LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on December 12, 2011 at 6:01 p.m. with Chairman McGlumphy presiding. Members present were Mr. Anderson, Mr. Hare, and Mr. Shevock. Dr. Jones was absent. Members of Council present were Mrs. Russell, Mr. Bonar, Mr. Hutchison, Mr. Lynn (arrived at 6:12 p.m.), Mrs. Williams, and Council President Leary. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

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

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.

Mr. Hare moved to recommend approval of the revisions to Article III, The Pay Plan - Section 9, Overtime, of the City of Dover Personnel Policy, seconded by Mr. Shevock and unanimously carried.

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. Anderson moved to recommend that the Open Forum rules be revised to allow discussion of agenda items, with the exception of public hearing items. The motion was seconded by Mr. Hare.

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 motion to recommend that the Open Forum rules be revised to allow discussion of agenda items, with the exception of public hearing items, was unanimously carried.

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 ***(Attachment #1)***.

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 is 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 is 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.

Mr. Anderson moved to recommend tabling the Letter of Agreement with United Networks of America until such time that some type of accounting assurance is provided to the City. The motion was seconded by Mr. Hare and unanimously carried.

Public Comment Period
There was no one present wishing to speak during the public comment period.

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

Meeting Adjourned at 6:56 P.M.

William P. McGlumphy
Chairman

WPM/TM/jg/js/dd
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Attachments to Original and File Copy
Attachment #1 - Email dated December 12, 2011, from Mr. Allan Caan, Program Development Director with United Networks of America

Devine, Denise

From: David Anderson <davidlevianderson@gmail.com>
Sent: Monday, December 12, 2011 5:28 PM
To: City Clerks Office
Subject: Fwd: alert

Fyi

---------- Forwarded message ----------
From: "Allan Caan" <allanc@newjerseydrugcard.com>
Date: Dec 12, 2011 5:19 PM
Subject: Re: alert
To: "David Anderson" <davidlevianderson@gmail.com>

Councilman Anderson,

The following are the key points directly from the letter of agreement.

The UNA Rx program provides discounts not only for prescriptions, but also eyeglasses, contact lenses, hearing aids, diabetic supplies and more. The Rx card also discounts prescriptions for pets.

For every discounted Rx filled using the card, Dover will be compensated $.50.

UNA will supply Dover an initial 5,000 cards to distribute for free as well as Dover having the ability to offer the card through the Dover website and other distribution outlets.

As per the agreement as quoted below. Dover is under no obligation to do anything. We believe in the normal course of providing available services to residents, this will just be an additional benefit for the residents of Dover.

Paragraph 4 of the agreement.

"However, SPONSOR is not obligated to promote the program. "

To complete the process we require the following:

2 signed agreements
Completed contact sheet
W9 form filled out and signed.
High resolution Dover seal for the cards sent to me by e-mail.

Documents should be sent to:

Allan Caan
UNA
19-62 Chandler Drive
Fair Lawn, NJ 07410

I am available by phone to answer any questions. 201-410-5804.

Allan Caan
Program Development Director
United Networks Of America
201-410-5804
E-mail: ac@unitednetworksofamerica.com

----- Original Message -----
From: David Anderson
To: Allan Caan
Sent: Monday, December 12, 2011 2:31 PM
Subject: alert

You will want to look at the United Networks of America item.