LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on September 12, 2011 at 5:30 p.m. with Chairman McGlumphy presiding. Members present were Mr. Anderson, Mr. Hare, Dr. Jones, and Mr. Shevock. Members of Council present were Mr. Bonar (arrived at 5:38 p.m. and departed at 7:03 p.m.), Mr. Hutchison, Mr. Lynn, Mrs. Russell (arrived at 5:35 p.m.), Mrs. Williams (departed at 6:02 p.m. and returned at 6:44 p.m.), and Council President Leary. Mayor Carey (departed at 7:01 p.m.) was also present.

AGENDA ADDITIONS/DELETIONS

Referring to Item #3 - Proposed Ordinance #2011-15 (regarding Homeowners' Associations), Mr. Anderson stated that the concerns discussed by members during their meeting of June 27, 2011, regarding this issue had not been resolved; therefore, he suggested that this item be removed from the agenda.

Responding to Mr. Hare, Mr. Anderson stated his desire to develop an amendment that would protect the rights of individuals who would be required to join homeowners' associations under this ordinance. He stated that he had been working with staff to develop such an amendment and that it was not yet ready for presentation to members at this time.

In response to Mr. Hare, Mrs. Ann Marie Townshend, Director of Planning and Community Development, confirmed that homeowners' association requirements are outlined in the State of Delaware stormwater regulations as well as the City's Zoning Ordinance. She suggested that the item could be removed or, if it remained on the agenda, that members could address their concerns relative to this issue during the discussion of this agenda item.

Mr. Hare moved for approval of the agenda, as presented, seconded by Mr. Shevock and carried, with Mr. Anderson voting no.

Law Enforcement Training for Fire Marshal

Members were advised that, for the past 15 years, the Fire Marshal's Office has relied on the Dover Police Department to assist with fires that are determined to be of a criminal nature, since City Fire Marshals do not have law enforcement powers. State Fire Marshals and City of Wilmington Fire Marshals do have these powers. Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that Mr. Jack Roe, the first paid Fire Marshal for the City of Dover, was a member of the Police Department prior to being appointed Fire Marshal, and that former Fire Marshal Jimmy Melvin was given police powers though a Dover Police training academy in 1991.

Mrs. Townshend stated that, although the present joint investigation method has served the City well in past years, the complexity and time needed to make an arrest for the crime of arson makes this system cumbersome. Based on the cost of overtime for a Dover police detective, with approximately eight (8) to ten (10) responses to fire calls each year, it was estimated that a savings of approximately $3,000 per year in Police Department overtime would result if a Deputy Fire Marshal were granted police power. In addition to the overtime savings, this approach would allow the Fire Marshal's Office to complete criminal fire investigations, relieve Dover Police Department staff from having

to conduct criminal fire investigations, and increase public safety by ensuring thorough investigations.

Mrs. Townshend indicated that the cost of training was estimated at $2,500 and the cost of equipment is estimated at $1,300. She stated that if a Deputy Fire Marshal received police training, he would be able to participate in training offered by the Police Department to maintain police certification with no additional cost to the City. She noted that there are no promotions, upgrades, or anticipated increases in salary associated with this training.

Staff recommended that the Committee support sending a Deputy Fire Marshal to Police Academy Training. Mrs. Townshend noted that, due to time constraints, this matter was deferred by the Committee during their meeting of August 22, 2011 and, as a result, this matter would be considered by City Council during their meeting held later in the evening.

Mr. Anderson moved to recommend approval of sending a Deputy Fire Marshal to Police Academy training, seconded by Mr. Shevock and unanimously carried.

Proposed Resolution No. 2011-11 - Request to General Assembly to Amend the City of Dover Charter - Length of Terms for Mayor and Council

At the request of Councilman Hutchison, the City Clerk prepared Proposed Resolution No. 2011-11 requesting the Delaware General Assembly to amend the City of Dover Charter to increase the term lengths for the Mayor and Council from two (2) years to four (4) years. Chairman McGlumphy noted that this matter was deferred by the Committee during their meeting of August 22, 2011 due to time constraints.

Mr. Robin Christiansen (previous member of City Council and former Council President for the City of Dover) stated that members should determine if the City should continue with the current hybrid populace type of government or move to a strong Mayor-Council form of government. Before considering the terms for the Mayor and Council, he suggested that members appoint a committee to study the Charter and consider the possibility of changing the City's form of government. Mr. Christiansen stated that if the Mayor is provided more responsibility, the Mayor's term should be extended to (4) years. He suggested that Council review the current responsibilities of the Mayor while the City is looking for a City Manager. Mr. Christiansen felt that the previous and current Mayors who were present (Mayor Carey, Mr. Hutchison, and Mrs. Williams) could attest to the fact that the Mayor's job is "great" but has little authority.

It was Mr. Christiansen's opinion that the Mayor should continue as head of the Police Department; however, all department heads should report to the Mayor on a day-to-day basis, since the Mayor is one (1) of two (2) officials elected at-large and serves as the City's advocate. For those concerned about the City Manager's position, he noted that every City that has a strong Mayor has a professional manager, but not necessarily a City Manager. He felt that City Council has the responsibility to its citizens to consider this matter before changing the terms for the Mayor and/or Council. He suggested that responsibility be shared, with Council functioning as a legislative,

appropriative body and the Mayor serving as the Chief Executive Officer of the City, who formulates the budget for presentation to Council and justifies costs and expenditures to the citizens.

Mr. Christiansen encouraged members to address these issues and appoint another "blue ribbon" commission to study the City's form of government and provide this commission a time frame to present a recommendation regarding the responsibilities of the Mayor. In addition, he suggested that Council terms remain at two (2) years, explaining that lengthening the terms for Council would make it difficult for those wishing to run for office and difficult for residents to remove members who may not be performing as desired.

Mr. Hare stated that, although he concurred with the statements made regarding a Strong Mayor form of government for the City and that the matter should be further reviewed, he supported lengthening the terms of office for both the Mayor and Council.

Mr. Shevock requested that members be provided with the results of the previous "blue ribbon" commissions and their recommendations, stating that there was no need to appoint another committee if such a study had already been completed.

Mr. Hutchison explained that the proposal to extend the terms of office for the Mayor and Council would provide the Mayor and Council a better opportunity to build a team to work with City departments. He noted that the cost for a City election is approximately $10,000 per year and that in four (4) years, the City would realize a $40,000 savings, decrease the amount of responsibility and demand on the City Clerk's Office for conducting the elections, and enhance the working relationship between members of Council and the Mayor.

Council President Leary advised members that he previously served on a Charter Review Committee whose members discussed extending the terms of office for Mayor and Council and instituting a recall provision for those occasions when the voters felt that a mistake was made in the election of a member. He stated that during this review, there was some interface between the Consent Decree and the Charter on some of these issues. Mr. Leary suggested that consideration of this matter be delayed until the results were received regarding the City redistricting, which is currently in progress, and whether these results were affected by the Consent Decree. In addition, he felt that it was easier for City Council candidates to commit to a two (2) year term versus a four (4) year term, particularly for those in the work force, and that the pool of potential candidates might be limited if the term were lengthened. He suggested that consideration of term limits be a separate discussion from the review of the Charter.

Mr. Christiansen noted that when he served as Council President, he, along with members of Council, attempted to appoint committee members who might be interested in serving on City Council to provide them an opportunity to familiarize themselves with issues involving the City. He felt that some of these members became involved by attending meetings, reviewing information, and becoming civic activists. This helped them make the decision as to whether or not they wished to serve and assisted them in preparing for the job.

Dr. Jones moved to recommend tabling this matter pending additional review of actions taken by previous Charter Review Committees. The motion was seconded by Mr. Anderson and unanimously carried.

Proposed Ordinance #2011-15 - Appendix A - Subdivisions - Regarding Homeowners' Associations *(Tabled by Committee on June 27, 2011)*

During their meeting of June 27, 2011, members considered proposed Ordinance #2011-15, amending Appendix A - Subdivisions, regarding homeowners' association (HOA) responsibilities. Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that the Proposed Ordinance was developed as a result of a report provided to the Utility Committee regarding defunct subdivisions, some of which remain uncompleted. She assured members that the proposed amendment addresses the Committee's concerns regarding stormwater management and passive open space not being maintained.

Mrs. Townshend explained that the Proposed Ordinance #2011-15 would amend the subdivision regulations to require that HOAs be formed with mandatory membership, and that these associations assume and continue maintenance responsibilities for common open space. Under the Proposed Ordinance, if the City needs to perform maintenance of these common areas due to code violations not addressed by the HOA, the City would bill the property owners of the lots within the subdivision to recover the cost and place these charges on the tax bill of the property owners. Since there were several concerns and questions by the Committee, the proposal was tabled and staff was directed to meet with the individual members of Council who have concerns and that the matter be brought back to the Committee during their next meeting.

Mr. Hare moved to remove this matter from the table, seconded by Mr. Shevock and carried, with Mr. Anderson voting no.

Mrs. Townshend advised members that staff met with Councilman Anderson, who expressed concerns about mandatory membership in an HOA and requested that the ordinance be amended to include protection of First Amendment rights of property owners. After consultation with City Solicitor Rodriguez, staff recommended that the requested amendment not be included in Proposed Ordinance #2011-15 due to concerns regarding the legality of such an amendment, as well as the amendment being well beyond the scope of the ordinance. Staff also met with Councilman Lynn, who shared concerns and questions during the Committee's discussion of the proposal.

Mrs. Townshend referred to the memo dated January 3, 2011 from Mr. Scott Koenig, Public Services Manager, that was presented to the Utility Committee, Minutes from the Utility Committee Meeting of January 24, 2011, and Article 5, Section 10. 4 - Management and Maintenance of Common Open Space and Recreational Areas of the Zoning Ordinance. She suggested that members consider the following information:

1) HOAs are already mandatory for residential developments with private open space under the State Sediment and Stormwater Regulations and the City of Dover Zoning Ordinance;

2) The Proposed Ordinance would allow the City to recover costs incurred by failure of HOAs to maintain private open space. It would ensure that residents in communities with active HOAs that pro-actively maintain private open space would not be penalized by the City absorbing the costs of those who fail to meet their obligations; and

3) Failure to develop a mechanism for the City to recover costs for maintaining private open space that HOAs fail to maintain will cause an unsustainable increase in operations costs to the City. Mrs. Townshend noted that members were provided a list of residential developments that would be subject to the requirements of the Proposed Ordinance.

