REGULAR COUNCIL MEETING

The Regular Council Meeting was held on February 13, 2012 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mrs. Russell, Dr. McGlumphy, Mr. Lynn, Mr. Bonar, Mr. Hare, and Mr. Hutchison. Mrs. Williams was absent.

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

OPEN FORUM

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

Mrs. Nancy Lambert, 210 Winterberry Drive, stated that, as a resident of Crossgates, it was her hope that members would take appropriate action to provide a permanent solution to the deteriorated property located at 123 Blue Beach Drive (Item #2 on agenda).

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

AGENDA ADDITIONS/DELETIONS

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

Mr. Hutchison requested that Item #6B - Chief of Police Report, be removed from the consent agenda.

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

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF JANUARY 23, 2012

The Minutes of the Regular Council Meeting of January 23, 2012 were unanimously approved by motion of Mr. Hutchison, seconded by Mr. Hare, and bore the written approval of Mayor Carey.

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 22 FAIRWIND PLACE (JACKIE S. POWELL)

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance for property located at 22 Fairwind Place, owned by Jackie S. Powell.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, noted that the City's budget balance for demolitions was depleting due to the numerous violations of dangerous buildings presented to Council during the current fiscal year. She indicated that it may be necessary to adjust budgetary line items to address demolitions for the remainder of the fiscal year, explaining the importance of bringing such issues forward due to safety concerns. She assured members that this matter has been discussed with both the City Manager and Controller/Treasurer.

Mrs. Townshend advised members that the property being discussed consists of a two (2) story, mid-block townhouse that has been the subject of recent neighbor complaints and concerns regarding potential hoarding. The house was the subject of numerous code enforcement violations since 2005, including tall grass and weeds, overgrowth, and exterior violations. In September 2011, Code Enforcement staff attempted to make contact with the owner of the residence, but was unable. Mrs. Townshend advised members that the owner has not responded to phone calls, visits to the property, or posting of notices at the property. On November 21, 2011, code enforcement staff, with support from the Dover Police Department, entered the property with a search warrant. She stated that it appeared the owner had vacated the property. The home was full of clutter, garbage, debris, and other effects. Staff observed no path of travel through the residence. Restrooms were not accessible, and the area surrounding the restroom was cluttered with urine-filled soda bottles and bags containing fecal matter and used feminine hygiene products. Deterioration of the building was being accelerated by weather and lack of maintenance.

Mrs. Townshend reviewed a presentation and photos depicting the condition of the property ***(Exhibit #1)***. She indicated that staff continues to be unable to make contact with the owner and that the house has been vacated and utilities have been disconnected. As the unit is a mid-block townhouse, staff requested that Council order the property cleaned, not demolished. She advised members that State statute would not permit a lien to be placed for the expenses of interior abatement; therefore, staff recommended that these expenses be recovered through suit.

Staff recommended that City Council: 1) declare this building dangerous; 2) order the property repaired (cleaned) by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair (cleaning) of the structure if not completed by the owner by March 13, 2012; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs to be recovered in a suit at law against the owner.

In response to Mr. Anderson, City Solicitor Rodriguez indicated the possibility of a lien being placed against the property or other similar means for collecting the debt if the City was successful in a suit at law against the owner.

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

Mr. Hare moved that the structure located at 22 Fairwind Place be declared a dangerous building and subject to repairs, as recommended by staff. The motion was seconded by Mr. Bonar and carried by a unanimous roll call vote (Mrs. Williams absent).

VIOLATION OF DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 123 BLUE BEACH DRIVE (DEBORAH D. STATLER) (EMERGENCY CASE)

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

Council President Leary advised members that Mr. Lynn had indicated a conflict of interest; therefore, he excused himself from the presentation and deliberations regarding this matter.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided a presentation including a chronological history and photos on the condition of the property located at 123 Blue Beach Drive, owned by Deborah D. Statler ***(Exhibit #2)***. She noted that the property consists of a one (1) story, single-family dwelling that has been the subject of numerous code enforcement violation cases and neighbor complaints over the past 14 years. Since 1998, there have been 35 code enforcement cases regarding various property code violations, including tall grass and weeds, junk and debris, unregistered vehicle, exterior violations, and interior insanitary conditions.

Staff recommended that City Council: 1) declare this building and all accessory structures including the pool dangerous; 2) order the property immediately repaired or demolished 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 by February 23, 2012; 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 Mr. Hare, Mrs. Townshend stated that a total of $5,400 is owed in code enforcement fines for this property and that the City has been unable to recover these costs to date.

Referring to the completion date of February 23, 2012, Mr. Anderson relayed concern that the City was not providing ample time for the property owner to make the necessary repairs. Responding, Mrs. Townshend stated that the City has been working with the property owner for several years and that compliance has been marginal and short lived. She stated that consideration should also be given to the effects that the deterioration of the property has on surrounding neighbors and their quality of life.

There being no objections and at the request of Dr. McGlumphy, Cpl. Jeffrey Davis of the Dover Police Department advised members that when the City accessed the property by warrant, the owner was not present; however, there were extensive telephone conversations prior to the visit which were very confrontational and the homeowner indicated that she did not feel that there were any problems with the property.

Council President Leary declared the public hearing open.

Council President Leary noted the receipt of correspondence received regarding this matter ***(Exhibit #3)***.

Mr. Eugene Ruane, 122 Shadow Court, (former City Council Member) advised members that his residence is located around the corner from the subject property. He stated that during the 10 years he served as a member of City Council, this property was the one that generated the most complaints. He felt that it was time to completely resolve the matter and disagreed with the idea of extending the

time to allow the property owner to make necessary repairs. He advised members that the neighbors should not be subjected to the rodent problems and other deplorable issues involved with this property. He noted that the City has been working with the property owners for 14 years and that action must be taken immediately. He noted that, in addition to the code violation fines, the City has incurred substantial administrative expenses and legal fees related to this property. On behalf of the residents in the neighborhood, he urged members to take the appropriate action and approve staff's recommendation.

Ms. Sandra Kinkus, 365 Fiddler's Green, reminded members of the safety issues involved with this property and felt that the City had provided ample time for the property owner to take action. She questioned how the City could continue to allow a health hazard such as this and urged members to take immediate action by the February 23, 2012 deadline. At the request of Ms. Kinkus, 10 people who were in attendance indicated that they were in favor of staff's recommendation.

Mr. Jeff Coe, 130 Shadow Court, stated that he has resided directly behind the subject property since 1998. When he first moved in, the swimming pool was very well kept; however, over the last 12 years, the property, including the swimming pool, has gone into disrepair. He advised members that the swimming pool is his main concern and that it has prevented him from allowing his son (who is seven (7) years old) to play in the back yard due to an excessive mosquito problem, which he felt is mainly caused by the unkept swimming pool. Mr. Coe stated that the swimming pool is an eyesore and a safety hazard and requested that City Council take whatever means necessary to correct these concerns.

Ms. Andrea Hicks, 271 India Drive, Smyrna, stated that she helped to clean the home many years ago. In defense of the property owner, Ms. Hicks stated that she spoke to her in early November 2011 regarding the possibility of cleaning the property again. She advised members that the property owner has a contract to have the property extensively cleaned once Servpro has completed work at the site. She relayed willingness to assist the property owner in any way possible.

Mr. Kyle Greeny (resides in Vermont) stated that he takes care of property immediately adjacent to the subject property and suggested that a deadline date of February 23, 2012 is too soon. He also indicated that he offered to assist the property owner in making any necessary repairs (doors). In regard to cleaning the property, he advised members that he has not observed any rodent problems and was aware that there has been deliberate vandalism to the backyard and swimming pool. He noted that a fence in the rear of the property separates the back yard from adjacent neighbors; therefore, he did not feel that there would be a safety issue involving the swimming pool.

Ms. Deborah Statler, 123 Blue Beach Drive, advised members that the issues involving her property began when someone deliberately violated the pool twice after it was closed for the winter by taking water bags and throwing them in the pool. She stated that on January 1, 2012, while she was working in the back yard to take corrective action on the swimming pool, someone entered her home, stole her credit card number, and proceeded to dump objects throughout her home. Ms. Statler indicated that in December 2011, her hot water heater broke and flooded the basement and she has been taking items from the basement and storing them upstairs to prevent further damage. Since she was attempting to save as many items as possible and working by herself, she explained that she

grabbed items and just put them anywhere upstairs as quickly as possible, giving no consideration to organization. Prior to this time, she assured members that the home was somewhat decent. Then, Ms. Statler stated, a sewer backup occurred in her basement, during which time a complaint was made to animal control regarding her cats. It was her feeling that her property and cats became an issue when she submitted a complaint regarding a neighbor's dog (which was kept outside from 5:30 a.m. to 11:00 p.m. and barked constantly). She indicated that the vandalism to her property began when she submitted a second complaint regarding the neighbor's dog, and this resulted in the cutting of hoses to an outside propane grill, which occurred eight (8) times. Ms. Statler stated that approximately two (2) years ago, this neighbor's son and his friends were in her yard, trespassing and throwing concrete blocks at and in the swimming pool, which damaged the pool's concrete coupling. She stated that this neighbor filed a complaint on the son's friends regarding this issue and subsequently discovered his own son's involvement. She indicated that this neighbor has filed numerous false complaints, resulting in the dismissal of many citations in a court of law. She explained that she has taken measures to improve the relationship with this neighbor but has not been successful and that his neighbor continues to molest her property.

Ms. Statler stated that, according to her insurance company, Servpro will completely clean the basement. Unfortunately, the upstairs was not covered by the insurance company; however, she stated that she has been making arrangements with Servpro and two (2) others to clean the remainder of the house. She stated that she has a private contract with Servpro to assist with work on the upstairs and provided members with a letter to this effect ***(Exhibit #4)*** as well as a copy of the contract for the work being performed in the basement ***(Exhibit #5)***. She assured members that she has contacted someone to perform deep cleaning, which will include carpets, once the upstairs is cleared and someone else to repair the doors (both front and back) that were damaged by the City gaining entry.

