REGULAR COUNCIL MEETING

The Regular Council Meeting was held on January 9, 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, Mrs. Williams, Mr. Hare, and Mr. Hutchison.

Council staff members present were Police Chief Hosfelt, Ms. Russell, Mrs. Mitchell, Mrs. Townshend, 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.

Reverend Gregory Gordon, 54 S. New Street, noting that there were several construction projects occurring in the City and others being proposed, expressed concern that work was being conducted by companies that are not located within the State of Delaware. He stated that he had placed 67 individuals in jobs since March 5, 2011 and that 64 of those individuals remain employed. Rev. Gordon explained that it has been his goal to change people's spirits. He explained his feeling that the problem is that not enough people in Delaware were filling these positions and suggestion that the bid process should provide criteria that would require hiring of employees from the Dover area (i.e., 40% skilled labor, 30% unskilled labor, etc.). Rev. Gordon also suggested that such a bid process be followed by the State, municipal governments, and the private sector.

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

AGENDA ADDITIONS/DELETIONS

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

Mr. Bonar moved for approval of the consent agenda as presented, seconded by Mrs. Williams and carried by a unanimous roll call vote.

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF DECEMBER 12, 2011

The Minutes of the Regular Council Meeting of December 12, 2011 were unanimously approved by motion of Mr. Bonar, seconded by Mrs. Williams and bore the written approval of Mayor Carey.

PROCLAMATION - NATIONAL MENTORING MONTH

The City Clerk read the following Proclamation into the record:

WHEREAS, the citizens of Dover recognize that our success depends on helping every child succeed in school and reach their full potential in life, and realize that young people need a solid foundation of support that will help them become well-educated, confident, and productive citizens; and

WHEREAS, mentoring is a proven, effective strategy that helps children and young adults by matching them with a caring, responsible adult who can provide guidance and direction, and build their confidence; and

WHEREAS, mentors build character, encourage success, boost confidence, lift expectations, and inspire young people to do their best; and serve as friends, role models, teachers, and sources of stability and support during a critical time in a child's life; and

WHEREAS, research shows that mentoring has beneficial and long-term effects on youth by increasing their academic engagement and decreasing the likelihood of substance abuse and other risky behaviors, and

WHEREAS, thousands of Dover's children are in need of a caring adult mentor in their lives, and closing this mentoring gap will take more investment, partnerships, and volunteers ready to make a difference in a child's life; and

WHEREAS, National Mentoring Month is an opportunity to raise public awareness of the importance of mentoring, recognize the dedicated individuals who serve as mentors, and encourage more citizens to help build a brighter future for Dover's youth through mentoring.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DELAWARE, do hereby proclaim the month of January 2012 as National Mentoring Month in the City of Dover and call upon the people of Dover to recognize the importance of mentoring and look for opportunities to serve as mentors in their communities.

Mayor Carey presented the Proclamation to Ms. Natalie Way, Mentor Coordinator with the Capital School District, Ms. Onita Wells, Big Brothers/Big Sisters, and Ms. Terisha Collins, Communities in Schools.

Ms. Collins relayed appreciation for the recognition and advised members that the Capital Mentors Campaign is composed of Communities in Schools of Delaware, Connecting Generations, Big Brothers/Big Sisters, the Capital School District, and the Greater Dover Committee. Noting that January is National Mentoring Month, Ms. Collins thanked the groups, individuals, and businesses that give of themselves to the youth each week.

To honor those individuals that serve as mentors in the community, Ms. Way advised members that a Mentoring Conference/Summit is scheduled to be held at the Dover Sheraton on January 31, 2012 from 8:00 a.m. to 2:00 p.m. and invited everyone to attend.

PUBLIC HEARING/FINAL READING - PROPOSED ORDINANCE #2011-29

A public hearing was duly advertised for this time and place to consider Proposed Ordinance #2011-29, zoning text amendments, which would permit limited commercial uses accessory to the principal residential use on properties within the General Residence Zone (RG-1 and RG-2) that are located within the City's Historic District Zone and/or listed on the National Register of Historic Places as part of a historic district or as an individual property. It would also require that

such accessory uses be subject to Conditional Use approval by the Planning Commission to set standards for such accessory uses.

Mr. Bonar moved that the Final Reading of the Proposed Ordinance be acknowledged by title only, seconded by Mr. Hare and unanimously carried. *(The First Reading of the Ordinance was accomplished during the Regular Council Meeting of November 28, 2011)*

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the zoning text petition and advised members that the Planning Commission recommended approval of the proposed amendments.

Council President Leary declared the public hearing open.

Ms. Paula Kinsey, 224 N. State Street, advised members that the proposed amendments are the result of her request to be permitted to have a "tea house" in her home. She stated that she has contacted neighbors and that there has been no opposition, and that she discussed her idea with representatives of surrounding towns and clubs who were all anxious for her to open. It was her hope that having a tea house in Dover would help attract more customers to Loockerman Street. Her plan was for the tea house to operate Wednesday through Saturday, from 11:30 a.m. to 4:30 p.m. and seat 15-18 people. The tea house would serve finger sandwiches, desserts, and teas. The tea house would be a place with an elegant setting and gracious hospitality and would provide welcome relief from the hectic world. She explained that there is a difference between a tea house and a restaurant.

