REGULAR COUNCIL MEETING

The Regular Council Meeting was held on July 11, 2011 at 7:30 p.m. with Council President Leary presiding. Council members present were Mr. Anderson, Mrs. Russell, Dr. McGlumphy, Mr. Lynn, Mr. Bonar, Mrs. Williams, Mr. Hare, and Mr. Hutchison.

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

OPEN FORUM

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

There was no one present wishing to speak during the Open Forum Segment.

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

AGENDA ADDITIONS/DELETIONS

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

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

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF JUNE 27, 2011

The Minutes of the Regular Council Meeting of June 27, 2011 were unanimously approved by motion of Mr. Bonar, seconded by Mrs. Russell and bore the written approval of Mayor Carey.

PRESENTATION - LUTHERAN SENIOR SERVICES OF DOVER, INC.

Mr. Gary Coy, Representative of Lutheran Senior Services of Dover, Inc., presented Mayor Carey with a contribution of $27,227 (for payment in lieu of taxes) and relayed appreciation for services provided to Lutheran Senior Services by the City throughout the year.

Mayor Carey expressed his gratitude and thanked Mr. Coy and Lutheran Senior Services for their contribution.

CERTIFICATE OF APPRECIATION - 4TH OF JULY CELEBRATION COMMITTEE

The following Certificate of Appreciation was read into the record by the City Clerk:

WHEREAS, the City of Dover Fourth of July Celebration Committee was established by City Council on December 8, 2003; and

WHEREAS, members of the Fourth of July Celebration Committee have worked tirelessly to ensure that the citizens of Dover and surrounding communities enjoy patriotic commemorations in the Capital City; and

WHEREAS, as a result of the Committee's efforts and community support, the City of Dover Fourth of July Celebration Committee hosted a celebration of our nation's 235th birthday on July 4, 2011, concluding with a vibrant display of fireworks on Legislative Mall.

NOW, THEREFORE, the Mayor and Council deem it an honor and a privilege to recognize

The City of Dover Fourth of July Celebration Committee Members

Greg Patterson

Zachery Carter	*Elaine Brenchley*
Brad Holden	*Andrea Maucher*
Donna Mitchell	*Karen Nickerson*

With Sincerest Gratitude from the City of Dover
July 2011

Mayor Carey congratulated the Fourth of July Celebration Committee on a very successful event and relayed appreciation for their work.

Mr. Bonar expressed thanks to members of the Committee for serving, noting that he previously served in this capacity and was familiar with the extensive planning and community involvement required to put on a successful event.

Mr. Hutchison also thanked the Committee for their work and suggested that City Council strongly consider embracing and supporting this event in the future.

Mr. Patterson thanked the City for the recognition and indicated that the Committee relies on private donations to finance the celebration; however, tremendous logistical support is provided by the City, State, and others, which is also greatly appreciated.

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 423 COLLINS DRIVE, OWNED BY ALFRED BLACKETT

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance for property located at 423 Collins Drive, owned by Mr. Alfred Blackett. Mr. Scott Koenig, Interim City Manager, Public Services Manager/Director of Public Works, stated that this is a one (1) story, single-family, wood-framed dwelling that has been the subject of various code violations since 2001, including numerous cases of exterior violations on the structure, tall grass and weeds, and junk and debris. There is an active case from 2008 involving exterior violations that have not been corrected. The house was registered by staff as a vacant building in October 2008. Mr. Koenig reviewed a presentation which included slides depicting the condition of the structures ***(Exhibit #1)***.

Staff recommended that City Council: 1) declare the building dangerous and all accessory buildings on the property dangerous; 2) order the property repaired or demolished by August 11, 2011 by the owner or equitable owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner or equity owner within the ten (10) days of the date set by Council; and 4) order the City Manager, with the assistance of the City Solicitor,

to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands, or to be recovered in a suit at law against the owner.

Responding to Mr. Lynn, Mr. Koenig stated that although notices have been sent to the owner of the property, he has not received verification of delivery from the Post Office.

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

Mrs. Russell moved that the structures located at 423 Collins Drive, owned by Alfred Blackett, be declared dangerous buildings and subject to demolition, as follows: 1) declare the building dangerous and all accessory buildings on the property dangerous; 2) order the property immediately repaired or demolished by the owner or equitable owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner or equity owner by August 11, 2011; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands, or to be recovered in a suit at law against the owner. The motion was seconded by Mr. Bonar and carried by a roll call vote of eight (8) yes, and one (1) no (Mr. Lynn).

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 443 COLLINS DRIVE, OWNED BY ALFRED BLACKETT

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance for property located at 443 Collins Drive, owned by Mr. Alfred Blackett. Mr. Scott Koenig, Interim City Manager and Public Services Manager/Director of Public Works, stated that the property is a one-story, single-family, wood-framed dwelling that has been the subject of various code violations since 2001, including numerous cases of tall grass and weeds, and junk and debris. The house was registered as a vacant building in September 2010, and is in a state of disrepair. Mr. Koenig reviewed a presentation which included slides depicting the condition of the structure ***(Exhibit #2)***.

Staff recommended that City Council: 1) declare the building dangerous and all accessory buildings dangerous; 2) order the property repaired or demolished by August 11, 2011 by the owner or equitable owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner or equity owner within the ten (10) days of the date set by Council; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands, or to be recovered in a suit at law against the owner.

Responding to Mr. Lynn, Mr. Koenig stated that although notices have been sent to the owner of the property, he has not received verification of delivery from the Post Office.

In response to Mr. Anderson, Mr. Koenig relayed no objections to delaying the consideration of this matter for an additional two (2) weeks to allow time for receipt of delivery verification of notice to property owner.

Responding to Mr. Hare, Mr. Koenig assured members that demolition activities would not begin until the file is complete. He explained that the recommendation provides staff authority to begin the process within 30 days.

Mrs. Russell advised members of her familiarity with these properties and her concern with the dangers they pose, particularly to children in the neighborhood. In addition, she stated that these blighted structures reduce the quality of the neighborhood and felt that if the property owner had intended to make repairs, he would have acted in a timely fashion.

For further clarification, Mr. Koenig stated that, should Council approve staff's recommendation, a certified letter and regularly mailed letter would be sent to the property owner advising him of Council's action and allowing 30 days to take action. At the conclusion of the 30 days, another letter would be sent to advise the property owner that the City will enter the property on a certain date to conduct asbestos abatement. He assured members that multiple notices are typically sent to property owners to the address of record in accordance with the property tax records.

Mr. Hare suggested the use of either FedEx or UPS for the delivery of such notices. Responding, Mrs. Anne Marie Townshend, Director of Planning and Community Development, stated that the U.S. Postal Service makes several attempts to deliver certified letters and, if a letter is determined to be "undeliverable," the U.S. Postal Service returns the letter with the Certified Mail sticker intact.

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

Mr. Bonar moved that the structure located at 443 Collins Drive, owned by Alfred Blackett, be declared a dangerous building and subject to demolition, as follows: 1) declare the building dangerous and all accessory buildings on the property dangerous; 2) order the property immediately repaired or demolished by the owner or equitable owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner or equity owner by August 11, 2011; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands, or to be recovered in a suit at law against the owner. The motion was seconded by Mr. Hutchison and carried by a roll call vote of seven (7) yes, one (1) no (Mr. Lynn), and one (1) abstention (Mr. Anderson).

PUBLIC HEARING - VIOLATION OF THE DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 21 N. KIRKWOOD STREET, OWNED BY ROBERT AND CHRISTINE SNELL

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance for property located at 21 N. Kirkwood Street, owned by Robert and Christine Snell. Mr. Scott Koenig, Interim City Manager, Public Services Manager/Director of Public Works, stated that the property is a two (2) story, single-family, wood-framed dwelling that has been the subject of various code violations since 1999, including cases of exterior and interior violations, tall grass and weeds, overgrowth, abandoned vehicles, and junk and debris. The house was registered as a vacant building in February 2010 and was administratively condemned in June 2010. In May 2011, the house was found unsecured, and an inspection revealed that it had been ransacked and that squatters were residing in the dwelling. The house was subsequently secured by City staff. An inspection on July 1, 2011 revealed that the house was again unsecured, and it appeared to be occupied by squatters. Because the structure is repeatedly being entered and occupied by squatters, staff recommended that this be considered as an emergency case, and that the City proceed with demolition, if such action has not been taken by the owner or equity owner within ten days of Council action. Mr. Koenig reviewed a presentation which included slides depicting the condition of the structure ***(Exhibit #3)***.

