REGULAR COUNCIL MEETING

The Regular Council Meeting was held on June 13, 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, Fire Chief Fortney, Mr. Koenig, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Carey was also present.

OPEN FORUM

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

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

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

AGENDA ADDITIONS/DELETIONS

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

Mr. Bonar moved for approval of the Consent Agenda, seconded by Dr. McGlumphy and carried by a unanimous roll call vote.

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF MAY 23, 2011

The Minutes of the Regular Council Meeting of May 23, 2011 were unanimously approved by motion of Mr. Bonar, seconded by Dr. McGlumphy and bore the written approval of Mayor Carey.

ADOPTION OF MINUTES - SPECIAL COUNCIL MEETING OF JUNE 6, 2011

The Minutes of the Special Council Meeting of June 6, 2011 were unanimously approved by motion of Mr. Bonar, seconded by Dr. McGlumphy and bore the written approval of Mayor Carey.

PRESENTATION - RECOGNITION OF SERVICE - MARK HARMON - SAFETY ADVISORY AND TRANSPORTATION COMMITTEE

On behalf of members of Council, Mayor Carey presented Mr. Mark Harmon with a Certificate of Appreciation in recognition of his service on the Safety Advisory and Transportation Committee from May 2009 to May 2011.

PRESENTATION - RECOGNITION OF SERVICE - RICHARD J. KOSIOR - UTILITY COMMITTEE

On behalf of members of Council, Mayor Carey presented Maj. Richard J. Kosior with a Certificate of Appreciation in recognition of his service on the Utility Committee from October 2008 to May 2011.

CERTIFICATE OF CONGRATULATIONS - REUBEN SALTERS

On behalf of members of Council, Mayor Carey presented Mr. Reuben Salters with a Certificate of Congratulations on the occasion of receiving the prestigious Order of the First State Award from Governor Jack Markell on June 5, 2011.

PUBLIC HEARING - ELECTRIC REVENUE FUND BUDGET

A public hearing on the Electric Revenue Fund Budget is required for compliance with Section 505 of the 1993 Electric Revenue Refunding Bond Issue (Refunding 1985 Electric Revenue Bond) prior to adoption of the budget. Notice of the public hearing was properly advertised for this time and place.

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

Council President Leary noted that the First Reading of the Budget Ordinances would take place during the latter part of the meeting and that the Final Reading and adoption of the Ordinances are scheduled for the Regular Council Meeting of June 27, 2011.

REZONING REQUEST - PUBLIC HEARING/FINAL READING OF PROPOSED ORDINANCE #2011-13

A public hearing was duly advertised for this time and place to consider the rezoning of property located at 1151-1155 Walker Road, consisting of $1.904^{+/-}$ acres, owned by Walker Road, LLC c/o Franklin Everett, Jr. This property is currently zoned C-PO (Commercial/Professional Office Development District) and the proposed zoning is IO (Institutional and Office).

Mr. Bonar moved that the final reading of Proposed Ordinance #2011-13 be acknowledged by title only, seconded by Mr. Hutchison and unanimously carried. *(The First Reading of this ordinance was accomplished during the Council Meeting of April 25, 2011.)*

Planner's Review

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the petition to amend the zoning district and the findings and recommendations of the Planning Commission. She noted that the Planning Commission recommended approval of the rezoning request. Mrs. Townshend advised members that the proposed use is a transitional shelter for youth leaving foster care.

Mr. Lynn, referring to Page 4, Paragraph 4 of the report, noted that children aging out of foster care are afforded, in some instances, board extension.

Mrs. Russell expressed concern with how they would handle residents that may be convicted sex offenders. Mrs. Williams stated that, in the past, a contract between the State and a private, non-profit provider required a “no dismissal, no rejection” policy, which eliminates the ability to reject anyone, regardless of their history.

Responding to Mrs. Russell, Mrs. Townshend advised members that shelters, schools, and churches would also be permitted in the proposed zone.

Public Hearing
Council President Leary declared the public hearing open.

Mr. Franklin Everett, 1151-1155 Walker Road, stated that they are working with private non-profit groups to develop the program, which they envision as a group home to transition children from foster care to independent living. Responding to Mr. Anderson, Mr. Everett stated that the upper age limit would probably be 21 years old.

Due to the proximity of the facility to public housing, Mrs. Williams suggested programming to address substance abuse and gang activity.