Ms. Yvonne Paul, Owner of the State Street Inn at 228 N. State Street, relayed her and her husband's support for the tea house and felt that it would provide visitors a great place to visit. She did not feel that there would be any negative impact to the neighborhood as a result of the tea house and welcomed the addition to the community.

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

By motion of Mrs. Russell, seconded by Mr. Hare, Council, by a unanimous roll call vote, adopted Ordinance #2011-29, as follows:

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

That Appendix B - Zoning, Article 3 - District Regulations, Section 2 - General Residence Zones (RG-1 and RG-2), Subsection 2.4 - Conditional Uses be amended by inserting a new subsection (d) as follows:

(d) In order to stimulate limited commercial activity in the RG-1 and RG-2 zones within the city's historic district zone and/or where a historic district property or a property listed on the National Register of Historic Places exists, and to make this area of historic Dover more attractive to tourists and residents, antique shops, art galleries,

gift and card shops, book stores, specialty hobby stores, and restaurants with no alcoholic beverages may be permitted as accessory uses incidental to the principal residence, subject to the conditional use approval of the planning commission in accordance with Article 10 - Planning Commission, Section 1 - Approval of conditional uses and subject to the following :

i. Total floor area of any non-residential accessory use shall not exceed 2,000 square feet.

ii. A minimum of two (2) off-street parking spaces shall be required to serve the residence and the accessory use.

iii. Signage for the accessory use is limited to one (1) sign not to exceed six (6) square feet in area. Signs may be illuminated, provided that internally illuminated signs shall be prohibited.

BE IT FURTHER ORDAINED:

That Appendix B - Zoning, Article 6 - Off-Street Parking, Driveways and Loading Facilities, Section 3 - Required Off-Street Parking Spaces, Subsection 3.1 - Schedule of Requirements be amended to read as follows:

3.1 Schedule of requirements. Accessory off-street parking spaces, open or enclosed, shall be provided for any lot as specified in article 4, zoning bulk and parking regulations or as specified below for each use in any zone, whichever is greater. , except for existing buildings within the C-2 zoning district, where article 4, section 4.14, zoning bulk and parking regulations governing the C-2 zoning district shall prevail.

(a) Exceptions.

i. Where Article 3 - District Regulations, specifies a minimum parking requirement, this parking requirement shall prevail.

ii. For existing buildings within the C-2 zoning district, the requirements of article 4, section 4.14 - [C-1, C-1A, C-2, C-2A zoned], bulk and parking regulations governing the C-2 zoning district shall prevail.

ADOPTED: JANUARY 9, 2012

SPECIAL SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - DECEMBER 12, 2011

A Special Safety Advisory and Transportation Committee meeting was held on December 12, 2011 with Chairman Hutchison presiding.

Traffic Signal Warrant Analysis for Weston Drive and Forest Street - Recommendation to Remove Signal at Ridgely Street

Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that the Capital School District has recently made improvements to the parking and circulation at William Henry Middle School and Booker T. Washington Elementary School and the next phase of the proposed improvements includes a connection of the internal circulation of the school campus to Weston Drive, which is a city street. When this project was reviewed through the Development Advisory Committee, the City required that this connection be made in conjunction with the installation of a traffic signal at Forest Street (Route 8) and Weston Drive.

Mrs. Townshend informed members that Landmark JCM, the design consultant hired by the Capital School District, completed a signal warrant analysis, which was submitted to and reviewed by the Delaware Department of Transportation (DelDOT). She stated that DelDOT sent the City Manager and her an e-mail indicating that the intersection met the warrants for a traffic signal, but also recommending that the signal at Forest Street and Ridgely Street be removed when the signal at Forest Street and Weston Drive is installed. The placement of signals at both intersections would cause conflicts with vehicle stacking due to the short distance between the intersections.

Mrs. Townshend stated that the installation of a traffic signal at Forest Street and Weston Drive is consistent with the recommendations of the 2008 Delaware Route 8 Operations Study and that the Forest Street Improvements, that were planned nearly 10 years ago, also included the concept of a signal at this intersection. She explained that this is a heavy traffic area.

Mrs. Townshend stated her belief that the signal at Ridgely Street was installed due to the heavy volume of truck traffic utilizing the street to access Playtex and Sara Lee. She indicated that there is still some warehousing and distribution in this area; however, Sara Lee is no longer there and Playtex does not access from Ridgely Street.

In response to Chairman Hutchison, Mrs. Townshend stated that DelDOT recommended that the signal at Forest Street and Ridgely Street be completely removed, not changed to a flashing light. Additionally, Mr. Scott Koenig, City Manager, stated his belief that some of the signal equipment will be relocated to Weston Drive.

Responding to concerns of Mr. Hutchison regarding the light at Gibbs Drive, Mr. Koenig stated that the lights will have to be timed. He explained that having traffic backed up at Ridgely Street has the potential to back up traffic over the railroad tracks, which is an entirely different concern than simple traffic congestion. He explained that DelDOT will have to coordinate the timing of the lights through the traffic management center in Smyrna, DE because the State upgraded all of the lights on Division Street and they are now State assets. Due to the fact that the light at Gibbs Drive is manually activated, it will "create a little havoc" with the traffic there, however, Mr. Koenig stated his opinion that in the long run this will be a better location for the system, despite that manual operation.