Staff recommended that City Council: 1) declare this building and all accessory buildings on the property dangerous; 2) order the property immediately repaired or demolished; 3) order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner by July 21, 2011; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Mr. Koenig advised members that notice was sent to the property owner on June 27, 2011 (to 21 N. Kirkwood Street) regarding this hearing and that the City has not received verification of delivery from the Post Office; however, he noted that previous notices sent to the same address were returned to the City as undeliverable and unopened.

In response to Mrs. Russell, Mr. Koenig stated that in addition to mailing notices to 21 N. Kirkwood Street, notices were sent to all addresses of record, based on a lien search, as follows: 284 East Main Street, Newark, Delaware; 8430 Brenmawr Suite, Chicago, Illinois; and a Post Office Box in Wilmington, Delaware.

In response to Mr. Lynn, Mr. Koenig stated that although notices have been sent to the owner of the property, he has not received verification of delivery from the Post Office nor, to his knowledge, have the regular mail notice letters been returned to the City. Mr. Lynn suggested that, in the future, staff check with the U.S. Postal Service to obtain delivery confirmation information prior to the presentation to City Council.

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

Mr. Hare moved that the structure located at 21 N. Kirkwood Street, owned by Robert Snell and Christine Snell, be declared a dangerous building and subject to demolition, as follows:

1) declare the building dangerous and all accessory buildings on the property dangerous; 2) order the property immediately repaired or demolished by the owner or equitable owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner or equity owner by August 11, 2011; and 4) order the City Manager, with the assistance of the City Solicitor, to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien, or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land upon which the building stands, or to be recovered in a suit at law against the owner. The motion was seconded by Mr. Anderson and carried by a roll call vote of eight (8) yes, and one (1) no (Mr. Lynn).

UTILITY COMMITTEE REPORT - JUNE 27, 2011

The Utility Committee met on June 27, 2011 with Chairman Bonar presiding.

Informational Presentation by Delaware Electric Cooperative on the Pros and Cons of Their Purchase of the City of Dover Electric System

Mr. Bonar advised members that they would be considering the possibility of an outside entity taking over the operation of the City of Dover Electric Department. He indicated that the Delaware Electric Cooperative (DEC) had expressed interest in pursuing this option. Mr. Bonar introduced Mr. J. William Andrew, President and CEO of DEC.

Mr. Andrew stated that he was contacted by Mr. Bonar approximately two (2) weeks ago requesting that the Co-op present information regarding the possibility of DEC purchasing the City of Dover Electric System. He stated that DEC evaluated public information and toured the City of Dover Electric System and determined that it was an excellent system.

Mr. Andrew and Mr. Gary D. Cripps, Chief Financial Officer (CFO) of DEC, provided a presentation on the Pros and Cons of DEC Purchasing the City of Dover Electric System. Mr. Cripps stated that both the City of Dover and DEC have positive attributes and felt that the two (2) organizations would function better together. He indicated that a consolidation of these business enterprises would be fruitful for many years to come.

Referring to the Key Benefits, listed on Page 2 of the presentation, Mr. Cripps stated that members of DEC are controlled by a Board of Directors who are elected annually in August and serve three (3) year terms. He noted that Mr. William Wells, Chairman of the Board of Directors, was also present. Mr. Cripps stated that if Council opts to proceed with the proposal, City of Dover utility customers would realize lower utility rates and that the impact would be approximately $25M per year. He advised members that consolidation with the City of Dover would provide rate stability over the long term, particularly as it relates to the market and the effects of economic development in the State of Delaware. Mr. Cripps stated that DEC has a Power Supply Contract, which will expire in 2054, with Old Dominion Electric Cooperative, headquartered in Richmond, Virginia. He explained that Old Dominion Electric Cooperative is asset based and serves 600,000 customers in the aggregate.

Mr. Cripps noted the importance of economic development and indicated that DEC's first priority is to protect current businesses in the City of Dover and Kent and Sussex Counties. He advised members that DEC has 32,000 customers in Kent County and the City of Dover has 23,000 customers. Mr. Cripps stated that if DEC purchases the City of Dover's Electric system, their customer base would increase to 55,000 in Kent County, which would necessitate the establishment of a DEC facility in Dover. In addition, he stated that there would be a need for two (2) additional districts, as well as two (2) additional members to serve on the DEC Board of Directors.

Mr. Cripps stated that one of the key benefits of consolidation would be that City of Dover residents would retain ownership of the utility system. He advised members that DEC is an electric cooperative, a not-for-profit organization, and not an investor-owned utility. Mr. Cripps noted that this proposal is very different in that respect from a previous offer from Delmarva Power and Light, which was entertained by the City in 1993. He emphasized the benefit of retaining membership and ownership of the utility.

Mr. Cripps stated that the load diversity for DEC is 82% residential and that, long term, this is problematic. He explained that DEC needs additional commercial customers in order to obtain a better balance and more diversity. Mr. Cripps noted that without diversity, rates would increase and future generations would have a difficult time paying their utility bills. He explained that over the past one (1) to (2) decades, commercial expansion has occurred near the metro areas and, as a result, DEC has lost service territory to municipalities, which is the greatest single threat to DEC. He stated that by consolidating the City of Dover and DEC, this threat would be mitigated.

Mr. Cripps advised members that DEC is run from a government standpoint, as is the City of Dover's utility, noting that DEC is administered by an elected Board of Directors and Chairman. If the Co-op acquired the City's Electric Department, DEC would escalate from 83,000 members to 106,000 members, which would assist with power supply contracts, allow human resource needs to be absorbed, and provide opportunities to take advantage of material discounts that may become available. He noted that in the past, DEC and the City have purchased items jointly, which resulted in significant savings for the City.

Mr. Cripps acknowledged that municipalities considering similar options often express concerns about the future, noting that initial rates following acquisition may be favorable but future rates are uncertain. He advised members that DEC is open to competition and does not have a monopoly on their customers. He explained that their customers may choose to obtain electric supply from anyone that sells it in Delaware. Mr. Cripps stated that deregulation has benefitted DEC by forcing the organization to remain "agile" and maintain its competitive position. He advised members that operating a utility involves environmental, legislative, regulatory, and financial risk, and that the City's risk would be mitigated by consolidation. He indicated that the influence of a commercial mix and density would lower DEC's average cost and would yield great long-term benefits.

Mr. Cripps stated that acquiring the City's utility would result in a significant financial windfall. He explained that, for DEC customers, one of the big advantages would be economies on infrastructure leverage, i.e., infrastructure capital needs in some areas that can be supported by infrastructure that is already in place.

Referring to the Stakeholder Matrix on Page 3, Mr. Cripps explained that when a cooperative makes a margin, the margin is distributed to customers and is not turned into a profit. He noted that for the past two (2) years, DEC's Board of Directors authorized over $5M to be paid back to customers in the form of checks or as credits on their utility bills.

In response to Mr. Bonar, Mr. Cripps stated that if the capital credit exceeds $30 a check is issued to customers, and if it is under $30 a credit is applied to customer utility bills.

In regard to the City Leadership/Elected Officials listed on Page 3, Mr. Cripps stated that financing the City government would be accomplished through economic development and not by raising taxes or rates. He explained that an examination of the City's financial data indicates that approximately $27M is in reserves and stated that a consolidation of the two (2) organizations would not include a transfer of those reserves. Mr. Cripps noted that a potential disadvantage for the City would be the inability to balance its budget through the Electric Fund; however, he noted that DEC has a proposed solution to this concern that would be outlined further during the presentation. He explained that loss of operational control would be another potential disadvantage.