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

Responding to Mr. Bonar, Council President Leary noted that the contract with Servpro is dated February 3, 2012 (letter dated February 13, 2012). Mr. Bonar relayed his dismay at the length of time the City has allowed the conditions of this property to deteriorate. He stated that he would not take into consideration any comments blaming neighbors for the problems since they are clearly issues of neglect.

Mr. Bonar moved to declare the property located at 123 Blue Beach Drive a dangerous building and subject to demolition, as recommended by staff. The motion was seconded by Mr. Hutchison.

Mr. Hare indicated his concern regarding the safety issues involving the swimming pool and felt that Council had the responsibility to take immediate action in this regard.

Dr. McGlumphy noted that the issues involving the property have been ongoing since 1998 and that members should delay no further.

Mr. Anderson relayed concern with the precedent being set by the City and requested that a more realistic timeframe be provided to the property owner to have the necessary repairs and cleanup completed.

On a call for the question by Mr. Hare, the motion to declare the property located at 123 Blue Beach Drive a dangerous building and subject to demolition, as recommended by staff, was carried by a unanimous roll call vote (Mrs. Williams and Mr. Lynn absent).

Mr. Bonar advised members that this was not the only residence with significant problems in the City, noting that there are entire blocks with similar problems. He requested that City staff put residents on notice that the City is in the process of cleaning up the City from crime and making it a better place to live. Residents should find a means to maintain their properties; otherwise, the City will take appropriate action.

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

Meeting recessed at 8:29 p.m. and reconvened at 8:32 p.m.

UTILITY COMMITTEE REPORT - JANUARY 23, 2012

The Utility Committee met on January 23, 2012 with Chairman Bonar presiding.

Request for Alley Abandonment (Unimproved) - 16 Sackarackin Avenue - Alexis Bailey

Members were presented with a request from Ms. Alexis Bailey regarding the abandonment of the unimproved paper alley adjacent to her home located at 16 Sackarackin Avenue. Mr. Scott Koenig, City Manager, advised members that since the submission of this request, Ms. Bailey has requested that this matter be deferred to allow her the opportunity to obtain consensus from her neighbors. Staff suggested that no further action be taken by the Committee at this time and that the matter be presented to the Committee for their consideration at a later date.

The Committee took no action on this matter.

Reconsideration - Cost of Service Study

Mr. Bonar reminded members that during their meeting of September 26, 2011, the Committee recommended approval of a Request for Proposals (RFP) for a Cost of Service Study to determine the valuation of the entire City of Dover electric system and all appendices, to include generation, distribution, personnel costs, etc. As a result of recent changes in personnel and organizational structure, Mr. Bonar and Mr. Hare felt that the scope of the RFP should be further discussed.

Referring to the recent "Governor's State of the State Address" and the City's electric utility, Mr. Hare felt that the City should determine if there is a desire to be in the business of operating an electric utility or if it should be sold. Although he agreed that the recent purchase price offered for the City's electric utility was too low, he felt that an offer in the area of $200M, with some type of loan agreement, would be something the City should consider. Mr. Hare suggested the possibility of a 50-year, interest-bearing loan that would provide the City $8M, which would be added to the franchise of $1.4M, and property tax income of $400,000. The City would then be required to pay

for electricity, estimated at $600,000 per year, resulting in a $9.2M income for the City. Mr. Hare noted that in the last 10 years, the City has averaged a $5.8M transfer from the Electric Fund to the General Fund and in the last five (5) years, the average transfer was $7.3M; therefore, the proposal would provide the City with approximately $2M in additional income.

Mr. Hare reminded members that the City has not generated its own electricity in well over ten (10) years and that the City pays another company to run the City's electric plants and pays others to purchase electricity for the City. According to the City's former Electric Director, the City would need to spend $150M to $175M to update facilities to stay in the electric business. It was his feeling that if the City chooses not to sell the electric utility, the City should run the plants, buy its own electricity, etc., rather than paying other companies to perform these functions. Mr. Hare suggested that members of City Council determine if they wish to remain in the electric utility business and, if so, the City should assume this responsibility 100%.

Mr. Hare felt that the City's electric rates could not be competitive at the current time, considering the manner in which operations are being run. He noted the importance of being able to offer competitive rates to residential and business customers and not deter businesses from coming to Dover. He did not feel that it was necessary to spend $300,000 for a study and suggested that there are other companies that would conduct such a study at a cost of $80,000 to $100,000.

Mrs. Donna Mitchell, Controller/Treasurer, reviewed a proposal provided by Burns & McDonnell to perform an Updated Electric Cost-of-Service and Rate Design Study for the City of Dover. She reminded members that Burns & McDonnell is the City's current engineer for the Annual Engineering Report and they have completed the City's electric rate study in the past. Mrs. Mitchell explained that the proposal will allow for a cost of service study to "true-up" the electric rates for the lower power supply cost. She advised members that, if approved, this study would be completed by April 2012 at a cost of $28,500. Staff recommended approval of the proposal submitted by Burns & McDonnell for a Cost-of-Service and Rate Design Study for FY 2012.

In response to Mr. Blakeman's concerns regarding the rate quote of $161 per hour (the previous rate was $104 per hour), Mrs. Mitchell stated that this was only a 3% increase compared to the last study conducted. Mrs. Williams requested that staff question why more hours would be needed to conduct the study. Mrs. Mitchell assured members that she would question the increase in hours and hourly rate and provide this information to members when the Committee's recommendation is presented to City Council for approval. *(City Clerk's Office Note: Mrs. Mitchell provided the following information related to the increase in the rate quote: The 2008 rate study estimate was $25,000 for approximately 190 hours. This is an hourly rate of $131.58. The current 2012 rate study estimate is $28,500 for approximately 176 hours. This is an hourly rate of $161.93. If the hourly rate of $131.58 is adjusted for the four years difference in labor costs to reflect normal increases it would be approximately $150 per hour. Additionally, the individuals performing the services have had promotions which adds a little to the hourly rate. It is beneficial to involve the same individuals in the analysis as much as possible to utilize the knowledge gained on the previous work thereby completing the study more efficiently and minimizing the cost increase as much as possible.)*

Responding to Mr. Lynn, Mrs. Mitchell confirmed that the proposal is not predicated on selling the electric utility but would provide staff the means to prepare next year's budget should rates need to be adjusted based on the current cost of service.

Referring to the concerns regarding the hourly rate, Mr. Scott Koenig, City Manager, suggested that members recommend approval with the inclusion of a clause stating that the amount authorized is "not to exceed $28,500," explaining that the information to be provided by the study would be necessary to prepare the next budget.

The Committee recommended approval of the proposal submitted by Burns & McDonnell to perform an Updated Electric Cost-of-Service and Rate Design Study for FY 2012 at a cost not to exceed $28,500.

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

Council President Leary acknowledged receipt of correspondence from Mr. Bob Hartman (***Exhibit #6)*** regarding this matter**.**

As a result of much discussion, Mr. Hare suggested that an amendment be made to the motion to allow for an RFP for a study to be performed on the City's entire electric utility. Responding, Mr. Bonar indicated his feeling that such directive should be a separate issue and stated that he was prepared to make an additional motion at the conclusion of the pending motion.

On a call for the question, the motion to approve the Committee's recommendation for approval of the proposal submitted by Burns & McDonnell to perform an Updated Electric Cost-of-Service and Rate Design Study for FY 2012 at a cost not to exceed $28,500 was carried by a roll call vote of six (6) yes, two (2) no (Mr. Lynn and Mr. Hare), and one (1) absent (Mrs. Williams).

Mr. Bonar moved that the City of Dover proceed with an RFP to assess the value of the City of Dover Electric Department, its real property and assets to include generating facilities, distribution system, maintenance operations, and all other appurtenances, not to exceed a sum of $150,000 with such funds coming from the Electric Reserve Fund. The motion was seconded by Mr. Hare.

Mr. Lynn explained his opposition to the previous motion and requested that the motions be combined so that an RFP is requested for only one (1) complete study.

Council President Leary explained that since the Committee had forwarded a recommendation, Council should act on it and then consider any further action separately. Concurring, Mr. Bonar explained that there were two (2) separate studies being discussed, the first relating to the Committee's recommendation to obtain a study regarding setting rates and establishing a rate structure and the second regarding to a proposed evaluation of the entire electric utility system.

On a call for the question, the motion authorizing staff to proceed with a Request for Proposals (RFP) to assess the value of the City of Dover Electric Department, its real property and assets

to include generating facilities, distribution system, maintenance operations, and all other appurtenances, not to exceed a sum of $150,000, with such funds coming from the Electric Reserve Fund, was carried by a unanimous roll call vote (Mrs. Williams absent).

TEA/NAES Monthly Report *(October and November)*

The TEA/NAES Monthly Reports for October and November 2011 were provided to members to enable them to monitor electric sales and revenues received, which would provide a better understanding of any fluctuations that occur and allow the opportunity to make improvements if deemed necessary.

The Committee recommended acceptance of the TEA/NAES Monthly Reports for October and November as presented.

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

Update - Calpine Corporation Project (Garrison Oak Technical Park)

Mr. Scott Koenig, City Manager, read the following statement into the record:

> "Good Evening Members of the Utility Committee. I would like to provide a brief update on the status of the Calpine Corporation Project to be located on the Garrison Oak Technical Park property. As we have indicated previously, Calpine Corporation is proposing to construct a 309 megawatt, energy efficient, merchant power production facility at this location. The proposed facility will be built in phases. As we speak, staff from the Calpine Corporation is conducting their internal due diligence responsibilities and financial analysis of the project. There are a number of discussions that are occurring, including a potential Power Purchase Agreement with the City of Dover, potential city ownership of a gas pipeline, potential grant applications for state funds for infrastructure, as well as a number of other development related discussions. It is important that members of the Committee, Council, and the public understand the complexity of this project and the potential positive impact of the project on the Kent County region. Power supply plays a critical role in the economic development of our region. In addition, these types of projects require "outside of the box" thinking to deliver. As project momentum converts a number of these discussions into reality, it will be important for the Kent County region to continue supporting its new corporate partners. I appreciate the time to provide a brief overview of the status of the project."

The Committee took no action on this matter.

