police Department as a backup to the City Hall EOC, and the establishment of the Kent 911 Center as backup to the Police Department EOC. He stated that the City could also utilize the Electric Administration Building if necessary.

Mr. Koenig advised members that the Delaware Emergency Management Agency (DEMA) uses guidelines entitled "Design Recommendations and Criteria for Emergency Operations" as a framework for designing their EOC and advised members of some of the criteria included. He indicated that keeping the EOC at City Hall would meet many of the requirements and that it would be nearly impossible to integrate an EOC into any building and have it meet all of the requirements. Mr. Koenig noted that City Hall has ample space that is readily accessible by employees, public officials, and the public and felt assured that the Police Department would not find it desirable for

people (such as volunteers) to wander through their facility during a crisis event. In addition, he noted that City Hall has restrooms, kitchen facilities, and separate rooms for confidential meetings and briefings (which play an important role in the establishment of an EOC), and additional space for a sleeping area if deemed necessary.

Mr. Koenig noted that the only shortcoming for the use of City Hall as the EOC is the lack of a backup power source. As a result, he suggested that a generator be installed at City Hall, which would produce enough power to run a portion of the building.

Mr. Koenig stated that during the design of the new Library, there was discussion regarding the concept of adding space for a designed and constructed EOC, at a cost of $500,000 to $1M. Staff felt that due to the costs, it was not possible to include an EOC and there was no further action taken to bring the matter to City Council.

Mr. Koenig stated his opinion that it would be in the best interest of the City to assign City Hall as the primary EOC. He also suggested that City Council be requested to reassign emergency management duties to a specific individual within the City's organization. He advised members that this request will be presented to the Legislative, Finance, and Administration Committee during their next meeting scheduled for March 12, 2012.

Responding to Mr. Hutchison, Mr. Koenig indicated that upon the retirement of the City's Emergency Management Coordinator, his duties were dispersed among three (3) employees: the Public Affairs Coordinator, the Public Services Manager, and the City Manager. He recommended that all responsibilities be assigned to the Public Affairs Coordinator.

In response to Mr. Davis, Mr. Koenig stated that the generator is currently being stored at the Warehouse and that the electrical engineers have estimated connection costs at $15,000 to $50,000, depending upon the need for a new pad. He indicated that he had not resolved to use that particular generator at this time; however, staff would continue to review this matter and will likely include a recommendation as part of the budget preparation for next fiscal year.

At the request of Mr. Hutchison, Chief Hosfelt indicated his support for the recommendations presented by the City Manager.

The Committee recommended approval of staff's recommendation to establish City Hall as the City's designated Emergency Operations Center (EOC), with the Dover Police Department to serve as the backup EOC, and the Kent County 911 Center to serve as the City's temporary (alternate) backup to the Police Department.

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

Proposed Ordinance - #2012-06 Creating a New Chapter 59 - Juvenile Curfew

Mr. Hare reviewed Proposed Ordinance #2012-06 - Chapter 59 - Juvenile Curfew and explained that the proposed ordinance mimics the City of Milford's juvenile curfew ordinance. He noted that the proposal was the result of his participation in numerous "ride alongs" with the Dover Police Department. Mr. Hare felt that there was no reason for individuals under the age of 17 to be out in the late night/early morning hours. During his "ride alongs," he observed several 13 to 14-year-olds walking the streets at 2:00 a.m. When questioned by the police, these juveniles indicated that they would be going home, only to be observed walking the streets again at 3:00 a.m. or 4:00 a.m. He advised members that the police indicated that they have no authority to take action in this regard.

Referring to the comments submitted by Mrs. Russell, dated February 29, 2012, Mr. Hare advised members that his observations were made in various areas throughout the City and not just in the Fourth District. He indicated that the State of Delaware does not have a curfew law. Mr. Hare felt that the proposed ordinance includes provisions that would allow a juvenile with legitimate reasons to be out late in the evening or early morning hours and addresses other concerns that may be raised.

Responding to Mr. W. Hutchison, Chief Hosfelt indicated that the proposed ordinance would provide police officers a useful tool and he did not feel that enforcement would place a burden on the Police Department.

The Committee recommended adoption of Proposed Ordinance #2012-06 - Chapter 59 - Juvenile Curfew.

Mr. Hutchison moved for approval of the Committee's recommendation, seconded by Mr. Hare.

