REGULAR COUNCIL MEETING

The Regular Council Meeting was held on March 14, 2011 at 7:30 p.m. with Council President Hogan presiding. Council members present were Mr. Leary, Mr. McGiffin, Dr. McGlumphy, Mr. Ruane, Mrs. Russell, and Mrs. Williams. Mr. Bonar and Mr. Salters were absent.

Council staff members present were Police Chief Hosfelt, Ms. Russell, Mrs. Mitchell, Mrs. Townshend, Fire Chief Fortney, Mr. DePrima, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Carey was also present (departed at 8:55 p.m.).

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 is not in official session and cannot take formal action.

Ms. Chyenne Arsenault, 219 Beechwood Avenue, presented her proposal to introduce community service as a requirement for graduation from high school in Delaware. She stated that she attends Polytech High School, majoring in Environmental Science, and is required to perform community service in order to obtain her technical diploma. She stated that her community service has provided many benefits including connections with people, a sense of responsibility about her place in the workforce, skills and knowledge related to community service activities, and job opportunities. It was her feeling that instituting such a graduation requirement in all schools would greatly benefit the youth of Dover. In addition, Ms. Arsenault stated that area organizations have a need for volunteers and that these organizations, in turn, help students by providing letters of recommendation and work experience.

Ms. Carolyn Fredricks, Executive Director of the Modern Maturity Center, relayed concerns regarding connectivity between the Modern Maturity Center and the adjoining property located at 101-405 Doveview Drive, explaining that this would present a major safety issue for older adults who utilize the Modern Maturity Center.

The invocation was given by Monsignor Daniel McGlynn, Holy Cross Church, followed by the Pledge of Allegiance.

AGENDA ADDITIONS/DELETIONS

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

Mrs. Williams requested that Item #8C - Proposed Ordinance #2011-07 Amending Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permit, and Appendix F - Fees and Fines, be removed from the consent agenda.

Mr. McGlumphy requested that Items #7A - Yard Waste Collection Program and #8B - Latest Estimate (LE) for Fiscal Year 2011 Budget be removed from the consent agenda.

Mr. Leary moved for approval of the consent agenda, as amended, seconded by Mr. McGiffin and carried by a unanimous roll call vote (Mr. Bonar and Mr. Salters absent).

ADOPTION OF MINUTES - COUNCIL RETREAT OF JANUARY 28, 2011

The Minutes of the Council Retreat of January 28, 2011 were unanimously approved by motion of Mr. Leary, seconded by Mr. McGiffin and bore the written approval of Mayor Carey.

ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF FEBRUARY 28, 2011

The Minutes of the Regular Council Meeting of February 28, 2011 were unanimously approved by motion of Mr. Leary, seconded by Mr. McGiffin and bore the written approval of Mayor Carey.

PROCLAMATION - EARTH HOUR

The City Clerk read the following Proclamation into the record:

WHEREAS, our Nation's use of energy continues to increase, resulting in damaging effects on the world's climate; and

WHEREAS, Earth Hour encourages individuals, businesses, and governments to show leadership on environmental solutions through their actions - to use Earth Hour as a platform to showcase to the world the measures they are taking to reduce their environmental impact; and

WHEREAS, it has been estimated that turning non-essential lights out in America for one hour could save as much as 15% of the energy consumed on an average Saturday night; and

WHEREAS, the energy savings will reduce carbon emissions into our air, preserve the natural resources used to produce this energy, set a positive precedent for the rest of our nation, and result in ongoing reduced costs for the taxpayers and businesses of the City of Dover; and

WHEREAS, residents' participation in Earth Hour shows a commitment to do something more for the planet that goes beyond this hour. This year, after the lights go back on, think about what else we can do to make a difference for our planet.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DELAWARE support the observance of Earth Hour - "Beyond the Hour" on March 26, 2011, and encourage the residents and businesses of the City of Dover to participate by turning out non-essential lights from 8:30 p.m. to 9:30 p.m.

PROCLAMATION - FIX-A-LEAK WEEK

The City Clerk read the following Proclamation into the record:

WHEREAS, The U.S. Environmental Protection Agency (EPA) has launched the WaterSense initiative to make it easy for American consumers and businesses to save water and protect the environment by establishing water efficiency standards; and

WHEREAS, The City of Dover wishes to join EPA's WaterSense partnership and support appropriate EPA and Congressional efforts to encourage water efficiency and conservation; and

WHEREAS, regulatory agencies and local governments are uniquely positioned to encourage the adoption of programs and to offer information that will promote water efficiency; and

WHEREAS, EPA's WaterSense program announced its second annual water efficiency initiative: "Fix-a-Leak Week," March 14-20, 2011; and

WHEREAS, EPA encourages everyone to become a WaterSense partner, to use this week to remind Americans to check their household fixtures and irrigation systems for leaks; and

WHEREAS, The City of Dover urges its residents and businesses to participate in the program by utilizing online resources in order to raise consumer awareness about water conservation practices by visiting www.epa.gov/watersense.