Responding to the concerns of Mrs. Russell, Mrs. Townshend stated that the presence of a signal at Weston Drive will still allow for a break in traffic; however, there have not been any meetings with property or business owners in the area.

Mrs. Russell stated that she felt that the property owners, and especially the business owners, needed to be contacted to determine what type of impact the change would have on their businesses.

Staff recommended that the Committee support the addition of a traffic signal at Forest Street and Weston Drive and the removal of the traffic signal at Route 8 and Ridgely Street once this new signal is in place.

The Committee recommended acceptance of staff's recommendation.

By consent agenda, Mr. Bonar moved for approval of the Committee's recommendation to support the addition of a traffic signal at Forest Street and Weston Drive and the removal of the traffic signal at Route 8 and Ridgely Street once this new signal is in place. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote.

Update - Dover High School Construction Project

Mrs. Ann Marie Townshend, Director of Planning and Community Development, briefed members on the status of the Dover High School Construction Project. She informed members that City staff continues to meet monthly with the Capital School District and their consultants, the Delaware Department of Transportation (DelDOT), and a representative from the Delaware Department of Natural Resources and Environmental Control (DNREC), who occasionally attends to offer a stormwater perspective. She advised members that the next coordination meeting is scheduled for December 15, 2011.

Mrs. Townshend informed members that the Capital School District was almost finished finalizing the entrance plan approvals and that the City has released the foundation only permit, so they are able to do foundation work. However, she stated that work has ceased on the site until some of the concerns raised by DNREC related to the stormwater management have been addressed. She explained that there was a lot of tracking of soil onto Route 8, and as a result DelDOT, the Kent Conservation District, and the City contacted DNREC. DNREC, DelDOT and the City met with the site contractors on Friday, December 9, 2011 and agreed that work would stop until the contractors can make sure that the erosion and sediment controls will ensure that any sediment is contained on the site. She stated her anticipation that the project should be resumed on Wednesday, December 14, 2011.

In response to Mr. Davis, Mrs. Townshend agreed that the situation did appear better earlier in the day because crews worked over the weekend upgrading the construction entrance, cleaning out the swales where some sediment had accumulated, and cleaning off the roadway.

Responding to Chairman Hutchison, Mrs. Townshend and Mr. Scott Koenig, City Manager, stated that they were satisfied that the entrance was moving in the right direction. Mrs. Townshend explained that staff anticipated that construction crews would work through the weekend to have everything ready for DNREC to perform a reinspection on Tuesday, December 13, 2011 and to be back up and running on Tuesday or Wednesday.

In response to Chairman Hutchison, Mr. Koenig explained that the "next big hurdle" will be getting the final entrance plans approved for Route 8. He informed members that, during the last coordination meeting, issues were discussed related to utility relocation on the north side and those concerns have been resolved. The City, Comcast, and Verizon have provided prices for relocation of facilities; however, the entrance plan approval must be completed before the City can issue the building permit. Mrs. Townshend assured members that staff will not issue anything beyond the foundation permit until the full entrance plan approval is received from DelDOT. Mr. Koenig stated that the contractors anticipate receiving a full building permit during the month of February because they cannot set any steel until they have the full building permit, which is tied directly to the entrance approval and the approval of the improvements for Route 8.

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

UTILITY COMMITTEE REPORT - DECEMBER 12, 2011

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

Net Energy Metering Tariff Revision *(Deferred by Committee on November 28, 2011)*

Mr. Ron Lunt, Public Utilities Director, reviewed a proposed revision to the Electric Service Handbook relating to the net energy metering tariff. He advised members that the 145th General Assembly approved an amendment to the net energy metering standards, Delaware Code – Title 26, Chapter 10, Subsection 1014. The purpose of this amendment was to encourage private investment in customer-owned renewable energy generation facilities. On November 28, 2011 the Utility Committee recommended that Council approve modifications to the Electric Service Handbook (Handbook) to incorporate these new standards. The recommended net energy metering tariff would codify the monetary compensation payable to customers who deliver energy to the City of Dover, as outlined in the "Rate" section of the tariff and the Handbook. Additionally, staff recommended inclusion of a new subsection "4.11 Definitions," to the Handbook to provide further clarity to the intent of Section 4. Mr. Lunt explained that these proposed changes would bring the City of Dover tariff into compliance with the Delaware Code and were approved by Mr. Kirk Betts, Betts and Holt, LLC, City of Dover utility attorney.

Mr. Lunt advised members that the new provisions outline the exact amount of money that the City will pay customers who generate more electricity than they use. If customers send energy over the distribution system, the City will pay them the applicable wholesale rate so that they are still supporting the cost of the distribution system. He indicated that staff recommended using a rate of $0.07045 per kWh for the City's Fiscal 2012 budget year, which is the wholesale power cost projected for this year. Mr. Lunt stated that this figure was obtained from The Energy Authority's reported cost of energy during the month of October.