In response to Mr. Bonar, City Solicitor Rodriguez indicated that there can be problems whenever an individual's rights are restricted. He encouraged the Police Chief to maintain records to provide statistics indicating that the ordinance is a benefit to the City.

Mr. Anderson stated his concerns that residents of the Fourth District will feel that they are targeted by the ordinance and, although this may not be the case, it is the perception of his constituents. He felt that there should be a sunset provision that would remove the curfew law if it is found not to be effective.

Responding, Mr. Hare suggested that residents of the Fourth District write a letter explaining why they feel that 13 and 14-year-olds should be out at 2:00 and 2:30 in the morning. He advised members that when he participated in a "ride along" with police officers, he observed these children in all areas of the City and not just the Fourth District.

The motion to approve the Committee's recommendation for adoption of Proposed Ordinance #2012-06 - Chapter 59 - Juvenile Curfew was carried by a roll call vote of six (6) yes, one (1) no (Mr. Anderson), and two (2) absent (Mrs. Russell and Dr. McGlumphy). *(The First Reading of the ordinance will take place during the latter part of the meeting.)*

Proposed Ordinance #2012-08 Amending Chapter 70 - Offenses and Miscellaneous Provisions

Mr. Lynn presented Proposed Ordinance #2012-08, which would amend Chapter 70 - Offenses and Miscellaneous Provisions, by prohibiting registered Tier II and Tier III sex offenders from living or working within 500 feet of a daycare center and from participating in certain events involving children. He advised members that constituents in the White Oak/Towne Point area approached him regarding their concerns related to a home that had been occupied by multiple sex offenders and was located in close proximity to a daycare center.

Mr. Lynn advised members of a situation that occurred in the City of Wilmington whereby a daycare center moved near a residence occupied by multiple sex offenders (Harriet Tubman Safe House). The City of Wilmington police attempted to enforce the prohibition against sex offenders living near a school, which would have forced the sex offenders to move. He noted that the State statute indicates that sex offenders may not reside or work within 500 feet of a school; however, he explained his interpretation that the term "school" does not include daycare centers. The American Civil Liberties Union (ACLU) litigated the Harriet Tubman case and stated they felt that the provisions regarding schools, as indicated in the State statute, do not refer to daycare centers. Mr. Lynn explained that the practical effect of the ACLU's argument is that more protection is afforded to children from five (5) to 18 years of age than children zero (0) to five (5) years of age, although he suggested that this may not have been the General Assembly's intent. As a result, Mr. Lynn felt that the City should address the issue to resolve any problems and protect the safety of the children within the City of Dover.

In researching the matter, Mr. Lynn stated that there is a "routine activity" theory (developed in 1979 by Marcus Felson and Lawrence E. Cohen) which indicates that for crimes to occur, three (3) conditions must exist: 1) the presence of a motivated offender; 2) access to a potential victim; and 3) absence of capable guardians to prevent criminal activity. Applying this to sex offender residence restrictions would suggest that predatory or pedophiliac sex offenders are most likely to commit new assaults against children when they have unrestricted or unmonitored access to them. Thus, living in close proximity to schools or other places known to cater to children might increase opportunities for sex offenders to have contact with children or view children playing, thus reinforcing their already sexually deviant preferences and facilitating child sexual abuse.

Mr. Lynn stated that although there have not been many studies conducted regarding recidivism rates and close proximity to daycare centers and schools, he located a study conducted by Dr. Paul Zandbergen (available at www.paulzandbergen.com), which indicates that evidence was not conclusive that the residential restrictions have any effect on recidivism rates; however, Dr. Zandbergen noted that there were limitations to his study. Specifically, he noted that the sample size was diluted by the inclusion of low-level sex offenders.

Mr. Lynn explained that the State of Delaware and General Assembly determined that it was not desirable to have sex offenders living or working within 500 feet of schools and, as such, this same protection should be provided to children aged zero (0) to five (5) years of age. He noted that the proposed ordinance amendment applies only to Tier II and Tier III sex offenders and only to commercial daycare centers (in-home daycare centers would not be included). He also noted that any sex offenders affected by the amendment would have one (1) year to comply.

Referring to the comments submitted by Mrs. Russell, Mr. Lynn stated that if a daycare center were to open next to a sex offender's residence, the sex offender would have one (1) year to relocate, the same timeframe would apply to offenders who currently reside within the specified distance of a daycare center. According to his discussions with Chief Hosfelt, the Police Department would be able to handle enforcement of the proposed ordinance. Mr. Lynn explained that the proposed ordinance does not include home daycare centers because their inclusion would prohibit sex offenders from living almost anywhere in the City of Dover. He assured members that the proposed ordinance does not violate State law.