Mr. Cripps advised members that one (1) potential disadvantage to DEC members is that the acquired area (the City of Dover) may be excluded from access to the U. S. Department of Agriculture (USDA) Rural Utilities Service (RUS) Program, which provides below market funding for electric utilities.

Referring to Page 4, Mr. Cripps stated that the commercial loads involved support generation decisions and that, in regard to generation, the City should examine its commercial load and power forecast for the next 5, 10, 15 and 20 years ahead. He noted that consideration of the other 600,000 members that are part of the power supply group can significantly impact those decisions.

In reference to the commercial and industrial customers, Mr. Cripps noted that lower rates would impact large accounts such as the Bayhealth Medical Center and Dover Downs Race Track. Regarding energy management services and technical support, Mr. Cripps stated that DEC has a highly qualified staff, including a number of individuals with Masters of Business Administration degrees and approximately five (5) Professional Engineers in the Engineering Department.

Referring to the map on Page 5, Mr. Andrew stated that DEC serves 83,000 customers over 1,100 square miles, including the majority of the service territory in Kent and Sussex County. He explained that DEC surrounds the City of Dover and is contiguous in many areas. As a result, he stated that the City and DEC have a shared infrastructure. Mr. Andrew stated that the DEC can provide additional support to the City of Dover infrastructure and indicated that the City of Dover has an excellent electric system which is comparable to Delaware Electric Cooperative's system. He noted that DEC provides only electric service and the City of Dover, like other municipalities, provides multiple services. Mr. Andrew stated that electric rates are currently high, and commercial and industrial sectors are consistently under pressure for competitive advantages. He noted that the City of Dover has lost more that 295 commercial and industrial customers in the past two (2) years. Mr. Andrew advised members that State and regulatory burdens are increasing and extremely costly

to the power industry. Recognizing that cities need additional funds to run their governments, he stated that electric systems require cash and capital to operate. He felt that consolidating the City's electric system with DEC would "free up" resources the City could devote to other utilities without raising rates or increasing taxes.

Referring to Page 6 of the presentation, Mr. Andrew stated that DEC rates are approximately 36% lower than the average rates in Delaware and that they have been able to maintain that for several years. He also noted that their rates were reduced during the last few years. Mr. Andrew indicated that the State of Delaware has passed possibly the most stringent renewable portfolio standards in the country; however, the fact that prices are already high raises concerns that the State will have challenges attracting and retaining businesses that rely on competitive electric prices. Mr. Andrew noted that DEC has perhaps the largest percentage of renewable portfolio in the State of Delaware, including 253 MW of wind that is producing energy daily. In addition he stated that DEC has a significant amount of landfill gas biomass and some hydro power. Mr. Andrew advised members that DEC is currently working on major solar facilities and hopes to operate these within the next two (2) years.

Referring to Page 7 of the presentation, Mr. Cripps stated that according to the City of Dover balance sheet, the net asset value of the City of Dover plant is $80M - $90M; however, he noted that typically municipal accounting capitalizes property at a low rate, and this is something that DEC recognizes. Mr. Cripps stated that the City of Dover and DEC would need to structure how the transfer would occur and how payments could be made that would equal the revenue stream that the City has been accustomed to over the years. He explained that rates for City customers would convert immediately to Cooperative rates. Mr. Cripps advised members that DEC would open a Kent County Operations Center in Dover and would possibly lease facilities in use by the City of Dover. He indicated that qualified City electric department employees would be needed by DEC, and it is hoped that the consolidation would have no impact on human resources. In addition, he stated that the City would gain the Cooperative as a substantial taxpayer.

Referring to Page 8, Mr. Andrew stated that the rate differential per year is $25M as of 2010 and is based on the latest information from the City of Dover that is publicly available. He indicated that the future value, based on the net present value over a 15-year period is more than $200M to rate payers and more than $300M over a 30-year period. In regard to economic development, Mr. Andrew advised members that energy is the second largest cost to businesses and stated that DEC can preclude that by making the City of Dover one of the lowest priced incorporated areas in the region. Regarding long-term competitive power supply, Mr. Andrew stated that Old Dominion Electric Cooperative is consistently seeking new energy-producing and capacity-producing businesses.

In conclusion, Mr. Andrew advised members that a consolidated enterprise would be a benefit to everyone and that rates would not rise due to consolidation. He noted that rate increases will occur; however, mitigating and retaining competitiveness will assist in maintaining and bringing employment to the City of Dover. Mr. Andrew felt the net value of $93M is understated and that DEC can structure several financial instruments and provide a net payment or a combination of payment and an annuity. He stated that if there is a need to meet the outlay of capital that is currently obtained each year from the power plant, this can be accomplished. It was his

recommendation that members authorize an in-depth analysis and business case with an independent third-party market specialist. Mr. Andrew noted that DEC reviewed public information over a two (2) week period and that more detailed information will need to be reviewed. He indicated that DEC is a transparent organization and that they are willing to review the information together with the City. Mr. Andrew advised members that it is costing the rate payers of the City of Dover $68,000 per day for each day that the City does not move forward.

In response to Mr. Snaman's question regarding DEC taking over current City of Dover purchase contracts, Mr. Andrew stated that this is an issue that would take further research. He noted that if DEC purchase contracts run for several years and are out of market, this would be an obstacle that must be evaluated.

Responding to Mr. Snaman, Mr. Andrew stated that Delaware Electric Cooperative is a member of PJM.

In response to Mr. Blakeman's question regarding the transfer of longevity and benefits for current City of Dover employees, Mr. Andrew stated that there are several legal matters involved and that this is an issue that the City of Dover and DEC would need to resolve. He noted that these details would be included in a contract. Mr. Cripps noted that DEC employees are also organized under the IBEW union. He reiterated that DEC would be interested in having all qualified electric department employees join their team.

Responding to Mr. Hutchison's question as to whether the City could charge an excise tax if DEC were to make the purchase, Mr. Cripps stated that this matter would have to be determined by the solicitor. Mr. Cripps noted that the idea has been discussed and that he had not heard anyone dispute the possibility.

Mr. Leary stated that he came to the meeting with a good deal of scepticism which has increased since the presentation. He explained that DEC has listed the short-term benefits of purchasing the City of Dover's electric system but not the long-term benefits. Noting the importance of the City's current ability to utilize revenue generated by the electric utility, he indicated that a great deal of additional study would be required before he would agree with such a proposal. Responding, Mr. Andrew noted that the City would have access to an asset-owned facility that has a record of being very reliable and is a low-cost provider in the State of Delaware. He explained that he would welcome an opportunity to discuss additional questions that members may have regarding the long-term benefits.

In response to Mr. Anderson's question regarding how DEC will work with residents who require additional time to pay their utility bills, Mr. Cripps stated that DEC has policies and procedures in place for residents who are not able to pay their utility bills at the time they are due. He explained that the Board donated $250,000 last year to assist customers with their bills and works closely with the Salvation Army and Catholic Social Services. He noted that DEC has a lot of flexibility in setting up payments and provides opportunities for customers to meet their utility obligations.

Responding to Mr. Anderson, Mr. Andrew stated that the outage rates, at worst, should stay the same. He explained that DEC would have an operations center located in Dover and would utilize

current City of Dover employees. Mr. Andrew noted that the increased infrastructure and technological efforts and capabilities should assist in this area and that supplying power to the City will not involve some of the challenges of rural areas, although tree trimming would be an important priority.

Responding to Mr. Bonar, Mr. Andrew felt that if the City decides to study the transfer of their electric system further and hire a third party consultant, DEC would be willing to support the cost, especially if a transfer of ownership would take place; however, he wanted to ensure that the City is focused on moving forward. Mr. Andrew stated that DEC is willing to provide a price on a Request For Proposal (RFP) basis that is equal and fair or to discuss such a proposal on an exclusive basis.