Responding to Mr. Hutchison, Mr. Everett stated that they are working with the architect to configure the building, and he estimated that the capacity of the facility would be between 15 and 30 residents.

Council President Leary declared the public hearing closed.

Dr. McGlumphy moved for approval of the rezoning request, as recommended by the Planning Commission. The motion was seconded by Mr. Lynn and, by a unanimous roll call vote, Council adopted Ordinance #2011-13, as follows:

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF DOVER BY CHANGING THE ZONING DESIGNATION OF PROPERTY LOCATED AT 1151-1155 WALKER ROAD

WHEREAS, the City of Dover has enacted a zoning ordinance regulating the use of property within the limits of the City of Dover; and

WHEREAS, it is deemed in the best interest of zoning and planning to change the permitted use of property described below from C-PO (Commercial/Professional Office Development District) to IO (Institutional and Office Zone).

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

That from and after the passage and approval of this ordinance the Zoning Map and Zoning Ordinance of the City of Dover have been amended by changing the zoning designation from C-PO (Commercial/Professional Office Development District) to IO (Institutional and Office Zone) on that property located at 1151-1155 Walker Road (on the north side of Walker Road west of McKee Road), consisting of $1.904^{+/-}$ acres, owned by Walker Road, LLC c/o Franklin Everett, Jr.

ADOPTED: JUNE 13, 2011

PUBLIC HEARING - VIOLATION OF DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 58 E. RUSTIC LANE, OWNED BY JOHN MEREIDER

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 58 E. Rustic Lane, owned by John Mereider. Mr. Scott Koenig, Interim City Manager/Public Services Manager/Director of Public Works, explained that there have been numerous Code violations since 2006, mostly related to junk, debris, tall grass, weeds, overgrowth, and exterior violations. He noted that the property was involuntarily registered as vacant in 2007 and that there are outstanding payments related to taxes.

Mr. Koenig reviewed slides depicting the condition of the property ***(Exhibit #1)***.

Staff recommended that City Council take the following action for property located at 58 E. Rustic Lane:

1) Declare this building dangerous and all accessory buildings on the property dangerous;

2) Order the property repaired or demolished by July 13, 2011 by the owner or equity owner at their own risk;

3) Order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within (10) days of the date set by Council. This action is dependent upon the adoption of the FY-2012 Operating Budget for funding; 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 provided a preliminary repair estimate of between $10,000 and $15,000, including asbestos abatement.

Mr. Lynn asked if a return receipt was requested when the notice was mailed, if they had contact with the owner, and if the property was currently occupied. Responding, Mr. Koenig stated that they were in possession of the green delivery notice signed by the owner's wife, that they had not had contact with the owner, and that the property was vacant.

Mr. Bonar noted that hundreds of wrecked vehicles had previously been stored on the property and questioned whether a survey for hazardous materials or ground contamination had been done. Mr. Koenig stated that if the property owner has not completed the repairs by July 13, 2011, the environmental contractor would be requested to conduct an asbestos survey. He noted that ground contamination surveys have not been done in the past.

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

Mr. Bonar moved to: 1) declare the building located at 58 E. Rustic Lane dangerous and all accessory buildings on the property dangerous; 2) order the property repaired or demolished by July 13, 2010 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within (10) days of the date set by Council. This action is dependent upon the adoption of the FY-2012 Operating Budget for funding; 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. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote.

PUBLIC HEARING - VIOLATION OF DANGEROUS BUILDING ORDINANCE - PROPERTY LOCATED AT 43 E. DIVISION STREET, OWNED BY NICHOLAS FEDIRKO

A public hearing was duly advertised for this time and place to consider a violation of the Dangerous Building Ordinance at 43 E. Division Street, owned by Nicholas Fedirko. Mr. Scott Koenig, Interim City Manager/Public Services Manager/Director of Public Works, explained that this multi-story, single-family, wood-framed dwelling has been the subject of various ongoing code violations since October 2006 and has been in a serious state of disrepair and decline for a number of years. Prior correspondence on behalf of the owner had indicated that the property was the subject of ongoing litigation between the owner and a contractor; however, no progress has been made by the owner to rectify the code violations. The City's Historic District Commission determined that the structure met the definition of "Demolition by Neglect" at their meeting on March 17, 2011. He noted that the property was involuntarily registered as vacant in 2007 and that there are outstanding payments related to taxes, Code enforcement fines, and grass cutting charges. Mr. Koenig stated that there has been ongoing litigation between the property owner and contractor; however, no progress has been made to rectify the violations.