The Committee recommended approval of the revised net energy metering tariff portion of the Electric Service Handbook and the addition of a new subsection "4.11 Definitions" to Section 4 of the Handbook.

In response to Mr. Blakeman, Mr. Lunt advised members that these proposed revisions were not included in the Electric Service Handbook Revisions that were scheduled for consideration by City Council later in the evening; therefore, the changes being discussed would be reviewed by Council at a subsequent meeting.

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

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

Members reviewed Project Tracking Reports, as of September 30, 2011 and October 31, 2011, for the Utility Related (Electric and Water/Wastewater) Capital Investment Plan (CIP). Mr. Ron Lunt, Director of Public Utilities, noted that the Route 13 water project is nearing completion and is now in the checklist and inspection phase. He advised members that the contractor performed some additional paving over the trench that was created and that the contractor felt that this was an addition to the contract; staff and the engineering firm that is managing the project disagreed with that assessment. As result, the contractor issued a change order, which the City has denied.

In response to Mr. Bonar, Mr. Lunt explained that it was originally envisioned that the contractor would repave all three (3) lanes; however, the Delaware Department of Transportation (DelDOT) requested that DelDOT be allowed to perform this work under their contract. This project (including work on handicapped ramps) was taken from the contractor performing the Route 13 water project and given to DelDOT, including the handicapped ramps. It was Mr. Lunt's understanding that paving this entire section of Route 13 would be undertaken by DelDOT in late spring. He noted that the City will reimburse DelDOT for the portion of the cost of repaving those lanes that the City disrupted.

Mr. Lunt stated that all other CIP projects are moving forward fairly well.

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

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - DECEMBER 12, 2011

The Legislative, Finance, and Administration Committee met on December 12, 2011 with Chairman McGlumphy presiding.

Proposed Amendment to Personnel Policy - Compensatory Time

Mr. Scott Koenig, City Manager, advised members that with the implementation of ADP, a simplified, City-wide policy needed to be created for compensatory time (comp time). During a staff meeting held on July 12, 2011, the general consensus was to eliminate the existing requirement that comp time be used within 90 days and instead implement a maximum accumulation. Members reviewed the revised personnel policy language (which included strike-outs for deletions and red font for additions).

Referring to previous discussions regarding this issue, Mr. Koenig noted that there were concerns regarding which employees would be affected by comp time provisions. He requested that the amendments apply to all personnel at the current time. He explained that including all personnel will allow staff to further the implementation of the time and attendance module of ADP. Mr. Koenig requested that specific considerations regarding which employees should be affected by the various provisions related to comp time take place at a later time.

Staff recommended approval of the revisions to Article III, The Pay Plan - Section 9: Overtime, of the City of Dover Personnel Policy.

The Committee recommended approval of the revisions to Article III, The Pay Plan - Section 9, Overtime, of the City of Dover Personnel Policy.

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

Controller/Treasurer's Briefing on the Activity of the State Communications Tax Review Group

Mrs. Donna Mitchell, Controller/Treasurer, advised members that she was selected by the Mayor to serve as the City appointee to the State Communications Tax Review Group and, as a result, has been attending meetings of the Group, which was established by Representative Darryl Scott. She noted that the goal of the Review Group, as provided in House Joint Resolution 3, was to study and make recommendations for improving Delaware's taxes and fees applicable to communications providers. Members reviewed a listing of the taxes and fees discussed.

Mrs. Mitchell stated that communications providers are currently billed $38.6M in revenues. The Review Group has been charged with determining a way to streamline these charges and make them fair and equitable to communications providers. In reviewing the material provided, she noted that Verizon made a presentation to the Review Group and explained their concerns regarding Valuation Issues with Special Betterments (Page 5 of the Presentation). She reviewed the proposed solutions provided by Verizon (Page 7 of the Presentation).

Mr. Hare relayed his concerns with the City being met with another legislative mandate and his objection to the City being required to conduct a reassessment at the State's "whim." He suggested that the Chairmen of the Legislative, Finance, and Administration Committee and Utility Committee meet with representatives of Kent County to determine directions being considered in this regard.

Mrs. Mitchell noted that the property values stated by Verizon varied from the City's figures and that it appeared that the figures provided by Verizon did not take into consideration the City's current practice of using 100% of the assessed property value when determining taxes, rather than 60% of the assessed value (which was the City's former procedure). She noted that Verizon provides the City with a statement of values each year and that these figures have not been adjusted since the City converted from 60% to 100%.

No further action was required by the Committee.

Review of Open Forum Rules (*Request of Councilmen Anderson and Lynn*)

Mrs. Traci McDowell, City Clerk, advised members that in order to provide more opportunities for citizen input, Councilmen Anderson and Lynn requested a review of the rules regarding the Open Forum, which is held prior to each regular City Council meeting. Currently, the Open Forum segment is provided to extend an opportunity to the general public to share their questions, thoughts, comments, concerns, and complaints. Discussion of any item appearing on the agenda is prohibited and citizen comments are limited to three (3) minutes. Council is prohibited from taking action on items brought forth during the Open Forum since they are not in official session; however, they may schedule such items as regular agenda items and act upon them in the future. Councilmen Anderson and Lynn indicated they would like to revise these rules to allow public comment on current agenda items during the Open Forum segment of the meeting. Members reviewed a history of the Open Forum at Council.