Mr. Bonar relayed his appreciation to DEC and to employees in attendance from the City of Dover. He advised members that if the City decides to move forward with the transfer of the electric system, he would insist that employees retain their benefits and longevity. Mr. Bonar noted that employees were promised these benefits when they were hired and felt that it was important to retain them. He explained that this a challenging and difficult decision that will require a great deal of study before Council makes a determination.

The Committee took no action.

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

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - JUNE 27, 2011

The Legislative, Finance, and Administration Committee met on June 27, 2011 with Chairman McGlumphy presiding.

Discussion - Elimination of Medicare Part B Reimbursements for Current Non-Bargaining Employees *(Tabled June 13, 2011 in Order to Obtain Legal Opinion)*

During their meeting of June 13, 2011, members considered the elimination of Medicare Part B reimbursements for current non-bargaining employees as a cost-saving measure. After much discussion, members tabled the matter and requested that a legal opinion be sought from the City Solicitor to determine the legality of eliminating Medicare Part B reimbursement for non-vested, non-bargaining employees in light of Council's action related to this matter on July 27, 2009 and that the matter be scheduled for reconsideration at a subsequent meeting.

The Committee removed the matter from the table.

Dr. McGlumphy noted the receipt of a legal opinion from Deputy City Solicitor Pepper indicating that the City could legally eliminate Medicare Part B reimbursement for non-vested, non-bargaining employees.

Mr. Anderson questioned if the Committee's recommendation should be reworded to remove any mention of the word "vesting" and that time frames be specified. Dr. McGlumphy explained that the Committee's recommendation cannot reference "vesting" since it is not a vested right but can reference "years of service."

Responding to Mr. Shevock, Dr. McGlumphy stated that, to his knowledge, this matter has not been reviewed by the Health Benefits Committee. Dr. Jones felt that, due to the seriousness and complex nature of this matter, it should be reviewed by the Health Benefits Committee prior to the Legislative, Finance, and Administration Committee's consideration.

At the request of Mr. Anderson, Ms. Denise Devine, Assistant City Clerk, stated that during the Committee meeting of June 13, 2011, a motion was made by Mr. Hare and seconded by Dr. McGlumphy to maintain Medicare Part B reimbursement for all employees who are vested as of June 27, 2011; however, after further discussion, the motion was withdrawn.

Mr. Anderson explained the critical issues involving Medicare, as noted in the President's Debt Commission's Report. He stated that there will be substantial changes to Medicare which the City will have no control over and which will cause a severe financial liability to the City. He suggested that members move this matter forward to City Council for consideration.

For clarification, Dr. McGlumphy advised members that the Committee reports to City Council and, as such, the Committee's recommendation will be forwarded to City Council at their next meeting. Council will have the option to accept the Committee's recommendation or take other action at that time.

Dr. McGlumphy referred to emails he received regarding the issue referencing "fairness." He questioned "fairness" to whom: the new employee; employees with 10, 20, or 30 years of service; taxpayers; etc. He noted that members have been provided statistical projections for Medicare Part B reimbursements with inflationary costs that indicate significant sums of money that will affect the City as a whole. He reminded members that this issue is not a benefit but rather a subsidy, and that the projected amount is over $600,000.

Responding to Mr. Hutchison, Ms. Devine indicated that the Health Benefits Committee does not have regularly scheduled meetings and that their meetings are held on an "as needed" basis.

With regard to "fairness," Mr. Lynn stated that it would be fundamentally unfair to take a "right" or "subsidy" away from a group of individuals who have no voice to speak for themselves, are not unionized, are not banded together, and cannot come before City Council by and through a union representative to voice their opinions. It was his hope that members would forward the matter to the Health Benefits Committee and that it would not be submitted for any further consideration by City Council.

Concurring, Mr. Bonar reiterated his opposition to taking benefits away from either current or retired employees. It was his feeling that the City's "word" is the City's "bond." Understanding that financial situations change, he felt that the City should acquire the necessary funding.

Council President Leary reminded members that the membership of the Health Benefits Committee includes representatives for all major bargaining units, non-bargaining employees, senior staff, and two (2) members of Council (Mrs. Williams and Mr. Hare).

The Committee recommended that the matter be referred to the Health Benefits Committee for their review by September 1, 2011, and subsequently brought back to the Committee for a recommendation.

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

Proposed Ordinance #2011-15 - Appendix A - Subdivisions - Regarding Homeowners' Association Responsibilities *(Deferred June 13, 2011 Due to Time Constraints)*

Members were provided proposed Ordinance #2011-15, which would amend Appendix A - Subdivisions, regarding homeowners' association 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, incomplete subdivisions. She assured members that the proposed amendment addresses the Committee's concerns regarding stormwater and passive open space not being maintained.

Mrs. Townshend explained that the proposed amendment would clarify the requirement that developers of subdivisions with common open space, including active recreation areas, woodlands, and stormwater management, form homeowners' associations with mandatory membership. This would allow the City to perform work that the homeowners' association is responsible for if such work is not performed in accordance with code requirements. Such work would be billed to the property owners on their tax bill and would include an administrative charge. The proposed amendment would require that homeowners' associations with management responsibility for common open space submit a listing of officers of the association annually. 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.

Responding to Mr. Lynn regarding those situations where the developer has vacated a subdivision and it is not in a position to be turned over to the homeowners' association, Mr. Scott Koenig, Interim City Manager, Public Services Manager/Director of Public Works, stated that in those instances, at some point, there will be a purchaser of that property and at that time, the City will require the same conditions as if it were a new subdivision.

In response to concerns relayed by Mr. Anderson, Mrs. Townshend stated that the proposed amendment would apply only to properties where there was a condition of a homeowners' association for approval of the subdivision and where the association has management responsibilities for the land. She assured members that legal documents are required during the development process and each of the property deeds includes a requirement for the owner to be a member of the homeowners' association. She explained that the problem is with those homeowners' associations that have become inactive and noted that in several instances, the homeowners'

association is actually an incorporated body that has become inactive. Although the City would not force homeowners to pay dues, Mrs. Townshend stated that if the City is required to incur several thousand dollars during the year to maintain the open areas and stormwater infrastructure, the proposed amendment would allow the City to recover the costs by billing the property owners through their tax bill or a special assessment. In all cases where this would apply, she stated that this provision would have been included in the deed and recorded documents associated with the subdivision.

Dr. Jones felt that the amendment would be difficult to enforce from a leadership and management standpoint. She questioned if the builder has any responsibility for maintaining the stormwater management areas prior to turning them over to an association. Responding, Mrs. Townshend confirmed that the developer does have that responsibility and stated that the Kent Conservation District conducts an inspection prior to the stormwater management being turned over to the homeowners' association and continues to conduct annual inspections.

Referring to Line 13 of the proposed amendment, Mr. Bonar suggested that the word "should" be replaced with "shall." Referring to the word "must" in Line 30 of the proposed amendment, Mr. Bonar relayed his opposition to requiring all property owners to be members of the homeowners' association. Responding, Mr. Koenig explained that if membership is not required, property owners would opt out, and the costs would either be spread among a few members of the association or the City would bear the costs. He noted that in those subdivisions where there are common property and future maintenance issues, the "must" is necessary. Should an individual object to the requirement, he suggested that they acquire property in a different location.

Mr. Bonar suggested that the Committee refer the matter back to staff to address the concerns relayed by members prior to submitting a recommendation to City Council.

Mr. Anderson stated that he is open to the concept; however, he requested that information be obtained regarding homeowners' bill of rights and suggested the inclusion of free speech rights for property owners.

Reiterating comments of Mr. Shevock, Mr. Lynn stated that when an individual purchases property, the attorney conducting the closing is required to provide a copy of deed restrictions so there are no surprises. In addition, he stated that at the closing, a prorated share or a year's share of homeowners' association dues are collected. Mr. Lynn voiced his concern regarding a potential situation involving a developer who has not completed a subdivision and has claimed bankruptcy. The property owners could then be required to form a homeowners' association during a time when the developer is supposed to be responsible, forcing a few homeowners to be responsible for mowing an entire neighborhood, etc. Responding, Mrs. Townshend felt that the proposed amendment would not affect such property owners in that way, explaining that for those subdivisions that have not been dedicated, the land remains under the ownership of the LLC, including the common areas.

