LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee meeting was held on June 13, 2011 at 6:00 p.m. with Chairman McGlumphy presiding. Members present were Mr. Anderson (6:02 p.m.), Mr. Hare, Mr. Lynn (6:58 p.m.), Dr. Jones, and Mr. Shevock. Members of Council present were Mr. Leary, Mr. Hutchison, and Mr. Bonar. Mayor Carey was also present.

AGENDA ADDITIONS/DELETIONS

Dr. Jones moved for approval of the agenda, seconded by Mr. Shevock and unanimously carried.

Discussion - Soliciting Health Insurance Proposals

Mr. Hare explained that City Council has not reviewed alternative health care proposals since 1999 and suggested that the City solicit health insurance proposals from health care providers. He stated that he had conducted research which indicated that some jurisdictions offer plans similar to the City's current plan at a lesser cost.

In response to Mr. Shevock, Mrs. Kim Hawkins, Human Resources Director, explained that the City "piggybacks" on the State of Delaware's health care plan and that there may be a requirement to provide notice to the State (perhaps 30 or 60 days) if the City decides to pursue a different option. In addition, she noted that the City's union contracts stipulate participation in the State's health care plan. Mrs. Hawkins indicated that if Council opts to proceed with the study and it is determined that the best choice is to depart from the State plan, the City would be required to go through the union negotiation process.

Mrs. Williams advised members that, during their meeting of January 25, 2010, Council approved the establishment of an ad hoc Health Benefits Committee, which was charged with considering alternative health care options to assist the City in reducing its health care liability and annual cost. She stated that, to this point, the Health Benefits Committee has not found any plan that is competitive with the State plan.

Mr. Hare moved to recommend that staff be directed to solicit requests for proposals for alternative health insurance plans for City employees, seconded by Mr. Anderson and unanimously carried.

Discussion - Elimination of Medicare Part B Reimbursements for Current Non-Bargaining Employees

Mr. Hare requested that consideration be given to the elimination of Medicare Part B reimbursements for current non-bargaining employees as a cost-saving measure.

Dr. McGlumphy stated that an opportunity would be provided for employees to comment regarding this agenda item.

Mr. James Hosfelt, Chief of Police, read a prepared statement urging members to vote against any changes in the City's Medicare Part B reimbursement policy ***(Attachment #1)***.

Ms. Donna Mills, Police Department Administrative Assistant, advised members that she is planning to retire at the end of 2011. She stated that she appeared before the Committee in December 2009 to request that Medicare Part B reimbursement be maintained, and she reiterated that request. Mrs. Mills stated that she felt that Council was misinformed by those who indicate that non-bargaining employees should "take a hit like the union people have done." She noted that, even though she does an excellent job, she has received minimal pay raises because she is a non-bargaining employee in a pay grade considered to be above-market under the Pay for Performance Plan. She also noted that she was required to take furlough days during FY 2010 due to budget constraints. Ms. Mills stated that she wrote a memorandum to City Council to explain her concerns ***(Attachment #2)*** and requested members to consider this information.

Ms. Christina Kober, 911 Manager, Police Department, read a prepared statement asking that members retain the Medicare Part B reimbursement benefit ***(Attachment #3).***

Mr. Stephen Enss, Engineering Services and System Operations Superintendent, Public Utilities Department, spoke in favor of retaining Medicare Part B reimbursement, stating that he joined the City's workforce 22 years ago. He noted that, at that time, he promised to serve the City for a minimum of 25 years and, in return, the City committed to provide him benefits. Mr. Enss stated that he has planned his future based on the assumption that he would receive the benefits promised.

Mr. Chappy Lucas stated that he is a retired City of Dover employee currently receiving Medicare Part B reimbursement. He noted that when he began working for the City in 1972, the City offered a benefit package which included health care. When he retired 28 years later, this package was in effect. Mr. Lucas explained that when he turned 65, he was contacted by the City and told that he must enroll in Medicare Part B, and at that point Medicare became his primary insurance and the City's plan became his secondary insurance. Mr. Lucas stated that he felt the City has fulfilled its obligation to provide medical insurance to him; however, reducing this benefit would amount to reducing his pension. He indicated that retired individuals would have no way to recover these funds, since they are unable to increase earnings and have not been receiving cost of living increases. He requested that members not take any action that would affect those who are currently receiving this benefit.

