REGULAR COUNCIL MEETING

The Regular Council Meeting was held on March 28, 2011 at 7:30 p.m. with Council President Hogan presiding. Council members present were Mr. Bonar, Mr. Leary, Mr. McGiffin, Dr. McGlumphy, Mr. Ruane, Mrs. Russell, Mr. Salters, and Mrs. Williams.

Council staff members present were Police Chief Hosfelt, Mrs. Mitchell, Mrs. Townshend, Fire Chief Fortney, Mr. DePrima, 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 Hogan 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. McGiffin moved for approval of the agenda as presented, seconded by Mr. Bonar and unanimously carried.

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

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF MARCH 14, 2011

The Minutes of the Regular Council Meeting of March 14, 2011 were unanimously approved by motion of Mr. Bonar, seconded by Mr. Leary, and bore the written approval of Mayor Carey.

PRESENTATION - AWARDS BY DOWNTOWN DOVER PARTNERSHIP - ST. PATRICK'S DAY PARADE

On behalf of the Downtown Dover Partnership, Mayor Carey presented awards for the 16th Annual St. Patrick's Day Parade, as follows:

Category	Recipient
Pot O' Gold - Anything with Wheels Award	Little Creek Fire Department
Rainbow Award - Car Clubs Only	DelRods
Blarney Award - Best Mascot	Delaware Tech - Terry Campus Hammerin' Hawks Drumline
Green Machine Award - Best Float	Dover Interfaith Mission
Aran Award - Best Animal	Cozy Corners 4-H
Harp Award - Best Musical Group	Campus Community High School Drumline
Shamrock Award - Most Authentic Irish Theme	W.T. Smithers
Leprechaun Award - Best Brigade/Marching Unit	West End Grade HY Steppers and Polytech DE-931st AFJROTC
McNamara Award - Best High School Marching Band	Polytech High School
Mary Fitzpatrick Award (Best Overall)	Delaware Tech - Terry Campus Hammerin' Hawks Drumline

CERTIFICATE OF RECOGNITION - IRVING AND PHYLLIS LEVITT

The City Clerk read the following Certificate of Recognition into the record:

The Mayor and Council of the City of Dover take great pleasure in honoring Mrs. Phyllis Levitt and Mr. Irving Levitt for their many years of service to the people of the City of Dover.

- *For making public service a central part of their lives since arriving in the City of Dover in 1966;*
- *For the professionalism and compassion with which they served others in their careers with Dover High School and the Social Security Administration;*
- *For the dedication and commitment displayed by Mr. Levitt as he served as a member of City Council, the City's Utility Committee, and as President of the Friends of the Dover Public Library;*
- *For enriching the lives of many in our community by promoting the arts in Delaware, their tireless efforts on behalf of the Dover Art League, and their innovative efforts in intercultural outreach for the arts; and*
- *For their passion for securing basic human rights for all individuals and their outspoken advocacy for disadvantaged groups and individuals.*

The Mayor and Council are pleased to recognize Mr. and Mrs. Levitt for these contributions and for their lasting legacy of community service to the City of Dover.

Mayor Carey presented the Certificate of Recognition to Mr. Irving Levitt and Mrs. Phyllis Levitt. Both Mr. and Mrs. Levitt relayed their appreciation to the City for the recognition.

FINAL READING - REZONING OF PROPERTY LOCATED AT 293 SAULSBURY ROAD, OWNED BY F & B PROPERTIES

During their Regular Meeting of February 14, 2011, City Council held a public hearing to consider the rezoning of property located at 293 Saulsbury Road, owned by F & B Properties, consisting of $3.64^{+/-}$ acres. The property is currently zoned C-3 (Service Commercial) and subject to the COZ-1 (Corridor Overlay Zone) and the proposed zoning is C-2A (Limited Central Commercial) and subject to the COZ-1 (Corridor Overlay Zone). The subject property is located on the northeast corner of the intersection of Saulsbury Road and North Street (Tax Parcel: ED05-076.11-01-43.00-000; Fourth Council District; Planning Reference: Z-11-01). At this meeting, the motion for approval of the rezoning request, as recommended by the Planning Commission, failed to obtain the affirmative vote of a majority of the members elected to City Council, as required to pass a motion in accordance with Article II, Section 10 of the City Charter. As a result, City Solicitor Rodriguez advised members to reconsider the matter in order to obtain a majority vote on the request.

In response to City Solicitor Rodriguez, Mr. Bonar confirmed that, since he was absent during the meeting of February 14, 2011, he listened to the audio recordings of the meeting, read the materials provided and was prepared to vote at this time.

After reviewing this matter, City Solicitor Rodriguez stated that, in essence, there has been no action taken on the rezoning request. In accordance with Robert's Rules of Order, he suggested that members renew the motion, which did not receive five (5) affirmative votes, and if the motion to renew passes, Council would reconsider the motion to approve the rezoning request. It was his opinion that Mrs. Williams (who previously abstained) should be permitted to vote and Mr. Bonar (who was previously absent) should be given the opportunity to vote.

Mr. McGiffin moved to renew the original motion that did not result in a final resolution, seconded by Mr. Leary and unanimously carried.

Council President Hogan reminded members that the original motion made during the Regular Council Meeting of February 14, 2011 was for approval of the rezoning request, as recommended by the Planning Commission.

Mr. Salters relayed concerns that residents near the area proposed for rezoning have not been notified and given the opportunity to voice their concerns. He suggested that the matter be referred back to the Planning Commission and that they require additional notification to residents of the area. Although he was not opposed to the rezoning, Mr. Salters relayed his objection to taking action without giving the nearby residents the opportunity to express their opinions.

At the request of Council President Hogan, Mrs. Anne Marie Townshend, Director of Planning and Community Development, advised members that the Dover Code requires that property owners within 200' of the property being considered for rezoning are notified. She assured members that the property owners within this range were notified. It was her understanding that the concern was that, although the property owners were notified, tenants of such properties are not required to be notified by Code and were not contacted regarding this rezoning request.

Mrs. Russell stated her desire that the matter be referred back to the Planning Commission, explaining that all residents should be notified of the proposed rezoning.

Mrs. Russell moved to refer the matter back to the Planning Commission, seconded by Mr. Salters.

Mrs. Townshend requested that, if Council refers the matter back to the Planning Commission, members be specific in their motion regarding the notification (in terms of designating who should be notified and at what distance from the property) since staff can not make a determination other than what is required by the Dover Code.

Mr. Ruane moved to amend the motion to include notification (to be accomplished by the City) of the residents of Lincoln Park and the Simon Circle Apartments. The motion was seconded by Mrs. Russell.

At the request of Mr. Bonar, Mrs. Townshend read the notification requirements of the Dover Code, Appendix B, Article 10, Section 5.13(a), as follows:

> *"When there is a petition to rezone property in accordance with [sub]section 5.111, all property owners within a distance of 200 feet shall be notified by regular mail of the applications for rezoning. No fee shall be required for petitions filed in favor of or against a pending application."*

Mrs. Townshend assured members that the notification requirements of the rezoning request were met.

Mr. Bonar relayed concern that the motion to amend to expand the notification territory may be out of order since the amendment would include Lincoln Park and Simon Circle, both of which reach far beyond the 200' requirement as specified in the Dover Code. It was his feeling that this would require the City to notify the property owners/residents of several hundred dwellings in that area which are far beyond the notification that is done for any other rezoning application in the City. He requested a legal opinion regarding this matter. Responding, City Solicitor Rodriguez stated that the motion provides for the City to go beyond what is required and that, if the motion passes by Council, it would require additional notification in this particular case only.

Mr. Bonar questioned what would preclude requests for additional notifications in the future if the City requires an amendment to the notification requirements for this rezoning request. It was his concern that this would broaden an area of exposure for the City that is not necessary, noting that the property owners were notified of the rezoning request as required by the Dover Code. He reiterated his concern regarding the effect this may have on notifications for future rezoning requests.

Dr. McGlumphy recalled a similar situation when residents in the Schoolview area were not notified of a project and stated that there were no notification changes made related to that issue. It was his feeling that if such a change were to be made now, it would inundate the City with many problems, and he reminded members that no further action was previously taken to address concerns relayed by residents of Schoolview.

Mr. Leary suggested that members consider the position of the applicant. He explained that the City establishes policies, procedures, ordinances, etc., for those wishing to do business in the City and, when an individual follows these rules rigidly, it was his feeling that they have the right to expect an outcome within a certain amount of time. He noted that the 200' notification requirement was established several years ago and has been followed since that time and he questioned why this particular request would be treated differently.