Staff recommended adoption of Proposed Ordinance #2011-15.

Mrs. Townshend stated that staff developed Proposed Amendment #1 to Ordinance #2011-15 ***(Attachment #1)*** in response to Mr. Anderson's request. City Solicitor Rodriguez indicated his objection to the inclusion of the Proposed Amendment, explaining that owners should already be aware of this right, particularly if they have obtained legal counsel.

Responding to Mr. Anderson, City Solicitor Rodriguez stated that, although Proposed Amendment #1 would be legal, he felt that it would not add anything to the Proposed Ordinance and that it would detract from the enforcement of the ordinance. He stated his approval of Proposed Ordinance #2011-15 as presented by staff and that he does not support Proposed Amendment #1.

In response to Dr. Jones regarding fairness to those homeowners who have paid their dues, Mrs. Townshend suggested that staff could develop a mechanism where, at the request of the HOA, the City could collect association fees from the property owners and distribute them to the HOA. Dr. Jones was in favor of this approach and also noted that there may be occasions when new homeowners may not be aware of HOA requirements.

Responding to Mr. Bonar, City Solicitor Rodriguez indicated that he was not aware of any case law in which the mandatory membership requirement had been contested. He also reminded members that a potential purchaser is made aware of membership requirements prior to purchasing a property.

Mr. Lester Blakeman, 209 Thelmas Way, stated that he has lived in Cranberry Run since 1998 and that this development has an HOA that has not functioned well. He noted that although the HOA has taken care of grass cutting, more and more residents are dropping out of the association. Mr. Blakeman stated that he has not received a bill for association dues for two (2) years. He explained his fear of receiving a large bill for these expenses and that he would prefer that the City handle the matter through his tax bill. Mr. Blakeman added that it has been his experience that HOAs creates conflict among neighbors regarding what can or cannot be done to their property.

Mr. Scott Koenig, Interim City Manager, advised members that Proposed Ordinance #2011-15 is the first of a series of recommendations related to unfinished developments or other development-related issues. He requested that the Proposed Ordinance be adopted and assured members that staff would bring forward additional related issues for discussion, such as stormwater and open space utility. He explained that the Proposed Ordinance is an attempt to have private open space maintained so that residents can be proud of the communities in which they live.

Mr. Anderson noted that the City Solicitor has verified that the adoption of proposed Amendment #1 would be legal and felt that the City has a fundamental responsibility to ensure that citizens are not subject to interference while living their lives and that they retain the right to conduct activities such as holding Bible studies in their homes, posting political signs in their yards, etc.

Mr. Anderson moved to recommend adoption of proposed Amendment #1. The motion failed due to the lack of a second.

Mr. Hare moved to recommend approval of staff's recommendation. The motion failed due to the lack of a second.

Mr. Shevock moved to recommend deletion of Amendment #1 to Proposed Ordinance #2011-15, seconded by Mr. Hare.

Mr. Anderson moved to recommend adoption of Proposed Ordinance #2011-15 *(Attachment #2)*. The motion was seconded by Mr. Hare and carried, with Mr. Anderson voting no.

Evaluation of Bids - Municipal Street Sweeper

Staff solicited and received bids for the replacement of a street sweeper (Vehicle #357), as follows:

Company	Location	Model	Bid Amount	Delivery
Mid-Atlantic Waste Systems	Easton, MD	Tymco Model 600	$164,700.00	60-90 days
Atlantic Machinery, Inc.	Silver Springs, MD	Schwarze A7000	$159,273.00	150-210 days

Mr. Scott Koenig, Interim City Manager, stated that staff has reviewed both bid packages and the machine offered by Mid-Atlantic Waste Systems met 100% of the bid requirements. The machine offered by Atlantic Machinery, Inc. had some minor specification non-compliance issues, due in part to the body style and design. He stated that the Schwarze A7000 machine had several major non-compliance issues, including lack of a belly broom and an auxiliary hydraulic system.

Mr. Koenig advised members that, in 2006, the City opted to purchase the Schwarze A7000 Sweeper, the same unit offered under the current bid package by Atlantic Machinery, Inc. Immediately after taking possession of this unit, there were operational problems. No technical support was offered by the vendor, representatives were not available to discuss the problems, and having warranty work completed proved troublesome. He stated that when parts were needed for repair, there was a 10-14 day waiting period for delivery.

Mr. Koenig indicated that the TYMCO Model 600 offered by Mid-Atlantic Waste Systems is a maintenance-friendly street sweeper. He advised members that staff has a good working relationship with the vendor and the TYMCO technical support staff and that parts are available on a three (3) to five (5) day timetable.

In reviewing the bids with the Fleet Maintenance staff, Mr. Koenig stated that staff favors the TYMCO Model 600 and believes that the City could save the $5,427.00 price difference in maintenance costs within the first two (2) years.

Staff recommended approval of the purchase of the Tymco Model 600 Street Sweeper from Mid-Atlantic Waste System in the amount of $164,700.00..

Mr. Hare moved to recommend approval of the purchase of a Tymco Model 600 Street Sweeper from Mid-Atlantic Waste System in the amount of $164,700.00, as recommended by staff, seconded by Mr. Shevock and unanimously carried.

Review of Policy for Physical Posting of Properties Proposed for Rezoning

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reminded members that on August 8, 2011, City Council adopted a series of text amendments to Article 10 of the Zoning Ordinance that codify the process and procedures for planning and development applications. The adopted Ordinance requires that properties proposed for rezoning post a physical notice with the date and location of the public hearing and the nature of the rezoning request. According to the Ordinance, a policy regarding the posting requirements must be approved by the Planning Commission and City Council. Mrs. Townshend advised members that on August 15, 2011, the Planning Commission approved the draft policy for physical posting of properties for Conditional Use Applications, Site Development Plan Applications, and Rezoning Applications. She stated that City Council approval is required for those portions of the policy that relate to Rezoning Applications.

Members were provided a Physical Posting Requirements Policy which included the size, placement and maintenance requirements for the physical posting of properties. A template sign for Rezoning Applications was also included for review. As an example, Mrs. Townshend provided members with a photo of a recent notice posted for a rezoning ***(Attachment #3)***.

Staff recommended approval of the Physical Posting of Properties for Rezoning Policy.

Mr. Hare moved to recommend approval of the Physical Posting of Properties for Rezoning Policy *(Attachment #4)*, seconded by Mr. Shevock and unanimously carried.

Financial Policy - Carry-Forward Balances

Mrs. Donna Mitchell, Controller/Treasurer, advised members that Chairman McGlumphy requested that staff review the City's Financial Policy as it relates to carry-forward balances and the manner in which they are budgeted. As a result, she presented members with proposed amendments to the Financial Policy and explained that the amendments are reflected in red font for additions and

strikeouts for deletions. She noted that Item #2 listed in the Expenditure Policy contains existing wording which is being mentioned since concerns regarding this issue were recently relayed by members of Council.

Mr. Hare moved to recommend approval of the Financial Policy, as amended *(Attachment #5)*, seconded by Dr. Jones and unanimously carried.

Elimination of Delinquent (Blue) Notices

Mr. Scott Koenig, Interim City Manager, advised members that the existing delinquent account notification process generates a separate notice to utility customers, which is commonly known as the "blue" notice. Currently, utility bill payments are due 21 days after the bill date. On the 23rd day, a delinquent notice is generated and mailed to the customer. He stated that approximately 6,000 to 7,000 notices are mailed each month.

Mr. Koenig stated that, with the implementation of the new billing system and use of the new utility bill format, the City is able to provide utility customers with a "Notice of Disconnection" as a direct notation on the bill. He explained that the software programs will ensure the notification will appear only on utility bills with a delinquent balance. Mr. Koenig stated that staff estimates this change in procedure will result in an annual cost savings of approximately $30,000 in postage, $5,000 in office supplies, and an overall staff time savings of one (1) hour a day for 260 work days a year. Currently, the preparation and mailing of delinquent notices requires the combined efforts of staff from Customer Service and Central Services.

Members were provided examples of the current delinquent notice, the billing timeline, and a sample of a new utility bill containing a "Notice of Disconnection." Mr. Koenig stated that staff intends to notify utility customers of the change by insert with the October 2011 bill and will eliminate the "blue" notice effective November 1, 2011.

Staff recommended adding the delinquent notification to the utility bill in order to eliminate a separate mailing of a delinquent notice.

Referring to the delinquent notification on the new bill, Dr. Jones suggested that a larger font or other mechanism be used to bring attention to the message. Concurring, Mr. Koenig stated that the message will appear in all caps, or some other change will be made to make the notification more evident. He assured members that staff will make a determination regarding this change and present their findings directly to Council when they consider this matter.

Noting that the City issues a City-wide newsletter, Mr. Bonar suggested that a public awareness article be included to provide customers additional notification of the change.

Mrs. Russell also suggested that the change be posted on the City's website.

In response to the suggestion to use red font on the new bill for the delinquent notice, Mrs. Kathy Divver, Customer Service Manager, stated that the City's current printer utilized for billing does not produce color. She indicated she would determine if the program would allow for bold text and a font change for that area on the bill that includes the delinquent notice.

Mr. Anderson suggested the possibility of changing the location of the delinquent notice to the top of the bill rather than having it located at the bottom.

Mr. Anderson moved to recommend adoption of a policy change to add a delinquent notification to utility bills and eliminate a separate mailing of delinquent notices, and to request staff to address the Committee's concerns regarding public notification when this matter is presented to Council. The motion was seconded by Dr. Jones and unanimously carried. *(Clerk's Office Note: Following this meeting, staff submitted a revised version of the new Utility Bill with the Delinquent Notice which addressed the Committee's concerns regarding public notification* ***(Attachment #6))*****.**

Implementation of Social Media Policy

Mrs. Kim Hawkins, Human Resources Director, advised members that, due to constant changes in electronic media, staff recommended the implementation of a Social Media Policy. She explained that social media is subject to the same standards of conduct that apply to in-person communications and activities; therefore, all of the expectations and obligations contained in other City of Dover policies also apply online. Mrs. Hawkins indicated that other policies that may be relevant include City's policies on Discrimination and Harassment, Disclosure of Confidential Information, Failure in Personal Conduct, Incompatible Activities, and Disciplinary Action. She stated that personnel whose conduct violates the Social Media Policy policy would be subject to the City's disciplinary measures. In addition, she stated that, under this policy, any employee who becomes aware of inappropriate use of social media by coworkers or supervisors would be required to report their findings to the Human Resources Department immediately.