The Committee recommended tabling the matter for further study.

Responding to Mrs. Townshend, Dr. McGlumphy suggested that staff meet with the individual members of Council that have concerns and that the matter be brought back to the Committee during their next meeting (in two (2) weeks).

By consent agenda, Mr. Bonar moved for approval of the Committee's recommendation to table the matter for further study, seconded by Mrs. Russell and carried by a unanimous roll call vote.

Amendment to Personnel Policy - Retirement Notification Requirement

Mr. Scott Koenig, Interim City Manager, Public Services Manager/Director of Public Works, reviewed proposed amendments to Article XI - Sick Leave, Section 5 - Sick Leave - Retirement Credit for Accumulated Sick Leave; Article XIII - Other Types of Leave, Section 1 - Terminal Leave; and Article XV - Separation, Disciplinary Action and Reinstatement, Section 2 - Resignation, of the Personnel Policy (Employee Handbook). He noted that, if approved, a new Section 5 - Retirement would be created and the current Sections 5 through 13 would be renumbered.

Members reviewed the proposed amendments with regard to retirement notifications. Mr. Koenig advised members that employees who retire and who are entitled to receive either a lump sum payment of their accumulated sick leave or to use it for terminal leave, will be required to provide a 30 calendar day notice. The employee's department head may waive the notice requirement for retirement; however, notification for the payment of accumulated sick leave cannot be waived. The notification guidelines cannot be enforced on employees who will not be receiving a lump sum payment for accumulated sick leave or will not be utilizing it for terminal leave. He noted that if the recommended changes are adopted, they cannot be fully implemented until the labor unions agree to them.

Members were advised that the change in policy is being requested for financial and workload planning as well as to create uniformity for all retirement requests. It was noted that payment or utilization of sick leave is not a matter that is covered by Delaware Labor law (Title 19 Labor, Chapter 11 Wage Payment and Collection); therefore, the City has the ability to develop and enforce specific notification guidelines for accumulated sick leave. The changes are being sought to assist in promoting a productive workforce. Employees who are forced to continue working because of notification requirements can be counterproductive, detrimental and/or a hazard to the work environment. There may also be unforeseen reasons why an individual may need to retire immediately (i.e., health and family care considerations). Mr. Koenig stated that each department head should have the ability to make a decision based upon their knowledge of the specific employee and the operations associated with their department to determine if the notification guidelines should be modified.

The Committee recommended approval of the proposed amendments to the Personnel Policy (Employee Handbook), as recommended by staff.

By consent agenda, Mr. Bonar moved for approval of the Committee's recommendation *(Exhibit #4)*, seconded by Mrs. Russell and carried by a unanimous roll call vote.

Campus Community School Request to Purchase the Pear Street Warehouse

Mr. Scott Koenig, Interim City Manager, Public Services Manager/Director of Public Works, advised members that the City has received a request from Campus Community School (CCS) to purchase the Pear Street Warehouse, located at 370 Pear Street, from the City of Dover. He noted that this is the warehouse building (formerly the ILC site) that the City of Dover bought in the late 1990s. The warehousing area includes 24,312 square feet of inside storage area and the yard area consists of 15,704 square feet of outside storage area. In 2002, Campus Community High School was established adjacent to the City Warehouse, and these buildings share a common wall. CCS is seeking a new location for its Elementary School, which is currently located at 21 North Bradford Street on the Wesley College campus.

Mrs. Patricia Hermance, Head of School for CCS, read a statement into the record.

Dr. Andrew Lloyd, Vice-President for CCS, read a statement into the record.

Mr. Koenig reviewed the City's Procedure For Sale and Distribution of Real Property. In accordance with the policy, he advised members that staff conducted an internal analysis of whether the City could move its material to another location, vacate the current building, and sell it to CCS within the requested time frame. Members reviewed a detailed internal analysis which revealed that this is not feasible. Currently, staff has determined that there is not enough room to relocate the stock material on the remaining City property. In addition, there is not enough time to find another adequate adjacent location and prepare it for occupancy. Securing a remote site would increase the City's operating costs due to manpower constraints and fuel usage to service a remote site. Based on the detailed internal analysis, staff determined that 370 Pear Street cannot be declared "excess in nature" and believes that the disposal of this property would not be in the best interest of the City of Dover. The warehouse is currently operating at below 2002 staffing levels. Mr. Koenig advised members that staff is willing to entertain additional discussions regarding other options that may be mutually beneficial to the City and CCS, provided such action does not have a detrimental effect on the City's budget or operations.

Staff recommended acceptance of the determination that the Pear Street Warehouse is currently not surplus property and that staff continue to discuss options with the CCS Board that are budget neutral to the City of Dover and mutually beneficial to the City of Dover and CCS.

Responding to Mr. Shevock, Mrs. Hermance clarified that CCS is not expanding and that the student body will remain at 600. She explained that CCS is currently located in two (2) separate facilities and now wish to co-locate in one (1) facility in an effort to consolidate operational expenses.

Mr. Anderson relayed concern with staff's recommendation related to the determination that the Pear Warehouse is currently not surplus property, feeling that it would be difficult for this determination to be reversed if further discussions with CCS resulted in a recommendation for the sale of the property. Responding, Mr. Koenig indicated no opposition to eliminating that portion of staff's recommendation so that it would only include authorization for staff to continue to discuss options with CCS.

Mr. Anderson noted that the City's Comprehensive Plan encourages locating educational organizations within the City, and stated that this is a wise plan that promotes economic development. However, he requested that members also consider the needs of taxpayers when considering such projects.

Mr. Shevock questioned the possibility of leasing the building to CCS. Responding, Mr. Koenig stated that, to his knowledge, this option has not been discussed, explaining that staff's recommendation was directly in response to the purchase request.

The Committee recommended that staff continue to discuss options with the CCS Board that are budget neutral to the City of Dover and mutually beneficial to the City of Dover and Campus Community School.

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

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

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - JUNE 29, 2011

The Safety Advisory and Transportation Committee met on June 29, 2011 with Chairman Hutchison presiding.

Presentation - Regional Bike Plan

Mrs. Juanita Wieczoreck, Executive Director, Dover/Kent County Metropolitan Planning Organization (MPO), explained that, in 2009, the MPO updated their Regional Transportation Plan. During this process, a significant number of comments related to bicycles and bicycle facilities were received and, as a result, the MPO began development of a Regional Bicycle Plan.

Mrs. Wieczoreck reviewed a presentation of a Dover/Kent County Regional Bicycle Plan. She stated that the maps include recommendations for improvements. She advised members that the Regional Bike Plan primarily addresses roads leading into the local City system, noting that the City has its own bicycle plan. Mrs. Wieczoreck explained that the MPO's plan is a regional effort to bring cyclists to major employment and shopping areas. She indicated that one (1) improvement for cyclists scheduled for the Fall of 2011 includes re-striping Route 13 (in conjunction with a milling and repaving project) to include a 3-foot wide bicycle lane in each direction. Other bicycle projects that are being considered or planned include converting an existing railroad bed between Clayton, Delaware and Easton, Maryland into a bicycle path, developing a cycling connection between Brecknock and Schutte Parks in conjunction with construction of the West Dover Connector, and work on a path near the Gateway South Shopping Center on Route 10. Mrs. Wieczoreck explained that the Dover/Kent County Regional Bicycle Plan is incorporated in the Regional Transportation Plan (RTP), and it is intended that all projects included in the RTP be completed within 20 years. She advised members that the next steps for the Regional Bike Plan include finalizing and releasing

the draft Plan, allowing 30 days for public comment, providing additional presentations, and review by MPO committees and MPO Council. She stated that it is hoped that the document will be finalized by September 2011.