Mr. Lynn advised members that he previously represented the property owner in the litigation related to this property and he disqualified himself relative to this item.

Mr. Koenig reviewed slides depicting the condition of the structure ***(Exhibit #2)***.

Staff recommended that City Council take the following action for property located at 43 E. Division Street:

1) Declare this building dangerous and all accessory buildings on the property dangerous;

2) Order the property repaired or demolished by July 13, 2011 by the owner or equity owner at their own risk;

3) Order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within (10) days of the date set by Council. This action is dependent upon the adoption of the FY-2012 Operating Budget for funding; 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 provided a preliminary repair estimate of between $10,000 and $15,000.

Responding to Mr. Anderson, Mr. Koenig stated that a notice of the hearing was sent by certified mail. Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that the property owner has not been in contact with the City for more than a year and certified notices related to the Historic District Commission meeting were returned undelivered.

With regard to the backlog of properties in violation of the dangerous building ordinance, Mr. Koenig advised members that $100,000 has been allocated in the budget to address demolitions. In prior years, the budgeted amount was approximately $25,000. Mrs. Williams suggested that staff bring a budget amendment forward if they find additional funds are needed to address the violations.

Council President Leary declared the public hearing open.

Mr. Dave McClintock, 10 Pennsylvania Avenue, stated that he agrees with the information provided in the presentation and is in favor of the proposed action. He noted that the owner only mows the grass once or twice a year, the back of the garage is five (5) feet from his property, and the area around it is never maintained.

There being no one else present wishing to speak, the public hearing was closed.

Mrs. Williams moved to: 1) declare the building located at 58 E. Rustic Lane dangerous and all accessory buildings on the property dangerous; 2) order the property repaired or demolished by July 13, 2010 by the owner or equity owner at their own risk; 3) order the Building Inspector to cause the repair or demolition of the structures if not completed by the owner within (10) days of the date set by Council. This action is dependent upon the adoption of the FY-2012 Operating Budget for funding; 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. The motion was seconded by Mr. Bonar and carried by a roll call vote of eight (8) yes, one (1) abstention (Mr. Lynn).

MONTHLY REPORTS - APRIL 2011

By motion of Mr. Bonar, seconded by Dr. McGlumphy, 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 (March and April)

EVALUATION OF BIDS - FOX HALL PUMP STATION REPLACEMENT PROJECT

The FY 2011 Capital Investment Plan for the Public Utilities Wastewater Management Division included a project to replace the existing Smith & Loveless capsular station located in the Fox Hall Subdivision. The station was originally installed in 1975 and is located along Troon Road, approximately 300 feet south of the intersection of Merion and Troon Roads. The existing pump station is equipped with two (2) five (5) hp pumps and has an existing pump rate of 174 gallons per minute (gpm). The new package pump station will be mounted on top of the existing wet well and will be equipped with two (2) ten (10) hp pumps capable of a discharge rate of 405 gpm. The new pump station will connect to the recently installed six-inch (6") force main which discharges to the McKee Road Pump Station and will be capable of bypassing to the Walker Road Pump Station if necessary. The new Fox Hall Pump Station will improve the City's wastewater system by replacing an older, antiquated station while increasing capacity at the location. The new station will also be more reliable and energy efficient.

Teal Construction, Inc.'s bid package, the low bid, was reviewed by staff and found to be free of math errors and/or irregularities. In addition, the contractor's qualification information, which included a list of recently completed projects similar in scope, as well as a financial statement, were all found to be adequate. It is staff's opinion that the low bid represents fair market value and their qualifications are in accordance with the requirements of this project.

Staff recommended awarding the construction contract to the low bidder, Teal Construction, Inc., in the amount of $318,565.00 for the Fox Hall Pump Station Replacement project and to authorize the Finance Department to execute the loan agreement between the City of Dover and the Delaware Clean Water State Revolving Loan Fund.

Mr. Bonar moved for approval of staff's recommendation, seconded by Dr. McGlumphy and carried by a unanimous roll call vote.