Chief Hosfelt introduced Cpl. Harvey Jaksch and Cpl. Mickie Price, who serve as the Sex Offenders Unit for the City of Dover Police Department. He explained that the number of sex offenders changes daily and that it is estimated that there are 10 sex offenders in the City that the proposed ordinance would affect currently. He stated that there are 192 Tier II and Tier III sex offenders and a total of 213 sex offenders in the City of Dover. Chief Hosfelt stated that the monitoring practices employed by the City's Sex Offenders Unit far exceed State requirements.

Chief Hosfelt stated that, after researching sample ordinances throughout the nation, staff determined that similar ordinances have included language concerning holidays (such as wearing costumes, distributing candy, etc.). It was staff's opinion that the City's ordinance should include such language as well; therefore, it was incorporated in the proposed ordinance (see *Prohibited Activities for Sexual Offenders*).

Responding to Mr. Hutchison, Mrs. Ann Marie Townshend, Director of Planning and Community Development, clarified that although drafts of the proposed ordinance were submitted to the City Solicitor's Office for review, the final draft has not been reviewed at this time. Mrs. Traci McDowell, City Clerk, indicated that once a recommendation is formulated by the Committee, staff would forward the draft ordinance to the City Solicitor for final review prior to Council action. Mr. Lynn advised members that copies of the proposed ordinance have also been forwarded to the Attorney General's Office for their review and comment.

Mrs. Townshend stated that a map depicting the commercial daycare centers within the City was available. Chief Hosfelt stated that there are currently 35 commercial daycare centers and 63 in-home daycare centers.

The Committee recommended adoption of Proposed Ordinance #2012-08 - Chapter 70 - Offenses and Miscellaneous Provisions.

Mr. Lynn reiterated the comments made during the Committee meeting and although he agreed that there are two (2) sides to be considered regarding this matter, he suggested that members err on the side of caution by giving children, birth to five (5) years of age and school age children who are in before/after care, the same level of protection that the General Assembly wanted them to have when they passed the State Statute.

In response to Mr. Lynn, Police Chief Hosfelt indicated that, currently, it is estimated that there are 10 sex offenders in the City who would be affected by the proposed ordinance. In response to Mrs. Williams, Chief Hosfelt stated he was unsure how many of those are pedophiles.

Mrs. Williams relayed her concern regarding the large cost associated with enforcement of the ordinance, which may affect only a small number of offenders.

Mr. Anderson suggested an amendment that would provide an exemption for owner occupied properties if owned by the offender, their spouse, or civil union partner. Responding, Mr. Lynn stated that although he understood the concern, members must consider the "heart" of the proposed ordinance, which is to protect children.

In regard to the question of pedophiles, Mr. Lynn stated that according to experts in the mental health profession, sex offenders in general do not have specific borders and are more likely to commit crimes against children just by virtue of being sex offenders.

As a mental health professional, Mrs. Williams disagreed, explaining that the offenses of pedophiles are almost exclusively aimed at children and that the issue is not about sex, it is about control and empowerment. Other tiered sex offenders may be registered as a result of offensive touching with another adult. She indicated her support of the ordinance if it were to be amended to be directed to pedophiles.

Responding to Mrs. Williams, Mr. Lynn stated that he would not consider amending the ordinance to include only pedophiles since he did not believe the concern was solely those preying on young children but also sex offenders of teenage girls. Clarifying, Mrs. Williams indicated that pedophiles, by the nature of the law, are classified as such whenever their crime is committed against anyone under the age of 18.

Mr. Hutchison noted that there are individuals in attendance who may wish to speak.

Mr. Hutchison moved to waive the rules to allow public testimony, seconded by Mr. Lynn. The motion failed by a roll call vote of five (5) yes, two (2) no (Mr. Anderson and Mr. Bonar), and two (2) absent (Mrs. Russell and Dr. McGlumphy). Council President Leary reminded members that such a motion required a two-thirds majority (six (6) affirmative votes).

Mr. Hutchison moved for approval of the Committee's recommendation for adoption of Proposed Ordinance #2012-08 - Chapter 70 - Offenses and Miscellaneous Provisions, seconded by Mr. Lynn.