In response to Councilman Hutchison's question of how the MPO plan interfaces with the City's bicycle plan, Mrs. Ann Marie Townshend, Director of Planning and Community Development, explained that the City's Planning Department and Mr. Zachery Carter, Director of Parks and Recreation, have been involved in the MPO planning process. She indicated that staff's next step will be to review the City's 1997 Bicycle and Pedestrian Plan and reconcile it with the MPO Plan. Mrs. Townshend stated that many of the implementation measures from the City's plan that have not yet been accomplished will mesh with the MPO Plan. She indicated that after reviewing the two (2) plans, staff will develop a list of projects that the City should develop further, with the goal of using Transportation Enhancement Funds for this purpose.

In response to Councilman Hutchison, Mrs. Townshend indicated that when the West Dover Connector is complete, it will provide bicycle access to the existing bike path along North Street, which connects to Schutte Park.

The Committee recommended acceptance of the report.

Councilman Hutchison congratulated Mrs. Wieczorak on her prospective retirement, expressed his appreciation on behalf of the City for her 17 years of service to the City of Dover, Kent County, and the State of Delaware, and wished her well in the future.

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

Staff Briefing on Discussions with Delaware Department of Transportation (DelDOT) and Capital School District on New Dover High School

Mr. Scott Koenig, Interim City Manager, Public Services Manager/Director of Public Works, stated that staff has been meeting with the Capital School District for approximately 18 months regarding the development of plans and infrastructure related to the new Dover High School being constructed near the west entrance to the City on Route 8. Some of the major issues being discussed include the location of the building and construction of an access road. He noted that the access road is currently planned to extend to the end of the school property and connect to the Cannon Mills subdivision; however, the intent is that it be extended further along the Papen Farm and tied into West North Street or Hazlettville Road. Mr. Koenig indicated that Mrs. Ann Marie Townshend, Director of Planning and Community Development, was successful in obtaining approval from the Delaware Department of Transportation (DelDOT) to incorporate this road extension into the State Capital Transportation Program (CTP), which will allow for a prospective construction date of 2015.

Mr. Koenig stated that there are additional concerns regarding the character and function of Route 8 following the development of the high school. He noted that the school will be a major facility that will accommodate up to 1,800 students, with a significant number of athletic fields and sports

complexes. In addition, he indicated that additional residential development is expected around the facility and in unincorporated areas west of the school. Mr. Koenig felt that these developments would change the face of the west Dover corridor. He noted that construction on the site has begun, with a targeted completion date of 2014, and he anticipated that the site would change rapidly as construction proceeds.

In view of the complexity of the issues involved with the project, Mr. Koenig stated that Mrs. Townshend is coordinating monthly meetings between City staff (Mrs. Townshend and Mrs. Dawn Melson-Williams, Principal Planner); EdiS, the construction manager; Becker Morgan Group, the design engineers; ABHA Architects, the architects; DelDOT; and the Department of Natural Resources and Environmental Control (DNREC). Mr. Koenig stated that these meetings will ensure that all parties are fully informed as the facility is constructed so that temporary or permanent Certificates of Occupancy can be issued when the facility is ready to open. They will also allow the City to "weigh in" on budget adjustments and construction staging so that public safety can be protected. Mr. Koenig explained that these coordination meetings began in June.

Mrs. Townshend indicated that one (1) of the major issues discussed at the previous coordination meeting was the potential requirement for a multi-use path along the school's frontage that would cross private property. She noted that the Capital School District has serious concerns about the potential need to acquire the right-of-way to construct such a path. She noted that signalized pedestrian crossings are planned for both the east and west entrances to the campus; therefore, paving the gap between them is not a priority at this time, as the campus can be accessed from both sides without students having to walk on the shoulder. She noted that all agencies have been working on concerns collaboratively.

In response to Councilman Hutchison, Mrs. Townshend stated that a reduction of speed limits was discussed at the June coordination meeting and indicated that she and Mr. Koenig planned to discuss this further with DelDOT. She informed members that DelDOT's current recommendation was to reduce the speed limit to 35 mph in that area during school hours; at other times it would remain at 50 mph. Mrs. Townshend stated that staff's opinion is that the speed limit should be reduced to indicate that the area is no longer rural and to reflect the urban character of the City. She noted that the City would have to request a speed study in order for this to occur.

Mr. Gary Laing, Community Relations Officer for DelDOT and Public Relations Liaison, suggested that the City delay any request for a speed study until the school is in operation. He stated that a future study would more accurately reflect the existing traffic situation in the area.

In response to Mr. Hutchison's concerns regarding the lack of sidewalks in the area, Mrs. Townshend stated that some sidewalks will be constructed east of the school property. She explained that the City may need to consider seeking funding through DelDOT's Transportation Enhancement Project for this purpose, as this is a project that would not typically be required of a developer.

Mr. Koenig explained that potential sidewalk construction would be complicated by the fact that some of the properties involved are not within City limits.

Councilman Hutchison encouraged staff to play a major role in the decision-making regarding the construction of the new Dover High School and requested that a monthly status report on the project be provided to members.

Draft Letter to Capital School District - Pedestrian Crosswalk *(Referred to Staff During the Meeting of April 27, 2011)*

During their meeting of April 27, 2011, members requested staff to provide recommendations regarding submission of a letter to the Capital School District requesting consideration of construction of a pedestrian bridge at the new Dover High School, so that the Committee could determine if they wished to move forward with sending such a letter. Mr. Scott Koenig, Interim City Mrs. Ann Marie Townshend, Director of Planning and Community Development, revised the draft letter. He indicated that, because staff deemed the construction of a pedestrian bridge to be a transportation issue, it was determined that the proposed letter should be directed to the Delaware Department of Transportation (DelDOT) rather than the Capital School District. Mr. Koenig stated that staff felt that this project would present many challenges, and that it would not be prudent to request the school district to expend funds for a study or proposal that may not be feasible. He noted that there are many transportation issues associated with opening the new high school, that additional development on Route 8 will complicate this further, and that a pedestrian bridge may not be the solution to the problem. He suggested that submission of the letter be delayed or, if members wished to proceed, that an inquiry be made to DelDOT to gain input on the feasibility of this concept.

Mr. Gary Laing, Community Relations Officer for DelDOT and Public Relations Liaison, suggested that discussion of this project be postponed until transportation concerns in the area are identified. He noted that construction of a pedestrian bridge could cost approximately $1.5M. Mr. Laing identified some of the concerns related to the project, such as land acquisition, installation of ramps, elevators and/or escalators, and escape proof barriers; the need to lock/unlock an elevator (if incorporated); vehicle clearance; possible graffiti; maintenance; snow removal; handicapped accessibility; safety of users and traffic below; the appearance of the structure as a gateway to the City; and potential cost. Mr. Laing indicated that a pedestrian bridge would be a costly solution that might not solve the problem of granting safe access to the school.

After further discussion, Councilman Hutchison suggested referring this matter back to staff for further discussion with DelDOT in the future.

The Committee recommended to refer this matter back to staff for consideration in the future if it is determined that there is a need for a large number of students to cross Route 8 to access the new Dover High School.

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

Mrs. Juanita Wieczoreck, Executive Director, Dover/Kent County Metropolitan Planning Organization (MPO), suggested that staff consult the University of Delaware Transportation Research Center to determine if research has been performed on pedestrian overpasses and/or pedestrian issues related to high schools.

Mr. Laing noted that on Tuesday, July 5, 2011, Mr. Shailen Bhatt will be sworn in as the new Secretary of Transportation. He indicated that Mr. Bhatt would like to meet with members of the

Safety Advisory and Transportation Committee and City Council in the near future to discuss some of the City's transportation issues and concerns and stated that DelDOT would contact the City in this regard.