Staff recommended the implementation of the Social Media Policy as presented.

In response to several concerns expressed by members, Mrs. Hawkins explained that the policy addresses only comments that are discriminatory in nature.

Mr. Shevock noted that the State of Delaware adopted a similar policy and questioned why staff did not consider utilizing it rather than developing a new policy. Responding, Mrs. Hawkins stated that staff recently attended a seminar related to social media policies and was provided a sample policy, which she stated was modified and used to develop the City's proposed policy. She noted that the seminar was conducted by a law firm.

Mr. Anderson stated that, although the City has several policies that regulate behaviors such as web browsing, harassment, etc., the Social Media Policy is different in that it attempts to regulate what an individual does with their own equipment on their own time and treats free speech as an action. He felt that, although individuals may have discriminatory thoughts, thoughts are irrelevant and are

not regulated under the laws of discrimination, as long as the actions of the individual do not reflect those thoughts. Members were provided email correspondence regarding this issue ***(Attachment #7)***. Mr. Anderson explained that this information included samples of other social media policies, such as that implemented by the federal General Services Administration (GSA) and the City of Hampton, Virginia. He explained that GSA's policy has been in place for several years and has been vetted, and shaped based upon legal challenges to employees' First Amendment Rights and that Hampton's policy was being provided to allow members the opportunity to review a municipal policy.

Mr. Anderson noted that the State of Delaware does not regulate behavior in the manner proposed by staff and that Kent County recently considered doing so and declined to implement such a policy.

In response to Mr. Hare, Mrs. Hawkins stated that the City had not experienced any concerns related to social media but that the policy was created in an effort to be proactive in this matter.

Mr. Richard Morse, 100 West 10th Street in Wilmington, stated that he represented the American Civil Liberties Union (ACLU) in Delaware and referred to correspondence that he had previously provided to members ***(Attachment #8)*** regarding the applicable law and details as to why the proposed policy is a clear violation of the First Amendment. Although he understood the reasoning behind attempting to establish such a policy, Mr. Morse stated that it was clear that such regulations are impermissible. He explained that the right to free speech means that the government can not regulate what Americans can say, whether or not they are employees of the government.

Mr. Bonar stated that government has been proactive on so many occasions that it has caused government to sometimes overstep its bounds and he felt that the proposed policy was not necessary at this time.

Responding to Mrs. Williams, Mr. Koenig explained that the proposed Policy was inherited from his predecessor and that he requested that the matter be brought forward for consideration, noting that staff attended the seminar in March 2011 and that this has been "unfinished" business. Rather than simply implementing the Social Media Policy, he felt that the matter should be reviewed through the Committee in order for City Council to be made aware of the issues, both from the standpoint of the employee and staff's responsibility to promote the City in a positive way. It was his opinion that the Policy was created to inform employees that, although they have a work life separate from their personal life, there are things that an employee may say and do outside of work that can affect the workplace, co-workers, and the body for which they work, and that employees should understand that they will be accountable for their statements and actions, not only at work but also during their personal time. Mr. Koenig noted that individual lives are more public and the world is moving faster than ever before and that once something is on the Internet, it is there for everyone to view and sometimes, negative consequences result. He explained that this was the impetus for bringing this matter forward, that there are no looming issues, and he would not object if members do not wish to move forward on this issue at this time.

Mr. Lynn commended Mr. Koenig for taking responsibility and his good intentions in bringing this matter forward.

Mr. Anderson moved to recommend tabling the matter and that staff incorporate the recommendations of the Delaware Chapter of the ACLU in any future draft. The motion failed due to the lack of a second.

Mr. Hare moved to recommend withdrawing the Social Media Policy from any further consideration, seconded by Dr. Jones and unanimously carried.

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

Meeting Adjourned at 7:08 P.M.

William P. McGlumphy
Chairman

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Attachments
Attachment #2 - Proposed Ordinance #2011-15
Attachment #3 - Photo of Posting for Rezoning
Attachment #4 - Physical Posting of Properties for Rezoning Policy
Attachment #5 - Financial Policy Amendments
Attachment #6 - Revised New Utility Bill with Delinquent Notice

Attachments to Original Minutes and File Copy
Attachment #1 - Proposed Amendment #1 to Proposed Ordinance #2011-15
Attachment #7 - Email Correspondence Regarding Social Media Policy
Attachment #8 - Letter from Mr. Richard Morse - American Civil Liberties Union in Delaware - September 9, 2011

CITY OF DOVER
COMMITTEE AMENDMENT #1
TO ORDINANCE #2011-15

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

That Ordinance 2011-15 be amended by striking lines 44-52 in their entirety and replacing them with the following:

c. *Deed restrictions.*

1. Restrictive covenants shall provide that in the event the association fails to maintain the common areas, common facilities, and open areas according to the adopted codes of the City of Dover, in accordance with the recorded plan, and in accordance with the requirements of recorded restrictions, the city may demand that the deficiency of maintenance be corrected. If the homeowners association shall fail to correct the deficiency, after reasonable notice, the city may enter the common area to inspect and correct the deficiency. The cost of such maintenance shall be charged to the association in accordance with the provisions of Section C (3).

2. Any homeowners association created in accordance with the provisions of this ordinance shall not impose any restrictive covenants that restrict the rights guaranteed under the First Amendment of the United States Constitution.

ADOPTED: *

SYNOPSIS

The proposed ordinance would add parking lots as a principal use allowed through conditional use approval within the C-2A (Limited Central Commercial) zoning district.

Actions History:

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CITY OF DOVER
ORDINANCE #2011-15

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

That Appendix A – Subdivisions, Article VII – Special Provisions be amended by adding a new re-lettering Section B as Section C and adding a new Section B as follows:

C. Homeowners associations.

1. The owner and/or developer shall create a homeowners association for the proposed development where private open space and stormwater management facility ownership and maintenance responsibility exist. The homeowners association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process and all documents related to the homeowners association shall be submitted in draft form at the time of application for the subdivision plan review (whether minor or major). Such documents shall be acceptable to the city as a condition of subdivision plan approval.

2. The owner and/or developer should pay for the preparation of the legal document necessary to create the association, have same approved by the city solicitor and council and record same in the recorder of deeds office for Kent County.

3. The legal documents prepared will give the city the authority to require the homeowner's association to perform routine maintenance and minor/major repairs as necessary to keep the property in good condition, and eliminate any health or safety issues.

If the homeowners association does not respond to the city citation within 14 calendar days, the city shall have the right to perform the work itself or hire a contractor to perform the work and assess each property owner of the homeowner association and/or each owner of property within the final plat for the subdivision a fee to recover its cost. Such fee shall include an administrative charge equal to 15% of the cost of the work performed. This fee will be added to the real estate tax bill as a special assessment to these lot owners.

4. Homeowners association requirements. If the applicant is required to establish a homeowners association for purposes of ownership and maintenance of common areas, common facilities and/or open spaces, such association documents shall require, at minimum:

a. *Membership mandatory.* All owners of property within the subdivision must be members of the homeowners association. The members of the homeowners association shall share equitably in the costs of maintaining all open space, common areas and facilities, recreation areas and facilities, and stormwater management areas and facilities which are not accepted by the city in writing in accordance with the provisions of all deed restrictions and maintenance agreements, all applicable property maintenance codes, all record plan notes, and in accordance with procedures established by the homeowners association. The deed restrictions shall require, at minimum, that the costs of such

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maintenance shall be collectable from the owner of the lot(s) to which such costs are assessed; and that such costs shall be and constitute a lien upon such lot(s).

b. *Responsibilities.* The homeowners association shall be responsible for all maintenance, insurance, taxes, fees, and other burdens customary to the ownership of real property and all improvements and construction thereon, including, but not limited to all recreation amenities, walkways, storm water facilities, ponds, landscaping, and other facilities not owned or accepted by the City of Dover.

c. *Deed restrictions.* Restrictive covenants shall provide that in the event the association fails to maintain the common areas, common facilities, and open areas according to the adopted codes of the City of Dover, in accordance with the recorded plan, and in accordance with the requirements of recorded restrictions, the city may:

1. Demand that the deficiency of maintenance be corrected. If the homeowners association shall fail to correct the deficiency, after reasonable notice, the city may enter the common area to inspect and correct the deficiency. The cost of such maintenance shall be charged to the association in accordance with the provisions of Section C (3).

5. Homeowners association reporting responsibilities.

a. Each homeowners association established pursuant to Appendix A, Subdivisions shall, not later than December 31 of each year, provide to the City Clerk of the City of Dover a listing of the officers of such homeowners association, including their addresses and telephone numbers, and the date of the annual meeting.

b. The homeowners association shall list the terms of office of each officer and the date of the annual election. The homeowners association shall provide the name, address, phone number and contact information for any firm providing services in behalf of or acting as agent for the homeowners association in carrying out its responsibilities

BE IT FURTHER ORDAINED:

That the provisions of this ordinance shall be in effect upon its adoption and shall apply to all existing subdivisions where the homeowners association has maintenance responsibilities for open space and stormwater management areas. The city manager shall send a letter to all property owners within the City of Dover who have HOA maintenance responsibilities under this ordinance informing them of these responsibilities and the City's right to bill property owners within the homeowners association for any maintenance performed by the City of Dover due to lack of maintenance on the part of the homeowners association.

BE IT FURTHER ORDAINED:

That all homeowners associations with maintenance responsibilities for open space and stormwater areas that existed prior to the adoption of this ordinance shall report to the city

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manager by December 31, 2011 those items required in subsection 5 Homeowners Association Reporting Responsibilities.

SYNOPSIS

The proposed amendment would clarify the requirement that for developers of subdivisions with common open space, including active recreation areas, woodlands, and stormwater managements form homeowners associations where membership is mandatory. It would allow the City to perform work that is the responsibility of the homeowners association if such work is not performed in accordance with code requirements. Such work would be billed to the property owners on their tax bill, including an administrative charge. The proposed amendment would require that homeowners associations with management responsibility for common open space submit annually a listing of officers of the association. The proposed amendment also clarifies that these requirements are retroactive to all subdivisions with common open space in existence prior to adoption of the ordinance.