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

With regard to the National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer Systems (MS4) Permit, Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that the City has been issued a notice of violation by the Department of Natural Resources and Environmental Control (DNREC) and that the deadline to respond and complete all items identified in the notice of violation was December 31, 2011, with a report due to DNREC on January 13, 2012. She advised members that the City submitted this report on January 12, 2012.

Mrs. Townshend stated that the City was required to provide a stormwater management plan identifying the items that the City plans to complete over the next (3) years (the time anticipated to obtain a new permit). She noted that a draft plan was presented to DNREC; however, she was unsure how DNREC would respond. She also noted that there may be budgetary implications since some of the work will require contractual assistance (estimated at a cost of $25,000 to $50,000).

The Committee took no action on this matter.

In response to Mr. Blakeman regarding addressing the concerns raised by Mr. Hare during the discussion of "Reconsideration - Cost of Service Study," Mr. Bonar indicated that those concerns would be considered during the Council President's Agenda Meeting to determine how the issue will be addressed.

Mr. Bonar moved for acceptance of the Utility Committee Report, seconded by Mr. Hare and unanimously carried.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - JANUARY 23, 2012

The Legislative, Finance, and Administration Committee met on January 23, 2012 with Chairman McGlumphy presiding.

Proposed Resolution #2012-02 - Requesting the General Assembly to Amend Article IV - Financial Affairs, Section 50 - Debt Limit, of the City of Dover Charter

Members reviewed Proposed Resolution #2012-02 that would request the General Assembly to amend Article IV - Financial Affairs, Section 50 - Debt Limit, of the City of Dover Charter. Mrs. Donna Mitchell, Controller/Treasurer, explained that the proposed amendment would expand and clarify the purposes for debt issuance without a referendum vote by inserting specific uses of general obligation debt which would be secured by the full faith and credit of the City. She noted that there would still be a referendum requirement when the debt issuance would exceed one-fourth of one percent of the taxable assessed value of real property.

The Committee moved to recommend approval of Proposed Resolution #2012-02, requesting the General Assembly to Amend Article IV - Financial Affairs, Section 50 - Debt Limit, of the City of Dover Charter. *(Due to time constraints, it was noted that this matter was considered by City Council during their Regular Meeting held later in the evening.*)

Proposed Ordinance #2012-03 - Related to Senior Citizen Income Exclusions *(Committee Referred This Item Back to Staff on November 14, 2011)*

During their meeting of November 14, 2011, the Committee considered excluding military pension as income to the Senior Citizen Property Tax Abatement at the request of a resident, Mr. Michael Smith. After much discussion, the Committee referred the matter back to staff for their review and recommendation within 90 days.

Members reviewed Proposed Ordinance #2012-03, which would amend Chapter 102 - Taxation, Article VI - Exemptions; Board of Assessment Appeals, Section 102-183 - Tax Exemption for Senior Citizens by replacing the language "federal civil service retirement" with "Civil Service Retirement System (CSRS)" and changing the computation of the property owner's entitlement for the deduction from a dollar amount to a percentage of the Social Security maximum benefit.

Ms. Cheryl Russell, Tax Assessor, advised members that the Senior Citizen Tax Abatement, Subsection (b) - Qualifications, Paragraph (3) Exclusions from income, currently consists of: 1) Social Security benefits; 2) railroad pensions; and 3) federal civil service retirement (150% of current Social Security limit). She stated that the federal civil service retirement was added a few years ago because it was similar to Social Security (as is the railroad pension). Those retirees who are under the "old" CSRS plan did not contribute to Social Security and do not receive this benefit from that employment; therefore, she stated that this category was added to the income exclusions for the City of Dover Senior Citizen Tax Reduction Program. As a result of a review of the proposed ordinance by the City Solicitor, Mrs. Russell stated that the amounts were eliminated to reflect only 150% (lines 25 through 29).

Ms. Russell indicated that the City was recently made aware that participants in the "new" Federal Employees Retirement System (FERS) plan for Civil Service retirement do contribute to Social Security and receive both Social Security and pension from this employment; therefore, this particular plan should not be added to the exclusions for the City of Dover Senior Citizen Tax Reduction Program. The intent to add Civil Service retirement weighed heavily on the fact that the CSRS retirees do not receive a Social Security benefit. She assured members that the proposed amendment to the ordinance specifies that the third exclusion from income be limited to CSRS retirees only.

Ms. Russell stated that staff did not recommend that a military pension category be added to Section (b) Exclusions to income, because members of this retirement plan also contribute to Social Security. This would allow military retirees the ability to exclude Social Security and military pension from their adjusted gross income (similar to the FERS plan). Ms. Russell indicated that the revenue impact of adding military pension to the exclusion from income qualification could not be determined. She stated that the Census Bureau does not differentiate military pensions and was not able to provide assistance.

Ms. Russell reminded members that another idea which was previously discussed was to put a basic cap on the income limit with no exclusions. After reviewing this idea, she stated that the only "pro" to this approach would be elimination of the need to determine exclusions for different plans. The "cons" that staff anticipated were: 1) complication of the application process including the

requirement for more documentation for seniors with Social Security income only (195 applicants); 2) discontinuation of abatement for seniors turning 65 when they begin to draw Social Security benefits; and 3) inconsistency with County income qualifications.

Ms. Russell advised members that staff reviewed the possibility of adding income directly related to disability to the exclusion from income qualification. Kent County offers this deduction from the Adjusted Gross Income; however, Kent County has an income limit qualification on their disability reduction, similar to their senior citizen reduction. She indicated that once the property owner is 65 years of age, Kent County requires them to apply for a Senior Citizen reduction and they no longer qualify for the disability reduction. Kent County did not explain the reasoning behind the deduction of the income related to disability. As a result, staff could only assume that this relates to the transfer of reduction from Disability to senior citizen at the age of 65. The revenue impact of adding Income Related to Disability could not be determined. Since Kent County transfers the property owner to the Senior Citizen Reduction Program, they do not have information regarding the number of property owners that qualify or are considered disabled within the City of Dover limits.

Ms. Russell stated that currently, the City of Dover does not have age or income limitations for the disability reduction. The only requirement is that individuals must be 100% disabled, as determined by the Social Security Administration (SSA), and must provide an award letter from the SSA each year upon application. She stated that staff did not recommend deducting income directly related to disability at this time.

Staff recommended amending Section 102-183 (b)(3) of the Dover Code to update the language to specify Civil Service Retirement System (CSRS) as the type of Civil Service Retirement to be excluded and also to strike out the dollar amount for the maximum amount allowed for the deduction from income.

Responding to Mr. Shevock, Ms. Russell indicated that the proposed amendment would not result in a change to the tax revenue since none of the seniors who have applied in the past were participants in the newer system (FERS plan).

Mr. Hare stated that he was aware of individuals who have military pensions that are not large and who also collect a minimal amount of Social Security, noting that these individuals would not be eligible. It was his feeling that specifying a single income level would be more simple to apply. Clarifying, Ms. Russell stated that the qualifying income level is $17,396 for a single individual; therefore, someone collecting a military pension in the amount of $14,000 and Social Security would qualify for the exemption. The specified income level for married individuals is $23,000.

Responding to Mr. Michael Smith, 208 Saxondale Lane, Mr. Anderson explained that the proposed amendment would put everyone on an equal level because the CSRS that expired in 1986 was basically a substitute for Social Security (these participants did not pay into Social Security). Under the new federal system (FERS), individuals are required to pay into Social Security and, as a result, will receive Social Security benefits, which are exempt in accordance with the Dover Code. He stated that it would not be fair to exempt Social Security income but not the CSRS since it is an equivalent to Social Security.

Mr. Anderson felt that further discussion may take place in the future in regard to the consideration of military pensions and the possibility of a "blanket" exemption, as suggested by Mr. Hare.

Mr. Hare reiterated that the purpose of the exemption is to help low-income individuals and noted that there are some military pensioners that would qualify and others that clearly would not qualify.

Mr. Smith suggested the possibility of referring to the exemption as a "low-income tax abatement," rather than referring to it as a tax exemption for senior citizens, and allowing anyone with less than $35,000 income to qualify.

Concurring, Mr. Hare suggested amending the proposed ordinance to reflect the exemption for "low-income taxes for citizens above age 60" and stated he would prefer a flat income level amount.

Mr. Bonar stated his concurrence and suggested that the matter be tabled to allow staff to clarify the language to reflect "low income tax abatement program for individuals over 60 years of age."

The Committee recommended that the matter be referred back to staff for clarification of the language as discussed.

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

Minority Recruitment Committee Recommendations

Members were reminded that the Minority Recruitment Committee (MRC) was commissioned by the former City Manager to develop recommendations to improve minority hiring for the City of Dover. The Committee held a series of meetings in 2011 and concluded their work in August 2011. Members reviewed a report that reflected the MRC deliberations and recommendations.

Staff recommended acceptance of the report and requested that the recommendations be referred to staff for implementation at the appropriate time.

Dr. Bobby Jones, Chair of the MRC, explained that the creation of the Committee was the result of questions and concerns that arose regarding minority recruitment for the City of Dover. She advised members that the Committee had much discussion regarding attracting employees to the City and that employee morale was also a concern. She felt that the Committee developed some very salient points regarding morale. Dr. Jones reviewed the MRC's recommendations.

In response to Mr. Anderson, Dr. Jones stated that although the Human Resources Director addressed the Committee, there was no mention of the City's Affirmative Action Program.

Responding to Mr. Anderson, Mr. Scott Koenig, City Manager, reminded members that the City is under a hiring freeze and recruitment is not staff's highest concern at this time; however, staff has grave concerns with employee morale. He stated that the City has hard-working employees who should be recognized for the work they accomplish. Mr. Koenig noted that often work performed is not recognized as much as what does not get accomplished. He requested the opportunity to review the recommendations and provide the Committee with a recommendation within 60 days.

Mr. Lynn suggested that the Mayor be included in the review of the recommendations for consideration of the Police Department. Dr. Jones stated that the Police Department was represented on the MRC and that the Department has developed a plan for the recruitment of minority police officers.

Understanding that the City is under a hiring freeze, Dr. Jones requested that staff develop a strategic plan to address the recruitment of minorities and develop goals and objectives regarding this issue.