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

MONTHLY REPORTS - MAY 2011

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

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

REAPPOINTMENTS RECOMMENDED BY MAYOR CAREY

Mayor Carey requested approval of the following reappointments:

Board of Adjustment - Three (3) Year Term to Expire July 2014
Arthur G. Ericson

Historic District Commission - Three (3) Year Term to Expire July 26, 2014
C. Terry Jackson, Resident
George M. Fisher, IV, Professional
Joseph McDaniel, Business Representative

By consent agenda, Mr. Bonar moved for approval of the reappointments as recommended by Mayor Carey, seconded by Mrs. Russell and carried by a unanimous roll call vote.

FINAL READING - PROPOSED ORDINANCE #2011-11

The First Reading of the Proposed Ordinance was accomplished during the Council Meeting of June 27, 2011.

Proposed Ordinance #2011-11 - Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications

Mr. Bonar moved that the Final Reading of the Proposed Ordinance be acknowledged by title only, seconded by Mr. Hare and unanimously carried.

Mrs. Williams moved for adoption of the Proposed Ordinance, seconded by Dr. McGlumphy and, by a unanimous roll call vote, Council adopted Proposed Ordinance #2011-11, as follows:

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

That Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications, be amended to read as follows:

Sec. 102-113. - Qualifications.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Control with respect to a corporation means ownership, directly or indirectly, of stock possessing 50 percent (50%) or more of the total combined voting power of all classes of the stock of such corporation entitled to vote and 50 percent (50%) or more of the shares of such corporation entitled to vote and 50 percent (50%) or more of the total number of shares of all other classes of such corporation's stock.

Control with respect to a trust means ownership, directly or indirectly, of 50 percent (50%) or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, of a capital of profits interest in a partnership or association, or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) of the Internal Revenue Code (26 USC 267(c)).

Expanded facility means any qualified property that is modified with an improvement or addition (other than a replacement resulting from the acquisition, construction, reconstruction, installation, or erection of improvements or additions resulting from repairing, refurbishing, retooling, recycling, or other similar process or procedure that merely preserves or restores the value of an existing facility and not including any improvement or addition that, in the determination of the council, does not constitute an integral part of a qualified activity), if such improvements or additions are placed in service by the taxpayer after January 1, 2001. Abatement will only be to the extent of the taxpayer's qualified investment in such improvements or additions.

Large vacant commercial facility means a building of 20,000 square feet or larger and vacant continuously for 18 months or more.

New facility means any qualified facility (other than an expanded facility or a replacement facility) constructed by the taxpayer after January 1, 2001. For the purposes of this article, the term "constructed" means the issuance of a building permit for $1,000,000.00 or more with regards to subsection (b)(1) of this section, and the issuance of a building permit for $3,000,000.00 or more with regards to subsection (b)(2) of this section.

Placed in service and *original use* have the meanings ascribed to such terms under section 167 of the Internal Revenue Code (26 USC 167) and regulations promulgated thereunder.

Qualified activity means any activity constituting manufacturing (other than any repair, refurbishing, retooling, recycling or other similar process or procedure that merely preserves or restores the value of a product or that does not change the inherent nature of a product or material). Such term includes any activity engaging in business as a wholesaler; the CCBA and any subsequent legislation as enacted by the state; any home offices and operating units of insurance companies; and any combination of activities described herein.

Qualified employee means any person employed within the city/county on a regular and full-time basis.

Qualified facility means any qualified property located in the city that constitutes a new or an expanded facility, located within the industrial park manufacturing district, industrial park manufacturing 2 district, or manufacturing district, and that is used by a taxpayer in or in connection with a qualified activity.

Qualified investment for any taxable year is based on the value of a qualified facility as of the last business day of such taxable year.

Qualified property means any building and its structural components, and any other improvement to real property. Such term includes the land on which such building or other improvements are located, if ownership of said land and structural improvements is identical. If any property is owned or leased by the taxpayer in common with any other person or persons, such property may constitute "qualified property" only to the extent of the taxpayer's proportionate interest.

Related person means a corporation, partnership, association, or trust controlled by the taxpayer; or an individual, corporation, partnership, association, or trust that is in control of the taxpayer; or a corporation, partnership, association, or trust controlled by an individual, corporation, partnership, association, or trust that is in control of the taxpayer.

(b) *Established*. Industries/businesses may qualify for property tax abatement either by meeting the industry function qualifications detailed in the following subsection (b)(1) or the investment qualifications detailed in the following subsection (b)(2) or the occupancy qualifications detailed in the following subsection (b)(3):

(1) *Qualifying industries/businesses by function.*

a. Manufacturers and financial institutions as defined by the FCDA, CCBAA, and subsequent legislation and home offices and operating units of insurance companies shall be qualifying industries, including, but not be limited to, distributors, transportation (air, rail, barge, truck), printing and publishing, and food processing.

b. *Investment and employees.* The qualifying industry must invest at least $1,000,000.00 in a qualifying new or expanded facility in the city and hire at least 20 qualified employees (including owners/operators), 75 percent (75%) of whom

shall be city/county residents not employed by the qualifying industry/activity at the time of its relocation/expansion within the city. The council may, at the time of application, reduce the 75 percent (75%) requirement to a lesser percentage, but not less than 50 percent (50%). The qualifying industry agrees to supply information verifying compliance with this section in whatever legally acceptable manner the council shall so request.

(2) *Qualifying industry/businesses by investment.* Industries/businesses that do not meet the qualifications as specified in subsection (b)(1) of this section can nevertheless qualify for property tax abatement by investing a minimum of $3,000,000.00 in a new or expanded facility in the city located within the industrial park manufacturing district, industrial park manufacturing 2 district, or the manufacturing district, and hire at least 15 qualified employees (including owners/operators), 75 percent (75%) of whom shall be city/county residents not employed by the qualifying industry/activity at the time of its relocation/expansion within the city. The council may, at the time of application, reduce the 75 percent (75%) requirement to a lesser percentage, but not to less than 50 percent (50%). The qualifying industry agrees to supply information verifying compliance with this section in whatever legally acceptable manner the council shall so request.

(3) *Qualifying industry/business by occupying a large vacant commercial facility.* Entities that do not qualify for property tax abatement under subsection (b)(1) or (b)(2) of this section can qualify for property tax abatement by (a) purchasing a large vacant commercial facility if the purchase of the large vacant commercial facility will result in the employment of 15 or more full-time employees; or (b) leasing a large vacant commercial facility if the initial lease term is at least ten (10) years, the lease of the large vacant commercial facility will result in the employment of 15 (fifteen) or more full-time employees, and the occupying tenant submits a letter of intent to lease and requests the abatement for either their own benefit when the tax burden is the responsibility of the tenant, or on behalf of the owner when the tax burden is the responsibility of the owner. The demolition of a large vacant building and the construction of a new replacement 20,000 square feet or greater that meets the conditions of (b)(3) of Sec. 102-113. - Qualifications shall qualify for abatement.

(c) *Benefits.*

(1) The council may abate city real estate taxes on a ten-year sliding scale as follows, or upon any other scale or method deemed most advantageous by the council for the public welfare:

Fiscal Year Construction Ended	100 Percent (100%) Reduction of Taxes
First (1st) Year of Operation	90 Percent (90%) Reduction of Taxes
Second (2nd) Year of Operation	80 Percent (80%) Reduction of Taxes
Third (3rd) Year of Operation	70 Percent (70%) Reduction of Taxes

Fourth (4th) Year of Operation	60 Percent (60%) Reduction of Taxes
Fifth (5th) Year of Operation	50 Percent (50%) Reduction of Taxes
Sixth (6th) Year of Operation	40 Percent (40%) Reduction of Taxes
Seventh (7th) Year of Operation	30 Percent (30%) Reduction of Taxes
Eighth (8th) Year of Operation	20 Percent (20%) Reduction of Taxes
Ninth (9th) Year of Operation	10 Percent (10%) Reduction of Taxes
Tenth (10th) Year of Operation	0 Percent (0%) Reduction of Taxes

(2) Unless otherwise directed by the council, year one of the abatement period will commence with the first property tax billing following the completion of the qualifying new or expanded facility and the meeting of all requirements as detailed in subsections (b)(1) and (b)(2) of this section. Abatement for expanded facilities will be limited to expansion value only.