ACTIONS HISTORY: June 6, 2011 – Tabled at Legislative, Finance & Administration Committee

DRAFT


NOTICE
Proposed REZONING
Action
A request to rezone
327 Martin Street from C-4 to IO
Has been filed with the City of Dover
Planning Department
APPLICATION Z-11-06
Public comment will be received by Planning
Commission at a Public Hearing on
September 19, 2011 at 7:00 PM
and by City Council on
October 10, 2011, at 7:30 PM
in the Council Chambers at
City Hall at 15 Loockerman Plaza, Dover, DE 19901
Additional information regarding this application is available at the
Dover Planning Office, located in City Hall.
(302) 736-7196
DO NOT REMOVE THIS SIGN FROM THESE PREMISES UNTIL AFTER THE ABOVE-LISTED DATE UNDER PENALTY OF LAW

City of Dover

Physical Posting Requirements

The Physical Postings detailed in this policy statement are the responsibility of the Applicant to provide and maintain. Details on the requirements for public notice can be found in the City of Dover *Zoning Ordinance*, Article 10.

The following guidelines pertain to the required Physical Posting of Public Notice for Site Plans, Conditional Use Site Plans, Historic District Applications, and Rezoning Applications.

1. Size and construction
    - The dimensions of the posting must be a minimum of 22" x 28" and no greater than 36" x 36".
    - The posting must be no taller than four feet in height above the ground and no shorter than three feet in height above the ground.
    - The posting must be affixed to the ground by a minimum of two posts of a minimum size 2" x 2" in dimension.
    - The posting must be printed on a durable print material and of a bright yellow color.
    - City of Dover Physical Posting templates must be used; hand written postings are not permissible.

2. Placement
    - Required Physical Postings must be located within the front-yard setback of the property for which they are required.
    - The Physical Posting shall have a maximum set-back of ten feet from the front property line.
        - For properties where ground-based posting is not possible or where the sign will not physically fit in the space allowed, the Applicant must post the Physical Posting in a window or affixed to the wall facing the street on which the property fronts.
    - Where corner properties are concerned, the Applicant shall place the Physical Posting on the street frontage where the property is addressed.
    - In instances where more than one parcel is involved in the application, only one posting shall be required except where:
        - The parcels involved in the application are separated by a road or street or;
        - A single parcel is divided by a road or street or;
        - The parcels are not adjacent to one another.
    - No project application that is submitted as a Master Plan shall be required to post more than three Physical Postings.

3. Maintenance, Replacement, and Removal
    - Date stamped photography must be provided to the Planning Office (along with other proof of Public Notice) showing the location of the Physical Posting by noon on the day of the scheduled meeting.
    - During the required 15 day period for which the Physical Posting is to be established, the Applicant is responsible for re-posting the Physical Posting two times should it be destroyed by natural causes or through vandalism. If the Physical Posting is destroyed more than two times, the Applicant is not responsible for replacing the posting but instead must document the destruction and report on it to the Commission during their application's public hearing before the Commission.
    - Physical Postings must be removed by the end of the seventh calendar day after the public hearing.
        - For rezoning applications, physical postings must be removed by the end of the seventh calendar day after the public hearing before City Council.
        - Physical Postings not removed in a timely manner shall be treated as an abandoned sign as referenced in the *Zoning Ordinance.*
    - When the Planning Commission delays action on an application, the Applicant is still responsible for removal of the Physical Posting within seven calendar days of the referenced meeting.

NOTICE

Proposed REZONING

Action

A request to rezone

PROPERTY ADDRESS

from ORIGINAL ZONING to PROPOSED ZONING

Has been filed with the City of Dover Planning Department

Public comment will be received by Planning Commission at a Public Hearing on Month, DATE 00, YEAR at 7:00 PM and by City Council on Month, DATE 00, YEAR, at 7:30 PM in the Council Chambers at City Hall at 15 Loockerman Plaza, Dover, DE 19901

Additional information regarding this application is available at the Dover Planning Office, located in City Hall.
(302) 736-7196

DO NOT REMOVE THIS SIGN FROM THESE PREMISES UNTIL AFTER THE ABOVE-LISTED DATE UNDER PENALTY OF LAW

Legislative, Finance & Administrative Committee – September 12, 2011
Agenda Item #

CITY OF DOVER
FINANCIAL POLICIES

07/01/11

CITY OF DOVER, DELAWARE
FINANCIAL POLICIES

The purpose of these policies is to present a standardized set of principles that the City follows in managing its financial and budgetary affairs. These are general statements of policies, which represent long-standing principles, traditions, and practices that will be used to guide the City in maintaining financial stability. It will be the responsibility of the Finance Department to ensure the financial objectives of these policies are maintained.

Revenue Policy

1. The City will strive to maintain a broad and diversified revenue base that will equitably distribute the burden of supporting City services and will protect the City from short-term fluctuations in any one revenue source.

2. The City will actively support economic and industrial development recruitment and retention efforts to provide for a solid revenue base.

3. The City will maintain timely collection systems and implement necessary enforcement strategies to collect revenues from available sources.

4. The City will establish user fees and charges for services, when feasible, at levels related to the cost of providing the services. The City will review the fees and charges every three to five years to determine modifications needed to keep pace with the cost of providing the services. Property Tax Rates are set annually

5. The City will review its incentive programs every three years and provide City Council with the amount of foregone revenues and any recommended changes.

6. The City will establish, when feasible, self-supporting enterprise funds and intergovernmental service funds in which a relationship between revenues and expenditures clearly exists.

7. The City will project current revenues on a conservative basis so the actual revenues will consistently meet or exceed budgeted revenues. Revenues greater or less than the original budget will flow through to the final Ending Budget Balance.

8. The City will maintain a budgetary control system and will prepare reports, which compare actual revenues to budgeted amounts.

9. The City will limit the designation of General Fund revenues for specified purposes to maximize flexibility in budgeting and revenue utilization.

10. The City will review annually and revise, where necessary, its cost allocation formulas, i.e. internal service departments.

11. Upon satisfying all rate covenants the City will provide operating transfers to the General Fund. From the Water/Wastewater Utility no greater than 4.5% of operating revenues and from the Electric Utility no greater than 8.0% of operating revenues. Both transfer calculations will exclude the carry forward budget balance, County Sewer Fees, and State Utility Tax. The Utility transfers will not exceed 25% of the General Fund Revenues.

Expenditure Policy

1. Basic and essential services provided by the City will receive first priority for funding, i.e. Public Safety & Health, Utilities, Streets, & Sanitation. The City will establish performance measurements for all program areas, when feasible. These measures will reflect the demand, workload capability, and projected outcomes for the program to accomplish its objectives.

2. The City will adopt a balanced budget, by fund, for all funds maintained by the City, in which total anticipated revenues must equal or exceed the budgeted expenditures for each fund. The Beginning Budget Balance will not be considered a revenue source. (Existing wording)

3. The City will maintain a budgetary control system to ensure adherence to the original adopted budget and will prepare reports, which compare actual expenditures to budgeted amounts. Expenditures greater or less than the original adopted budget will flow through to the final Ending Budget Balance.

4. The City will refrain from budgeting revenues derived from infrequent and unanticipated transactions for ongoing expenses. These revenues will be set aside for asset replacement or as otherwise directed by Mayor and Council.

5. The City will provide access to medical, dental, vision, life, AD & D, and short-term disability insurance for its employees. The cost for these benefits will be a shared responsibility between the City and its employees as outlined in the City Personnel Handbook or collective bargaining agreements

6. The City will provide access to medical and dental insurance for its retirees and their families. The cost for these benefits will be a shared responsibility between the City and its retirees as outlined in the City Personnel Handbook or collective bargaining agreements.

7. The City will provide access to appropriate retirement plans for its employees. The City will make contributions for eligible employees at the actuarial determined percentage defined for each of the respective retirement plans.

8. The City will establish an Other Post-Employment Benefit Fund (OPEB) and provide available funding for early implementation of a new accounting standard promulgated by the Government Accounting Standards Board. ~~When the standard officially takes effect,~~ t The City will make contributions for eligible employees and retirees at the actuarial determined rates or percentages to fund future retiree medical benefits.

Debt Policy

1. The City will maintain a debt management policy and full disclosure on financial reports.

2. The City will maintain communications with bond rating agencies and continue to strive for improvements in the City's bond rating.

3. The City will adhere to its debt covenants.

4. The City will review its debt capacity every three years.

5. The City will pay for all capital projects and capital improvements on a pay-as-you-go basis using current revenues whenever possible. If a project or improvement cannot be financed with current revenues, long-term debt or use of reserves will be recommended.

6. The City will refrain from issuing long-term debt for a period in excess of the expected useful life of the capital project.

7. The City will use special assessment revenue or other self-supporting bonds instead of general obligation bonds, when practical.

8. The City will seek refinancing of outstanding debt if it is determined that the City will benefit by reduced interest expense over the remaining life of the bonds.

Budget Balance/Reserve Policy – General Fund

1. The City will strive to maintain a minimum Budget Balance, of at least 8% and no greater than 12% of the current year operating revenues for the General Fund, excluding the carry forward balance. The purpose of the budget balance is to meet temporary fluctuations in cash flows and to provide a cushion for loss of revenues until operating changes can be implemented. If the final ~~existing~~ Budget Balance exceeds the amount as approved in the budget ordinance ~~required level~~, such funds shall ~~may~~ be used to provide for unfunded retirement liabilities ~~non-recurring expenditures when the purchases cannot be accommodated through current year savings~~ or as otherwise designated by City Council. The City may use monies in the Budget Balance only in times of fiscal and economic hardship.

2. Once achieved, at no time should the City's budget balances fall below their specified percentages. If a shortfall occurs in the budget balance and immediately restoring the balances to the specified percentage would cause an extreme burden on the taxpayers, the budget balance may, with the Mayor's and City Council's approval, be restored to the specified percentage within one year, but in any case, no longer than three years.

3. The City will maintain a minimum reserve, in a contingency account, of at least 2% of the current year operating revenues for the General Fund. The City may only use monies in the contingency accounts to cover emergencies of a non-recurring nature that are over and above the normal course of operations. Examples are uninsured losses, storms or hurricane damages. The Contingency Reserve will not be used to balance the operating budget.

4. The total of the General Fund budget and contingency balances shall not exceed 17% (~ 2 months) of Budgeted Operating Revenues.

5. The City will create a Capital Asset Replacement account for Governmental Fund asset procurements. Optimally, the amount set aside for future asset replacements should equal the annual depreciation of the current assets. The City will appropriate excess (amounts greater than budgeted) revenues to fund this account, or if the balance is less than the $500,000 minimum, $200,000 per annum until such time the minimum balance is replenished.