Mr. Anderson reminded members that prior to the initiation of the Open Forum, the only means for the public to address members of Council was during Quarterly Open Town Meetings and noted that the Open Forum receives much better participation than the Quarterly Open Town Meetings did. However, he felt that residents have been discouraged from speaking during the Open Forum since there is a restriction prohibiting addressing any item on the agenda and individuals are provided only three (3) minutes each to speak during the Open Forum. Mr. Anderson reminded members that there have been instances where the "rules were waived" to allow comments during the Open Forum regarding an item on the agenda and mentioned another instance when the Deputy City Solicitor indicated that, since Council was not in official session, the rules could not be waived. In order to eliminate any confusion regarding this matter, he suggested that the restriction against speaking on an item listed on the agenda for discussion be removed.

Mr. Lynn stated that, although the City Clerk's Office does an outstanding job of keeping the public abreast of issues facing the City of Dover, residents are often unaware of issues until they read an article in the newspaper and wish to address members of Council on the evening when that issue is to be discussed. These residents are then precluded from doing so due to the rules of the Open Forum. It was his feeling that any opportunity for a citizen to voice their opinion to an elected body is one that should be taken. Mr. Lynn felt that opening up the Open Forum Session to issues on the agenda could do no harm and would provide an avenue for citizens to address City Council. Mr. Lynn requested that the rules restricting the topics of the Open Forum Session be amended to permit citizens to address any and all issues before City Council, with the exception of those items that are afforded a public hearing.

Mr. Bonar stated his involvement with public comment sessions throughout the State due to his profession as a facilitator and presiding officer. It was his experience that, generally speaking, there is apathy about public hearings, despite well advertised opportunities for participation. Mr. Bonar stated that, since the citizens pay City Council members' salaries, Council should listen to them and afford them every opportunity to make their comments known. He also suggested the possibility of starting the Open Forum earlier and relayed his concurrence with the suggestion to eliminate the restriction, explaining that someone may bring information forward that members had not thought of previously.

Although she concurred with Mr. Bonar, Mrs. Williams stated that the 15 minute time provided for the Open Forum may not be sufficient since many of those that speak do not honor the three (3) minute time limit. Her concern with the proposal was ensuring fairness, noting that if there were several individuals wishing to speak during the Open Forum, not all may be afforded the opportunity since the Regular Council Meeting begins at 7:30 p.m. She felt that it may be necessary to maintain the restriction, if only to ensure fairness.

Council President Leary advised members that 15 minutes is not practical when there is a "hot" topic on the agenda; therefore, he felt that the guidelines for the Open Forum should remain as currently written.

Mr. Shevock relayed concern with allowing only 15 minutes prior to a meeting if there is an item on the agenda that is highly contested and questioned if members would restrict those who wish to speak or allow individuals to address members and repeat what has already been shared by another. He felt that if there is a controversial issue, it would be difficult to allow enough time for everyone to speak.

Mr. Hare stated no objections to allowing individuals to address members; however, he suggested that there would be a need to restrict the length of time allotted for each individual to two (2) to three (3) minutes, particularly if there is a topic that several citizens wish to address.

Mr. Lynn felt that the public's right to address an elected body is precious and should be protected. If there are residents who leave disappointed because there was not enough time to allow everyone to speak, that would be acceptable to him as long as some were given the opportunity to address the issue. He felt that this would at least demonstrate that City Council was making an effort to allow the public to address members.

Mr. Bonar indicated that it has been his practice to request that a representative be selected to speak on behalf of those who have the same view and that the others can submit written testimony. He also stated the importance of restricting comments to three (3) minutes.

Mr. Shevock questioned if Council would require that a spokesperson be appointed if there was a large group of people wishing to speak regarding a particular item, rather than having each individual speak.

Responding, Mrs. Williams explained the difficulty of selecting a spokesperson since individuals do not always have the same feelings regarding a particular issue. In addition, she relayed concern about recent public hearings (regarding the new Library) when individuals who spoke were not citizens of the City of Dover. Although she wished to obtain the maximum amount of information possible, she felt that the opinions of the citizens of Dover should be given priority and did not wish to hear from anyone other than a citizen of the City regarding City issues.

Mr. Hare felt that, in addition to citizens, property and business owners who may not be residents should also be given priority to speak.

In response to Mrs. Williams, Mr. Lynn stated that there have been instances during his tenure when individuals were allowed to address members of Council without consideration as to their residence, most recently a hotel tax proposal.

Responding to concerns of Mr. Shevock, Mr. Lynn stated that members would need to consider each matter on a "case by case" basis to determine if a special meeting is necessary to allow ample time for all public testimony. He noted several instances when Kent County Levy Court had to schedule such meetings and special hearings. He felt confident that the City could plan accordingly for any "hot" topics. He explained his concern is with "Joe Citizen" reading an article in the morning newspaper about an issue that Council will be considering later in the evening and providing him the opportunity to address members.