(3) All quarterly property taxes for new construction, as defined in section 49A of the city Charter, will likewise be abated for qualifying new or expanded facilities.

(4) The property tax abatement program will have no effect on both citywide revaluations of property values for taxation purposes and the institution of those new values.

(d) *Downtown Residential Tax Abatement.* Any persons purchasing residential real property in which they will reside within the area defined as Mary Street to Loockerman Street and Governors Avenue to West Street during the effective date of this section shall be given tax relief from the payment of real estate taxes in the following manner: first year of ownership, total tax abatement; second year of ownership, 75 percent (75%) tax abatement; third year of ownership, 50 percent (50%) tax abatement; fourth year of ownership, 25 percent (25%) tax abatement; fifth year of ownership, no tax abatement. Provided however that the homeowner is required to occupy the home as their principal place of residence during the entire time that the taxes are abated and if the property ceases to be their principal place of residence at any time during the four-year period of abatement, then they shall lose their right of abatement and shall be required to pay immediately all taxes abated up to the time that the home ceases to be their principal residence. In order to obtain the tax abatement, the homeowner must make application by affidavit submitted to the city clerk showing qualification for the abatement and each year thereafter, submit a similar affidavit showing their continued right to the abatement. If qualification for the abatement ceases within the four-year period of abatement the homeowner is required to notify the city clerk of the lack of qualification for the abatement and within 90 days from the date the qualification ceases, pay all taxes abated in the past. In order to be eligible for this program, application must be received by the city prior to August 1, 2010.

First (1st) Year of Owner Occupancy	100 Percent (100%) Reduction of Taxes
Second (2nd) Year of Owner Occupancy	75 Percent (75%) Reduction of Taxes
Third (3rd) Year of Owner Occupancy	50 Percent (50%) Reduction of Taxes
Fourth (4th) Year of Owner Occupancy	25 Percent (25%) Reduction of Taxes
Fifth (5th) Year of Owner Occupancy	0 Percent (0%) Reduction of Taxes

ADOPTED: JULY 11, 2011

COUNCIL MEMBERS ANNOUNCEMENTS

Council President Leary relayed belated birthday wishes to Mr. Hare.

Mrs. Russell reminded members that the Youth Advisory Committee will be holding "Youth Fun Day" at Schutte Park on July 30, 2011 from 11:00 a.m. to 2:00 p.m. and stated that more information will soon be made available on the City's Website and Facebook. She noted that sponsors are needed as well as volunteers.

Mr. Bonar moved for adjournment, seconded by Mr. Lynn and unanimously carried.

Meeting Adjourned at 8:10 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of July 11, 2011, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM/jg
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Exhibits Attached to Original Minutes and File Copy

Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 423 Collins Drive, Owned by Alfred Blackett
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 443 Collins Drive, Owned by Alfred Blackett
Exhibit #3 - Presentation - Violation of Dangerous Building Ordinance - 21 N. Kirkwood Street, Owned by Robert and Christine Snell
Exhibit #4 - Amendments to the Personnel Policy (Employee Handbook)

Violation of Dangerous Building Ordinance 423 Collins Drive

Public Services Department

Dover, Delaware

July 11, 2011

EXHIBIT #1
Regular Council Meeting of 07/11/2011

423 Collins Drive
Case History

- Numerous violation cases since 2001
  - Junk and debris
  - Tall grass & weeds
  - Exterior violations
- Involuntarily registered as vacant in 2008
- Outstanding payments
  - Taxes
  - Code Enforcement Fines
  - Grass Cutting Charges
  - Vacant Building Registration Fee
  - Water Charges

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

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




BALLS / DICK









Recommended Council Action

- Declare this building and all accessory buildings on the property dangerous.
- Order the property repaired or demolished by August 11, 2011.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner within (10) days of the date set by Council.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Violation of Dangerous Building Ordinance 443 Collins Drive

Public Services Department

Dover, Delaware

July 13, 2011

EXHIBIT #2
Regular Council Meeting of 07/11/2011

443 Collins Drive
Case History

- Numerous violation cases since 2001
  - Junk and debris
  - Tall grass & weeds
  - Exterior violations
- Registered as vacant in 2010
- Outstanding Payments
  - Code Enforcement Fines
  - Water Charges

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

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


443
143









Recommended Council Action

- Declare this building dangerous.
- Order the property repaired or demolished by August 11, 2011.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner within (10) days of the date set by Council.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

Violation of Dangerous Building Ordinance 21 North Kirkwood Street

Public Services Department

Dover, Delaware

July 13, 2011

EXHIBIT #3
Regular Council Meeting of 07/11/2011

21 North Kirkwood Street
Case History

- Numerous violation cases since 1999
  - Junk and debris
  - Tall grass & weeds/overgrowth
  - Exterior and interior violations
- Registered as vacant in February 2010
- Administratively condemned in June 2010
- House found by staff to be unsecured in May 2011 and on July 1, 2011
- Outstanding Payments
  - Code Enforcement Fines
  - Grass Cutting Charges
  - Vacant Building Registration (sent to Bank of America)

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

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

Code Citation
Chapter 22, Article XI

Sec. 22-388. Emergency cases.

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


21
05/10/2011


21
July 5, 2011


July 5, 2011


July 5, 2011


July 5, 2011


July 5, 2011


July 5, 2011


July 5, 2011


05/10/2011


05/10/2011


05/10/2011


05/10/2011

Recommended Council Action

- Declare this building and all accessory buildings on the property dangerous.
- Order the property **immediately** repaired or demolished.
- Order the Building Inspector to cause the repair or demolition of the structure if not completed by the owner **by July 21, 2011**.
- Order the City Manager with the assistance of the City Solicitor to cause the cost of repairs or demolition to be charged against the land on which the building exists as a municipal lien or cause such cost to be added to the tax duplicate as an assessment, or to be levied as a special tax, or to be recovered in a suit at law against the owner.

PROPOSED AMENDMENTS TO PERSONNEL POLICY (EMPLOYEE HANDBOOK)

ARTICLE XI. SICK LEAVE

SECTION 5. SICK LEAVE - RETIREMENT CREDIT FOR ACCUMULATED SICK LEAVE

This payment shall be in a lump sum payable in the employee's paycheck immediately following the exhaustion of the 30 calendar day notice of retirement. Should an employee provide notice that exceeds 30 calendar days, the lump sum payment of accumulated sick leave will be included in the employee's final paycheck. The 30 calendar day notice may not be waived. The employee may convert his/her accumulated sick leave, not to exceed the maximum indicated, to terminal leave.

The above section is subject to employee labor agreement, when applicable.

ARTICLE XIII. OTHER TYPES OF LEAVE

SECTION 1. TERMINAL LEAVE

In order to qualify for terminal leave, an employee must request terminal leave in writing a minimum of thirty (30) calendar days prior to the date the employee intends to begin terminal leave. The retiring employee shall give such notice in writing to his/her supervisor, department head and the Human Resources department. The employee's department head may waive the 30 calendar day notice requirement for terminal leave.

ARTICLE XV. SEPARATION, DISCIPLINARY ACTION AND REINSTATEMENT

SECTION 2. RESIGNATION

A minimum of two (2) weeks notice is suggested of all resigning personnel. For department heads, managers and supervisors, it is recommended that a minimum of four (4) weeks notice be provided. The resigning employee shall give such notice in writing to his/her supervisor, department head and the Human Resources Department.

The City reserves the right to terminate an employee's employment immediately, after receiving an employee's resignation.

SECTION 5. RETIREMENT (Please note: Sections 5 – 13 will be renumbered.)

Employees requesting a lump sum payment for accumulated sick leave or using accumulated sick leave for terminal leave shall be required to provide a minimum of 30 calendar day notice. The retiring employee shall give such notice in writing to his/her supervisor, department head and the Human Resources department. An employee cannot use vacation time as notice for his/her retirement. The employee's department head may waive the 30 calendar day notice requirement.