The Committee recommended that the Minority Recruitment Committee (MRC) Report be referred to staff for a report back to the Committee within 60 days.

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

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

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - JANUARY 25, 2012

The Safety Advisory and Transportation Committee met on January 25, 2012 with Chairman Hutchison presiding.

Discussion - Establishing City Emergency Operations Center

Members reviewed correspondence from Mr. Dave Truax, 35 Upland Avenue, who serves as the City's 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.

Mr. Scott Koenig, City Manager, stated that the City's emergency management function has progressed through various departments throughout the years, beginning as a part of the Grounds Department, then the Police Department, and ultimately an Emergency Management Coordinator position was created in the Public Services Department. As a part of the Emergency Management Plan developed for the City, the City Hall Conference Room was designated to serve as an Emergency Operations/Information Center. He reminded members that this Center was utilized as such during a recent hurricane and during snowstorms and met the needs for these types of emergencies.

Mr. Koenig explained that the City has a basic Emergency Management Plan which has been certified as meeting minimum requirements by the Delaware Emergency Management Agency (DEMA). He advised members that emergency operations functions are currently distributed among a number of staff members, including the City Manager, the Public Information Officer, the Fire Marshal, a representative of the Police Department, etc. He indicated that he would like to maintain an open position for an emergency management planner. It was his understanding that during the recent Police Department accreditation process, a previous Emergency Operations Center (EOC) located at the Police Department was reestablished. Members were provided a photo of the Center and a diagram depicting the seating arrangements.

Mr. Koenig questioned if the intent of the discussion was to determine if members wished to designate the Police Department versus City Hall as the EOC for the City of Dover.

Responding to Mr. Hutchison, Mr. Koenig confirmed that there are no backup generators currently serving City Hall and that if power was lost during an emergency situation, it would be necessary to utilize the facility at the Police Department to conduct emergency operations. He noted that backup power is available at the Administration Building for the Electric Department.

Mr. Truax explained the necessity for the City to have an Emergency Operations "mindset," beginning with members of Council, and for each department to have a better understanding of their responsibilities. In addition, he relayed the importance of an EOC.

Mr. Koenig suggested a review of the parameters of the two (2) rooms proposed for use as an EOC. He recalled there being a $2,400 activation fee for the phone lines at the Police Department EOC and noted that this was one of the reasons City Hall was selected to serve as the EOC during the recent snowstorms and hurricane.

Responding, Police Captain Stump stated that he was not aware of such fees and indicated that the phone lines were recently activated.

Mr. Hutchison suggested that this issue be referred back to staff for the development of policies and procedures. Concurring, Mr. Lynn requested that staff develop recommendations for the Committee's review to forward to City Council for approval.

Mr. Truax requested that consideration be given to the installation of a generator at City Hall, regardless of its use as an EOC, due to the need for electric service at City Hall during an emergency.

Mr. Hutchison requested that staff determine the costs involved for each of the rooms to become fully used as an EOC.

Captain Mark Hall, attending on behalf of Fire Chief Fortney, noted that ambulance services for the City are provided by PrimeCare; therefore, he suggested that staff request the participation of a representative of PrimeCare in the development of their recommendations.

Responding to Mr. Davis, Mayor Carey indicated that Dover High School currently serves as the City's emergency shelter and has been used as such in the past.

Mr. Laing, Community Relations Officer and Public Relations Liaison, Delaware Department of Transportation (DelDOT), suggested that space be allocated in the City's EOC for the City's Public Information Officer.

The Committee recommended referral back to staff for a report to the Committee at the next meeting.

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

Update - Dover High School Construction

Mrs. Ann Marie Townshend, Director of Planning and Community Development, provided an update on the construction of the new Dover High School. She advised members that, in December, the City issued a foundation only permit for the building. The City continues to work with the Delaware Department of Transportation (DelDOT), Kent Conservation District, and Capital School District on completing the site development plans. She noted that building construction drawings were recently submitted and the building permit application has been completed. She anticipated that the building permit would be issued by the first week in March 2012 for the remainder of the main structure, noting that the stadium and other buildings will require separate permits.

Mrs. Townshend reminded members that City staff attends monthly coordination meetings with representatives of DelDOT and the consultants for the Capital School District to ensure that the project stays on track, since there are many site and location issues. She stated that, during the last coordination meeting, there was discussion regarding the east entrance (which lines up with Heatherfield East) which had been planned as a signalized intersection with a pedestrian crossing; however, the most recent submission did not show it as a signalized intersection. She explained that installation of signals typically requires a warrant analysis which documents traffic volume and is accomplished through DelDOT and she suggested that the Capital School District begin working with DelDOT on this issue. However, she noted that there are additional political and safety issues involved, explaining that there are multiple housing communities directly across the street from the school. She suggested that the City go on record in support of the signalization of the intersection at the east entrance and a pedestrian crossing, even if the traffic volume does not meet warrants since there is no other way to enable children to cross the street to access the school safely.

After much discussion, Mr. Gary Laing, Community Relations Officer and Public Relations Liaison, DelDOT, suggested that the City submit a letter to Secretary Bhatt and that Mr. Laing be copied so that he may have the opportunity to interject himself to work with the City in this regard. Responding, Mr. Hutchison suggested that such a letter be drafted and signed by the Mayor and City Manager.

Mrs. Townshend offered to draft a letter in support of the signalization of the intersection at the east entrance of the new Dover High School and the inclusion of a pedestrian crossing. Due to Mr. Laing's suggestion that this letter be submitted as expeditiously as possible, Mr. Koenig indicated that the letter would be sent by staff if there were no objections.

The Committee recommended that staff be authorized to send a letter to Secretary Bhatt relaying support of the signalization of the east entrance intersection, with pedestrian crossing, for the new Dover High School.

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

Briefing on Delaware Department of Transportation (DelDOT) Projects - *Gary Laing*

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison, Delaware Department of Transportation (DelDOT), provided members a briefing on DelDOT Projects, as follows:

West Dover Connector

Mr. Laing stated that DelDOT is currently in the midst of a 30-day public comment and review period (which will end on February 2, 2012) related to the environmental assessment of the West Dover Connector. If there are public comments, a period of time will be provided for response. In late February to mid-March, DelDOT plans to issue the final version of the environmental assessment. Mr. Laing stressed the need for a finding of "no significant impact" in order to proceed with the project. He indicated that DelDOT will then need to address the issue of a preferred alternative for termination of the Connector at Route 13, south of Rodney Village, and acquisition of 15 properties along the route.

Mr. Laing advised members that several years ago, there were picketers with signs that read "don't take my home" in front of DelDOT's workshop and at working group meetings associated with this project; however, more recently DelDOT has received phone calls from these individuals who are now eager to sell. He explained that DelDOT's planning process has made it difficult for affected homeowners to market their homes. Mr. Laing assured members that DelDOT cannot offer a homeowner an amount less than the assessed value of their property, can assist a homeowner in finding a new home with a similar value, and can provide assistance with moving expenses in cases of hardship.

Mr. Laing stated that the specifics regarding the location and design of the preferred route will be finalized and presented to the public in April 2012. He advised members of the tentative schedule DelDOT has established moving forward, as follows: 1) July 2012 - semi-final right-of-way acquisitions to be completed by November 2012 (if there are no objections and eminent domain condemnation procedures are not necessary); and 2) Summer of 2014 - begin construction.

South Governors Avenue Improvements

Mr. Laing stated that the improvements to the South Governors Avenue roadway are substantially complete. He indicated that DelDOT has had a recent issue regarding a signal at the intersection of South Governors Avenue and South Street, noting that the original plan included such a signal. Since federal funds were utilized for the project, when DelDOT was ready to have the signals turned on, the Federal Highway Administration (FHA) indicated that the intersection did not meet the warrants for a signal and a new study was required. DelDOT completed the new study in late fall/early winter of 2011 and it was determined that the intersection meets warrants at only certain times of day. He advised members that there are safety concerns, noting that there is an employee parking area located across the street.

Most recently, Mr. Laing stated that DelDOT's Director of Traffic Operations sent a letter to the FHA indicating that DelDOT planned to post signs indicating that the signals would become operational on January 27, 2012 and was awaiting a response.

Water Street Railroad Crossover
Mr. Laing stated that the Water Street Railroad Crossover is not a project that will come to fruition anytime in the near future due to the involvement of the railroad.

Wyoming Mill Road Project
Mr. Laing advised members that only the paving of the roadway was required for the completion of the Wyoming Mill Road Project and it is hoped that this will begin in early spring when the asphalt plants reopen.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, suggested that, in the future, a briefing on the Route 8/Hazlettville Road Connector (formerly identified as North/South Road between Route 8 and Hazlettville Road on the West Side of the Capital School District Property and the Village of Cannon Mills) be provided to the Committee.

Briefing on Dover/Kent County Metropolitan Planning Organization (MPO) Projects - *Rich Vetter*
Due to the absence of Mr. Richard Vetter, Executive Director of the Dover/Kent County Metropolitan Planning Organization, there was no briefing on Dover/Kent County Metropolitan Planning Organization (MPO) projects.

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

MONTHLY REPORTS - DECEMBER 2011
By motion of Mr. Hutchison, seconded by Mr. Hare, the following monthly reports were accepted by consent agenda:

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

Referring to the Chief of Police Report, Mr. Hutchison expressed his congratulations to the men and women of the Dover Police Department for the outstanding work that they continue to perform, including apprehensions and arrests, most recently related to the shooting incident on Cecil Street and numerous armed robberies.

Mr. Hare moved to accept the Chief of Police Report for December 2011, seconded by Mr. Bonar and unanimously carried.

ANNUAL REPORTS - DOVER HUMAN RELATIONS COMMISSION AND PLANNING AND COMMUNITY DEVELOPMENT
By consent agenda, Mr. Hutchison moved for acceptance of the Annual Reports of the Dover Human Relations Commission and Planning and Community Development, seconded by Mr. Hare and carried by a unanimous roll call vote (Mrs. Williams absent).