6. The City will create a General Capital Project Fund to account for all General Government asset procurements and projects. The City will provide operating fund transfers and/or debt proceeds for each fiscal year's Capital Investment Plan. All vehicle and equipment purchases under $25,000 will be budgeted on a pay as you go basis.

Budget Balance/Reserve Policy – Water/Wastewater Fund

1. The City will strive to maintain a minimum Budget Balance, of at least 8% and no greater than 17% (two months) of the current year operating revenues for each of the Water & Wastewater Utility Funds, excluding the carry forward balance. The purpose of the budget balance is to meet temporary fluctuations in cash flows and to provide a cushion for loss of revenues until operating changes can be implemented. If the final ~~existing~~ Budget Balance exceeds the amount as approved in the budget ordinance ~~required level~~, such funds shall ~~may~~ be used to provide for unfunded retirement liabilities ~~non-recurring expenditures when the purchases cannot be accommodated through current year savings~~ or as otherwise designated by City Council. The City may use monies in the Budget Balance only in times of fiscal and economic hardship.

2. Once achieved, at no time should the City's budget balances fall below their specified percentages. If a shortfall occurs in the budget balance and immediately restoring the balances to the specified percentage would cause an extreme burden on the ratepayers, the budget balance may, with the Mayor's and City Council's approval, be restored to the specified percentage within one year, but in any case, no longer than three years.

3. The City will maintain a minimum reserve, in a contingency account, of at least 2% of the current year operating revenues for each the Water & Wastewater Fund. The City may only use monies in the contingency accounts to cover emergencies of a non-recurring nature that are over and above the normal course of operations. Examples are uninsured losses, storms or hurricane damages. The Contingency Reserve will not be used to balance the operating budget.

4. The total of the combined Water & Wastewater Fund budget and contingency balances shall not exceed 25% (3 months) of Budgeted Operating Revenues.

5. The City will maintain a Capital Asset Replacement account to cover replacement or procurement of assets of the utility. Optimally, the amount set aside for future asset replacements should equal the annual depreciation of the current assets. The City will maintain a minimum balance of $500,000 for each utility for Capital Asset Replacements. The City will appropriate excess revenues to fund this account, or if the balance is less than the minimum $100,000 per annum for each utility until such time the minimum balance is achieved.

6. The City established by ordinance on December 17, 1996 the Wastewater Impact Fee Reserve to provide for future expansion of the City's wastewater system due to increased demand. The ordinance further provides for debt service payments attributed to wastewater expansion projects to be funded by the current year's collection of Impact Fees and the remainder to be deposited into the reserve account. The City shall maintain a minimum of 20% of wastewater revenues in the Impact Fee Reserve account. Amounts used to finance projects shall be replenished by the operating revenues of the Wastewater Fund over the succeeding seven years of any project completion.

7. The City established by ordinance on February 1, 2008 the Water Impact Fee Reserve to provide for future expansion of the City's water system due to increased demand. The ordinance further provides for debt service payments attributed to water expansion projects to be funded by the current year's collection of Impact Fees and the remainder to be deposited into the reserve account. The City shall maintain a minimum of 20% of water revenues in the Impact Fee Reserve account. Amounts used to finance projects shall be replenished by the operating revenues of the Water Fund over the succeeding seven years of any project completion.

8. The Water & Wastewater Improvement & Extension Fund budget balance shall be no less than $200,000 of the current fiscal year's appropriation for water and wastewater projects to allow for project variances and change orders; a 10% contingency shall be included in project budgets greater than $250,000 if the Department Head determines it to be appropriate. All vehicle and equipment purchases under $25,000 will be budgeted on a pay as you go basis. The City Manager shall make the necessary budget amendments in accordance with the City of Dover Purchasing & Budget Amendment Policies.

Budget Balance/Reserve Policy – Electric Revenue Fund

1, The City will strive to maintain a minimum Budget Balance, of at least 8% and no greater than 12% of the current year operating revenues for the General Fund, excluding the carry forward balance. The purpose of the budget balance is to meet temporary fluctuations in cash flows and to provide a cushion for loss of revenues until operating changes can be implemented. If the final ~~existing~~ Budget Balance exceeds the amount as approved in the budget ordinance ~~required level~~, such funds shall ~~may~~ be used to provide for unfunded retirement liabilities ~~non-recurring expenditures when the purchases cannot be accommodated through current year savings~~ or as otherwise designated by City Council. The City may use monies in the Budget Balance only in times of fiscal and economic hardship.

2. Once achieved, at no time should the City's budget balances fall below their specified percentages. If a shortfall occurs in the budget balance and immediately restoring the balances to the specified percentage would cause an extreme burden on the taxpayers, the budget balance may, with the Mayor's and City Council's approval, be restored to the specified percentage within one year, but in any case, no longer than three years.

3. The City will maintain a minimum reserve, in a contingency account, of at least 1% of the current year operating revenues for the Electric Revenue Fund. The City may only use monies in the contingency accounts to cover emergencies of a non-recurring nature that are over and

above the normal course of operations. Examples are uninsured losses, storms or hurricane damages. The Contingency Reserve will not be used to balance the operating budget.

4. The total of the combined Electric Revenue Fund budget and contingency balances shall not exceed 25% (3 months) of Budgeted Operating Revenues.

5. The City has established by bond covenant an account to cover insurance deductibles on the electric transmission and distribution system or the generating plants. The City shall maintain a minimum balance of $350,000 to cover various deductibles.

6. Recognizing price fluctuations in the wholesale power markets the City has established a rate stabilization reserve. The purpose of using such a reserve is to level off the fluctuations in the wholesale power supply market and in turn provide stable rates to our customers. In those instances where the actual cost of power supply and generation are less/more than the budgeted cost of power supply and generation, the City will transfer the difference to/from the Rate Stabilization Reserve. The balance shall be maintained at a minimum of 3% not to exceed 10% of the purchase power cost in any given year. If the reserve balance exceeds the 10% maximum, a credit will be applied to the power cost adjustment.

7. The Electric Improvement & Extension Fund budget balance shall be no less than $200,000 of the current fiscal year's appropriation for electric system projects to allow for project variances and change orders; a 10% contingency shall be included in project budgets greater than $250,000 if the Department Head determines it to be appropriate. All vehicle and equipment purchases under $25,000 will be budgeted on a pay as you go basis. The City Manager shall make the necessary budget amendments in accordance with the City of Dover Purchasing & Budget Amendment Policies.

8. The City has established an account to provide for capital financing of Future Capacity or system expansion. The City shall maintain a balance equivalent to the value of 10% growth in capacity at any given time, or no less than $10,000,000. Amounts used to finance projects shall be replenished by the operating revenues of the Electric Revenue Fund over the succeeding seven years of any project completion.

9. The City has established an account to provide for replacement or procurement of utility system assets, otherwise known as Depreciation Reserve. Optimally, the amount set aside for future asset replacements should equal the annual depreciation of the current assets. The City will maintain a minimum balance of $10,000,000. The primary purpose of this account is to provide partial or all financing of major capital projects and minimize debt service payments. The account is also intended to cover unforeseen capital replacements due to equipment breakdowns, storms or hurricane damages. Amounts used to finance projects shall be replenished by the operating revenues of the Electric Revenue Fund over the succeeding seven years of any project completion

10. The total of the combined Electric Revenue and Electric Improvement & Extension Fund budget and reserve balances shall be benchmarked at 50% Budgeted Operating Revenues. Operating Fund Budget Balance and Reserves shall be adjusted to appropriate levels through adjustments in the operating budget. Improvement & Extension Fund Budget Balance and Reserves shall be adjusted in accordance with the Capital Improvement Plan.

Investment and Cash Management Policy

1. The City will deposit all receipts on a timely basis in interest bearing accounts.

2. The City will strive to maximize the return on its investment portfolio without jeopardizing principal amounts.

3. The City will limit its investments to the types of securities provided for by Delaware statutes.

4. The City will diversify its investments by maturity date to protect against market fluctuations.

5. The City will purchase securities from qualified institutions based on competitive bids in an effort to obtain the highest available rates.

6. The City will maintain an Investment Policy based on prudent investment practices and will monitor all investment managers' compliance with policy objectives.

Capital Improvement Policy

1. The City will prepare and update, as needed a five-year Capital Improvements Program (CIP) which will provide for the orderly maintenance, replacement, and expansion of capital assets.

2. The CIP will identify long-range capital projects and capital improvements of all types, which will be coordinated with the annual operating budget to maintain full utilization of available revenue sources.

3. When preparing the CIP, the City will seek to identify all viable capital projects and capital improvements required during the subsequent five-year period. These projects and improvements will be prioritized by year and by funding source.

4. Every attempt will be made to match projects and improvements with available funding sources. Future operating costs and savings associated with a project or an improvement will also be given consideration in the establishment of priorities.

5. The City will seek Federal, State, and other funding to assist in financing capital projects and capital improvements.

6. The City will incorporate the reasonable findings and recommendations of other cities' Boards, Commissions, Committees, and Citizen Task Forces, as they relate to capital projects and improvements.

7. The City will seek input from the public by holding public hearings in relation to the establishment of projects and project priorities.

Financial Reporting Policy

1. The City's accounting system will maintain records in accordance with accounting standards and principles outlined by the Governmental Accounting Standards Board (GASB), Financial Accounting Standards Board (FASB), and the State of Delaware.

2. The City will employ an independent accounting firm to perform an annual audit of the City's finances and make the annual audit available to all required and interested parties.

3. The City will produce monthly and quarterly financial statements reporting the current periods' activity for all funds maintained by the City.

4. The City will prepare an annual budget document that provides a basic understanding of the City's planned financial operations for the coming fiscal year. Copies of the proposed and final budget will be made available to all interested parties and opportunities will be provided for citizen input prior to final decisions on the budget.

5. The City will place continued emphasis on review and maintenance of an accounting system which provides strong internal budgetary and accounting controls designed to provide reasonable assurance, but not absolute, assurance regarding:

   (a) the safeguarding of assets against loss from unauthorized use or disposition and,
   (b) the reliability of financial records for preparing financial statements and reports, and the maintaining accountability for assets.

6. The City will seek annual renewal of the Government Finance Officers Association's (GFOA) Certificate of Achievement for Excellence in Financial Reporting and the Distinguished Budget Presentation Award.