EVALUATION OF BIDS - HEATHERFIELD FORCE MAIN AND PUMP STATION UPGRADE PROJECT

The FY 2011 Capital Investment Plan for the Public Utilities Wastewater Management Division included a project to replace Heatherfield Pump Station's existing four-inch (4") force main with a new six-inch (6") force main to increase capacity. The approximate 1,066 feet of force main will

be installed via directional drilling from the pump station on Stoney Drive to the manhole at the entrance to the Heatherfield Subdivision. The pumps will be upgraded from one and one-half (1.5) hp motors to three (3) hp high efficiency motors and by installing new eight-inch (8") impellers. The pumping rate at the station will be increased from ninety (90) gallons per minute (gpm) to 210 gpm. This project will improve the City's wastewater system by increasing the capacity at this location and replacing older, inefficient motors with new, more reliable energy efficient motors.

Teal Construction, Inc's. bid package, the low bid, was reviewed by staff and found to be free of math errors and/or irregularities. In addition, the contractor's qualification information, which included a list of recently completed projects similar in scope, as well as a financial statement, were all found to be adequate. It is staff's opinion that the low bid represents fair market value and their qualifications are in accordance with the requirements of this project.

Mr. Koenig advised members that this project is currently tracking over budget; therefore, staff is requesting that additional funds be provided by transferring $17,000 from the Fox Hall Pump Station project (Wastewater Impact Fee funds), as this project is under budget. The additional $17,000 is requested to cover the total cost of engineering services, as well as the construction bid for the Heatherfield Force Main and Pump Station Upgrade.

Staff recommended awarding a construction contract to the low bidder, Teal Construction, Inc., in the amount of $232,475 for the Heatherfield Force Main and Pump Station Upgrade Project, authorizing the Finance Department to execute the loan agreement between the City of Dover and the Delaware Clean Water State Revolving Loan Fund, and transferring $17,000 from Project WW1007.

Dr. McGlumphy moved for approval of staff's recommendation, seconded by Mr. Hare and carried by a unanimous roll call vote.

EVALUATION OF BIDS - FY 2011 SPRING STREET PROGRAM

In conjunction with the City of Dover's Capital Investment Plan, it is proposed to rehabilitate various pavement sections throughout the City of Dover during Fiscal Year 2011. Although the bid documents included seven (7) locations under the proposed scope of work to be completed under the FY 2011 Spring Street Program, the locations for the Spring Street Program will be altered to reflect the available funding. The proposed locations are:

Janes Road	Independence Boulevard	South New Street	Freedom Drive
Mays Lane	Liberty Drive	Pennsylvania Avenue	

The FY 2011 Spring Street Program contract documents allow staff to alter quantities up to 50% without changes to unit prices; therefore, the final contract value may be adjusted to reflect all available funding. Daisy Construction Co., the low bidder, was the City's contractor for the last Street Program and their quality of work was more than satisfactory. In addition, their billing and certified payroll was submitted in a timely manner and coordinated with the Public Works Inspector.

Staff recommended awarding a unit price contract for the FY 2011 Spring Street Program to Daisy Construction Co., based on the unit prices for each work item. The scope of work for the program will be altered to reflect the funding that has been secured to complete each location. The Public Services Manager may add or delete from the contract based on available funding throughout the contract period and inform the City Manager of such additions or deletions. All work will be paid for at the unit prices bid for work completed and accepted by the City of Dover. The total work authorized under this contract will not exceed the available funding of $483,240.

Mr. Bonar moved for approval of staff's recommendation, seconded by Mr. Hutchison and carried by a roll call vote of eight (8) yes, and one (1) no (Mr. Anderson).

FY 2011 Spring Street Program - Extra Work Request Per DelDOT Agreement

Staff recommended the award of the FY 2011 Spring Street Program to Daisy Construction Co., Inc. based on their low bid for the work outlined in the project specifications. Recently, the State of Delaware Department of Transportation (DelDOT) sent the City of Dover a proposed agreement ***(Exhibit #3)*** to construct the Eden Hill Farm North Street Roundabout. Daisy Construction Co. has prepared a construction budget proposal for the project in the amount of $499,080. This amount has been reviewed and accepted by DelDOT for the construction of the proposed improvements. Once the improvements have been constructed in accordance with the approved plans (labeled North Street Entrance), these improvements are to be owned and maintained in perpetuity by the City of Dover. The type of work involved in the project has the same general work classification as the Spring Street Program (Highway Construction); however, the quantities vary and there are work items in the North Street Entrance project that are not required in the performance of the original FY 2011 Spring Street Program contract. Therefore, the cost of this extra work has been "negotiated" in accordance with the construction proposal.