Responding to Mr. Anderson, Council President Leary stated that the First Reading was scheduled to take place during the latter part of the meeting and that the Final Reading was scheduled for April 9, 2012. Mr. Anderson noted that members would have the ability to present amendments for consideration prior to the Final Reading of the proposed ordinance.

Mr. Hare questioned why Mr. Anderson would consider any amendments to the proposed ordinance when he did not support waiving the rules to allow public testimony. Responding, Mr. Anderson

reminded members that the guidelines for the Open Forum were recently amended to allow public testimony on items listed on the agenda and noted that individuals did speak on this issue at that time. In addition, he stated that there would be other opportunities for the public to speak regarding this issue (during the Open Forum segment of the April 9, 2012 Council Meeting).

The motion to approve the Committee's recommendation for adoption of Proposed Ordinance #2012-08 - Chapter 70 - Offenses and Miscellaneous Provisions was carried by a roll call vote of six (6) yes, one (1) no (Mrs. Williams), and two (2) absent (Mrs. Russell and Dr. McGlumphy). *(The First Reading of the ordinance will take place during the latter part of the meeting.)*

Update - Dover High School Construction

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that during their previous meeting there was much discussion regarding the new Dover High School's east entrance (which lines up with Heatherfield East), which had been planned as a signalized intersection with a pedestrian crossing. She reminded members that the most recent comments received from the Delaware Department of Transportation (DelDOT) were extremely adamant that their traffic section opposes a signal in this location. She stated that the City Manager sent a letter to Secretary Bhatt, as directed, to relay support for the signalization of the east entrance intersection and a pedestrian crossing. Staff received a response from Secretary Bhatt indicating that the letter was received and forwarded to appropriate staff. If a positive response is not received, she anticipated the need for the City to seek assistance from legislators.

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison, DelDOT, stated that he spoke with the Director of Traffic regarding this matter and advised members that the Capital School District had conducted a traffic study for a signal at the west entrance, where the warrants were met. He advised members that in order for a signal to be installed, the intersection must meet warrants and that the installation of signals involves liability issues.

In response to Mr. Lynn, Mrs. Townshend stated that a signal was proposed for the east entrance on the plan documents that were submitted and approved by the Planning Commission. She assured members that DelDOT was included in development meetings with the developer for the Dover High School project.

Responding to Mr. Hutchison, Mr. Laing stated that the DelDOT Director of Traffic has recommended that the Capital School District request another study. He stated that it is not unusual for a development site plan that is submitted to a municipality or other governmental organization to include a traffic signal; however, that does not commit DelDOT to install the signal, since a study would not have been completed to determine whether or not a signal is warranted.

Mr. Hutchison requested that staff reach out to all involved parties in an attempt to resolve this matter and that the City submit a request for a study.

Mr. Hutchison moved for acceptance of the Safety Advisory and Transportation Committee Report, seconded by Mr. Lynn and unanimously carried.

MONTHLY REPORTS - JANUARY 2012

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

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

Mr. Anderson stated that he would submit questions in writing to staff in regard to the Budget Report.

Mr. Anderson moved for acceptance of the monthly Budget Report for January 2012, seconded by Mr. Bonar and unanimously carried.

SETTING OF PROPERTY ASSESSMENT APPEALS

Ms. Cheryl Russell, City Assessor, submitted a request that the following dates and times be established for the 2012 Property Assessment Appeals:

May 21, 2012 - May 25, 2012	9:00 A.M. until 4:00 P.M.
May 29, 2012 - June 1, 2012	9:00 A.M. until 4:00 P.M. (If needed)

It was noted that the hearing times were subject to change.

Mr. Anderson moved for approval of the dates and times for the 2012 Property Assessment Appeals, as requested by staff, with the stipulation that staff establish at least one evening session. The motion was seconded by Mr. Bonar and unanimously carried.

ENGAGEMENT LETTER - LABOR NEGOTIATIONS

Members were provided an Engagement Letter from Glenn C. Mandalas of Baird Mandalas, LLC, dated March 7, 2012, to represent the City of Dover in connection with labor negotiations with the Dover Fraternal Order of Police, Lodge 15 ("FOP"), the International Brotherhood of Electrical Workers Local 1238 ("IBEW"), and the Dover Organization of Employees ("DOE").

By consent agenda, Mr. Bonar moved to authorize staff to sign the Engagement Letter with Baird Mandalas, LLC as presented. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote (Mrs. Russell and Dr. McGlumphy absent).