Mr. Ronald Lunt, Public Utilities Director, stated he understands the concerns of the Committee and Council regarding the cost of employee benefit packages which must be borne by taxpayers and ratepayers. He explained, however, that the Utilities Department has a number of key positions that require highly skilled, technical professionals, such as engineers and relay engineers, and noted that if the City continues to degrade the employee benefit package, it will be difficult to attract and retain these employees. Mr. Lunt stated he feared for future City operations if benefits are reduced.

Mr. Hare stated his opinion that employee benefits have not been degraded and that the City currently pays 100% of employee health care and 75% of family health care costs. He noted that retaining the Medicare Part B reimbursement benefit would obligate future Councils to an expense

that has increased 8% per year. Mr. Hare indicated that one (1) option would be to inform employees that they are not required to enroll in Medicare Part B but can remain on their current health plan. He proposed that, rather than eliminating this benefit, reimbursement be reduced as follows:

1) Employees who are eligible to retire as of September 15, 2011 would have no change to this benefit.

2) Employees who have more than 15 years of service and retire after September 15, 2011 would receive Medicare Part B reimbursement capped at $140.

3) Employees with more than ten (10) years of service would receive reimbursement capped at $110.

4) Employees with less than ten (10) years of service are not vested and would not receive this benefit.

Mr. Hare noted that under this proposal, retired employees would not be affected.

Mr. Anderson felt that Medicare Part B reimbursement is unsustainable and stated he did not support continuing it to those who are retiring. He indicated that he was unable to find any other organization in the State, including counties or other municipalities, that provide this benefit. Mr. Anderson noted that the cost of the benefit in 2002 was $50 per month, currently it is $100 per month, and that cost projections are "astounding." He indicated he planned to vote against retaining this benefit.

Mr. Shevock explained that Medicare Part B reimbursement was considered by members in 2009 with much discussion involving many of the points currently being brought forth. During the City Council meeting of July 27, 2009, Council eliminated this benefit for employees hired after that date. Mr. Shevock noted that prior to July 27, 2009, the City Employee Handbook stated that the City would provide reimbursement. He suggested that the City Solicitor be consulted to determine if the City could be subject to legal ramifications, should members opt to eliminate this benefit for current employees. Mr. Shevock noted that the number of plan participants will reduce by attrition and at some point there will be no remaining participants.

Mr. Hutchison stated he was aware of the serious financial concerns faced by the City but felt that employees should be treated fairly. He noted that the three (3) union groups who gave up Medicare Part B did so because they received something in return and that employees who participate in the general pension plan have no ability to bargain regarding this benefit. Mr. Hutchison felt that all employees who are vested by July 1, 2011 should be protected. He stated he would be open to considering an alternative for those employees who are not vested.

Dr. Jones stated that she was not in favor of removing benefits from employees who are vested and felt that the City has an obligation toward these individuals. She suggested considering an alternative program that might involve shared financial responsibility between the City and employees.

Mrs. Williams indicated that she felt the City had an obligation to honor the promise made to employees who have served ten (10) years. She stated this would involve 42 employees at a cost of $62,000 per year and that this was a price that the City could afford.

Concurring with Mrs. Williams, Mr. Bonar stated he would not vote in favor of eliminating this benefit to vested employees. He suggested pursuing Dr. Jones' suggestion to develop a sliding scale for payment, with the City's contribution based on the employee's years of service, perhaps including employees with five (5) years of service.

Mr. Hare moved to maintain Medicare Part B reimbursement for all employees who are vested as of June 27, 2011, seconded by Dr. McGlumphy.

Responding to Mr. Bonar, Councilman Hare declined to amend the motion by adopting Dr. Jones' suggestion to implement a sliding payment scale.

Dr. McGlumphy requested the City Clerk to obtain a legal opinion from the City Solicitor to ensure the legality of the motion.

Mr. Hare withdrew the motion.

Mr. Shevock moved to table the matter and 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 motion was seconded by Dr. Jones and carried by a vote of four (4) yes, one (1) no (Mr. Anderson).