It was Mr. Ruane's opinion that the distinction relates to residents being notified, explaining that for the Schoolview project, some residents were notified (as property owners); however, in this instance, no residents were notified. He felt that the lack of notification represents a violation of the spirit and intent of the law. He noted that the Dover Housing Authority was notified of the rezoning request; however, no residents were notified. He suggested that members consider the spirit (intent) of the law and allow for notification to some of the residents. It was his feeling that, in this situation, the law has failed the City and that this situation represents an exception. He suggested that this matter would only be an issue in the future if there is another instance when no residents are provided notification of an application.

In response to Mr. Salters, Council President Hogan indicated that an ordinance amendment that would extend the 200' notification requirement to 400' would not resolve the current issue, explaining that it would be necessary to include notification to "residents" in addition to property owners as is currently required.

In regards to the Schoolview situation, Mr. Ruane reminded members that notification was provided, and several community meetings, led by Mr. McGinnis, were held with the residents of Schoolview; therefore, he felt that the cases were not comparable. He requested that, if an ordinance amendment is proposed, applicants be required to provide due diligence in a neighborhood to get the support of the community when a project is proposed.

Mr. Bonar stated that this issue has been a topic of extensive news media coverage during the past month in both the *Delaware State News* and the *Dover Post*, which is provided free to every resident. It was his observation that there were no residents in attendance to voice any opinion regarding this matter that would indicate that anyone feels disenfranchised; therefore, it was his feeling that the motion to reconsider should be accomplished at this time.

On a call for the question by Mr. Bonar, the motion for the City to notify all residents in Lincoln Park and Simon Circle of the potential rezoning failed by a roll call vote of five (5) no and four (4) yes (Mrs. Russell, Mr. McGiffin, Mr. Salters, and Mr. Ruane).

The motion to refer the rezoning request back to the Planning Commission failed by a roll call vote of six (6) no and three (3) yes (Mrs. Russell, Mr. Salters, and Mr. Ruane).

At the request of Council President Hogan, prior to the reconsideration of the original motion to approve the rezoning request, as recommended by the Planning Commission, Mrs. Townshend briefed members on the petition to amend the zoning district and the findings and recommendations of the Planning Commission.

In response to Mr. Ruane regarding the completion of a traffic impact study, Mrs. Townshend stated that a "scoping" meeting was held with the Delaware Division of Transportation (DelDOT) and the scope was developed and data gathered. She noted that the applicant was present and could give further details. It was her understanding that DelDOT, rather than the developer, will be performing the impact study.

There being no objections, the applicant was authorized to address members.

Mr. John Paradee, Attorney with Prickett, Jones, and Elliott, 11 N. State Street (legal counsel for the applicant, F & B Enterprises) introduced Mr. Jeffrey Bross, Project Engineer, Duffield Associates, 5400 Limestone Road, Wilmington. Mr. Bross confirmed that the status of the impact study, as described by Mrs. Townshend, is correct. He stated that the final traffic study should be completed within the next two (2) to three (3) months; however, review by DelDOT could take an additional three (3) to four (4) months.

Responding to Mr. Ruane, Mr. Bross stated that although the tenant, Royal Farms, has conducted market studies, there will be major highway improvements at this intersection and DelDOT has already conducted extensive study to determine what will be done at this intersection based on traffic projections which consider the proposed use. He stated his belief that the applicant will be responsible for constructing some of the initial improvements, in concert with DelDOT, to provide some traffic relief at the intersection. Mr. Bross stated that, although a considerable amount of study has been accomplished, DelDOT is requiring additional study. He confirmed that there will be an increase in traffic movement and stated his understanding that most of the traffic that would be stopping at the facility already utilizes the roadway. However, he explained that improvements will be made to turn lanes to make sure that the traffic entering and exiting the facility does not impact through traffic. Without the full traffic study, he stated that it is difficult to provide additional details.

It was Mr. Paradee's opinion that Mr. Ruane's questions relate to site plan issues that will be addressed in the future. He noted, respectfully, that the public record has been closed and questioned if the line of questioning was appropriate. Mr. Paradee reiterated that the traffic impact study is currently underway and that the applicant will be required to incorporate the recommendations of DelDOT into the site plan.

In response to Mr. Salters, Mrs. Townshend stated that the traffic impact study would not prohibit a facility from locating to a particular site. She explained that the study determines the improvements that are necessary to the roadway system surrounding the project, which could include intersection and signal improvements, expansion of roadways, etc. Mrs. Townshend noted that such improvements could be costly and are required of the developer. Elaborating, Council President Hogan stated that it is conceivable that there may be so many improvements required that it no longer becomes a viable and profitable project.

Mrs. Williams called for the question, seconded by Dr. McGlumphy and carried by a roll call vote of six (6) yes and three (3) no (Mrs. Russell, Mr. Salters, and Mr. Ruane).

Council President Hogan reminded members that they will be voting on Ordinance#2010-31, which would rezone the property at 293 Saulsbury Road to C-2A (Limited Central Commercial) and subject to the COZ-1 (Corridor Overlay). *(The First Reading of this Ordinance was accomplished during the Council Meeting of December 13, 2010.)*

The motion for approval of the rezoning request, as recommended by the Planning Commission was carried by a roll call vote of six (6) yes and three (3) no (Mrs. Russell, Mr. Salters, and Mr. Ruane) and Council adopted Ordinance #2010-31, 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 293 SAULSBURY 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-3 (Service Commercial Zone) and subject to COZ-1 (Corridor Overlay Zone) to C-2A (Limited Central Commercial Zone) and subject to COZ-1 (Corridor Overlay Zone).

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

1. 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-3 (Service Commercial Zone) and subject to COZ-1 (Corridor Overlay Zone) to C-2A (Limited Central Commercial Zone) and subject to COZ-1 (Corridor Overlay Zone) on that property located at 293 Saulsbury Road (on the northeast corner of the intersection of Saulsbury Road and North Street), consisting of $3.64^{+/-}$ acres (157,558 sq. ft.), owned by F & B Properties.

ADOPTED: MARCH 28, 2011

PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE REPORT - MARCH 14, 2011

The Parks, Recreation, and Community Enhancement Committee met on March 14, 2011 with Chairwoman Russell presiding.

Review of Applications - Youth Advisory Committee - One (1) Year Terms to Expire January 24, 2012

In accordance with Resolution No. 2008-11, adopted by City Council on June 23, 2008, nine (9) members are to be appointed annually to serve on the Youth Advisory Committee. It was noted that nine (9) applications were received and that there are nine (9) vacancies. Mrs. Russell recommended that all nine (9) applicants be appointed to serve on the Youth Advisory Committee.

The committee recommended that Mr. Kenneth Anderson, Mr. Seadric Corbitt, Ms. Kristen Dietz, Ms. Chidinma Emenike, Mr. Dennis Hallock II, Ms. Karly Jones, Ms. Sonya Modi, Ms. Valeria Provotorova, and Ms. Rachel Voak be appointed to serve on the Youth Advisory Committee.

Mr. Anthony DePrima, City Manager, stated staff's desire for the City's Teen Librarian to play a greater role in the Youth Advisory Committee, since this librarian specializes in working with this age group and could assist members on programming, etc. He suggested that future Committee meetings be held at the library.

Mrs. Russell stated that although she had no objections to the Teen Librarian becoming involved with the Youth Advisory Committee, she felt that there should be no changes in the current City staff who are involved with the Committee. Responding, Mr. DePrima stated that it was never intended for the Public Affairs Coordinator to be involved; however, Ms. Sherwanda Rachal-Speaks, Recreation Specialist, would continue to participate in the Committee.

With regard to the appointments, Mrs. Russell stated that the applicants will be sworn in once the appointments are approved by City Council.

By consent agenda, Mr. Bonar moved for approval of the Committee's recommendation that Mr. Kenneth Anderson, Mr. Seadric Corbitt, Ms. Kristen Dietz, Ms. Chidinma Emenike, Mr. Dennis Hallock II, Ms. Karly Jones, Ms. Sonya Modi, Ms. Valeria Provotorova, and Ms. Rachel Voak be appointed to serve on the Youth Advisory Committee. The motion was seconded by Mr. Leary and carried by a unanimous roll call vote.

