# LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on February 27, 2012 at 6:00 p.m. with Chairman McGlumphy presiding. Members present were Mr. Anderson (arrived at 6:08 p.m.), Mr. Hare (arrived at 6:01 p.m.), Dr. Jones, and Mr. Shevock. Members of Council present were Mr. Bonar (arrived at 6:15 p.m.), Mr. Hutchison, Mr. Lynn, and Mrs. Williams (arrived at 6:16 p.m.). Mayor Carey was also present (arrived at 6:03 p.m.).

**AGENDA ADDITIONS/DELETIONS**

**Mr. Shevock moved for approval of the agenda, as presented, seconded by Dr. Jones and unanimously carried.**

**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.

**By unanimous consent, the matter was removed from the table.**

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.

Mr. Anderson moved to recommend that staff's recommendations regarding the EDO be returned to the City Manager for redevelopment, seconded by Mr. Shevock.

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.

**On a call for the question, the motion to recommend that staff's recommendations regarding the (EDO) be returned to the City Manager for redevelopment was unanimously carried.**

**Mr. Anderson moved to consider Agenda Item #3 prior to Agenda Item #2, seconded by Mr. Hare and unanimously carried.**

**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.

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

**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.

**Mr. Shevock moved to amend Proposed Ordinance #2012-07 to allow redevelopment incentives City-wide *(removing Lines 17 and 18)* and to recommend adoption of the ordinance as amended *(Attachment #1)*. The motion was seconded by Mr. Anderson and unanimously carried.**

**Mr. Shevock moved for adjournment, seconded by Mr. Anderson and unanimously carried.**

Meeting Adjourned at 6:53 P.M.

William P. McGlumphy
Chairman

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*Attachment to Original and File Copy*
*Attachment #1 - Proposed Ordinance #2012-07 with LF&A Amendment No. 1 - Incentives for Redevelopment of Vacant Commercial Buildings*

**CITY OF DOVER PROPOSED ORDINANCE #2012-07 WITH LF&A #1**
(LF&A Amendment Indicated in Red Strikeout)

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

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

APPENDIX E - COMMERCIAL BUILDING REDEVELOPMENT

ARTICLE I. - INTENT.

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

ARTICLE II. - ELIGIBILITY.

Section 1. - Eligible project.

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

~~(a) Is located or addressed on U.S. Route 13, Bay Road, Court Street between U.S. Route 13 and Bay Road, and Delaware Route 8 west of the railroad tracks;~~

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

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

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Section 2. - Redevelopment incentive ineligibility.

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

(a) An application for a building permit for the project was filed prior to the effective date of this ordinance; or
(b) Construction or renovation commenced prior to the effective date of this ordinance;
(c) Issuance of the certificate of occupancy and/or the completion and finalization of the building permit occurs before the application for redevelopment incentives is received;
(d) Construction or renovation commenced prior to the issuance of a building permit by the city of Dover;
(e) Applications for incentives provided in this ordinance shall be subject to the provisions of Chapter 1 - General Provisions, Section 1-13 - Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings.

ARTICLE III - INCENTIVES.

Section 1. - Waiver of fees.

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

(a) Partial waiver of permit fees. Fifty percent of the fees for building, plumbing, mechanical, and fire protection permits shall be waived for eligible projects. Sign permit fees shall not be waived.
(b) Partial waiver of impact fees. For projects where renovation will constitute an increase in equivalent dwelling units (EDU's) and require payment of impact fees, fifty percent of the City's portion of the water and sewer impact fees shall be waived. The Kent County impact fees and administrative charges shall not be waived.

Section 2. - Tax abatement.

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

ARTICLE IV. - ADMINISTRATION.

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

ARTICLE V. - APPEALS.

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

ARTICLE VI. - SEVERABILITY AND EFFECTIVE DATES.

Section 1. - Severability.

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

Section 2. - Effective dates.

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

ADOPTED: *

S:\ATTACHMENTS & EXHIBITS\Committee Attachments\2012\02-27-2012 LF&A\02-27-2012-1 Proposed Ordinance #2012-07 with LFA Amendment No. 1 - Incentives fro Redevelopment of Vacant Commercial Buildings.wpd

SYNOPSIS

The proposed ordinance would allow a partial waiver of building permit fees and city impact fees, as well as tax abatement on improvements, for redevelopment of vacant commercial buildings ~~on Route 13, Bay Road, Court Street between Bay Road and Route 13, and Route 8 west of the railroad tracks.~~

(SPONSORS: STAFF)

Actions History:

Mar. 12, 2012 - Scheduled for First Reading Before City Council
Feb. 27, 2012 - Considered by the Legislative, Finance, and Administration Committee

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