Adoption:

1. Approval by City Council: January 28, 2002
2. Amended by City Council: November 25, 2002
3. Amended by City Council: May 10, 2004
4. Amended by City Council: February 26, 2007
5. Amended by City Council: July 28, 2008
6. Amended by City Council: February 14, 2011
7. Amended by City Council: June 27, 2011

City of Dover

Account Information

Customer: JUSTIN CASE
Service Address: 1111 MAIN ST
Account #: 111111-22222 10-86
Bill Date: 09/12/2011
Due Date: 10/03/2011

Contact Information

8:30 a.m. - 5:00 p.m. Monday—Friday
Customer Service: 302-736-7035
Emergency after 5 p.m.: 302-736-7086
Website: www.cityofdover.com

20 ***IMPORTANT: See Notice of Disconnection below.***

Balance From Last Bill:	$	511.88
Thank you! Last payment received: 150.00 on 08/23/2011		
Payments and adjustments made after this Bill Date 09/12 will appear on next bill.		
Current Charges:	$	255.73
A late payment charge of 1.5% will be added to any balance remaining 30 days after billing.		
Total Amount Due:	$	767.61

Other Payment Options

Automatic Bank Draft from checking or savings account— sign up needed.
Equalized Payment Plan - a fixed budget amount each month for residential customers—sign up needed.
Online Payment with a credit card by visiting www.cityofdover.com or call 1-866-780-5451, a fee provided service.

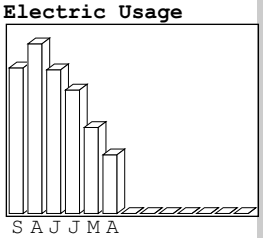
Customer News & Information

Meter Information - Residential

Meter #	Days	Service	Period	Previous	Present	Mult	Usage	Svc Units
51876559E	33	8/ 4/11	9/ 6/11	16726.00	18101.00	1.00	1375.00	EL KWH
43924302W	33	8/ 4/11	9/ 6/11	672.00	677.00	1.00	5.00	WA TGAL

Consumption History

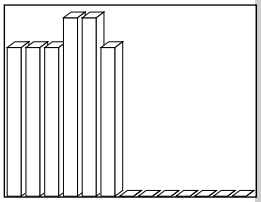
Electric Usage



S A J J M A

Avg daily kwh: 41.6

Water Usage



S A J J M A

Charges for current cycle

Service		Consumption	Rate	Charge
EL	RES CUSTOMER CHG			5.00
EL	ENERGY CHG	1375.00	.145000	199.38
EL	PURCHASE POWER COST	1375.00	.008570-	11.78-
EL	GREEN ENERGY CHARGE	1375.00	.000178	.24
TOTAL	ELECTRIC			192.84
WA	WATER TGAL FLOW CHG	5.00	3.000000	15.00
WA	WATER CUSTOMER CHG			1.25
TOTAL	WATER SERVICE			16.25
SE	SEWER FLOW CHARGE	5.00	2.650000	13.25
SE	SEWER CUSTOMER CHG			1.25
SE	GROUNDWATER INFLOW	5.00	1.050000	5.25
SE	KENT COUNTY SWR ADJ	5.00	2.340000	11.70
TOTAL	SEWER SERVICE			31.45
TR	TRASH 08/10 TO 09/09			11.70
TOTAL	TRASH			11.70
EP	ELE LATE PMT PENALTY			2.85
KP	KCS LATE PMT PENALTY			.18
SP	SWR LATE PMT PENALTY			.22
WP	WAT LATE PMT PENALTY			.24
TOTAL	MISC CHARGES			3.49
TOTAL	CHARGES FOR PERIOD			255.73

Notice of Disconnection

Disconnection of service without further notice may occur *if balance due from last bill has not been paid by* 09/22/11. If the account is scheduled for disconnection, a service fee must be paid along with the entire amount owed. An additional deposit may be required.

Please detach this portion and remit with payment made by mail or in person. **Mail all correspondence to utility billing office.**

Notify customer service to update mailing address, phone number, or email.

City of Dover

JUSTIN CASE 111111-22222

Balance From Last Bill Due Immediately:	511.88
Current Charges Due :	255.73
Total Due:	767.61

Total Amount Due 767.61

Payment Enclosed:

Make Payments to:

City of Dover Utility
Po Box 15040
Wilmington, DE 19886-5040

JUSTIN CASE
111 MAIN ST
DOVER DE 19901

00013618100001691800000076761 7

Devine, Denise

From: David Anderson <davidlevianderson@gmail.com>
Sent: Saturday, September 10, 2011 1:22 PM
To: City Clerks Office; City Council
Subject: social media policy more public response

David,

As you might guess, I share your philosophy. Wherever truth is found, join with it.

But take the lead in fighting for it,Which is what you did.

The price of being employed should not include sacrificing free speech. Big Brother and all that.

An employer, be it the government or a private business, has a right to expect employees to spend their working hours, well, WORKING and not spending time on social networks.

But said employer does not have the right to monitor and control the employee on his/her off hours. How he or she lives and speaks is not the employer's concern unless there is criminal activity involved, in which case, there are already laws on the books concerning actual criminal activity.

At all times, freedom of speech should be maximized and control minimized.

Monitoring for thought crimes is pretty creepy. It doesn't bode well for the rest of us, as once the principle of monitoring employees is established, deciding to monitor the rest of the populace might not be far behind.

The ACLU has it right on this one.

Fay Voshell

Devine, Denise

From: David Anderson <davidlevianderson@gmail.com>
Sent: Friday, September 09, 2011 8:05 PM
To: City Clerks Office; City Council
Subject: Social Media Policy

Friends

Local employment rights attorney Ron Poliquin expressed this sentiment regarding the proposed social media policy. I thought it merited passing along.

> This type of policy is rife for abuse and selective enforcement. It is my experience as an employment rights attorney that these policies are only enforced when someone has a beef with another employee or a supervisor is creating reasons to get rid of someone. Employment policies should be uniformly enforced and unless they hire someone to monitor every posting of every employee it won't. Lastly, its definitly overbroad and I wonder if it will be applied to city managers, somehow I doubt it.

It seems whether it is the ACLU of Delaware or conservative Republicans the concensus is that this needs to be reworked.

David Anderson

From:	David Anderson
To:	City Clerks Office; Koenig, Scott
Cc:	City Council
Subject:	social media policy draft
Date:	Friday, September 02, 2011 3:39:56 PM

Note to the Clerk's office:

Please pass this on to HR and LF&A civilian members as well.
Thank you.

Friends:

I have a couple of concerns about the proposed social media policy. I was going to save them for early next week when I concluded my research, but Doug from the WNJ called me today for comments. I would rather you not read my concerns for the first time in the paper where I have no control over exactly what is quoted.

If the social media policy applied to work hours and/ government computers, I would have no issue. The fact that it tries to apply beyond that raises the level of scrutiny. I have real freedom of speech concerns in a couple of the sections. What does it mean that a person is prohibited from making negative remarks regarding an individual or group with regard to race, religion, gender, disability, sexual orientation, citizenship, or other protected class. If someone says that tax money should not go for services for illegal immigrants, is that negative? I don't think so, but some people do based upon citizenship. The city will be adjusting its policies to deal with gay couples to comply with the civil union law. If someone hopes it does not lead to marriage, is that negative? What about someone posting that a city committee is too white or male or female or black? How about someone saying Christians are too old fashion and they should not be opposed in certain public policy areas? I have heard all of those, should any be banned? My point is that we may all find something to agree or disagree with on either side of a debate, but city employees in their own time on private capacity have the right to participate. Freedom of speech is protected in the first amendment not to safeguard what everyone agrees upon, but to safeguard the controversial and even the offensive.

The city should make it clear that we are not responsible for the activities of city employees on their own time. If a city employee brings work into their private lives, then certain city guidelines should apply. Most of the restrictions in the prohibitions section seem to make sense such as confidential information, in the illegal category, I would add including hate crimes or harassment after illegal drugs and delete the negative comments section.

Another issue that I have is a blanket ban on social media during work hours. Why should a person not be able to watch YouTube or update her Facebook while on break on his or her smart phone? Even the military does not try to go that far. Such a policy would be unevenly enforced by its nature which could raise questions of discriminatory enforcement. I highly advise that we do not go there. If you want to say city computers fine. Don't regulate private equipment except when it interferes with the job.

Personally, I would rather see a best practices approach like these the City of Hampton, and the GSA. The federal government does not try to micromanage after

hours or break times, we should not either. It makes us responsible where we were not. In this day of liablity, assuming it upon yourself is not wise.

I hope that by the 12th, these concerns are taken into account and the policy can move quickly.

David Anderson

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Developing Policies for Responsible Social Media Use

Having a social media policy can ensure that government employees utilize social media as a tool and not a distraction.

BY: HEATHER KERRIGAN | MARCH 9, 2011



HEATHER KERRIGAN

Heather Kerrigan is a GOVERNING contributor. She pens the monthly Public Workforce column and contributes to the print magazine.

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Commented March 11, 2011

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South Dakota's Secretary of State, Jason Gant, is a recent entrant into the social media world. Last month, his office joined Facebook, Twitter, and YouTube after recognizing that the state leads the nation in per-capita Facebook use (according to one social media consultant), and that social media could be helpful in getting information to citizens.

Setting up these accounts is easy, especially now that the National Association of State Chief Information Officers (NASCIO) and the National Association of Attorneys General (NAAG) have worked and are working with social media platforms to alleviate any legal barriers governments face in using social media. But once online, what government officials should and should not say or do is less clear.

Arguably, governments can't tweet or update the same way private citizens can. But the conversational manner of social media means that governments need to adapt their messages to an extent. Toeing the line between chatty and professional is tricky. Imagine the potential backlash if a government employee blurred the lines between his or her personal and professional online presences, published classified information or spouted off on a private citizen's comment on an official state or agency Facebook page. Existing personnel policies, IT access issues and the growing ability to access social media sites on the job (hello, smartphones!) makes addressing social media use tricky.

Without too many long-standing policies or guidelines governing social media use, states are starting to recognize the need to put into writing what employees can and cannot do on social media platforms. One way they are doing this is by looking to see what others are doing. I spoke with Gant and a number of officials in different states to see what policies and guidelines they created and what they address.

North Carolina and Utah created some of the first statewide social media policies in 2009. Both policies, like many around the country, address what information government officials should post. Utah's four pages of guidelines give suggestions for creating content that is valuable for citizens. This includes avoiding overly composed language and encouraging personality in posts. "Share with the participants the things we are learning and doing, and open up social media channels to learn from others," the guidelines say.