Mrs. Williams relayed concerns with the comparison made between City Council and Kent County Levy Court, noting that Kent County is partisan, several individuals that speak before Levy Court are lobbyists, and Levy Court Commissioners are reimbursed for their time at an annual salary that exceeds $24,000. She noted that many of the Levy Court Meetings extend past midnight. She explained that City Council is not the same type of body as Kent County Levy Court. She suggested that before members consider changing the current format for the Open Forum Segment, they research the matter to determine if any change would maintain the same level of fairness.

Dr. McGlumphy noted that when the Open Forum Segment was originally proposed, it was initiated on a trial basis. He suggested eliminating the prohibition against discussion on any matter listed on the agenda on a trial basis. He assured members that if it was determined that the change causes problems, members of Council could consider additional changes in the future.

The Committee recommended that the Open Forum rules be revised to allow discussion of agenda items, with the exception of public hearing items.

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

Council President Leary stated that, although he agreed with the spirit of the motion, he felt that there could be a practicality issue since there were only 15 minutes available at the beginning of a meeting. He was concerned that the proposed change in procedure could become difficult to manage at some future point.

Dr. McGlumphy felt that the proposed changes could be made on a trial basis and, should the Open Forum become out of control, members of Council (or future Councils) could revisit the issue.

The motion for approval of the Committee's recommendation to revise the Open Forum rules to allow discussion of agenda items, with the exception of public hearing items, was carried by a role call vote of eight (8) yes and one (1) no (Council President Leary).

United Networks of America Letter of Agreement

Mr. Scott Koenig, City Manager, reminded members that during the months of September and October, the Legislative, Finance and Administration Committee and City Council reviewed a

proposal from United Networks of America for a Health Discount Card Program. (Copies of those meeting minutes were reviewed by members.) Based on the approval of City Council, United Networks of America provided staff with a Letter of Agreement. Mr. Koenig noted that the Letter of Agreement was not a part of the initial review; therefore, it was felt that Council should be aware of this condition before the agreement was executed. He advised members that this was an exclusive agreement for a two (2) year period. City staff was previously under the impression that the City would have almost no involvement in the program. While it did not appear that the City would have significant involvement, there were sponsorship requirements that must be met by the City of Dover. Mr. Koenig stated that it did not appear these requirements would be labor intensive; however, he noted that staff was not in a position to take on additional responsibilities at this time. He reminded members that Kent County sponsors a similar program and all City residents qualify for the Kent County Program.

Mr. Koenig noted that Mr. Anderson provided an email dated December 12, 2011, from Mr. Allan Caan, Program Development Director with United Networks of America, for consideration .

Mr. Koenig explained that although the City of Dover would be a sponsor of the program, the City would not be directly involved in the execution of the program or work daily with the program. His concern developed once he read the documents that led him to believe, from a contractual standpoint, the City of Dover would have obligations. He stated that he was prepared to execute the Letter of Agreement should the Committee and Council so desire.

Staff recommended, if Council reaffirmed their support for the Health Discount Card Program, that the City Manager be authorized to sign the agreement as presented.

Responding to Mrs. Russell, Mr. Koenig stated his understanding that individuals who have health care insurance would not utilize the health discount card since their health insurance provides a different level of coverage than that provided by the discount card. The health discount card program would be for those who are currently not covered by health care insurance. With regard to any monies provided to the City, Mr. Koenig stated that the Letter of Agreement indicates that "United Networks of America is under no obligation to pay the rebate to the sponsor if for any reasons these funds are not made available to United Networks of America;" therefore, such funds may or may not be received by the City.

Mr. Anderson stated that the Letter of Agreement is to indicate the intention of United Networks of America to provide funds to the City and, in return, to request that no competing program be utilized during the City's participation. However, should the City find a better program or wish to cancel the program for any reason, the City can cancel after providing 60 days notice.

Mr. Shevock questioned the need for the City to become involved in such a program when a similar program is currently offered by Kent County.

Mr. Lynn noted that there is a clause in the Agreement that indicates that either party may terminate the Agreement without cause by providing a 30-day written notice. If at any point the City was not

pleased with the program, he stated that there is the ability to cancel. His only concern was that there was no accounting provision and if any questions arose about the receipt of the City's portion of the funds, there was no mechanism in the Agreement that would allow the City to request documents related to accounting. However, Mr. Lynn felt that the City should move forward, particularly considering that there was an opportunity to receive revenue. He suggested that the City Solicitor's Office negotiate and/or add language that provides the City the right to request accounting documents to make sure this is an "arms length" transaction, that United Networks of America is performing as required, and that the City is receiving any monies due.

In response to Mrs. Russell, Mr. Anderson stated that the City's Program would differ from the Program offered by Kent County since the City's Program would provide larger discounts to those without prescription insurance and also provide vision care.

Responding to Dr. McGlumphy, Mr. Koenig stated that the Letter of Agreement had been reviewed by the Deputy City Solicitor; however, the accounting concerns had not been raised as an issue.

The Committee recommended tabling the Letter of Agreement with United Networks of America until such time that some type of accounting assurance is provided to the City.