Benchmarks Established for the Economic Development Office

Members were provided the Major Programs and Strategic Objectives for the Economic Development Office. Mr. William Neaton, Economic Development Director and Director of the Downtown Dover Partnership, reviewed the Strategic Objectives, including benchmarks, for Fiscal Year 2010-2011.

In reviewing Item #1 of the Strategic Objectives, Complete a Site Development Master Plan for the Garrison Tract, Mr. Neaton stated that he has been working with a marketing company to develop a professional marketing plan. He noted that the plan is more extensive than he had anticipated and stated that he met with the Secretary of the Delaware Economic Development Office (DEDO) to solicit DEDO's assistance. As a result, Mr. Jeff Stone, Director of Infrastructure and Intergovernmental Relations, DEDO, has been assigned to assist Mr. Neaton with this endeavor. He advised members that several subsequent meetings have been held to discuss developing marketing and business plans for the Garrison Tract.

At the request of Dr. McGlumphy, Mr. Neaton stated that he would provide members with the Economic Development Market Packet that he shared with members last fall.

Mr. Neaton advised members that he has received commitments from Macquarie Energy, LLC and DEDO to assist him with the Comprehensive Economic Development Strategy (CEDS) Application process for the infrastructure development of the Garrison Tract. He noted that the a quote from the Becker Morgan Group included an estimated a fee in the amount of $8,000 for infrastructure costs at the Garrison Tract; however, it has since been determined that this information could be obtained free of charge from EDiS, and the City should be in receipt of this information soon.

Responding to Mr. Ruane, Mr. Neaton stated that no funds have been set aside for marketing for the Garrison Tract. Elaborating, Mr. Anthony DePrima, City Manager, stated that staff has been considering creating a separate accounting fund for the Garrison Tract and making this project an independent line item so that income and expenses can be tracked.

Mr. Neaton advised members that Macquarie Energy, LLC, a second potential tenant for the Garrison Tract, will visit Dover this week and was scheduled to meet with the Department of Natural Resources and Environmental Control (DNREC) this morning. He stated that Macquarie Energy, LLC experienced difficulty obtaining the 80 air credits (Emission Reduction Credits) required by DNREC and hoped that this had been resolved. Mr. Neaton noted that the City of Dover has been instrumental in developing possible solutions to obtaining the required air credits and is scheduled to meet with Mr. David Small, Deputy Secretary of DNREC, on March 15, 2011 at 2:30 p.m. to discuss the matter.

In response to Mrs. Russell, Mr. DePrima stated that, although Macquarie Energy, LLC will not be responsible for property taxes on the land, which is leased from the City, the contract requires the solar park to pay tax on equipment such as iron stanchions and wiring. Although taxes will be paid to the City, he stated that the actual solar panels are not taxable.

After much discussion, Dr. McGlumphy suggested that, although specific details regarding the Sun Park were submitted previously to the Utility Committee and City Council, it would be beneficial for staff to make a presentation to the Committee. Mr. Neaton also invited members to contact him should they wish to tour the facility.

Mr. Clay Hammond, Chairman of the Delmarva Black Chamber of Commerce and Vice-President of Business Development, questioned if there has been any discussion regarding minority participation in this project with regard to the purchase of solar panels. Responding, Mr. DePrima stated that the City's involvement extends only to the land lease. He noted that, since the project is strictly private and involves only private investment, there was no discussion regarding minority participation as there was with the new Dover Public Library project.

Mr. Bobby Wilson, 1561 Nathaniel Mitchell Road, stated his opinion that minority participation should be considered whenever the City is engaged in a project, since tax dollars come from the minority community as well. Responding, Mr. Ruane noted that Mr. Neaton was successful in allowing for the consideration of local companies for any improvements and/or purchases.

In the future, Mr. Hammond suggested that language be included in such contracts to encourage minority preference and stated that local preference differs from minority preference.

Mr. DePrima explained that this project involves the installation of 100 acres of solar panels and that few companies globally have the capability of producing the equipment required.

Regardless, Mr. Wilson reiterated his feeling that if language regarding minority preference had been included in the contract, the company would have given this matter consideration.

Referring to Item #2, Promote City-Wide Economic Development Initiatives, Mr. Neaton stated that he has attended monthly meetings of the Kent Economic Partnership for the past six (6) months and will continue to do so. In addition, he advised members that he has been working with a logistics company that has indicated possible interest in locating to the Kent County Aero Park. He noted that a Wilmington-based company, The Commonwealth Group, and the State Police are current occupants.

Mr. Neaton reminded members that the Job Growth Report was provided to members during their meeting of February 14, 2011; therefore, this goal has been accomplished. He stated that a table listing vacant buildings has been created and will continue to be updated by staff. In response to previous comments made by Dr. McGlumphy, Mr. Neaton stated that staff is in the process of identifying all of the vacant properties located on Route 13. At the request of Mrs. Russell, Mr. Neaton stated that the number of years a building has remained vacant could be included on the list.

With regard to vacant buildings, Mr. Ruane suggested the possibility of the City creating more stringent mandates by amending the existing ordinance.

Mr. Neaton stated that he has been developing a list of renewable energy manufacturers and higher education renewable energy researchers and bringing them together with state officials and that this is an ongoing project. He stated that meetings have been held and will continue.

Referring to Item #3, Advance Initiatives of the Downtown Dover Partnership (DDP), Mr. Neaton stated that Mr. DePrima is the Chairperson of the Recruitment Subcommittee of the DDP Economic Development Committee and that a recruitment strategy has been developed to attract new businesses to downtown. He reiterated that a marketing brochure, including a vacant property list, has been completed and is available in the DDP packet which is readily available from his office.

Mr. Neaton stated that the asbestos cleanup at 22-24 West Loockerman Street has been completed and staff is currently in the process of obtaining estimates for renovating the interior. Staff has been meeting with property owners individually, as previously suggested by Mr. Ruane. Mr. Neaton also stated that he has a conference call scheduled with the owners of the property located on the corner of Governors Avenue and Loockerman Street, which has been vacant for a long period of time. It is his understanding that the owners will be moving forward with establishing a business at this location.

Mrs. Russell relayed her concern that many businesses in the area remain open for only a short period of time. It was also her feeling that much effort is directed toward those properties located in the 100 block of Loockerman Street and suggested that staff give this same consideration to the 200 block, where more minority businesses are located. Responding, Mr. Neaton stated that a merchant meeting is held monthly and that all merchants along Loockerman Street are invited and encouraged to attend. In addition, he stated that a matching fund facade program is open to all merchants.

Mr. Neaton reminded members that the charrette for the downtown area has been completed and was endorsed by City Council during their meeting of February 14, 2011. With regard to the Memorandum of Agreement between the DDP and Delaware Department of Transportation (DelDOT) for the development of a public/private partnership for the Transit Center and recruitment of a private partner for the P3 Agreement to construct the Transit Center Building, Mr. Neaton noted that these goals are no longer germane and will not be completed. He explained that DelDOT has selected three (3) companies (EDiS, Buccini/Pollin Group, and Hunt Contracting) and will be sending each a Request for Proposal (RFP) for the development of the Transit Center. He stated that

it is expected that the review of the RFPs will occur this summer and the contract will be awarded in September 2011. Mr. Neaton noted that after review and approval by the City, it is hoped that construction will begin after the first of the year (2012) and will consist of a 30,000 square foot building proposed to house the Kent County Metropolitan Planning Organization (MPO), E-Z Pass Delaware, and several other transit operations.

Responding to Mr. Hammond, Mr. Neaton indicated that the City will not be the owner of the facility; it is anticipated that the builder will be the owner.

In response to Mr. Ruane, Mr. Neaton confirmed that the first floor of the facility will be dedicated to the Transit Center and will include restrooms for patrons. The second and third floors will be offices. He also confirmed that Greyhound remains a potential partner.

Mr. Wilson questioned if there will be a requirement established that general contractors must provide for minority participation prior to the distribution of the RFPs. Responding, Mr. Neaton stated that the RFPs will be handled by DelDOT and the City has no control over this issue.

Update - Planning and Funding for New Library

Ms. Margery Cyr, Library Director, advised members that EDiS located their construction site trailer onto the new library site on March 7, 2011 and began running power to the trailer on March 14, 2011. In addition, the City has begun relocating trees and shrubs on the site from Loockerman Street to other areas throughout the City. She also stated that the pavement work for the access road along the Department of Natural Resources and Environmental Control (DNREC) property line will begin soon and explained that this roadway is vitally important since it will be used to bring construction vehicles to the site. Mr. Scott Koenig, Public Services Manager/Director of Public Works, confirmed that the pavement work is scheduled for Thursday, March 17, 2011 and Friday, March 18, 2011.