EVALUATION OF BIDS - MCKEE RUN UNIT 3 AIR HEATER REPAIRS

Mr. Vince Scire, Plant Manager, advised members that the major part of the McKee Run Unit 3 Boiler Air Heater Capital Improvement Project (CIP) scope involves the replacement of major air heater components including casing internal components and structural members which were identified during a planned unit inspection in October 2010. The proposed contract would addresses these components. The refurbishment should extend the useful life of the involved equipment by at least another fifteen (15) years.

Mr. Scire indicated that a Request for Proposal (RFP) was drafted to include a total price for supervision, labor, and tools to complete the replacement of the center section of the air heater support structure and replacement of all internal air heater seals, including hot end sector plates. The proposals received were evaluated using the following criteria: cost, experience (specific to air heater work), references, resources, safety record, exceptions to specifications, and bid submittal content. Members reviewed a summary of the evaluation scores which indicated that the highest evaluated contractor was also the lowest proposal. He advised members that other components/services would be awarded in order to complete the project; however, at this time, staff was confident this project would be under budget.

Staff recommended awarding the contract to TEI Construction Services for a total contract award of $206,131.

Responding to Dr. McGlumphy, Mr. Scire stated that no Delaware firms submitted proposals and that he was not aware of a Delaware firm with the expertise necessary to conduct the type of work required.

In response to Mr. Hare, Mr. Scire stated that any delay in the contract work could create reliability issues involving the Unit, explaining that the particular components of the air heater are such that they have corroded and eroded so badly that if it were to continue, the Unit may not work. He advised members that this project was advanced due to conditions found during their inspection. He stated that this same work was previously accomplished in 1991 and at that time, #6 fuel oil, which is highly corrosive, was burned. Since then, #2 fuel oil has been used, which is less corrosive and has less sulfur, allowing the Unit to last a little longer. He stated that typically these repairs are necessary every 15-20 years.

Mr. Bonar moved for approval of staff's recommendation to award the contract for McKee Run Unit 3 Air Heater repairs to TEI Construction Services for a total contract award of $206,131, seconded by Mr. Hutchison and unanimously carried (Mrs. Williams absent).

EVALUATION OF BIDS - MCKEE RUN UNIT 3 TURBINE REPAIRS AND TRANSFER OF FUNDS BETWEEN CAPITAL IMPROVEMENT PROJECTS (CIPs)

Members reviewed information regarding bids for consideration for the McKee Run Unit 3 Turbine Repairs as well as a request to transfer funds between Capital Improvement Projects (CIP). Mr. Vince Scire, Plant Manager, explained that the request for approval is twofold: 1) to approve the transfer of funds from two Electric Generation CIPs (that are complete and under budget) to a third Electric Generation CIP (EG1212) which is underfunded; and 2) to approve funding for contract work to be done under the third CIP (EG1212).

Mr. Scire advised members that CIP Project EG1114 was approved for FY2012 budget in the amount of $36,207 and that the total project commitments to date total $20,000. This project is 100% complete with no additional expenditures anticipated. The primary reason for the favorable variance was due to utilizing internal resources rather than external resources for a portion of the installation activities. In addition, he stated that CIP Project EG1213 was approved for the FY2012 budget in the amount of $113,000 and that the total project commitments to date total $47,682. He stated that this project is also 100% complete and that the reduced project cost is due to revised work scope which resulted from recent equipment condition evaluation.

Referring to CIP Project EG1212, Mr. Scire reminded members that this project was approved for the FY2012 budget in the amount of $348,000 and that the total commitments to date total $61,648. He explained that this project will be significantly underfunded based on current project forecasts that include recently obtained actual bid prices for the installation portion of the work scope. The current forecast to complete the work was estimated at $418,713. The increase in project cost is due to the installation costs that are greater than originally estimated and an expanded repair scope. He stated that the project could not move forward without an increase in funding and that the risk of reduced equipment reliability would increase if this project is delayed.

Mr. Scire indicated that the request is for a transfer in the amount of $16,000 from EG1114 and $60,000 from EG1213 to EG1212, which would result in the following:

EG1114: $36,207 - $16,000 = $20,207.
EG1213: $113,000 - $60,000 = $53,000.
EG1212: $348,000 + 76,000 = $424,000

Mr. Scire assured members that requested transfer would not affect the overall combined anticipated costs for all three (3) projects.

Mr. Scire explained that the major part of the McKee Run Unit 3 Turbine Inspection CIP scope is the supply of all supervision, technical services, labor, tools and equipment necessary to perform an inspection on the Unit 3 turbine components, including all steam control valves and overspeed devices. This work is required to maintain the integrity of the equipment and is based on both operating hours and duration between inspections. The proposed contract addresses these components. The refurbishment should extend the useful life of the involved equipment by at least another ten (10) years.

Mr. Scire stated that the Request for Proposals (RFP) was drafted to include a total price for supervision, labor, and tools to complete the disassembly, inspection, and reassembly of critical safety components of the turbine. The proposals were evaluated using the following criteria: cost, experience (specific to turbine work), references, resources, safety record, exceptions to specifications, and bid submittal content. Members reviewed a summary of the evaluation scores which indicated that the highest evaluated contractor was also the low proposal.

Staff recommended approval of the transfer of funding as presented and awarding the contract to the low bidder, NAES Turbine Services, for a total contract award of $225,175.

Mr. Bonar moved for approval of staff's recommendation, seconded by Mr. Lynn.

Responding to Dr. McGlumphy, Mr. Scire stated that there would be no conflict of interest involved since the City has had would be an "arms length" understanding with NAES Turbine Services. He did not anticipate that the contract would produce jobs for City residents since NAES has traveling employees who work on projects such as this.

On a call for the question, the motion to approve staff's recommendation was carried by a unanimous roll call vote (Mrs. Williams absent).

REAPPOINTMENTS RECOMMENDED BY COUNCIL PRESIDENT LEARY - HUMAN RELATIONS COMMISSION - AARON YATSKEVICK - THREE (3) YEAR TERM TO EXPIRE FEBRUARY 2015

Council President Leary requested the reappointment of Mr. Aaron Yatskevich to the Human Relations Commission for a three (3) year term to expire February 2015.

By consent agenda, Mr. Hutchison moved for approval of the reappointment of Mr. Aaron Yatskevich to the Human Relations Commission, as recommended by Council President Leary, seconded by Mr. Hare and carried by a unanimous roll call vote (Mrs. Williams absent).

FINAL READING - PROPOSED ORDINANCE

The First Reading of the following proposed ordinance was accomplished during the Council Meeting of January 23, 2012.

Ordinance #2012-01 Amending Chapter 74 - Parks and Recreation - Silver Lake Boating Regulations

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

Mr. Hare moved for adoption of Staff Amendment #1 to Proposed Ordinance #2012-01, seconded by Mr. Bonar, and carried by a unanimous roll call vote (Mrs. Williams absent).

Mr. Hare moved for adoption of Ordinance #2012-01, as amended, seconded by Mr. Bonar. By a unanimous roll call vote (Mrs. Williams absent), Council adopted Ordinance #2012-01, as follows:

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

That Chapter 74 - Parks and Recreation, Article I - In General, be amended by renumbering Section 74-51. Same-Fine as 74-52 and inserting a new Section 74-51 - Vessel Operation, to read as follows:

Sec. 74-51. - Vessel Operation.

The operator of any non-permitted motorboat operated on Silver Lake shall be subject to a fine as provided for in Appendix F - Fees and Fines.

BE IT FURTHER ORDAINED:

That Chapter 74 - Parks and Recreation, Article III - Silver Lake Area, Section 74-122 - Boating, be amended to read as follows:

Sec. 74-122. - Boating.

Vessels and boating at Silver Lake shall be governed by the following provisions, which are subject to fines as provided for in Appendix F - Fees and Fines:

(1) *Permit required*. Before any person shall operate any vessel upon Silver Lake, he shall obtain a permit for each vessel from the customer service department. The vessel shall be registered in the name of the owner with the customer service department at the time of the application for a permit. Thereafter, the owner shall be responsible for the operation of the vessel on Silver Lake and shall be responsible for compliance with the terms of this chapter, whether or not the owner is the operator of the vessel.

(2) *Permit fee*. For each permit issued pursuant to subsection (2) of this section, the customer service department shall collect an annual fee as specified by the city council.

(3) *Motorboats*. It shall be unlawful for any person to operate a motorboat in excess of 18 feet in length or 115 horsepower, based on factory specifications as related to the vessel outboard certification (OBC) rating. Older vessels or home-built vessels shall be related, as near as possible, in accordance with similar vessels with factory horsepower recommendations.

(4) Personal Watercraft (PWC). It shall be unlawful for any person to operate PWC or other similar devices upon Silver Lake. Personal watercraft are defined as motorboats less than 16 feet in length that are powered by jet pumps, not propellers, where the persons stand, kneel, or sit on, rather than inside the vessel. PWCs are operated by one person, and often have seating space for others. Some models have seating for up to four riders (including the operator).

(5) Airboat. It shall be unlawful for any person to operate an airboat or other similar devices upon Silver Lake. An airboat, also known as a fanboat, is a flat-bottomed vessel (jon boat) propelled in a forward direction by an aircraft-type propeller and powered by either an internal combustion or electric engine.

(6) Hovercraft. It shall be unlawful for any person to operate a hovercraft or other similar devices upon Silver Lake. A hovercraft (air-cushion vehicle, ACV) is a craft capable of traveling over surfaces while supported by a cushion of slow moving, high-pressure air which is ejected against the surface below and contained within a "skirt."

(7) *Display of permit number*. Every vessel operated upon Silver Lake shall clearly display the permit required in subsection (2) of this section on the right side of the vessel stern and on the right side of the trailer near the tongue. Permits must be clearly visible at all times.

(8) *Direction of vessels*. As a general rule, and whenever practical, all vessels traveling around Silver Lake shall proceed in a counterclockwise direction.

(9) *Overtaking, passing or meeting another vessel*. The U.S. Coast Guard Inland Rules of the Road regarding the overtaking, passing or meeting of vessels shall apply to vessels upon Silver Lake.

(10) *Passing under Silver Lake Bridge*. In passing under the Silver Lake Bridge, all vessels shall use the arch to the right and no vessel at any time shall use the center arch. Speeds under the bridge and within 75 feet of the bridge shall be at a no wake speed (four miles per hour).