EVALUATION OF BIDS - LIBRARY FURNITURE

Mr. Scott Koenig, City Manager, reminded members that the ground was broken on the new Dover Public Library in April 2011 and that the Library is at 50% construction and on time for a June 2012 construction completion date. Included in the project budget is $703,000 for furniture and fixtures. He stated that there is lead time on the order and delivery necessary so that furniture may be delivered and installed to meet the construction schedule and deadlines. The furniture and fixtures purchases are being coordinated with the construction and delivery dates. Furniture that could not be purchased through State contract will be bid and if applicable, presented to Council at a later date.

In accordance with our purchasing policy, equipment purchases under $200,000 are not required to have Council approval, unless they are a sole source procurement, have a sole vendor or are not the low bid. Bids are required for purchases over $25,000 and staff oversees this process.

Mr. Koenig advised members that an amount of $703,000 has been budgeted for furniture & fixtures and that $293,000 was approved by Council on February 27, 2011 for shelving. At this time, staff submitted a list of furniture to be purchased through State contract, totaling $309,000. He assured members that staff has reviewed the furniture order from Corporate Interiors through the State contract per the cooperative purchasing policy (Section 3.5) in place in the City of Dover.

Staff recommended approval of the purchase of the furniture for the new Library in the amount of $309,000 from Corporate Interiors.

In response to Mrs. Williams, Mr. Koenig stated that the higher cost was due to the quality of the furniture (institutional) and since it is semi-custom.

Mr. Bonar moved for approval of staff's recommendation for the purchase of furniture for the new Library in the amount of $309,000 from Corporate Interiors, seconded by Mr. Hare and carried by a unanimous roll call vote (Mrs. Russell and Dr. McGlumphy absent).

FIRST READING - PROPOSED ORDINANCES

Council President Leary reminded the public that copies of the proposed ordinances were available at the entrance of the Council Chambers or could be obtained from the City Clerk's Office. Final action by Council on the proposed ordinances will take place during the Council Meeting of April 9, 2012.

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

ORDINANCE #2012-07 WITH LF&A-1 - INCENTIVES FOR REDEVELOPMENT OF VACANT COMMERCIAL BUILDINGS

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

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

FINAL READING - PROPOSED ORDINANCE #2012-03 - RELATED TO SENIOR CITIZEN INCOME EXCLUSIONS

The First Reading of Proposed Ordinance #2012-03 was accomplished during the Council Meeting of February 27, 2012.

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

Mrs. Williams moved for adoption of the proposed ordinance, seconded by Mr. Bonar and, by a unanimous roll call vote, (Mrs. Russell and Dr. McGlumphy absent) Council adopted Ordinance #2012-03, as follows:

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

That Chapter 102 - Taxation, Article VI - Exemptions; Board of Assessment Appeals, Section 102-183 - Tax Exemption for Senior Citizens, be amended to read as follows:

Sec. 102-183. - Tax exemption for senior citizens.

(a) *Authority*. This section is adopted to implement 22 Del. C. § 1001 et seq., granting exemptions from municipal taxation on real property for persons 65 years of age or over. Compliance must be made with such chapter 10 and this section in order to qualify for such exemption.

(b) *Qualifications*. The exemption shall be for real property owners 60 years of age or over. If qualified, their real property shall be exempt from municipal taxation to the extent of the first $50,000.00 of assessed valuation. This exemption shall be subject to the following:

(1) *Owner resides alone*. If the income of a property owner who resides alone exceeds the sum of $15,851.00 (2008) for the income tax year immediately preceding the date of making an application for the exemption, then the exemption shall not be granted. The maximum income limit stated in the preceding sentence shall increase each year by the same percentage as the cost of living adjustment granted to recipients of Social Security retirement benefits.

(2) *Spouses reside together*. If the income of a property owner and spouse who reside together exceeds the sum of $22,192.00 (2008) for the income tax year immediately preceding the date of making an application for the exemption, then the exemption shall not be granted. The maximum income limit stated in the preceding sentence shall increase each year by the same percentage as the cost of living adjustment granted to recipients of Social Security retirement benefits.

(3) *Exclusion from income.* In computing income of the property owner in order to determine entitlement for the deduction, Civil Service Retirement System (CSRS) benefits up to 150 percent of the Social Security maximum benefit, Social Security benefits and railroad pensions shall not be considered as income.

(4) *Location, use of property*. The real property must be located within the limits of the city and must be used exclusively for residential purposes.