Mr. Zachery Carter, Parks and Recreation Director, advised members that staff will meet with City employees on March 17, 2011 and March 18, 2011 to provide information regarding the work the effects it will have on parking and building access. He assured members that neighboring property owners will be made aware of this information as well.

Ms. Cyr stated that a groundbreaking ceremony is scheduled to be held on either April 5, 2011 or April 6, 2011, pending confirmation from the Governor's Office. She also apprised members that two (2) fundraising events have been scheduled for the new Dover Library building project, as follows: 1) Saturday, March 19, 2011 at the Dover Newsstand at 5:30 p.m.; and 2) Friday, March 25, 2011 at the Golden Fleece Tavern at 5:30 p.m.

FY 2012 Five-Year Capital Investment Plan (CIP)

Mr. Zachery Carter, Parks and Recreation Director, reviewed the draft Capital Investment Plan for the Parks and Recreation Department for Fiscal Years 2012-2016.

Responding to Mr. Ruane, Mr. Carter explained that the paving of parking lots at Schutte Park was moved to Fiscal Year 2015 because a portion of the site will be occupied in the future by the Boys and Girls Club and the specific location is not known. In addition, he stated that a skate park is

planned for a portion of the property. As a result, staff felt that the City should not develop the land until the details of these projects are known. Mr. Carter explained that there would be no benefit for the City to seed the property because it would be time to begin construction on other projects by the time the grass matured for use as a soccer field.

Elaborating, Mr. Anthony DePrima, City Manager, stated that the Master Plan for Schutte Park will provide a better understanding of the proposed uses of the property.

In response to Mr. Ruane, Mr. Scott Koenig, Public Services Manager/Director of Public Works, confirmed that the realignment of Wyoming Mill Road will include the removal of all road surfaces. He explained that the old road bed will be milled out, dug down, and covered with topsoil to provide some type of positive drainage and that ponds are not proposed for this area. Mr. Koenig noted that there appear to be funds in the project budget to extend the path along Hazlettville Road to the intersection of Westover Drive, which was not originally included; however, federal American Recovery and Reinvestment Act (ARRA) funds will be used for the project. He indicated his understanding that any funds remaining at the end of the project will be returned to the federal government; therefore, the City intends to put any cost savings into additional improvements. Mr. Koenig noted that the 10-foot wide sidewalk would be extended to the intersection and the old road bed would be seeded.

Mr. Ruane relayed his concerns regarding the out years of the Plan and requested specific details regarding when and if the Boys and Girls Club will relocate to Schutte Park. He questioned how long the City plans to hold the property in abeyance waiting for construction to begin on the Boys and Girls Club. It was his feeling that the property should not remain in perpetuity for the Boys and Girls Club when there is a need for other uses, such as a soccer field. Responding, Mr. DePrima suggested that this matter be further discussed when the Master Plan for Schutte Park is presented to members for their review, which is planned for next month.

Mr. Ruane suggested that staff present City Council with a more aggressive and timely plan for Schutte Park, feeling that some projects, such as tennis courts planned for Fiscal Year 2014, should be moved forward.

For the record, Mr. Ruane noted that the $195,000 included for the Lighted Soccer/Multi-Purpose Field and the $160,000 included for the Tennis Courts at Schutte Park (totaling $355,000) would equate to a one-cent (1¢) property tax increase.

Referring to the Dover Interfaith Mission located on Forrest Street, Mrs. Russell requested staff to consider the placement of stakes to allow for residents to play horseshoes.

Mr. Clay Hammond, Chairman of the Delmarva Black Chamber of Commerce and Vice-President of Business Development, noted that there have been several articles in local newspapers addressing how the quality of life can be improved for the African American community. As a result, recreational offerings have been identified to provide such improvement. He explained that many individuals in the community cannot afford recreational offerings in the City. He proposed that the

City hold a carnival, similar to one held in Middletown, and that a percentage of the proceeds be dedicated to scholarships for disadvantaged children to attend recreational programs. He requested the opportunity to meet with staff and members of the Committee to discuss this concept and invited everyone to attend the carnival held in Middletown.

Responding, Mrs. Russell suggested the involvement of the Youth Advisory Committee.

Mr. Hammond questioned the amount of participation at the Pitts Center during the summer months. Responding, Mr. Carter stated that participation is substantial; however, not as great as during the winter months. Mr. Hammond felt that the reason for the lack of participation is due to the facility's lack of air conditioning. Mr. DePrima stated that, although air conditioning was removed from the project to provide cost savings, it has been discovered that it is uncommon to have air conditioning in gyms.

The Committee recommended that the Lighted Soccer/Multi Purpose Field and Tennis Courts at Schutte Park Projects be moved from Fiscal Year 2014 to at least Fiscal Year 2013 in the Capital Investment Plan (CIP).

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

UPDATES

The following updates were provided to members:

Housing and Recovery Act of 2008 Funds (Neighborhood Stabilization Fund)

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the Update on the Housing and Recovery Act of 2008 Funds (Neighborhood Stabilization Program).

Referring to the NSP Properties, Mr. Ruane relayed concerns that the sale price of these properties will skew the comparable sale prices in the area and affect the appraisal of property. He suggested that the property records include a note indicating that the property was a neighborhood stabilization house.

Puncheon Run Watershed Action Team and Flood Plain Mapping Update

Mr. Scott Koenig, Public Services Manager/Director of Public Works, advised members that a Community Workshop will be held on Tuesday, March 22, 2011 at 6:00 p.m. at City Hall to review the improvements made by the Delaware Department of Transportation (DelDOT) and the Kent Conservation District, and to discuss a resident's recent success in obtaining a Letter of Map Amendment (LOMA) and identify other property owners who might be successful in pursuing this option. He stated that an electronic notice was distributed, and hand-delivered notices and mailings will also be distributed.

Mr. Anthony DePrima, City Manager, suggested that an effort be made to invite the engineer or surveyor who did the work that benefitted the successful resident so that he could explain the process. Responding, Mr. Ruane stated that he would attempt to contact him and request his presence.

CDBG Program

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reported the Status of FY 2009-2010 CDBG Projects.

Referring to the Committee meeting scheduled for March 24, 2011, Mr. Ruane questioned if members should consider grant applications at this time since the CDBG funding to the City may not be allocated by the federal government. He suggested that staff look into this matter and advise members if the scheduled meeting is necessary. *(Clerk's Office Note: Per an email from Mrs. Ann Marie Townshend which was forwarded to members by the Clerk's Office on March 15, 2011 (Attachment #1 to Committee minutes), CDBG funds will not be allocated until Congress passes the federal budget. The City's HUD representative recommended using the FY 2009 allocation to develop the City's Action Plan, which must be submitted to HUD by mid-May. For this reason, the meeting proposed for March 24, 2011 will take place as scheduled.)*

By consent agenda, Mr. Bonar moved for acceptance of the Parks, Recreation, and Community Enhancement Committee Report. The motion was seconded by Mr. Leary and carried by a unanimous roll call vote.

UTILITY COMMITTEE REPORT - MARCH 14, 2011

The Utility Committee met on March 14, 2011 with Chairman Ruane presiding.

Authorization to Conduct Financial Analysis of West Deptford Generation Station

Mr. Ron Lunt, Public Utilities Director, reminded members that since May 2007, the Dover 2030 Energy Plan Committee has been meeting periodically to review the PJM Market, evaluate the capacity/energy requirements of the City's system, and identify action plans to address future energy needs. After extensive discussion on the market and capacity/energy shortfall, it was decided in 2008, to solicit the energy development market to gain knowledge of what options are available to the City through a Request for Qualifications (RFQ) process. He explained that the goal was to gain information and knowledge from potential developers and identify possible solutions to the City's requirements. In March of 2009, staff completed Phase II of the project, which was the evaluation of the proposals and the selection of options for which to enter negotiations. Dover Sun Park and Garrison Energy Center Land Lease/Gas Turbine Combined Cycle (GTCC) were the first two (2) agreements to be executed through this process.