(11) *Operating distance from shore or bridge*. No power vessel shall operate less than 75 feet from any shoreline, swimming area, pier or dock, except when launching and landing, nor shall any power vessel operate closer than 75 feet to the Silver Lake Bridge, except when that vessel is intending to pass under the bridge, nor shall any power vessel operate closer than 50 feet to any other power or nonpower vessel.

(12) *Vessel racing*. Vessel racing is prohibited upon Silver Lake.

(13) *Operating vessel in swimming area*. At no time shall any vessel be operated within any designated swimming area.

(14) *Motorboat mufflers*. All vessels which are mechanically propelled shall at all times maintain, as part of its equipment, a standard manufacturer's muffler for the type of engine used.

(15) *Vessels operated after sundown*. All nonpower vessels operating after sundown shall be equipped with lights satisfying the U.S. Coast Guard Requirements on Inland Rules, and shall keep those lights in constant operation as long as the vessel is being operated, and shall not operate at a speed in excess of four miles per hour. The operation of power vessels on Silver Lake shall be permitted from sunrise to sunset. Between sunrise and 10:00 a.m. (local time), power vessels shall be operated at a no wake speed (four miles per hour).

(16) *Lowering, placing and removing* vessels with vehicle. No person, other than the motor vehicle operator, shall occupy any motor vehicle being used for the purpose of lowering, placing or removing any vessel at the ramps provided for this purpose at the Silver Lake site. The only vehicle accessible vessel ramp facility is located next to the dam and accessed from the Kings Highway park entrance.

(17) *Garbage, litter and other waste*. Garbage, litter, or other waste shall not be dropped or thrown from vessels, or from shore into park waters, but shall be disposed of on shore, at designated locations, in the prescribed manner.

(18) *Kayak, Canoe and other small craft launching.* Kayaks, canoes and other small watercraft that can be launched without the assistance of a motor vehicle, may utilize the identified small craft launching area adjacent to the swimming beach accessed by the Washington St.

park entrance. Craft may not be left in the launch area for any duration longer than necessary to access the lake.

(19) *Beaching*. Beaching of vessels in other than designated areas is prohibited, except in an emergency or Parks and Recreation Department Director approved special events.

(20) *Horseplay*. Any horseplay in vessels or changing from one vessel to another while on the water is strictly prohibited.

(21) *Storms*. In all storm conditions, vessels must return to the docks.

(22) *Accidents and injuries*. All accidents or injuries shall be reported to the police.

(23) *Limiting or expanding vessel operations*. The director of parks and recreation and the parks, recreation, and community enhancement committee shall have the authority to limit or expand vessel operation in certain areas of the lake to facilitate operation of nonpower watercraft or special events.

BE IT FURTHER ORDAINED:

That Chapter 74 - Parks and Recreation, Article III - Silver Lake Area, Section 74-123 - Water skiing, be amended to read as follows:

Sec. 74-123. - Water skiing.

(a) *Where prohibited*. No person shall engage in water skiing within 75 feet of any shoreline or within 75 feet of any designated swimming area.

(b) *Prohibited devices*. The use of ski ramps, parachutes and other similar devices that are designed to propel the rider, passenger or participant into the air shall be prohibited on Silver Lake.

(c) *Number of skiers*. Vessels shall pull no more than two skiers on weekdays, and no more than one skier on weekends and holidays.

(d) *Observer*. When a vessel is engaged in pulling a skier, a person at least 12 years of age, other than the vessel operator, shall be in the vessel to observe the skier and to notify the driver of the if the skier should at any time be injured or in need of assistance.

(e) *Boat operator*. No person under the age of 16 years shall operate a vessel towing a skier or any device.

(f) *Flotation*. No person shall water ski upon Silver Lake unless he is wearing a life jacket or some other ample form of flotation gear that is approved for the activity by the United States Coast Guard.

(g) *Bridge*. No person shall water ski under Silver Lake Bridge.

BE IT FURTHER ORDAINED:

That Appendix F - Fees and Fines, be amended by inserting the text indicated in bold, blue, italics, as follows:

Chapter 74 - Parks and Recreation, Article I - In General		
Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.		
Sec. 74-51	Operating any non-permitted motorboat on Silver Lake	not to exceed $200.00, and not less than $100.00
Sec. 74-52	Same - Fine	not to exceed $100.00, and not less than $10.00.

ADOPTED: FEBRUARY 13, 2012

COUNCIL MEMBERS ANNOUNCEMENTS

Council President Leary thanked Mr. Sudler, Chairman of the Dover Human Relations Commission, for providing him the opportunity to meet with him and stated he hoped to build better synergy between the Commission and City Council.

Mr. Bonar recognized Dr. Kim Warfield (who was in attendance) and advised members that a community meeting was held at White Oak Park this past weekend to discuss issues relating to diversity in Dover with approximately 60-75 people in attendance, including a number of community leaders throughout the State. He thanked Dr. Warfield for her work in helping to organize that meeting and looked forward to similar community meetings in the future.

Mr. Anderson congratulated several members of the community who are working on intractable problems such as homelessness. He felt that such problems could be dealt with as a City. In addition, he relayed congratulations to People's Place for the placement of 50 homeless veterans in the past two (2) years.

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

Meeting Adjourned at 9:03 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of February 13, 2012, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM/jg
S:\AGENDAS & MINUTES\Council-Minutes\2012\02-13-2012 COUNCIL (revised 02-24-2012).wpd

Exhibits Attached to Original Minutes and File Copy
Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 22 Fairwind Place
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 123 Blue Beach Drive
Exhibit #3 - Correspondence - Violation of Dangerous Building Ordinance - 123 Blue Beach Drive
Exhibit #4 - Letter from ServPro Dated February 13, 2012 - 123 Blue Beach Drive
Exhibit #5 - Contract Between ServPro and Deborah Statler Dated February 3, 2012 - 123 Blue Beach Drive
Exhibit #6 - Correspondence from Mr. Bob Hartman Dated February 13, 2012 Related to the City's Electric Department

Violation of Dangerous Building Ordinance 22 Fairwind Place

Planning & Inspections Department

Dover, Delaware

February 13, 2012

EXHIBIT #1
Regular Council Meeting of 02/13/2012

22 Fairwind Place
Case History

- Numerous violation cases since 2005
  - Tall grass & weeds/overgrowth
  - Exterior violations
- Following complaints from neighbors, staff attempted to contact the resident/owner beginning in September 2011
- Entered with search warrant on November 21, 2011
- House appeared to be vacated by resident/owner
- Administratively condemned due to insanitary conditions

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

- (5) *Unfit for habitation*
- (9) *General welfare.*
- (10) *Code violations.*








sale
EASY MAC
PURINA
URINARY TRACT HEALTH FORMULA
Venda






DUFFLES

BOOTS & BARKLEY
RAIN & SHINE
FET STROLLER


Whiskas
ACME


$1,000,000
Dr Pepper
Diet
TUITION GIVEAWAY
diet A&W
Mtn Dew
Code Red
Grape
VARIETY PACK
Ginger Family


Crest
Crest
aussie
aussie
YARDLEY
Robitussin


Bath&Body

Recommended Council Action

- Declare this building dangerous.
- Order the property repaired (cleaned) by the owner or equity owner at their own risk.
- Order the Building Inspector to cause the repair (cleaning) of the structures if not completed by the owner **by March 13, 2012**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs to be recovered in a suit at law against the owner.

Violation of Dangerous Building Ordinance 123 Blue Beach Drive

Planning & Inspections Department

Dover, Delaware

February 13, 2012

EXHIBIT #2
Regular Council Meeting of 02/13/2012

123 Blue Beach Drive
Case History

- 35 Code Violation Cases Since 1998
  - Tall grass & weeds/overgrowth
  - Exterior and interior violations
  - Condemnation of residence due to insanitary conditions in May 2006. Progress made toward cleaning interior during summer 2006.
  - Pool declared dangerous by City Council on September 25, 2006
  - September 10, 2010, pool found to be in compliance with code requirements – case closed
- Neighbor Complaints
  - Property has been regular source of citizen complaints since at least 2006
- Outstanding Payments
  - Delinquent Utility Bill
  - Delinquent Code Enforcement Fines

123 Blue Beach Drive
Recent Case History

- Spring 2011
  - Complaints of “junk” in yard and in front of front door – Case opened on March 29, 2011
  - April 21, 2011 – City Public Works Crews, with oversight of PD and Inspections, removed “junk” from the front yard
  - Other violations remained until June 2011
  - Pool violations resumed (compliance made, but violations arise repeatedly)

123 Blue Beach Drive
Recent Case History

- **January 1, 2012** - Dover PD entered for welfare check & contacted Code Enforcement to address interior conditions
- **January 10, 2012** – Animal Control Officer responded to complaint & contacted Code Enforcement to address interior conditions
- **January 23, 2012** - Code Enforcement entered with search warrant – House condemned for insanitary conditions

123 Blue Beach Drive
Recent Developments

- ServPro hired by USAA insurance due to sewage back-up in basement – work began February 3, 2012
- Items contaminated with sewage being removed from basement and cleaned or discarded
- Upstairs not covered under insurance claim
- Evidence of rodent (rat) infestation in basement.

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

- (5) *Unfit for habitation*
- (9) *General welfare.*
- *(6) Light, air, sanitation*
- (10) *Code violations.*

Code Citation
Chapter 22, Article XI

Sec. 22-388. Emergency cases.

In cases where it reasonably appears that there is an immediate danger to the life or safety of any person, unless a dangerous building is immediately repaired, vacated and closed, or demolished, the building inspector shall report such facts to the council, which may cause the immediate repair, vacation, or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section 22-385(5).