North Carolina's nine-page policy outlines what employees can say and what to do if citizen comments become offensive or off topic. When a representative of the state posts on a social media site, that person is "encouraged to be professional in their posts and to assume what is posted cannot be 'taken back,'" says Ben Niolet, director of new media in Gov. Bev Perdue's office. And as far as moderating the comments posted by citizens, agencies are encouraged to use a very light hand. "Profanity or similarly inappropriate content is typically deleted after it has been archived. Occasionally, interest groups will bombard a site with messages, a sort of virtual sit-in. Decisions on how to handle these incidents are made on a case-by-case basis," says Niolet.

Back in South Dakota, Gant wanted to align social media usage with agency goals, including transparency and openness. "We wanted people to feel comfortable posting different things and different feelings and interpretations of activities the office is engaged in," says Gant. "But we wanted to be careful that it didn't turn into information being posted that wasn't appropriate."

As a result, the South Dakota Secretary of State's social media policy was driven by "the best amalgamation of those policies as it applied to South Dakota," says Pat Powers, director of operations in the Secretary of State's office. The policy emphasizes why the office is using social media, ethics to follow, when employees can use social media and how they can address citizen comments.

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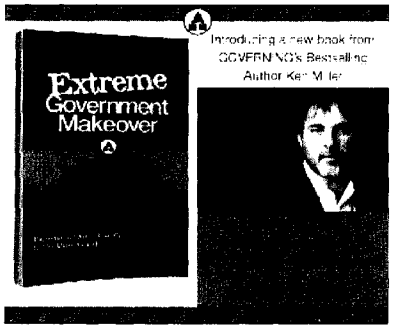
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Once a state or agency has the policies or guidelines in place and participants chosen, the new rules are spread to employees by "social media delegates" or another state representative. It falls to these representatives to drum up excitement and compliance. "We had a number of meetings about what our objectives were ... and everyone's really excited about what we're doing," says Gant.

Having policies in place that govern social media use makes employees responsible for what they say and do, and also gives agencies a course of action if someone violates the privilege of access. According to a majority of state officials I spoke with, including those from South Dakota, employees are punished in accordance with existing personnel policy if a problem does arise.

Sometimes these problems revolve around personal use of social media -- both on and off the clock. Some states aren't addressing personal use of social media in their policies and guidelines because they feel that existing personnel policy drives how an employee behaves outside of the office and how that can reflect on the state. Others are adding a simple sentence into the social media policy and guidelines. States like North Carolina, Oklahoma, and South Dakota explicitly include a provision about personal use of social networking sites. For example, "Employees should be mindful of blurring their personal and professional lives when administering social media, Web 2.0 and social networking sites," Oklahoma's policy warns.

Oklahoma employees are allowed to have their own personal social media presence, so long as it is attached to a personal e-mail and not a state e-mail account. If an employee should decide to comment on official state business through a personal account, that employee is required to state his or her name and role in state government, and include a disclaimer, such as, "This posting on this site are my own and don't reflect or represent the opinions of the State of Oklahoma or the agency for which I work." Those in executive or management positions are asked to use extra caution when posting on their personal social media sites because the nature of the position can indicate the expression of official state policy.

Policy on personal social media use during work hours differs state by state. Some states have policies that allow for brief access to personal social media sites as long as it does not interfere with that employee's ability to complete his or her work. In North Carolina, for example, the state policy reads: "During normal business hours, employees may use personal social networking for limited family or personal communications so long as those communications do not interfere with their work."

Gant views things a bit differently. "When you're on official business, that's all you can do," he says. This means that logging onto Facebook or Twitter during working hours is reserved for those given the privilege of officially representing the Secretary of State's office -- and these employees are expected to complete their official business quickly. "Accessing social media for personal interests has nothing to do with an employee's job duties for the Secretary of State's office, and such utilization during working hours is not permitted," the policy states.

The policies in place now are definitely not the last word on social media standards. There is recognition that the policies and guidelines are often living documents that will change as the platforms evolve and new challenges arise. According to Gant, "My goal was that this was our first publishing of the policy and we're probably going to go through a number of revisions with things that are good and bad and just update those and keep moving forward."

You may use or reference this story with attribution and a link to http://www.governing.com/topics/public-workforce/developing-policies-responsible-social-media-use.html

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COMMENTS

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Kristy Fifelski | Commented March 11, 2011

Determining social media tone is a difficult task. I am the city government web manager for Reno, Nevada. I put together a video with examples of how some governments are having fun with social media: http://www.youtube.com/watch?v=p-_qGND-ITk

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City of Hampton Information Technology Policy	**Policy No.**: 09-002
Subject: Social Media Policy	**Page** 1 of 5

APPROVED BY: IT Governance Board

EFFECTIVE DATE: 08/01/2009

REVISION DATE: N/A

PURPOSE

City of Hampton departments may utilize social media and social network sites to further enhance communications with various stakeholder organizations in support of City goals and objectives. City officials and City organizations have the ability to publish articles, facilitate discussions and communicate information through various media related to conducting City business. Social media facilitates further discussion of City issues, operations and services by providing members of the public the opportunity to participate in many ways using the Internet.

POLICY

1. All City of Hampton social media sites shall be (1) approved by the Director of Information Technology and the requesting Department Head; (2) published using approved City social networking platform and tools; and (3) administered by the Department of Information Technology Web Team or their designee. Designees can be any department employee or volunteer designated by the requesting Department Head that has a complete understanding of this policy and has appropriate content and technical experience.
2. All City of Hampton social networking sites shall adhere to applicable state, federal and local laws, regulations and policies including all Information Technology and Records Management City policies and other applicable City policies.
3. Freedom of Information Act and e-discovery laws and policies apply to social media content and therefore content must be able to be managed, stored and retrieved to comply with these laws.
4. City of Hampton social networking sites are subject to Library of Virginia's (LVA) public records laws. Relevant City of Hampton and (LVA) records retention schedules apply to social networking content. Records required to be maintained pursuant to a relevant records retention schedule shall be maintained for the required retention period in a format that preserves the integrity of the original record and is easily accessible using the approved City platforms and tools.
5. All social network sites and entries shall clearly indicate that any articles and any other content posted or submitted for posting are subject to public disclosure.
6. Content submitted for posting that is deemed not suitable for posting by a City of Hampton social networking moderator because it is not topically related to the particular social networking site objective being commented upon, or is deemed prohibited content based on the criteria in Policy –Item 9. of this policy, shall be retained pursuant to the records retention schedule along with a description of the reason the specific content is deemed not suitable for posting.
7. The City reserves the right to restrict or remove any content that is deemed in violation of this policy or any applicable law.

8. Each City of Hampton social networking site shall include an introductory statement which clearly specifies the purpose and topical scope of the blog and social network site. Where possible, social networking sites should link back to the official City of Hampton Internet site for forms, documents and other information.
9. City of Hampton social networking content and comments containing any of the following forms of content shall not be allowed for posting:
    a. Comments not topically related to the particular site or blog article being commented upon;
    b. Profane language or content;
    c. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;
    d. Sexual content or links to sexual content;
    e. Solicitations of commerce;
    f. Conduct or encouragement of illegal activity;
    g. Information that may tend to compromise the safety or security of the public or public systems; or
    h. Content that violates a legal ownership interest of any other party
10. All City social networking moderators shall be trained regarding the terms of this City of Hampton policy, including their responsibilities to review content submitted for posting to ensure compliance with the policy.
11. All social networking sites shall clearly indicate they are maintained by the City of Hampton and shall have City of Hampton contact information prominently displayed.
12. Where appropriate, City IT security policies shall apply to all social networking sites and articles.
13. Employees representing the City government via social media outlets must conduct themselves at all times as a representative of the City and in accordance with all human resource policies. See Attachment C–Employee Guidance for Participating in Social Networking.
14. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

ATTACHMENT A. Definitions

For the purpose of this City of Hampton Social Media Policy, the following terms are defined as provided below:

1. Social Media: Social media is content created by individuals using accessible and scalable technologies through the Internet. Examples of social media include Facebook, blogs, MySpace, RSS, UTube, Second Life, Twitter, LinkedIn, Delicious, Flicker, etc.

2. Blog: (an abridgment of the term web log) is a City of Hampton website with regular entries of commentary, descriptions of events, or other material such as graphics or video.

3. City of Hampton author: An authorized City of Hampton official that creates and is responsible for posted articles and information on social media sites (see article below).

4. Article: An original posting of content to a City of Hampton social media site by a City of Hampton author.

5. Commenter: A City of Hampton official or member of the public who submits a comment for posting in response to the content of a particular City of Hampton article or social media content.

6. Comment: A response to a City of Hampton article or social media content submitted by a commenter.

7. City of Hampton moderator: An authorized City of Hampton official, who reviews, authorizes and allows content submitted by City of Hampton authors and public commentators to be posted to a City of Hampton social media sites.

ATTACHMENT B. Blog Standards

Comments submitted by members of the public must be directly related to the content of the articles. Submission of comments by members of the public constitutes participation in a limited public forum. City of Hampton blog moderators shall allow comments that are topically related to the particular article being commented and thus within the purpose of the limited public forum, with the exception of the prohibited content listed in Policy - General - Section 9 above.

Author and Commenter Identification

1. All City of Hampton blog authors and public commentators shall be clearly identified. Anonymous blog postings shall not be allowed.
2. Enrollment of public commentators shall be accompanied by valid contact information, including a name, address, and email address.

Ownership and Moderation

1. The content of each City of Hampton blog shall be owned by and the sole responsibility of the department producing and using the blog.
2. Documents and articles submitted to a City of Hampton blog shall be moderated by an authorized and trained blog moderator.

Blog Comments & Responses

1. All blog articles and comments shall be reviewed and approved by an authorized blog moderator before posting on a City of Hampton blog.
2. All blog articles and comments submitted for posting with attached content shall be scanned using antivirus technology prior to posting.
3. The linked content of embedded hyperlinks within any City of Hampton blog articles or blog comments submitted for posting shall be evaluated prior to posting. Any posted hyperlinks shall be accompanied by a disclaimer stating that the City of Hampton guarantees neither the authenticity, accuracy, appropriateness nor security of the link, web site or content linked thereto.

ATTACHMENT C. Employee Guidance for Participating in Social Networking

The City of Hampton understands that social networking and Internet services have become a common form of communication in the workplace and among stakeholders and citizens. Social networks are online communities of people or organizations that share interests and/or activities and use a wide variety of Internet technology to make the interaction a rich and robust experience. Employees that choose to participate in social networks as a City employee should adhere to the following guidelines.