Mr. Lunt advised members that the final option available under the RFQ process and the proposal under consideration is a Purchase Power Agreement (PPA) for a GTCC plant located in West Deptford, New Jersey. He explained that the proposed West Deptford Generation Station would be a state-of-the-art GTCC generator offering an extremely efficient and environmentally prudent technology. The basis of the PPA would be that the City would secure 25 Mw of capacity from the 646 Mw Station. He explained that the City would receive a guaranteed heat rate (this is an efficiency measurement for the conversion of natural gas to electric energy) and the City would pay a prorated portion of the operating expenses. He noted that fuel costs are not included in the PPA, as these would be prorated and passed on to all users at the market rate. The energy purchased from the Station would further diversify the City's current energy portfolio by adding an efficient fixed asset and would displace future market-based energy hedges.

Mr. Lunt reviewed the highlights of the proposed PACE Global analysis, as follows:

1. The first task would be to analyze the proposal for fatal flaws, which would include a high-level view of the economics; review of the proposed terms; comparing terms to historic energy and capacity markets; and projecting power supply curves. If no deficiencies are discovered, Staff would direct PACE to proceed to the next task.

2. The next task would be to develop a detailed economic model; forecast future power pricing, potential changes and drivers for possible changes; develop market and technology trends, including the projected plant utilization/dispatch expectations; and identify possible negotiation points. If it appears that the economics of the plant are favorable, staff would direct PACE to proceed to the next step.

3. The final task would be to negotiate the final terms and conditions for the PPA and, if the financial benefits appear to be favorable, staff would present this proposal to City Council for consideration. $15,000 has been budgeted for this phase of the project.

Staff recommended that PACE Global be authorized to proceed with the financial analysis of the West Deptford Generation Station at a cost not to exceed $80,000 and that this project be funded by transferring $80,000 from the Engineering Operating Budget (480-8300-563-30-31) - Contractual Services to the Administration Operating Budget (480-8400-564-30-29) - Consulting Fees.

Responding to Mr. Ruane, Mr. Lunt stated that, although this project would further insulate the City from price volatility, the City would remain subject to the natural gas volatility. Should the capacity market be reduced or eliminated in the future, the City would be subject to paying some capacity payments. If this were to occur, there would be a switch on the energy side, since generators will recover their costs either in a two (2) phase market of capacity and energy or a combined market of energy and capacity. Mr. Lunt indicated that he would then expect power prices to increase in the future to compensate for losses in capacity payments.

At the request of Mr. Ruane, Mr. Lunt briefly reviewed a Presentation - City of Dover (Dover) West Deptford Opportunity Analysis, dated February 24, 2011.

Mr. Snaman questioned the amount of energy that the solar plant and natural gas plant will provide to the City's annual production. Responding, Mr. Lunt noted that the solar plant will provide less than 2% of the City's energy and explained that it would be difficult to compare this to an annual load due to scheduling. He stated that he did not expect the gas plant to be cheaper than the nuclear portion of the grid and anticipated a 60% to 70% dispatch schedule for the gas plant, whereas the City's current plants are less than 2%.

In response to Mr. Ruane, Mr. Lunt confirmed that the analysis will determine if the expectations reported are true and valid and provide a projection of what the future market may be for energy costs. This will assist in determining whether or not the City should enter into a PPA with the Station.

The Committee recommended approval of staff's recommendation to authorize PACE Global to proceed with the financial analysis of the West Deptford Generation Station at a cost not to exceed $80,000, and that this project be funded by transferring $80,000 from the Engineering Operating Budget (480-8300-563-30-31) - Contractual Services to the Administration Operating Budget (480-8400-564-30-29) - Consulting Fees.

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

Power Plant FY 2012 Capital Investment Plan (CIP) Review *(Deferred by Committee on February 28, 2011 Due to Time Constraints)*

Mr. Vince Scire, Plant Manager at McKee Run and VanSant Generating Stations with NAES Corporation, reviewed the draft Capital Investment Plan (CIP) for the Power Plant for Fiscal Years 2012-2016 and explained the need for the additional projects (as highlighted).

In response to Mr. Ruane, Mrs. Donna Mitchell, Controller/Treasurer, confirmed that she has been working on a cost of service revision that will result in amendments to capital needs. She stated that funding to cover the CIP remains consistent. Mrs. Mitchell noted that staff has allocated approximately $800,000 for the future capacity reserve for the VanSant capacity and that funds have been designated in Fiscal Years 2015 and 2016 from the depreciation reserve to help cover costs. She assured members that funding from the operating fund has remained consistent with last year. Mrs. Mitchell stated that the CIP will have no effect on the City's electric rate for the next five (5) years.

The Committee recommended approval of the Power Plant FY 2012 Capital Investment Plan (CIP), as presented by staff.

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

2012-2016 Utility Capital Investment Plan (CIP) *(Deferred by Committee on February 28, 2011 Due to Time Constraints)*

Mr. Ron Lunt, Public Utilities Director, reviewed the 2012-2016 Utility Capital Investment Plan (CIP) and explained the need for the additional projects (as highlighted).

Mr. Ruane noted that the FY 2011 CIP included the Walker Road Overhead Conversion Project; however, it is not included in the current CIP. Responding, Mr. Lunt reminded members that at the beginning of FY 2011, the project was removed from consideration and some of the funds were allocated to order transmission switches that were failing on North Street. He stated that the Walker Road Overhead Conversion Project was coordinated with the Water System Upgrade, which was determined to be too expensive and was postponed indefinitely. From an electric standpoint, he stated that it was staff's opinion that it would not be feasible to complete the project without addressing the water system upgrade concurrently.

In response to Mr. Ruane, Mr. Lunt indicated that overhead conversion projects (included under "distribution upgrades") are continuing throughout other parts of the City, including Huntley Circle and Autumn Woods Apartments located off Webbs Lane. He stated that staff is in the process of analyzing outages for the past calendar year, which will assist in prioritizing developments and areas for this project. He stated that, although the Crossgates area has been completed, including the removal of overhead lines, work continues in the South State Street Extended area (Old Mill Road, Fairfield Drive, Candlewick Drive, etc.).

The Committee recommended approval of the 2012-2016 Electric Engineering and Transmission and Distribution Capital Investment Plan (CIP), as presented by staff.

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

Mr. Lunt reported that there were no changes to the 2012-2016 Water/Wastewater CIP, as submitted to members previously. He noted that some projects will be carried forward from the current fiscal year, due to funding or scheduling issues; however, these projects will be funded from the current source of funds.

In response to Mr. Ruane, Mr. Lunt stated that staff is attempting to mobilize the contractor to complete the inflow/infiltration (I & I) projects that were identified approximately four (4) years ago, for which funding is in place. He explained that staff is regrouping the I & I priority list by conducting an analysis of those pump stations that have higher rates during wet weather. Staff has been conducting "smoke" testing and an extensive amount of camera investigation on existing infrastructure in areas suspected of problems. Mr. Lunt noted that completion of the "smoke" testing would be necessary before staff can firmly identify the next area for this project.

Responding to Mr. Ruane regarding water quality improvements, Mr. Lunt stated that funding for Bayard Avenue is included in the current year's budget and work will begin once the area in front of City Hall is completed (within a week or so). A pre-bid meeting was held last week for the Route 13 Southbound Water Project and funding is included in the current year's budget. He advised members that staff is delaying the project located east of North State Street in case the bids for the Route 13 Southbound Water Project come in over budget.

At the request of Mr. Ruane, Mrs. Donna Mitchell, Controller/Treasurer, stated that she has not completed an analysis of the water/wastewater funds; however, she stated that since the City opted to use State revolving loan funds rather than issuing a bond, no interest is paid until the money is drawn. Therefore, she stated there will be a change in the forecast model (bonds versus state loans). She is revisiting the rates since the City will not incur the debt service as originally anticipated. As a result, she stated that she expects to see some changes in future rates (on the down side) from those included in the model last year.

In response to Mr. McGiffin, Mrs. Mitchell explained that the forecast currently indicates a rate increase every year to cover debt service, which may not be necessary since the City is not incurring the debt service that was originally anticipated.

The Committee recommended approval of the 2012-2016 Wastewater and Water Management Capital Investment Plan (CIP), as presented by staff.

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

PACE/NAES Monthly Report *(December) (Deferred by Committee on February 28, 2011 Due to Time Constraints)*

The PACE/NAES Monthly Report for December 2010 was provided to members to enable them to monitor electric sales and revenues received, which will provide a better understanding of any fluctuations that occur and allow the opportunity to make improvements if deemed necessary.