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

Dr. McGlumphy moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mrs. Williams and unanimously carried.

MONTHLY REPORTS - NOVEMBER 2011

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

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

Review and Recommendation - Filling Critical Positions - Police Officers (3)

During their Regular Meeting of November 28, 2011, Council considered a request to fill three (3) critical police officer positions and referred the matter to the City Manager, Controller/Treasurer, and staff to gather data on the costs to fill the Police Officer positions for a preliminary report back to members during their first meeting in January 2012.

Mr. Scott Koenig, City Manager, read staff's recommendation into the record, as follows:

"At the November 28, 2011 Regular Council Meeting, the City's Controller, Mrs. Donna Mitchell, and I were tasked with developing a recommendation regarding the potential hiring of three (3) police officers to replace three (3) officers who have either separated service from or retired from the City's Police force since July 1, 2011. The Police Chief's hiring request was intended to increase the number of uniformed police officers from the current level of 90 to the previously authorized and budgeted level of 93. The estimated annual cost of wages, benefits and gear for FY-2013 to fill a Patrolman 1 position is $88,000 - $98,000 per year as calculated by the City's Controller. As you are aware, there is currently a hiring freeze in place and members of Council, the Mayor and senior staff have all expressed concerns about the potential impact of an estimated $3.4 million shortfall to begin the budget process for Fiscal Year 2013. In recent months, all departments have made efforts to reduce the budgets for the current year as well as future years while trying to preserve the highest levels of service possible. A large portion of the city's budget is driven by personnel costs so staffing levels control the direction of our operating budgets.

The Annual Operating Budget for FY-2010 included 397 full-time personnel (301.5 in the general fund, 53.5 in the electric fund and 42 in the water/wastewater fund). The adopted FY-2012 Annual Operating Budget included 370.5 full-time personnel (288.5 in the general fund, 47 in the electric fund and 35 in the water/wastewater fund). As of this writing, there are approximately 30 vacancies throughout the city's operations. The annualized salary and benefits of these 30 vacant or soon to be vacant positions is approximately $2 million dollars of which $1 million can be attributed to the General Fund. All indications are that we cannot simply reduce the operating budget by $3.4 million dollars without significantly altering service levels in a number of areas. From a purely budgetary standpoint, the request to hire the three (3) police officers should be denied since I cannot in good faith guarantee that we can sustain the size of the current workforce based on the current revenue and expense picture.

With that being said, I believe managing and living within Delaware's Capital City must be viewed in a more complex manner than simply looking at a budget document which represents a general manpower and spending guide that is intended to benefit the health, safety and welfare of our community, our visitors and our workforce. In this respect, I feel that it is necessary to outline other options for the Council to consider with respect to this issue.

The City's Controller has also reviewed the Police Department's FY-2012 budget and their year-to-date expenses. Based on this review, we believe the base salaries will likely come in under the budgeted number by as much as $281,000 due to attrition and additional savings in other pay categories. This number does not account for the impact of the PERB arbitrator's pending decision (estimated impact of $60,000 - $120,000 annualized) nor does it account for any retirement pay outs between now and the end of the fiscal year.

The Chief has indicated that there are two (2) certified police officers that could be hired immediately if he is given the authorization to hire. These new officers could begin in-service training on or around February 1, 2012 and progress to fully utilized police officers in the City's Police Department by the middle to end of March, after several weeks with a training officer. There are funds available in the FY-2012 budget to hire these two (2) officers should Council vote to hire.

These two (2) additional officers would bring the size of the police force up to ninety-two (92) officers. It should be noted that while City Council has authorized up to ninety-three (93) officers, we have never reached this level, because officers have left the force before new hires were finished with the required training period. Ninety-two (92) officers would be our highest number of actual manpower in the department's history.

As I have previously indicated, my concerns are more related to the development of the FY-2013 budget and the financial impact associated with hiring these additional officers. The hiring of these two (2) additional officers will impact the sustainability of our current tax rate. The Chief is aware of my concerns regarding the sustainability of the budget and has indicated that he believes we can build the FY-2013 budget without one of the custodial staff positions assigned to the Police Department. The custodial employee has announced that he will retire in March 2012. This deletion of a civilian custodial position in the FY-2013 Police budget will result in an estimated annualized savings of $50,000. In addition, we believe other administrative changes can yield additional savings in the FY-2013 Police Budget. These identified savings will only partially offset the costs of hiring the two (2) certified officers. If City Council elects to fill these two (2) positions as I have outlined, I anticipate there will be a need to put forth a tax increase recommendation in order to sustain the funding of these positions.

The third position request from the Chief should be delayed and not considered until the budget hearings for FY-2013. The City of Dover utilizes the State Police Academy for new police officer recruits. The earliest possible date for the third position to attend the next police academy is Mid-March or Mid-April 2012 according to Chief Hosfelt; however, these dates are not firm at this time. Based on this timeframe, the third position would not be available to assist the current workforce until the fall of 2012. Therefore, the request for a new recruit should be delayed based on our current economic conditions.