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

Mr. William Neaton, Economic Development Manager, advised members that, over the past several years, a number of large, commercial buildings in the City have become vacant and remained unoccupied. These buildings include a variety of prior uses, such as retail stores, warehouse space, manufacturing, and office buildings. Mr. Neaton noted that bringing these buildings back into the active economy would help increase jobs and boost the local economy. He indicated that Mayor Carey requested staff to research a tax abatement program for large, unoccupied facilities in the City, resulting in the development of Proposed Ordinance #2011-11. This ordinance would act as an incentive for potential buyers and lessees who propose reoccupying or replacing vacant buildings. In order to qualify, the building would have to lease 35,000 S.F. and must have been vacant for 18 months or more. The new occupant would be required to commit to occupying the building for at least ten years and bring at least 15 full-time jobs to the building. Mr. Neaton explained that he discussed this matter with a number of area developers and realtors and that a similar approach was adopted in Frederick, Maryland, with very positive results.

Members were provided an email from Ms. Cheryl Russell, Tax Assessor, dated June 9, 2011, containing information regarding specific properties that would qualify for tax abatement under this proposal ***(Attachment # 4)***.

Mr. Phil McGinnis, McGinnis Real Estate Company, 555 E. Loockerman Street, expressed his appreciation for Council's consideration of the ordinance. He advised members that when developers and realtors met with City staff regarding the matter, discussion was raised about providing this benefit to businesses leasing 25,000 S.F.; however, he noted that the Proposed Ordinance includes a threshold of 35,000 S.F. Mr. McGinnis encouraged members to consider stipulating 20,000 or 25,000 S.F., since most "big box" establishments fall within that range. He explained that a number of the establishments that would qualify for the abatement could be subdivided into smaller units to take advantage of this incentive. He thanked members for their consideration of this "great" ordinance.

In response to Dr. Jones, Mr. Neaton explained that the 35,000 S.F. threshold was modeled after the ordinance adopted by the Town of Frederick, Maryland; however, he stated that staff supported a smaller size.

Mr. Scott Kidner, speaking on behalf of the Central Delaware Chamber of Commerce, stated that the Proposed Ordinance presented an outstanding opportunity to send a positive message to the business community. He advocated a 20,000 or 25,000 S.F. threshold and offered full support for the Proposed Ordinance.

Mr. Bonar urged members to give favorable consideration to amending the size stipulation to 20,000 S.F., which would provide greater incentive to establish businesses in the City.

Staff recommended adoption of the proposed amendments to Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications.

Mr. Hare moved to amend Proposed Ordinance#2011-11 by reducing the threshold for the amount of space required to be leased in order to qualify for tax abatement to 20,000 S.F., seconded by Mr. Anderson and unanimously carried.

Mr. Hare moved to recommend adoption of the Proposed Ordinance #2011-11, as amended *(Attachment #5)*, seconded by Mr. Anderson, and unanimously carried.

Proposed Ordinance #2011-14 - Appendix B - Zoning, Article 10 - Planning Commission

Mrs. Ann Marie Townsend, Director of Planning and Community Development, explained that during the previous year, Council assigned the Planning Office the goals of streamlining application processes and expanding public notice requirements. To meet this goal, the Planning Office began a thorough review of Article 10 of the Zoning Ordinance. Mrs. Townshend advised members that Article 10 specifies the requirements for all applications that appear before the Planning Commission and Historic District Commission, as well as administrative plan review and amendments to the

Zoning Ordinance. She noted that, in reviewing the Ordinance, staff worked to improve consistency throughout sections of the Article, standardize processes where possible, and streamline zoning review for small projects and changes of occupancy that do not include site disturbance.

Mrs. Townshend stated that the Planning Office released a draft ordinance in late April 2011 and held subsequent meetings with the real estate, development, and engineering communities. The draft ordinance was also shared with the Historic District Commission. She indicated that overall feedback has been positive. Many of the questions asked at the outreach meetings related to the increase in public notice distance requirements from 200 feet to 300 feet and the addition of a physical posting requirement.

Mrs. Townshend provided members an Updated Summary Sheet of Comments Received regarding the proposed changes to the Zoning Ordinance ***(Attachment #6)***, as well as related correspondence received from Mr. Gregory Moore, Vice President, Becker Morgan Group, Inc. ***(Attachment #7).*** In addition, she provided members a revised version of Proposed Ordinance #2011-14 ***(Attachment #8)*** which was updated in response to input received during a meeting held with municipal land use attorneys on June 9, 2011. She explained that changes from the draft ordinance previously provided to members were noted on this version in blue ink.