In response to Mr. Ruane regarding the new Solar Plant, Mr. Lunt referred to Page 5 of the report and confirmed that the cost of solar energy has been built into the City's Power Year projections and costs over time. Mrs. Mitchell, Controller/Treasurer, explained that the cost of the power supply itself has decreased; therefore, the incremental cost of solar energy is not evident since it is more than offset by the reduction in power supply.

The Committee recommended acceptance of the PACE/NAES Monthly Report for December 2010.

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

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

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - MARCH 14, 2011

The Legislative, Finance, and Administration Committee met on March 14, 2011 with Chairman Leary presiding.

Review and Recommendation - Filling of Critical Positions

During their meeting of February 23, 2009, members recommended approval of a Hiring Freeze for Fiscal Year 2008-2009, but to allow the hiring of critical positions through the review and approval of the Legislative, Finance, and Administration Committee and City Council. It was suggested that there be a "standing" agenda item to consider the filling of critical positions and, if there were no positions to consider, the item could be removed.

Mr. Leary noted that there were no critical positions to be considered; therefore, no further action was required.

Milliman Actuarial Analysis Updates: Overview of Pension and OPEB (Other Post Employment Benefits) Liability for Fiscal Year 2010/11 and Actuarial Pension for Fiscal Year 2010/11 and OPEB Benefit Rates for Fiscal Year 2011/12 Budget

Mrs. Donna Mitchell, Controller/Treasurer, stated that the actuarial analysis presentation to be reviewed by Mr. Scott Porter, Principal, Consulting Actuary, Milliman, Inc., would provide a summary of the analysis, an overview of the steps taken thus far, and recommendations.

Mr. Porter reviewed a Presentation - Pension and Other Post Employment Benefits, Actuarial Valuation Updates for Fiscal Year Ending June 30, 2011. He stated that actuarial valuations were performed for the City's Civilian and Police Pension Plans, as well as the Other Post Employment Benefits (OPEB) Plan. He explained that an actuarial valuation is a "snapshot" of the assets and liabilities of each plan as of June 30, 2010. Based on participant information, the actuarial valuation projects the benefits which would be received, using assumptions regarding when employees are expected to terminate or retire, how long they are expected to collect benefits, etc., and then discounts them all back at specific interest rates to determine the liability. Mr. Porter indicated that this information is then compared to the assets of the plan to determine the funded status.

Mr. Porter advised members that there are four (4) purposes for performing the actuarial valuation:

1) to determine the funded status of the plan;
2) to review the experience of the plan during the prior year;
3) to provide information for financial statements for the City of Dover; and
4) to determine the City's contributions to ensure that the plans are being adequately funded in a uniform manner.

Mr. Porter stated that all actuarial assumptions used to determine the liability of the plan are reviewed in the process of determining the funded status of the plan, and changes are made accordingly. Such changes may include lowering the assumptions used for investment return and salary increases.

Referring to Page 9 of the Presentation, Mrs. Mitchell reminded members of the positive steps City Council has taken regarding funding of these plans and explained staff's recommendations for both pension and OPEB funding, as follows:

1) Staff recommended transferring funds to keep up with actuarial contributions as has been done in previous years. Staff suggested that $732,455 be transferred to the Civilian Pension Plan, with $454,978 coming from the General Fund and $277,477 coming from the Electric Fund this fiscal year.

2) In order to maintain the 10-year phase-in plan for OPEB, staff recommended including the following percentages of base pay for the City's OPEB contributions in the FY12 budget: 6.6% for the General Fund, 5.3% for the Water/Wastewater Fund, and 5.1% for the Electric Fund.

Referring to salary assumptions, Mr. Ruane indicated that the trend for salary increases was less than 4%. Responding, Mr. Porter stated that, although salaries are lower now, the projections performed to determine member benefits encompass the next 5, 10, and 15 years. He explained that the long-term assumption used must be consistent with the underlying inflation assumption, as well as the investment return assumption. He assured members that this will continue to be monitored in the future. Mr. Porter stated that the impact of reducing the salary from 5% to 4% was not determined.

Mr. Ruane felt that it would be beneficial for Council to receive information regarding the salary assumption so that they could determine the future impact of salary increases when they are considered.

In response to Mr. Ruane regarding the positive steps City Council has taken, Mrs. Mitchell confirmed that the Civilian Pension Plan has been closed to new employees since September 2009. In addition, she stated that City Council eliminated Medicare Part B coverage for new employees.

Council President Hogan noted that, as indicated on Page 12 of the General Employee Pension Plan Actuarial Valuation, since July 1, 2006, the value of assets increased for four (4) years, yet during this same period, the actuary liability increased. He questioned why the actuary liability continues to increase if the City's assets increased. Responding, Mr. Porter explained that between July 1, 2008 and July 1, 2010, the increase in assets was $600,000, which he stated was a minimal increase, partially due to investment losses that occurred during this time period. Therefore, he stated, the actuarial value of assets has remained relatively stable during the past three (3) years. It was his opinion that the actual accrued liability is growing because of the additional year of service that members have earned; however, the actual value of assets has not grown to the same extent, although contributions have been made to help cover what is referred to as "normal cost." Responding to Council President Hogan, Mr. Porter explained that a substantial amount of growth in assets is necessary in order to realize a decrease in liability.

In response to Mr. Ruane, Mr. Porter indicated that many jurisdictions are reviewing the level of benefits they currently provide and considering their ability to afford these levels based on their current funding status. One of the most common approaches taken by municipalities is to close the plan to new hires, which the City of Dover recently did. In addition, he stated that many jurisdictions are reviewing retirement eligibility ages, the timeline when employees are fully eligible for benefits, etc. He explained that the available options vary according to each jurisdiction's individual situation.

Mr. Leary noted that he recently met with Mrs. Mitchell to review this matter and that she provided him a copy of a very helpful article from *Government Finance Review Magazine*, entitled "Strategies to Consider as OPEB Costs Escalate," which discussed creative strategies being developed in other jurisdictions. He requested that staff provide members a copy for their information.

In regard to the staff's second recommendation pertaining to OPEB funding, Mr. McGiffin felt that action would not be necessary at this time, since this matter will be considered during the Budget Review.
The Committee recommended that staff be authorized to transfer $732,455 to the Civilian Pension Plan, with $454,978 coming from the General Fund and $277,477 coming from the Electric Fund this fiscal year.

During the Council Meeting, Mrs. Mitchell reviewed the information provided to the Committee.

Mr. Leary moved for approval of the Committee's recommendation authorizing staff to transfer $732,455 to the Civilian Pension Plan, with $454,978 coming from the General Fund and $277,477 coming from the Electric Fund this fiscal year. The motion was seconded by Mr. McGiffin and unanimously carried.

Evaluation of Proposals - Investment Manager and Advisory Services

Mrs. Donna Mitchell, Controller/Treasurer, reminded members that the City issued its original Request for Proposals (RFPs) for investment management services in 2001. The contract was awarded to Wilmington Trust on January 14, 2002, with a one (1) year review and renewal option if results were favorable. At that time, there was no provision for a contract end date. Given recent events in the financial markets and changes in recommended practices of the Government Finance Officers Association (GFOA) and the Internal Auditors Association, staff decided that it was time to rebid this service.

Mrs. Mitchell explained that an outline of the process, including the forms completed for the fee calculations, scoring, and evaluations, was provided to members to demonstrate the diligence staff felt was necessary to assure the City's assets are well managed and protected. In addition, staff provided an explanation for their recommendation.

Mrs. Mitchell stated that staff narrowed the list of providers to three (3) firms: 1) Cutwater Asset Management, 2) High Mark Capital Management, and 3) PFM Asset Management, LLC. She stated that the three (3) firms selected were the most responsive of the lowest cost providers. The proposals were almost equally matched, with the exception that the PFM Asset Management proposal went above the requirements of the RFP. Staff conducted interviews with the three (3) finalists to determine which firm would be the best fit for the City. Mrs. Mitchell advised members that each firm was provided, in advance, the items to be discussed during the interview. Upon completion of the interviews, staff contacted several of the client references provided in each firm's proposal. All responses were highly complimentary.

Staff recommended awarding the Investment Management Services contract to PFM Asset Management, LLC for a three (3) year period, to start on the date of the contract. The contract can be renewed or extended for two (2) additional two (2) year periods by mutual consent and approval by City Council.