(5) *Residence*. The real property must be the legal residence of, and be occupied in whole or in part by, the property owner.

(6) *Owner of record*. The property owner must be the owner of record of said real property as of December 31 of the calendar year immediately preceding the date of making application for the exemption.

(7) *Time when age attained*. The property owner must have attained the age of 60 years by March 1 of the year in which the exemption application is filed.

(8) *Filing applications*. Applications for exemption shall be filed in accordance with regulations adopted by the city council and for cause shown. The city assessor may accept and act upon applications received after any established application filing date.

(9) *Refund.* The city assessor is empowered to refund taxes paid by a qualified applicant who is entitled to an exemption and successfully files for the same.

(10) *Evidence*. The city assessor's office shall be authorized to require any applicant to submit evidence substantiating income reported for receipt of the exemption. The city assessor may deny applications where requested income verification is not submitted by the applicant.

(11) *Denial; appeals*. Denial of exemptions by the city assessor and any other complaints regarding the exemption process may be appealed by the taxpayer directly to the board of assessment appeals. The board of assessment appeals shall have the power to affirm, overrule or remand the decision of the city assessor.

(12) *Interest; retroactive exemptions*. Qualified senior citizens who fail to exercise their property tax exemption shall not be entitled to any interest payments on said exemption amount; nor shall unexercised property tax exemptions be retroactive beyond the current tax year.

(13) *Penalties*. Penalties assessed to delinquent property tax accounts that are eligible for a senior citizen exemption that has not been exercised shall not be excused.

(14) *Council review*. City council will review these numbers at the conclusion of each reassessment.

ADOPTED: MARCH 12, 2012

COUNCIL MEMBERS ANNOUNCEMENTS

Council President Leary announced that the 2012 Municipal Election will be held on Tuesday, April 17, 2012, for the First and Third District City Council seats. Residents must be registered with the State of Delaware by Friday, March 30th, to vote in this election. Election details are located on the City's Website at www.cityofdover.com.

Council President Leary reminded everyone that, in accordance with City Council action taken during their meeting of February 27, 2012, the City Council and Standing Committee meetings normally scheduled for March 26th have been cancelled.

Mr. Bonar stated that St. Patrick's Day is Saturday, March 17th.

Mr. Hare moved to adjourn into executive session, seconded by Mr. Bonar and unanimously carried.

Meeting Adjourned at 10:12 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of March 12, 2012, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

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Exhibits Attached to Original Minutes and File Copy
Exhibit #1 - Spreadsheet - D&S Investment Company, LLP, Schedule of Real Estate Taxes Due as of March 12, 2012
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 26 North Kirkwood Street
Exhibit #3 - Presentation - Violation of Dangerous Building Ordinance - 14 South Queen Street
Exhibit #4 - Revised Cash-in-lieu Agreement with Maple Dale Country Club, Inc.

D&S Investment Company, LLP
Schedule of Real Estate Taxes Due
March 12, 2012

97 Par Haven Drive - Unit J 13	196.45
97 Par Haven Drive - Unit J 21	251.74
97 Par Haven Drive - Unit J 31	258.41
838 Walker Road - Unit 22 2	365.47
838 Walker Road - Unit 22 3	318.18
19 Fieldstone Court	486.54
264 Greenblade Drive	520.22
856 Woodcrest Turn	483.92
131 W Loockerman Street	1,297.71
134 W Loockerman Street	824.99
147-153 S Governors Avenue	0.00
215 N State Street	721.11
225 N Bradford Street	574.67
2 S Bradford Street	556.91
24 S Bradford Street	612.53
34 S Bradford Street	802.08
	8,270.93

recent payments

10/24/2011	2,000.00
11/23/2011	2,400.00
01/17/2012	2,490.00
03/06/2012	2,513.18
03/08/2012	1,156.88
03/08/2012	2,065.06
	12,625.12

EXHIBIT #1
Regular Council Meeting of 3/12/2012

Violation of Dangerous Building Ordinance 26 North Kirkwood Street

Planning & Inspections Department

Dover, Delaware

March 12, 2012

Regular Council Meeting of 3/12/2012
EXHIBIT #2

26 North Kirkwood Street
Case History

- History of code violations since 2000 (19 cases)
  - Interior and exterior violations
  - Tall grass and weeds
  - Trash violations/debris
- Subject of fire on 11/17/2010
- Condemned as unfit for human habitation on 11/18/2010
- Registered as vacant by staff on 5/20/2011
  - No fees paid to date