I believe the above recommendations have been supported based on my meetings with Mrs. Donna Mitchell, Controller and Chief James Hosfelt. Please note that authorization to hire these officers will likely result in additional requests to fill other critical positions throughout the City. I have several positions that are not directly related to Public Safety but are critical to the overall health, safety and welfare of our citizens."

Mr. Hutchison moved to authorize the Police Chief to hire two (2) additional police officers, as recommended by staff, seconded by Mr. Hare.

Mr. Bonar advised members that, in speaking with constituents regarding this issue, he had not received any negative comments when it came to the possibility of having to levy an increase in taxes to make sure the City's Police Department was adequately staffed.

Mr. Anderson noted that, in addition to comments heard from citizens, he has received comments from the business community encouraging the hiring of additional police officers. He stated that the issues facing the City are at a critical level and the public has awakened and realized the need for a fully staffed police force. If Council did not act in a favorable way, he stated that the City would begin to lose more businesses, which would impact tax and electric revenues, as well as economic development. He stated that this would ultimately cost the City more money.

Dr. McGlumphy suggested that members consider reviewing the organization as a whole to determine its health. He felt that, over the years, the Police Department has been adequately staffed, which is evident by Federal Bureau of Investigation (FBI) statistics. Due to the City's economic situation, he relayed concern with the possibility of future employee layoffs, including police officers. He stated that the hiring of one (1) additional officer would provide a revenue neutral safe position in which grant money could be utilized. He stated that constituents have questioned if there are too many officers serving in administrative positions that could work in street positions. To his knowledge, the constituent who asked for this information has not received a response.

Dr. McGlumphy noted that, in this type of economic climate, different departments in the organization may deem other positions critical. With regard to employee negotiations, he questioned what organization would not want more employees; however, he felt that what is reasonable and important must be considered and resources must be reallocated. He cautioned members that the action taken regarding this request will need reconsideration in a few months during the City's Budget review.

Mrs. Williams explained her concern that, due to the current economic climate, there was no way for the City to sustain the hiring of additional police officers and feared that members of Council would not take appropriate action to raise taxes in this regard when the time comes. She indicated that she would not support the hiring of the additional officers since she did not feel their employment could be sustained and advised members "don't buy what you can't afford."

On a call for the question by Mr. Hare, the motion to approve the hiring of two (2) additional police officers, as recommended by staff, carried by a roll call vote of seven (7) yes and two (2) no (Dr. McGlumphy and Mrs. Williams).

COUNCIL APPOINTMENT - 2011/2012 STAFF - BUILDING INSPECTOR - ANN MARIE TOWNSHEND - ANNUAL APPOINTMENT TO EXPIRE MAY 14, 2012

By consent agenda, Mr. Bonar moved to appoint Mrs. Ann Marie Townshend to serve as Building Inspector, seconded by Mrs. Williams and carried by a unanimous roll call vote.

APPOINTMENT OF DELAWARE MUNICIPAL ELECTRIC CORPORATION (DEMEC) DIRECTOR AND ALTERNATE DIRECTOR *(Scott Koenig and Jeremy Johnson)*

By consent agenda, Mr. Bonar moved to appoint Mr. Scott Koenig and Mr. Jeremy Johnson to serve as Delaware Municipal Electric Corporation (DEMEC) Director and Alternate Director, respectively. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote.

REAPPOINTMENTS - YOUTH ADVISORY COMMITTEE - ONE (1) YEAR TERMS TO EXPIRE JANUARY 24, 2013

By consent agenda, Mr. Bonar moved to reappoint: 1) Kenneth Anderson; 2) Kristen Dietz; 3) Chidinma Emenike; 4) Dennis Hallock II; 5) Karly Jones; 6) Sonya Modi; 7) Valerie Provotorova; and 8) Rachel Voak, to serve on the Youth Advisory Committee for an additional one (1) year term to expire January 24, 2013. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote.

APPOINTMENTS RECOMMENDED BY MAYOR CAREY - HUMAN RELATIONS COMMISSION - THREE (3) YEAR TERMS

Mayor Carey requested the following appointments to the Dover Human Relations Commission: 1) Ms. Justina Hilary Brewington (to fill the unexpired term of Ms. Maisha Britt), with a term to expire February 2013; and 2) Ms. Linda Hackett (to fill the expired term of Mr. Ivan L. Finney), with a term to expire February 2015.

By consent agenda, Mr. Bonar moved for approval of the appointments to the Dover Human Relations Commission, as recommended by Mayor Carey, seconded by Mrs. Williams and carried by a unanimous roll call vote.

COUNCIL MEMBERS ANNOUNCEMENTS

Mayor Carey thanked the City Manager, Controller/Treasurer, and members of City Council for their efforts in hiring additional police officers.

Mr. Bonar explained that Council's disagreement during debate did not mean that members were disagreeable with one another but only that each member desired to take the action that they felt would best serve the City of Dover.

Mrs. Williams moved for adjournment into the Special Council meeting to discuss legal matters, seconded by Mr. Bonar and unanimously carried.

Meeting Adjourned at 8:14 P.M.

TRACI A. McDOWELL
CITY CLERK

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

CARLETON E. CAREY, SR.
MAYOR

/TM/jg/js/dd
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