The Committee recommended approval of staff's recommendation.

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

Evaluation of Proposals - Investment Banking Custody Services

Mrs. Donna Mitchell, Controller/Treasurer, advised members that bids were solicited for Investment Banking Custody Services. She noted that all submissions received were from major financial institutions that are capable of managing custody of the City's investment assets; however, Wells Fargo and Union Bank were the two (2) most competitive banks.

Mrs. Mitchell reminded members that the City currently has contracts with Wells Fargo as custodian for three (3) Trust Funds: the General Employee Pension Fund, the Police Pension Fund (closed plan), and the Other Post Employment Benefits (OPEB) Fund. Although the City receives excellent service on these accounts from Wells Fargo, she stated that the Government Finance Officers Association's (GFOA) recommended practice is to diversify assets under custody when possible.

Based on the fees, scores, and GFOA's recommended practice, staff recommended awarding the service contract to Union Bank for a three (3) year period to start on the date of the contract, which may be renewed or extended for two (2) additional two (2) year periods by mutual consent and approval by City Council.

The Committee recommended approval of staff's recommendation.

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

Review of Hospitality and Civic Function Policy *(Committee Deferred on February 28, 2011 Pending Additional Information)*

During their meeting of February 28, 2011, members considered a request from Mayor Carleton E . Carey, Sr. to include certain functions offered by the Central Delaware Chamber of Commerce and Kent County Tourism in the City's Hospitality and Civic Function Policy. Mayor Carey noted that these events are not covered under the City's existing Policy. At that time, members deferred action and requested that Mayor Carey provide the cost for each of the events listed and the annual cost for members to attend these events.

Mayor Carey submitted a memorandum providing details regarding the costs associated for members of Council to attend certain functions, as follows:

1.	Central DE Chamber of Commerce Annual Awards Dinner $50.00 x 9ppl	$450.00
2.	Mayors Annual Prayer Breakfast $20.00 x 9ppl	$180.00
3.	Governors Annual Prayer Breakfast $16.00 x 9ppl	$144.00
4.	Kent County Economic Summit $25.00 x 9ppl	$225.00
	TOTAL	$999.00

It was Mayor Carey's feeling that these functions offer a great deal of information for the City of Dover and enhance working relationships that benefit the City economically.

Mrs. Donna Mitchell, Controller/Treasurer, advised members that the City's current Hospitality and Civic Function Policy was written to conform more closely to IRS Regulations, which prohibit attending events or activities sponsored by another organization unless official City business is performed. She noted the Mayor's concern that the City is a member of the organizations listed. Mrs. Mitchell requested that staff be given the opportunity to revise the Policy submit it to members at their next meeting for their review and recommendation to City Council.

The Committee recommended deferral of the Review of the Hospitality and Civic Function Policy to allow staff the opportunity to make revisions.

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

FY 2012 Five-Year Capital Investment Plan (CIP)

Due to time constraints, and there being no objections, Mr. Leary deferred review of the FY 2012 Five-Year Capital Investment Plan (CIP) until the next meeting.

Mr. Anthony DePrima, City Manager, noted that staff is in the process of developing a proposed budget. He requested that members contact staff prior to the next meeting if they have any concerns regarding the projects listed so that staff can respond during the meeting.

Mr. Leary stated that this matter would be placed first on the agenda for the Committee's next meeting.

Mr. Leary moved for acceptance of the Legislative, Finance, and Administration Committee Report, seconded by Mr. McGiffin and unanimously carried.

FINAL READINGS - PROPOSED ORDINANCES

The First Readings of the following Proposed Ordinances were accomplished during the Council Meeting of March 14, 2011.

Mr. Salters moved that the Final Readings of the Proposed Ordinances be acknowledged by title only, seconded by Mr. Leary and unanimously carried.

Ordinance #2011-06 Amending Chapter 46 - Fire Prevention and Protection - Open Burning

Mr. Ruane moved for adoption of the proposed ordinance, seconded by Mr. Leary, and by a unanimous roll call vote, Council adopted Ordinance #2011-06, as follows:

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

That Chapter 46 - Fire Prevention and Protection, Article I - In General, Section 46-5 - Open Burning, be amended to read as follows:

Sec. 46-5. Open burning.

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

Barbecuing - Commercial. The preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the sale to and/or consumption by the general public.

Barbecuing - Recreational. The preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the consumption by a family and/or guests or by the membership of a private organization or church congregation.

Open Burning. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

Outdoor Fireplace. Any homemade or commercially produced fireplace, fire pit, or fire ring used for the kindling of wood.

(b) Permit required. Open burning of structures, brush, or bonfires shall not be permitted without a permit obtained from the Fire Marshal.

(c) Fire dimensions. Open burning, when permitted, shall be kindled in such a manner as not to be a danger to other campers, recreational vehicles, tents, or structures and shall not be of a size greater than 18 inches by 18 inches by 18 inches. Height of the fire shall be measured from the ground or from the bottom of the inside of the container being used to kindle the fire. Open burning shall not be kindled directly on the ground unless contained in a fire ring.

(d) Fire clearances and time restrictions. Outdoor fireplaces shall have 36 inches clearance from all combustibles when in use. Portable fire places, fire pits, or fire rings shall be extinguished in a residential area between the hours of 12:00 midnight and 8:00 a.m.

(e) Commercial barbecuing. Commercial barbecuing shall be permitted under the following conditions:

(1) The location has been approved by City of Dover Licensing and Inspections and the Fire Marshal and an Outdoor Public Gathering Permit has been obtained.

(2) One (1) fire extinguisher of not less than five (5) lbs. (pounds) ABC is to be located within ten (10) feet of the cooking area. Cooking area and cooking fuels shall be secured from public access.

(3) Approval from the Board of Public Health has been obtained.

(4) The operator shall make all reasonable attempts to avoid causing a nuisance to nearby property owners with smoke, fumes, or sparks.

(5) All compressed flammable gas containers used for cooking shall be secured in such a way as to prevent them from being knocked, tipped, or blown over.

Any commercial barbecuing operations which are a continual nuisance because of smoke, fumes, or sparks shall be terminated by the Code Official or Fire Marshal and the Outdoor Public Gathering Permit revoked until such time as the Director of Licensing and Inspections is satisfied that the problem has been corrected.

Barbecuing of any kind shall not be kindled within 200 feet of any fuel pump or storage tank fill. Cooking grease shall not be disposed of by placing it directly on the ground or in storm water drains.

(f) Prohibited - Multi-family residential dwelling units. In apartment buildings, condominiums, or any other multi-family residential dwelling of three (3) or more units by any other name, the storage of propane tanks inside units or on balconies is prohibited. Recreational barbecuing shall be prohibited on any balcony or under any overhanging portion or within 15 feet of any structure, except that the use of electrical ranges or electrical grills shall be permitted. The use of outdoor fireplaces on balconies is prohibited.

(g) Fines. Any owner, occupant, contractor, or body corporate found to be in violation of this section shall be issued a summons as provided for in Appendix F--Fees and Fines.

(h) Authority of the Fire Marshal. The Fire Marshal is authorized to impose a ban on open burning if weather conditions do not safely permit open burning. The Fire Marshal or Fire Officer shall order any fire extinguished that is deemed unsafe or not in compliance with Section 46-5 of the Dover Code.

ADOPTED: MARCH 28, 2011

Ordinance #2011-09 - 2011 Budget Revisions

Mr. Leary moved for adoption of Proposed Ordinance #2011-09 - 2011 Budget Revisions, seconded by Mr. McGiffin.

Mrs. Williams noted that the proposed ordinance includes both Budget Revisions and a Power Cost Adjustment, and relayed concerns with some of the items in the Budget Revisions; therefore, she requested consideration of the Power Cost Adjustment separately from the Budget Revisions.
Mrs. Williams moved to divide the motion by removing the Power Cost Adjustment (Line 288 of Ordinance #2011-09) from the Budget Revisions, seconded by Dr. McGlumphy.

Mr. McGiffin stated his concerns regarding "piecemeal" budgeting. He indicated that including the Power Cost Adjustment in the Budget Revisions presents them as a single package that encompasses all adjustments desired including the Power Cost Adjustment; therefore, he did not support the motion to divide.

For clarification, Council President Hogan stated that the motion before members at this time was to remove the Power Cost Adjustment from the Budget Ordinance to be voted upon separately. By voting in the affirmative, a separate vote would be required for the Power Cost Adjustment and the Budget Revisions.