Home Interior 2006



Home Interior 2006



Home Interior 2006



Home Interior 2006



Home Interior 2006



Home Interior 2006



Home Interior 2006



Home Interior 2006



Home Interior 2006





The City of Dover
1683
CAPITAL OF THE FIRST STATE
Delaware

Home Interior 2006





Home Interior June 2006 - Progress





Home Interior 2006





January 2012





January 2012



January 2012



January 2012



January 2012



January 2012



January 2012

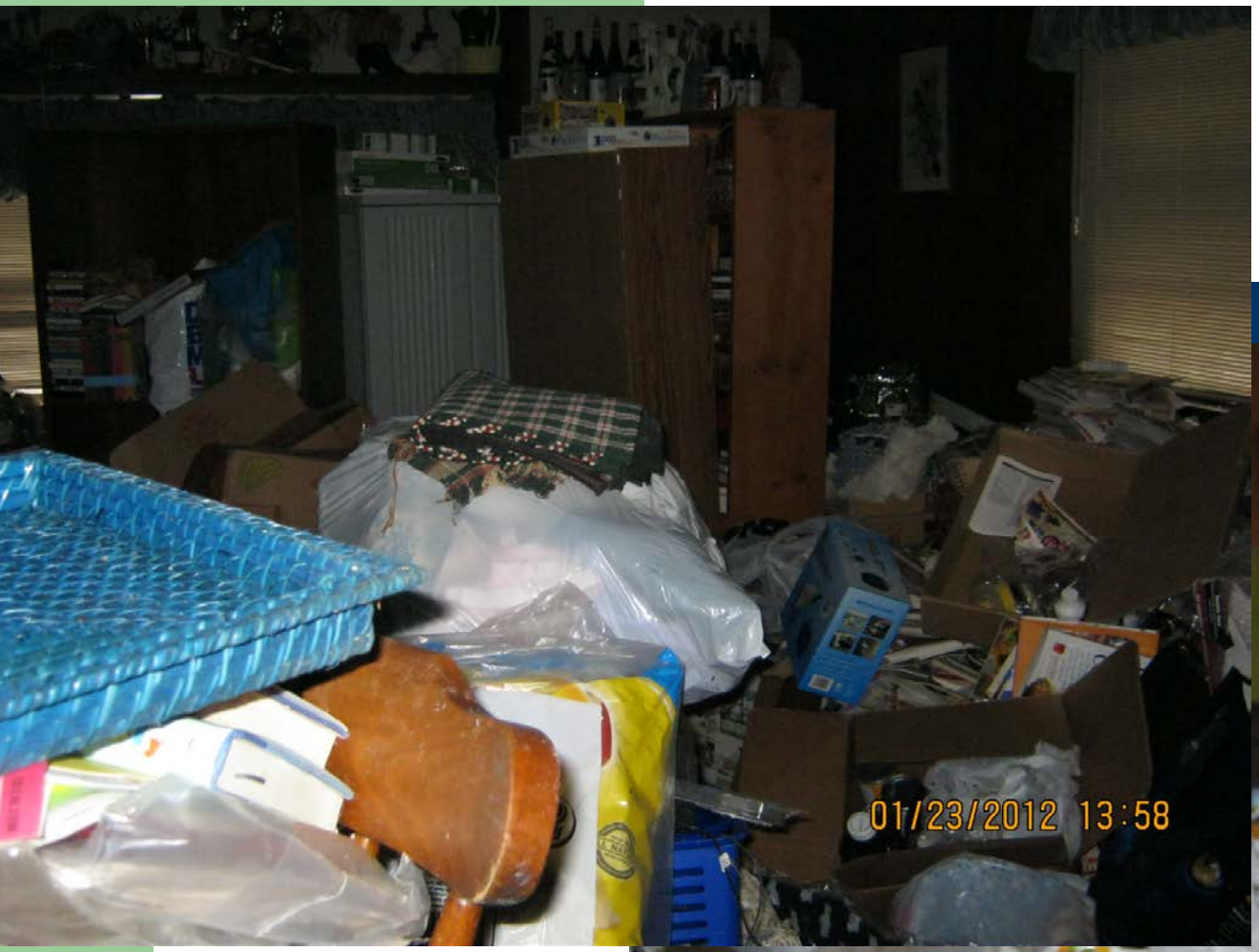




January 2012



January 2012



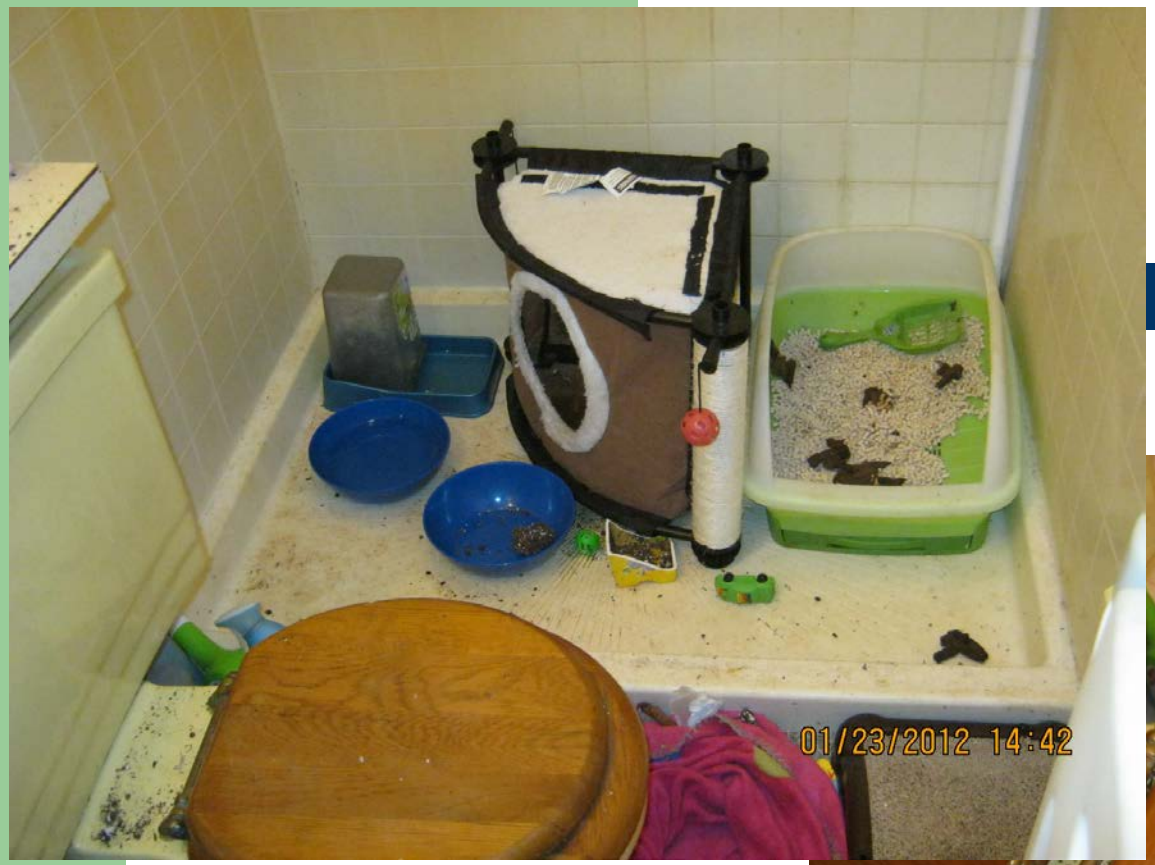


January 2012





January 2012





January 2012



January 2012





Pool 2003



Pool 2005



Pool 2005



Pool May 2006



Pool June 2006



Pool July 2006



Pool July 2007



Pool/Rear Yard May 2008



Pool/Rear Yard May 2010



Pool September 10, 2010



Pool June 2011



Recommended Council Action

- Declare this building, swimming pool and all accessory buildings dangerous .
- Order the property **immediately** repaired or demolished.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner **by February 23, 2012**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

McDowell, Traci

From: James Vecore <devecores@verizon.net>
Sent: Friday, February 10, 2012 9:28 PM
To: McDowell, Traci
Subject: 123 Blue Beach Rd

Ms. McDowell,

I will not be able to make the meeting on Monday night regarding the proposed actions to 123 Blue Beach Rd. I certainly am in favor of something being done here, especially with regards to the pool which is unquestionably a safety and health hazard. I am not familiar with the structure of the house itself being a hazard, but it definately needs to be cleaned up and the property cleaned up and properly maintained. I understand there have been numerous attempts in the past to enforce actions on this property only to have the owner do just enough to pass. Following these actions the property is again allowed to detriorate to the same deplorable condition. Something needs to do permanently rectify these issues.

My main concern is in making sure the city recovers the funds it spends in either demolishing the entire property or portions (such as the pool) of the property deemed dangerous. I also had an in-ground pool that I filled in at considerable expense to myself. I would not be in favor of the city paying for this out of our tax revenue without a positive means of recovering the funds spent from the property owner(s).

Sincerely,

James Vecore
136 Blue Beach Rd
Dover, DE 19934
302-734-2755

McDowell, Traci

From: Judy Weeks <judith.weeks@comcast.net>
Sent: Sunday, February 12, 2012 3:44 PM
To: McDowell, Traci
Cc: generuane
Subject: RE: 123 Blue Beach Drive Public hearing

Ms. McDowell, Mr.Hare, and Mr.McGlumphy,

I have lived in Crossgates for 20 years, and have watched this home deteriorate. The City of Dover has been more than patient in working with this homeowner. It is in the communities best interest to have this property repaired or demolished immediately. Please take action now.

I am sorry I will be unable to attend the hearing on Monday.
Thank you for your consideration in this matter.
Sincerely,
Judy Weeks
325 Fiddlers Green
Dover, DE 19904
678-1454

SERVPRO®
Fire & Water - Cleanup & Restoration™

# of Dover/Middletown

PO Box 485, Dover, DE 19903

February 13, 2012

To Whom It May Concern:

Servpro of Dover/Middletown has been contracted by Deborah Statler and her insurance company, USAA, to remove all contents and debris from the basement and perform all restoration and remediation work required as a result of the water damage and sewage back up. This also includes removing and replacing all affected structure items to ensure that the basement is safe and sanitary.

Deborah Statler has also entered into a contract with us to assist her in removing contents from the main level of the house. This includes but is not limited to packing contents, removing contents and furniture from the structure and removing debris from the structure.

If you have any further questions please contact our office.