Mrs. Townshend outlined some of the major changes proposed to the Zoning Ordinance as follows:

1) Expiration of Plans - Site plans or conditional use permits are currently approved by the Planning Commission for a one (1) year period. If construction has not begun within that time, a one (1) year extension may be granted. Due to the current economy and increases in the regulatory framework outside the City's jurisdiction, two (2) years does not allow applicants enough time. Under the new Ordinance, the Planning Commission would grant a 24-month approval and the applicant would be eligible for a one (1) year extension.

2) Public Notice - During the meetings held on September 14, 2010, and September 28, 2010, staff received direction from the Committee and Council, respectively, to incorporate an increase in the required mailing distance for public notice from 200 feet to 300 feet. The revised ordinance includes this change and also increases the timeline for public notice from 10 days to 15 days, primarily for consistency with Title 22 of the Delaware Code. A physical posting of the change in land use would also be required by the proposed ordinance, which is included in the codes of many Delaware municipalities.

3) Addition of a Zoning Review Process Within the Site Plan Development Section - Currently in nearly all cases a change from one use to another (e.g., retail to restaurant or store to insurance office) requires an administrative

site plan which involves a $125 fee, drawing and submission of a plan, distribution to various agencies, and collection of comments. This process may be unnecessary if site modifications are not being proposed and zoning requirements are met. In addition, staff recommended requiring Planning Commission review of non-residential site plans with more than 1,500 S.F. of disturbance, rather than in excess of 500 S.F. as stated in the current Zoning Ordinance.

4) Conditional Use Permits - The current Zoning Ordinance does not afford due process for revocation of conditional use. The Proposed Ordinance includes a process that ensures that conditional use cannot be revoked without an advertised public hearing through the Planning Commission.

In response to Dr. McGlumphy, Mrs. Townshend stated that the Proposed Ordinance has been in progress since August 2010. Meetings have been held with developers, realtors, the civil engineering community, and municipal and land use lawyers. She advised members that staff has does their best to make sure that the community is aware of the proposal.

In response to Mr. Hare, Mrs. Townshend indicated that Planning Staff recommendations listed on the Updated Summary of Comments have not been incorporated in the revised Ordinance provided to members, but would be included when the Ordinance is presented to Council for a First Reading.

Mr. Anderson stated he supported extending the required mailing distance for public notification to 300 feet, noting he felt it was not unreasonable to inform residents in this range regarding activity near their properties.

Mr. Lynn stated that this matter was discussed at a meeting he hosted on June 9, 2011 which was attended by Mrs. Townshend and several land use and municipal law attorneys, and the consensus was that a 300-foot notification requirement would be expensive, onerous, and cumbersome. Mr. Lynn noted that the overall feeling of the group was that Mrs. Townshend did an excellent job with the Ordinance and that few other concerns were raised.

Mr. Hare moved to amend Proposed Ordinance #2011-14, by incorporating the Planning Staff recommendations reviewed by the Committee, seconded by Mr. Shevock, and carried by a vote of four (4) yes, one (1) no (Mr. Anderson).

Mr. Anderson moved to recommend approval of Proposed Ordinance #2011-14, as amended *(Attachment #9)*, seconded by Mr. Shevock, and unanimously carried.

Proposed Ordinance #2011-15 - Appendix A - Subdivisions - Regarding Homeowoners' Association Responsibilities

Due to time constraints, Dr. McGlumphy requested that this item be deferred until the next meeting.

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

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

Meeting adjourned at 7:04 P.M.

Respectfully submitted,

William P. McGlumphy
Chairman

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Attachments
Attachment #1 - Statement from Police Chief James Hosfelt dated June 13, 2011
Attachment #2 - Statement from Ms. Donna Mills, Administrative Assistant, dated June 9, 2011
Attachment #3 - Statement from Ms. Christina Kober, 911 Manager, dated June 13, 2011
Attachment #9 - Proposed Ordinance #2011-14 (As Amended by Committee)

Attachments to Original Minutes and File Copy
Attachment #4 - Email from Ms. Cheryl Russell dated June 9, 2011 - Qualifying Big Box Stores
Attachment #5 - Proposed Ordinance #2011-11 - Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, Section 102-113 - Qualifications
Attachment #6 - Updated Summary Sheet of Comments Received Regarding Proposed Changes to the Zoning Ordinance
Attachment #7 - Letter from Mr. Gregory Moore, Becker Morgan Group, Inc. dated May 24, 2011
Attachment #8 - Proposed Ordinance #2011-14 (As Revised by Staff)