City staff will provide construction inspection services during the project. Once the project is complete, a Council Action Form will be presented to the Utility Committee and City Council recommending dedication and acceptance of the public improvements.

Staff recommended executing the Eden Hill Farm North Street Roundabout Agreement and awarding a lump sum change order to Daisy Construction Co. for the extra work request to the FY 2011 Spring Street Program in an amount not to exceed $500,000, unless further amended in accordance with the agreement between the City of Dover and DelDOT.

Mrs. Williams, noting the length of time it took Daisy Construction Co. to complete the Governors Avenue Project, suggested providing incentives for more timely completion. Mr. Koenig stated that the contract does not include incentives; however, it does include liquidated damage penalties. He advised that this is a removal and replacement project, so the work should progress much faster than a total reconstruction project. Mr. Koenig noted that Daisy Construction traditionally has employed a single subcontractor to complete the concrete work and their crews complete the paving work. This project will not involve utility relocation and the traffic volume on these streets will be lower.

Mr. Hare moved to authorize staff to execute the Eden Hill Farm North Street Roundabout Agreement and award a lump sum change order to Daisy Construction Co. for the extra work request to the FY-2011 Spring Street Program in an amount not to exceed $500,000 unless further amended in accordance with the agreement between the City of Dover and the State of Delaware Department of Transportation. The motion was seconded by Mr. Hutchison and carried by a unanimous roll call vote.

MAYORAL APPOINTMENTS - COMMITTEES (ANNUAL APPOINTMENTS DEFERRED DURING THE MEETING OF MAY 9, 2011)

By consent agenda, Mr. Bonar moved for approval of the Committee appointments for 2011/2012, as recommended by Mayor Carey. The motion was seconded by Dr. McGlumphy and by a unanimous roll call vote, the following appointments were made:

Dover Public Library Advisory Commission
Sean Lynn

Downtown Dover Partnership
David Anderson
Anita Evans *(Undesignated Representative - To Fill the Expired Term of Ami Sebastian-Hauer - Term to Expire May 2014)*
Lucy Finley *(Undesignated Representative - To Fill the Unexpired Term of Stanford A. Smith, Sr. - Term to Expire May 2014)*
Maxine Lewis *(Downtown Retailer - To Fill the Unexpired Term of Erin Tinsley - Term to Expire May 2013)*

REAPPOINTMENTS RECOMMENDED BY MAYOR CARLETON E. CAREY, SR. -

Mayor Carey requested the following reappointments:

Planning Commission - Three (3) Year Terms to Expire June 1, 2014
Francis C. Nichols - First District Representative
Robert D. Welsh - First District Representative
Fred Tolbert - Third District Representative

Dover Public Library Commission - Five (5) Year Term to Expire June 16, 2016
Dorothy Snyder

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

FIRST READING - PROPOSED ORDINANCE #2011-16

Council President Leary reminded the public that copies of the proposed ordinance are available at the entrance of the Council Chambers or can be obtained from the City Clerk's Office. Final action by Council on the proposed ordinance will take place during the Council Meeting of June 27, 2011.

In accordance with Section 1-9 of the Dover Code, Council acknowledged the First Reading of the Ordinance, as read by the City Clerk, by title only, as follows:

- Ordinance #2011-16 - 2011/2012 City of Dover Budget

COUNCIL MEMBERS ANNOUNCEMENTS

Council President Leary announced that the African American Festival would be held on Saturday, June 25, 2011. He also wished Councilman Hutchison a happy birthday.

Mayor Carey reminded everyone of Flag Day on June 14th and requested that they fly their flags with pride and to remember the men and women serving in the military.

Mr. Hutchison thanked the City Planner and City Manager for their assistance with a recent situation involving the CEO of a local business.

Dr. McGlumphy thanked Mrs. Mitchell and Mrs. Tieman for their work on the budget.

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

Meeting Adjourned at 8:49 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of June 13, 2011, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

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Exhibits Attached to Original Minutes and File Copy
Exhibit #1 - Presentation - Violation of Dangerous Building Ordinance - 58 E. Rustic Lane
Exhibit #2 - Presentation - Violation of Dangerous Building Ordinance - 43 E. Division Street
Exhibit #3 - Eden Hill Farm North Street Roundabout Agreement