26 North Kirkwood Street Case History

- Owner applied for renovation permit on 12/9/2011
  - Permit denied due to outstanding fees, fines and taxes
- Outstanding Payments – Subject Property
  - Water Charges
  - Vacant Building Registration Fee
- Outstanding Payments – Other Properties (same owner)
  - Code Enforcement Fines and Fees
  - Bulk Trash Fee
  - Water
  - Tax Penalties

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

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


26
02/14/2012


02/14/2012


02/14/2012


02/14/2012


02/14/2012


02/14/2012


02/14/2012

Recommended Council Action

- Declare this building dangerous.
- Order the property repaired or demolished.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner **by April 12, 2011**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Violation of Dangerous Building Ordinance 14 South Queen Street

Planning & Inspections Department

Dover, Delaware

March 12, 2012

Regular Council Meeting of 3/12/2012 **EXHIBIT #3**

14 South Queen Street
Case History

- History of code violations since 1999 (29 cases)
  - Interior and exterior violations
  - Tall grass and weeds
  - Abandoned or unregistered vehicles/Vehicles on the grass
  - Junk and debris
- Condemned as unfit for human habitation on 9/15/2008
- Numerous broken windows, missing siding, missing gutters, unsecurable rear door, and a collapsed rear roof
- Registered as vacant by staff on 2/12/2009
  - No fees paid to date

14 South Queen Street Case History

- Owner obtained renovation permit on 12/1/2010
  - Permit expired
  - Work not completed

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

- (5) *Unfit for habitation*
- (9) *General welfare*
- *(10) Code violations*
- *(12) Unoccupied Buildings*


14
NOTICE
14
02/29/2012 12:52


06/30/2011


06/30/2011


06/30/2011


06/30/2011


06/30/2011

Recommended Council Action

- Declare this building dangerous.
- Order the property repaired or demolished.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner **by April 12, 2011**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

CASH IN-LIEU AGREEMENT

VILLAGE OF MAPLE DALE SENIOR HOUSING

This **AGREEMENT** made this _____ day of _____ 2012 by and between the City of Dover, a Delaware Municipal Corporation, whose address is 15 Loockerman Plaza, P.O. Box 475, Dover, Delaware 19903-0475 (hereinafter referred to as the **CITY**), and the Maple Dale Country Club, Inc., whose address is 180 Maple Dale Circle, Dover, Delaware, 19904 (hereinafter referred to as **MAPLE DALE**).

WITNESSETH:

WHEREAS, MAPLE DALE provides funding in the amount of $36,570 for the following future **CITY** project:

1. Retreat Pump Station Replacement, scheduled to begin in FY 2015 (July 1, 2014 – June 30, 2015).

WHEREAS, the purpose of these monies is to provide the necessary improvements to the Retreat Pump Station in relation to the proposed residential construction, in lieu of **MAPLE DALE** providing the required upgrades for the construction of residential units.

WHEREAS, these improvements fall within the limits of a **CITY** capital improvement project rather than a private construction project.

Now therefore, **CITY** and **MAPLE DALE**, for and in consideration of the mutual covenants hereinafter stipulated to be kept and performed, agree as follows:

SECTION I

MAPLE DALE agrees to the following terms:

A. **MAPLE DALE** will provide the **CITY** with funding and payment in the amount of $36,570 prior to the issuance of the 31st building permit or July 1, 2014, whichever date comes first.

B. **MAPLE DALE** acknowledges that this agreement does not relieve the owner from paying impact fees, or other associates fees deemed necessary with this project.

SECTION II

CITY agrees to the following terms:

A. **CITY** will provide appropriate notice and/or justification to **MAPLE DALE** if the Retreat Pump Station Replacement project is delayed.

B. **CITY** will provide appropriate notice to **MAPLE DALE** when the Retreat Pump Station Replacement project begins and finishes.

CITY and **MAPLE DALE** agree that this agreement is the entire and complete Agreement between the parties and that no alterations, modification or amendments of this Agreement shall be made or deemed valid unless approved in writing and signed by both parties.

IN WINESS THEREOF, the parties hereunto have caused this Agreement to be executed in duplicate, the day and year first above written.

CITY OF DOVER

Approved as to form: By:

_____ _____

City Solicitor Scott Koenig, P.E.
City Manager

MAPLE DALE COUNTY CLUB, INC.

Approved as to form: By:

_____ _____