Thank You,

Amanda Day
Office Manager

SERVPRO

Authorization to Perform Services and Direction of Payment

Customer Name: Deborah Statler Date of Loss: 02/02/12

Loss Address: 123 Blue Beach Drive

City: Dover State: DE Zip: 19904

Insurance / Client: USAA Insurance Claim Number (if available): 5366608-55

The undersigned client, being the building owner, owner's representative, or resident, authorizes the Provider indentified below to perform any and all necessary cleaning and/or restoration services on Client's property located at the property address above, and with respect to items that need to be cleaned at a remote location to remove and clean such items as necessary.

Client authorizes USAA Insurance Insurance Company herein referred to as "Insurance Company," to pay Provider solely and directly for that portion of the work covered by Client's insurance policy.

If, for any reason, Client receives a check from Insurance Company made payable to Client, Client agrees to pay Provider immediately upon receipt of the check. In order to expedite payment to Provider, Client hereby appoints Provider as attorney-in-fact, authorizing Provider to endorse Client's name on Insurance Company checks or drafts, and to deposit Insurance Company checks or drafts for Provider services.

Client agrees to pay Client's deductible in the amount of $ 500.00 that applies to this claim. If any amounts owing to Provider for Provider services are not covered by insurance, Client agrees to pay those amounts to Provider within fifteen (15) days of Client's receipt of invoice. It is fully understood that Client and its agents, successors, assigns and heirs are personally responsible for any and all deductibles and any costs not covered by insurance. Interest and finance charges will be charged at the maximum allowable by law, or at 1.5% per month, whichever is less, on accounts over thirty (30) days past due. Time is of the essence.

Client agrees that Provider is working for the Client and not Client's insurance company or any agent/adjuster.

Property Owned By: Deborah Statler

Remarks:

I HAVE READ THIS AUTHORIZATION TO PERFORM SERVICES AND DIRECTION OF PAYMENT, INCLUDING THE TERMS AND CONDITIONS OF SERVICE ON THE REVERSE SIDE HEREOF, AND AGREE TO SAME.

Client's Signature: Deborah Statler Provider's Signature:

Printed Name: Deborah Statler Franchise Legal Name: Dover Nunan LLC

Client Reviewed *Customer Information* Form: ⊘ Y ○ N d/b/a SERVPRO® of: Dover/Middletown

Date: 03 Feb 2012 Date: 02/03/12

© SERVPRO® INTELLECTUAL PROPERTY, Inc. ALL RIGHTS RESERVED FE-051707 1.0 28000 06/11
Each SERVPRO® Franchise is Independently Owned and Operated.

Authorization to Perform Services and Direction of Payment

Terms and Conditions of Service

READ CAREFULLY

Note: This Contract includes a limitation of liability and limitation of remedies.

1. SERVPRO® is one of the largest nationwide cleaning and restoration franchise systems in the United States. The SERVPRO® Franchise owner identified on the front of this Contract (the "Provider") is an independent contractor who agrees to perform the services identified on the front of this Contract (the "Services"). Client agrees to purchase, receive, and pay for the Services pursuant to the terms and conditions of this Contract. Servpro Industries, Inc., the Franchisor, is not a party to any agreement with Client, is not a guarantor of the Provider's Services, and is not subject to liability arising out of such Services.
2. Provider's performance of the Services is limited by, among other things, the pre-existing conditions and characteristics of the premises, material, fabrics, furniture, and/or other items. PROVIDER EXPRESSLY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR ANY PRE-EXISTING CONDITIONS. Client shall retain responsibility and shall be liable for all effects of and costs necessary to correct such conditions, including, by way of example and not limitation, the conditions identified below:
   (a) Provider may, in its sole discretion, pretest materials for removability of spots or stains; dye or color fastness; shrinkage; fading; adhesive breakdown; or other problems. It is not always possible to determine these conditions in advance. PROVIDER DOES NOT GUARANTEE SPOT OR STAIN REMOVAL AND COLOR FASTNESS OR PREVENTION OF SHRINKAGE, FADING, OR ADHESIVE BREAKDOWN.
   (b) Provider DOES NOT GUARANTEE that wall and ceiling cleaning will restore the original color to painted surfaces.
   (c) Not all fabrics are conducive to cleaning. Provider shall use reasonable efforts to advise Client of any adverse effects which may be reasonably foreseen due to the nature of the fabric or material involved. PROVIDER DOES NOT GUARANTEE THAT SUCH MATERIALS CAN BE CLEANED OR THAT THERE WILL BE NO ADVERSE EFFECTS TO ANY ATTEMPT TO CLEAN SUCH FABRICS.
   (d) A variety of materials are used in the manufacturing, upholstery and/or installation process. These materials include backing, lining, tacks, or other unknown substances that may cause discoloration or other adverse effects to the face material. Client acknowledges that it is impossible to determine when such adverse effects may occur and PROVIDER DOES NOT GUARANTEE AGAINST SUCH ADVERSE EFFECTS.
   (e) Client acknowledges and agrees that mold is commonly found throughout the environment and that it is impossible to eradicate mold. PROVIDER DOES NOT GUARANTEE THE REMOVAL OR ERADICATION OF MOLD.
3. **PROVIDER SPECIFICALLY DISCLAIMS ANY AND ALL OTHER WARRANTIES AND ALL IMPLIED WARRANTIES (EITHER IN FACT OR BY OPERATION OF LAW) INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY ARISING OUT OF A COURSE OF DEALING, CUSTOM OR USAGE OF TRADE. THIS CONTRACT PROVIDES FOR THE PROVISION OF SERVICES AND DOES NOT PROVIDE FOR A SALE OF GOODS.**
4. Limitation of Liability: **IN NO EVENT SHALL PROVIDER, ITS OWNERS AND OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, FRANCHISOR OR AFFILIATES BE RESPONSIBLE FOR INDIRECT, SPECIAL, NOMINAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES, OR FOR ANY PENALTIES, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ASSERTED, INCLUDING CONTRACT, NEGLIGENCE, WARRANTY, STRICT LIABILITY, STATUTE OR OTHERWISE, EVEN IF IT HAD BEEN AWARE OF THE POSSIBILITY OF SUCH DAMAGES OR THEY ARE FORESEEABLE; OR FOR CLAIMS BY A THIRD PARTY. THE MAXIMUM AGGREGATE LIABILITY SHALL NOT EXCEED THREE TIMES THE AMOUNT PAID BY CUSTOMER FOR THE SERVICES OR ACTUAL PROVEN DAMAGES, WHICHEVER IS LESS. IT IS EXPRESSLY AGREED THAT CUSTOMER'S REMEDY EXPRESSED HEREIN IS CUSTOMER'S EXCLUSIVE REMEDY. THE LIMITATIONS SET FORTH HEREIN SHALL APPLY EVEN IF ANY OTHER REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. Some states/countries do not allow the exclusion or limitation of incidental or consequential damages, so the above may not apply to you.**
5. Should Provider bring legal action to collect monies due under the Contract or should the matter be turned over for collection, Provider shall be entitled, to the fullest extent permitted under the law, to reasonable legal fees and costs of any such collection attempt, in addition to any other amounts owed by Client. This attorney fee provision shall not be effective or enforceable in jurisdictions where attorney fee provisions are made reciprocal or invalid by operation of law. Consent is hereby given for filing of mechanic's liens by Provider for the work described in this contract on the property on which the work is performed if Provider is not paid.
6. Any labor, materials or other work beyond that identified in this Contract shall require a written amendment to this Contract and will result in additional charges.
7. Any claim by Client for faulty performance, for nonperformance or breach under this Contract for damages shall be made in writing to Provider within sixty (60) days after completion of services. Failure to make such a written claim for any matter which could have been corrected by Provider shall be deemed a waiver by Client. **NO ACTION, REGARDLESS OF FORM, RELATING TO THE SUBJECT MATTER** OF THIS CONTRACT MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE CLAIMING PARTY KNEW OR SHOULD HAVE KNOWN OF THE CAUSE OF ACTION.
8. A failure of either party to exercise any right provided for herein shall not be deemed to be a waiver of any right hereunder.
9. CLIENT AND PROVIDER EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL CLAIMS OR CAUSES OF ACTION (INCLUDING COUNTERCLAIMS) RELATED TO OR ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS CONTRACT AND AGREE THAT ANY CLAIM OR CAUSE OF ACTION WILL BE TRIED BY A COURT TRIAL WITHOUT A JURY.
10. If any provision of this Contract is found to be ineffective, unenforceable or illegal for any under present or future laws, such provisions shall be fully severable, and this Contract shall be construed and enforced as if such provision never comprised a part of this Contract. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the ineffective, unenforceable or illegal provision or by its severance from this Contract.
11. No modification, termination, or attempted waiver of this Contract shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.

SERVPRO® Franchisees are always looking for motivated employees.

SERVPRO's individually owned and operated franchises offer a variety of positions including crew chief, production techician, marketing representative, administrative assistant and many more.

© SERVPRO® INTELLECTUAL PROPERTY, Inc. ALL RIGHTS RESERVED FE-051707 1.0

Each SERVPRO® Franchise is Independently Owned and Operated.

From: Bob Hartman
To: City Clerks Office
Subject: Please, it"s time for council to agree on something besides spending more money.
Date: Monday, February 13, 2012 4:04:31 PM

Dear Representatives on City Council;

Soon, Council will be considering spending money to fill positions in the Electric Department. Once again, you will be considering spending money that we do not have. It's especially troubling to me that Council may be giving the go-ahead to hire more people into the Electric Department, a Department that we should be seriously thinking about doing away-with altogether.

The Governor has warned us that municipalities need to be more competitive with their electric rates, and, as you know, Dover rates are not competitive at all. I believe that we need to act now to address this problem before the State gives some portion of Dover electric customers the right to go somewhere else for their electricity. That will leave taxpayers like me, holding the bag as well as paying for expensive upgrades to the old plant and/or dealing with its increasing environmental liabilities.

I would like to know how much money the City could make by selling our old electric plant, versus the benefits we reap from using electric rates as a fee (tax) to everybody and every business in the City. If we don't do something soon it's going to be too late. Please**, all of you** need to think about this clearly and make some intelligent decisions for the City.

And we absolutely should not be filling positions in the Electric Department with the budget shortfall we are faced with.

Bob Hartman
35 Lotus Street, Dover
Concerned Citizen