1. City policies, rules, regulations and standards of conduct apply to employees that engage in social networking activities while conducting City business. Use of your City e-mail address and communicating in your official capacity will constitute conducting City business.
2. City employees shall notify their supervisor and the IT department if they intend to create a social networking site or service to conduct City business.
3. Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties. Department Heads may allow or disallow employee participation in any social networking activities in their departments.
4. Protect your privacy, the privacy of citizens, and the information the City holds. Follow all privacy protection laws , i.e., HIPPA, and protect sensitive and confidential City information.
5. Follow all copyright laws, public records laws, retention laws, fair use and financial disclosure laws and any others laws that might apply to the City or your functional area.
6. Do not cite vendors, suppliers, clients, citizens, co-workers or other stakeholders without their approval.
7. Make it clear that you are speaking for yourself and not on behalf of the City of Hampton. If you publish content on any website outside of the City of Hampton and it has something to do with the work you do or subjects associated with the City, use a disclaimer such as this: "The postings on this site are my own and don't necessarily represent the City's positions or opinions."
8. Do not use ethnic slurs, profanity, personal insults, or engage in any conduct that would not be acceptable in the City's workplace. Avoid comments or topics that may be considered objectionable or inflammatory.
9. If you identify yourself as a City employee, ensure your profile and related content is consistent with how you wish to present yourself to colleagues, citizens and other stakeholders.
10. Correct your mistakes, and don't alter previous posts without indicating that you have done so. Frame any comments or opposing views in a positive manner.
11. Add value to the City of Hampton through your interaction. Provide worthwhile information and perspective.

CIO 2106.1 GSA Social Media Policy

Date: 07/17/2009
Status.: Validated
Outdated on: 07/17/2019

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

CIO 2106.1
July 17, 2009

GSA ORDER

SUBJECT: GSA Social Media Policy

1. Purpose. This Order establishes policy for employee use of social media.

2. Applicability. This Order applies to all GSA employees. It also applies to contractors engaged in social media on behalf of GSA as part of their duties.

3. Background. GSA encourages the use of social media technologies to enhance communication, collaboration, and information exchange in support of GSA's mission. By openly sharing knowledge, best practices, and lessons learned within the agency, with and from other federal, state, and local partners, and with and from the public, we can provide more effective solutions and efficiencies to enhance excellence in the business of government.

As the technology evolves, this order and its accompanying handbook will evolve, but in general terms, this order defines guiding principles for use of these technologies by GSA employees. The use of social media technology follows the same standards of professional practice and conduct associated with everything else we do. Common sense and sound judgment help avoid the most vexing issues.

4. Definitions. "Social media" and "Web 2.0" are umbrella terms that encompass the various activities that integrate technology, social interaction, and content creation. Social media use many technologies and forms, such as blogs, wikis, photo and video sharing, podcasts, social networking, mashups, and virtual worlds. The GSA Handbook on Social Media defines these and other tools.

5. Guiding Principles.

a. Know and follow GSA and Executive Branch conduct guidelines, such as *Standards of Ethical Conduct for Employees of the Executive Branch.*

These standards cover topics of prohibited activities such as:

Engaging in vulgar or abusive language, personal attacks of any kind, or offensive terms targeting individuals or groups.

Endorsement of commercial products, services, or entities.

Endorsement of political parties, candidates, or groups.

Lobbying members of Congress using GSA or any other appropriated resource.

b. Published content is persistent in the public domain. When you are representing GSA in an official capacity, GSA is responsible for the content you publish on blogs, wikis or any other form of user-generated media. Assume your communications are in the public domain, available for publishing or discussion in all forms of media.

c. When you discuss GSA or GSA-related matters, you may need to coordinate your writing with the Office of Citizen Services and Communications (OCSC) and the Office of General Counsel (OGC). Consult OCSC and/or OGC when in doubt,.

d. If you publish content to any website outside of GSA's official online presence (this may include GSA websites as well as GSA's official presence on third party sites) and it has something to do with subjects associated with GSA, consider a disclaimer such as this: "The postings are my own and do not necessarily represent GSA's positions, strategies or opinions." Never use or reference your formal position when writing in a non-official capacity. Consult OCSC and/or OGC when in doubt.

e. Those with leadership responsibilities, by virtue of their position, must consider whether personal thoughts they publish, even in clearly personal venues, may be misunderstood as expressing GSA positions. They should assume that their team and those outside GSA will read what is written. A public blog is not the place to communicate GSA policies to GSA employees. Assume your thoughts are in the public domain and can be published or discussed in all forms of media. Have no expectation of privacy.

f. Respect copyright, fair use and financial disclosure laws. Always protect sensitive information, such as protected acquisition and personally identifiable information. Do not publish or report on conversations that are meant to be pre-decisional or internal to GSA unless given permission by management.

g. Be aware of your GSA association in online social networks. If you identify yourself as a GSA employee or have a public facing position for which your GSA association is known to the general public, ensure your profile and related content (even if it is of a personal and not an official nature) is consistent with how you wish to present yourself as a GSA professional, appropriate with the public trust associated with your position, and conforms to existing standards, such as *Standards of Ethical Conduct for Employees of the Executive Branch*. Have no expectation of privacy.

h. Remain focused on customers, existing commitments, and achieving GSA's mission. Your use of social media tools should never interfere with your primary duties, with the exception of where it is a primary duty to use these tools to do your job. Existing policies covering employee behavior on acceptable personal usage can be found in ADM 7800.11A, Personal Use of Agency Office Equipment, CIO 2104.1, IT General Rules of Behavior, and CCHCO 9751.1, Maintaining Discipline.

i. Ensure use complies with applicable mandates, such as Section 508 of the Rehabilitation Act of 1973, IT Security Policy, and the Federal Records Act. The GSA Handbook on Social Media provides greater detail on applicable mandates.

6. Labor management relations responsibilities. Implementation of this order with respect to employees represented

by a labor organization is contingent upon completion of appropriate labor relations obligations.

Casey Coleman
Chief Information Officer



September 9, 2011

BY EMAIL
City Council Members
City of Dover
P.O. Box 475
Dover, DE 19903

Re: Proposed Social Media Policy for Dover Empoyees

AMERICAN CIVIL LIBERTIES UNION FOUNDATION of DELAWARE
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WILMINGTON, DE 19801
T/302-654-5326
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NORMAN M MONHAIT
PRESIDENT

KATHLEEN M MacRAE
EXECUTIVE DIRECTOR

RICHARD H MORSE
LEGAL DIRECTOR

Dear Council Members:

I write with regard to item no. 8 on the Legislative, Finance and Administrative Copmmittee agenda for September 12, 2011, Implementation of Social Media Policy. As described in the press and on the City of Dover website, the policy would violate the First Amendment of the United States Constitution by prohibiting city personnel from engaging in constitutionally protected speech. Specifically, the policy states that, without regard to whether the activity occurs in the workplace or uses City of Dover equipment or technology, all Dover personnel other than Dover Police Department employees are prohibited from using the internet and social media to make certain types of statements. For example, the proposed policy states that employees may not use the internet to disparage co-workers, supervisors, members of the public with whom they interact as a result of their employment, or affiliated agencies, and may not use the use the internet to direct negative comments towards or about any individual or group based on race, religion, gender, etc.

No matter how distasteful or repulsive that speech may be, the Constitution's guarantee of free speech means the City of Dover may not prohibit it. In this country, the government does not get to choose whether speech is acceptable, even when government officials fear harm that might be caused by the speech. As the Supreme Court has said, "fear of serious injury cannot alone justify suppression of free speech and assembly." *United States v. National Treasury Employees Union,* 513 U.S. 454, 476 (1995)(quoting *Whitney v. California,* 274 U.S. 357, 376, 47 S.Ct. 641, 648, 71 L.Ed. 1095 (1927) (Justice Brandeis concurring)).

Americans do not lose their right to free speech when they become government employees. At the federal court of appeals has ruled, "Public employers cannot silence their employees simply because they disapprove of the content of their speech." *Baldassare v. State of N.J.*, 250 F.3d 188, 194 (3d Cir. 2001) citing *Rankin v. McPherson*, 483 U.S. 378, 384 (1987). Likewise, the Third Circuit ruled that the "state cannot lawfully discharge an employee for reasons that infringe upon that employee's constitutionally protected interest in freedom of speech." *Feldman v. Phila. Hous. Auth.*, 43 F.3d 823, 829 (3d Cir. 1994).

The strength of government employees' free speech rights has been made crystal clear by United States Supreme Court decision in *United States v. National Treasury Employees Union.* In that case, the Court ruled unconstitutional a federal statute limiting the ability of federal employees to speak publicly on matters having nothing to do with their jobs because "deferring to the Government's speculation about the pernicious effects of thousands of articles and speeches yet to be written or delivered would encroach unacceptably on the First Amendment's protections." At 476.

In *National Treasury Employees Union*, Congress had passed a law barring federal employees from receiving payment for making speeches or writing articles on matters of interest to the employees, whether or not those matters had a relationship to their official duties. Obviously, that law had a less direct effect on limiting speech than the proposed Dover policy barring use of the internet for disfavored speech would have. Nevertheless, the Supreme Court ruled the law unconstitutional, recognizing that "the large-scale disincentive to Government employees' expression [and the] significant burden on the public's right to read and hear what the employees would otherwise have written and said." At 470, citing *Virginia Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.,* 425 U.S. 748, 756-757, 96 S.Ct. 1817, 1822-1823, 48 L.Ed.2d 346 (1976).

National Treasury Employees Union dealt primarily with speech that did not relate to matters of public concern, but the free speech right of public employees extends to matters of public concern, as well. *See, e.g., Pickering v. Board of Educ.,* 391 U.S. 563, 572 (1968); *Garcetti v. Ceballos,* 547 U.S. 410 (2006); *Rankin v. McPherson*, 483 U.S. 378, 383-84 (1987).

The Dover government's duty to comply with the Constitution is certainly reason enough for Council to reject the proposed policy. But there is a second reason as well. The city will be exposed to damages claims by employees if the policy is adopted and then enforced against an employee. Public employees have the right to assert claims under 28 U.S.C. § 1983 against their employers for violations of their constitutional rights. An employee disciplined or fired because of what he or she has said may assert free speech and due process claims against the employer – in this case the City of Dover – and receive a damages award.

I urge you to reject the proposed policy.

Sincerely yours,

Richard H. Morse

Richard H. Morse

Cc: Nicholas A. Rodriguez, Esq.