The motion to divide the motion by removing the Power Cost Adjustment (Line 288 of Proposed Ordinance #2011-09) from the Budget Revisions failed by a roll call vote of seven (7) no and two (2) yes (Dr. McGlumphy and Mrs. Williams).

Referring to action taken by members earlier in the meeting regarding the Legislative, Finance, and Administration Committee Report on the Actuarial Pension for Fiscal Year 2010/11 and OPEB Benefit Rates for Fiscal Year 2011/12 Budget, Mr. Ruane noted that additional changes should be made to reflect the transfer of $732,455 to the Civilian Pension Plan, with $454,978 coming from the General Fund and $277,477 coming from the Electric Fund. He suggested that the Budget Revision Ordinance reflect these amendments in Lines 102 and 329. Responding, Mrs. Mitchell stated that her intention was to submit a separate budget amendment; however, she relayed no objections to the amendments being made at this time. She advised members that it would be necessary to revise the amount of $955,000 on Line 102 by adding $454,978, for a total of $1,449,978, and on Line 329, the amount of $833,000 by adding $277,477, for a total of $1,110,477.

Responding to Council President Hogan, Mrs. Mitchell explained that the amendments to Line 102 and 329 would increase the payment toward the unfunded liability.

Mr. Ruane moved to amend Proposed Ordinance #2011-09 by amending Line 102 by adding $454,978, for a total of $1,449,978, and Line 329 by adding $277,477, for a total of $1,110,477. The motion was seconded by Mr. Salters.

In response to Mr. DePrima, Mrs. Mitchell confirmed that the proposed amendment would create an automatic revision to the fund balances.

Mr. Leary expressed his desire for staff to submit a separate budget amendment to allow for a thorough review of the amendments.

The motion to amend Proposed Ordinance #2011-09 by amending Lines 102 and 329 to reflect the increased payments to the Pension Fund failed by a roll call vote of seven (7) yes and two (2) no (Mr. Salters and Mr. Ruane).

Responding to Mr. Ruane, Mr. DePrima stated that City Policy allows for a final budget amendment to be included as a part of the final budget presented to City Council.

The motion for adoption of Proposed Ordinance #2011-09 - 2011 Budget Revisions *(Exhibit #1)*, was carried by a roll call vote of seven (7) yes and two (2) no (Dr. McGlumphy and Mrs. Williams).

Ordinance #2011-07, with Staff Amendment #1, Amending Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permit and Appendix F - Fees and Fines

Mrs. Williams moved for adoption of the Proposed Ordinance, seconded by Mr. McGiffin, and by a unanimous roll call vote, Council adopted Ordinance #2011-07 with Staff Amendment #1, as follows:

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

That Chapter 46 Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permit, be amended to read as follows:

Sec. 46-126. Fire prevention permit.

(a) *Required*. It shall be unlawful to construct, enlarge, alter or demolish a fire protection system without obtaining a fire prevention permit.

(b) *Fee*. Each applicant for a fire prevention permit, including, but not limited to, sprinkler systems, fire alarms, hood suppression units, and tank installation, shall pay unto the city a permit fee as provided for in Appendix F - Fees and Fines, before such permit shall be issued.

(c) *Reinspections*. There will be no charge for the first reinspection of a permit. The applicant shall pay a fee for subsequent reinspections as provided for in Appendix F--Fees and Fines.

(d) *Fire signaling system inspection fee.* For each inspection of a fire alarm signaling system located within the jurisdiction of the City of Dover and conducted by a licensed company pursuant to Delaware State Fire Prevention Regulations, the licensed company shall submit a copy of the certificate of inspection for each fire alarm system to the City of Dover Fire Marshal's Office, along with a non-refundable fee, as provided for in Appendix F - Fees and Fines.

(e) *Fire suppression system inspection fee.* For each inspection of a fire suppression system located within the jurisdiction of the City of Dover and conducted by a licensed company pursuant to Delaware State Fire Prevention Regulations, the licensed company shall submit a copy of the certificate of inspection for each sprinkler riser to the City of Dover Fire Marshal's Office, along with a non-refundable fee, as provided for in Appendix F - Fees and Fines.

(f) *Doubling of fees*. Fees established in subsection (b) of this section shall be doubled in the event that a permit is applied for after construction has commenced without the permission of the fire marshal. The fire marshal shall waive the doubling of fees in cases where the permit applicant is not a professional contractor and the work is not being done by a professional contractor.

BE IT FURTHER ORDAINED THAT:

Appendix F - Fees and Fines, Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, be amended to read as follows:

Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes			
Fees established in subsection (b) of this section shall be doubled in the event that a permit is applied for after construction has commenced without the permission of the fire marshal. The fire marshal shall waive the doubling of fees in cases where the permit applicant is not a professional contractor and the work is not being done by a professional contractor.			
Sec. 46-126	Fire Prevention Permit		
	Subsec. (b)	Fee; Each applicant for a fire prevention permit	$12.00 for each $1,000.00 of costs or multiple thereof of the fire protection system; provided that a minimum fee for each permit shall be $50.00
	Subsec. ©)	Reinspection	
		First reinspection	No charge
		Second reinspection	$25.00
		Third reinspection	$50.00
		Any subsequent reinspection	$100.00
	Subsec. (d)	Fire signaling system inspection fee	
		Certificate of inspection	$25.00 each fire alarm system
		Exception: apartment or other multi-family dwelling - five (5) or less buildings per complex	$25.00 each fire alarm system

		Exception: apartment or other multi-family dwelling - more than five (5) buildings per complex	$15.00 each fire alarm system up to a maximum of twenty (20) buildings. Maximum fee per complex not to exceed $300.00 for fire alarm systems
	Subsec. (e)	Fire suppression system inspection fee	
		Certificate of inspection	$25.00 each fire suppression system
		Exception: apartment or other multi-family dwelling - five (5) or less buildings per complex	$25.00 each fire suppression system
		Exception: apartment or other multi-family dwelling - more than five (5) buildings per complex	$15.00 each fire suppression system up to a maximum of twenty (20) buildings. Maximum fee per complex not to exceed $300.00 for fire suppression systems
Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.			

ADOPTED: MARCH 28, 2011

COUNCIL MEMBERS ANNOUNCEMENTS

Council President Hogan announced that the Municipal Election will be held on Tuesday, April 19, 2011, between 7:00 a.m. and 8:00 p.m. The polling places are: Elks Lodge #1903, 200 Saulsbury Road - 1st and 4th Districts; Seventh Day Adventist Church, 647 Wyoming Avenue - 2nd District; and Dover Park Recreation Center, 1210 White Oak Road - 3rd District.

He noted that to be eligible to vote, residents must be registered to vote with the State of Delaware Department of Elections by Thursday, March 31, 2011. Absentee Ballots are available and further information can be obtained by visiting the City's website at www.cityofdover.com or by contacting the City Clerk's Office at 736-7008.

Council President Hogan also announced that City Council Meetings are rebroadcast on Verizon Channel 20 and Dover TV at www.cityofdover.com on Tuesdays and Thursdays at 7:00 p.m. and Saturdays at 11:00 a.m. He thanked Comcast for televising the City Council Meetings live and providing video for rebroadcast.

Mr. McGiffin reminded members to mark their calendars for June 25, 2011 for the next African American Festival.

Mr. Salters announced that the Sankofa African Dance Company, in collaboration with Pieces of a Dream, a Modern Dance Company from New Castle County, will present a dance concert at Delaware State University on Saturday, April 9, 2011, at 7:00 p.m. He stated that this is a free event, open to the public, and is suitable for all ages.

Mr. Salters also advised members that the Inner City Cultural League, along with the 100% Tobacco Free Corporation, will present basketball at the Pitts Center on Fridays at 5:00 p.m. beginning April 8, 2011. He stated that all youth are invited and that there is a league for: 1) ages 7-9, 2) 10-13, and 3) 14-17.

Mrs. Russell complimented Mr. McGiffin for his recent participation in the St. Patrick's Day benefit for the Dover Interfaith Mission.

By unanimous consent, Council President Hogan declared the meeting adjourned.

Meeting Adjourned at 8:51 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of March 28, 2011, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM/jg/js/dd/ac
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Exhibit to Original Minutes and File Copy
Exhibit #1 - Ordinance #2011-09 - 2011 Budget Revisions