NOW, THEREFORE, I, CARLETON E. CAREY, SR., MAYOR OF THE CITY OF DOVER, DO HEREBY PROCLAIM the week of March 14-20, 2011, as **FIX-A-LEAK WEEK** in the City of Dover, Delaware.

PRESENTATION - POLICE DEPARTMENT ANNUAL REPORT

Council President Hogan reminded members that the Annual Report of the City of Dover Police Department was submitted to City Council during their Regular Meeting of February 28, 2011.

Police Chief James Hosfelt reviewed a Presentation of the City of Dover Police Department 2010 Annual Report ***(Exhibit #1)***, which provided highlights of the report. He noted that the complete report consists of 56 pages and encouraged members to review the entire document.

Referring to the Drugs, Vice, and Organized Crime (DVOC) Section, Chief Hosfelt stated that the drug unit officers have advised him that, in the next five (5) years, abuse of prescription medication will be an epidemic that is out of control. He noted that the City's drug unit continues to work with the Federal Drug Enforcement Agency (DEA), which provides the City with expanded resources to address this issue.

Chief Hosfelt advised members that the Department has entered into an agreement with a collection agency, Simms Association. He noted that he would like improvement in the area of collections, noting that there are significant fees that remain unpaid. He stated that the Department is considering use of "parking boots," which are used in the City of Wilmington and the Town of Bethany Beach to enforce collection of parking fines, and indicated that this concept will be presented to Council for their consideration at a later time.

Chief Hosfelt advised members that in April 2010, the Department's new administration challenged the workforce to: 1) show up for work; 2) when at work, work hard; and 3) have the best time you can at work. He noted that the sick time has decreased 33% from 2009. He stated that 41 out of 118 Department employees were recently awarded perfect attendance awards and noted that these numbers reflect the outstanding nature of the Police Department employees, including both civilians and officers.

Mr. McGiffin commended the Department for their response to complaints of speeding on State Street and Governors Avenue. He also mentioned that he works with victims of domestic violence, several of whom are crime victims residing in the City of Dover, and stated that these individuals have indicated that their interactions with the Dover Police Department have been very positive.

Responding to Mr. Ruane's suggestion to rescind the bicycle licensing ordinance, Chief Hosfelt concurred that the cost of issuing bicycle licenses exceeds the revenues generated. He stated that he was not aware of any officers who are currently enforcing the bicycle licensing ordinance.

Dr. McGlumphy congratulated the Department on the statistics and indicated that the City of Dover will not tolerate incidents such as the recent shooting, which resulted in the City making national news. He felt that the City of Dover should prosecute offenders to the fullest extent and require residents to live within the framework of the laws established by the City of Dover. Responding, Chief Hosfelt stated that eight (8) individuals have been arrested related to the shooting incident and that the Department continues to work jointly with the Attorney General's Office on this matter.

PUBLIC HEARING/FINAL READING - PROPOSED ORDINANCE #2011-03 - 2011 AMENDMENTS TO THE 2008 COMPREHENSIVE PLAN

A public hearing was duly advertised for this time and place to consider Proposed Ordinance #2011-03 - Amending the 2008 Comprehensive Plan by replacing Table 12-1: Land Use and Zoning Matrix and Map 12-1: Land Development Plan.

Mr. McGiffin moved that the Final Reading of proposed Ordinance #2011-03 be acknowledged by title only, seconded by Mr. Leary and unanimously carried. *(The First Reading of this ordinance was accomplished during the Council Meeting of January 24, 2011.)*

Planner's Review

Mrs. Ann Marie Townshend, Director of Planning and Community Development, reviewed the proposed amendment to the 2008 Comprehensive Plan and the findings and recommendation of the Planning Commission. She explained that there are three (3) amendments, as follows: 1) Land Use and Zoning Matrix (Table 12-1); 2) Land Development Plan Map Changes Related to Open Space (Map 12-1); and 3) Land Use Classification Change from Institutional to Residential High Density (Map 12-1). Mrs. Townshend stated that the Planning Commission recommended approval of the proposed amendments to the 2008 Comprehensive Plan.

Mrs. Townshend advised members that the Land Use Classification change from Institutional to Residential High Density is an applicant-initiated amendment. The applicant is requesting that the properties north of Forrest Avenue (Route 8) and west of Saulsbury Road be changed from the Institution zoning classification to the Residential High Density zoning classification. She stated that the property is known as Doveview Apartments and consists of two (2) partially constructed buildings and that the site plan has expired. The bank has foreclosed on the property and now, as the owner of the property, has applied for the Comprehensive Plan Amendment. She noted that the rezoning of the property is scheduled to be considered next on the agenda. Mrs. Townshend

suggested that anyone wishing to address members during the public hearing regarding the rezoning request should also speak during this public hearing, since the Comprehensive Plan Amendment is related specifically to the rezoning request.

Responding to Mrs. Williams, Mrs. Townshend suggested that if members are opposed to or have concerns regarding the rezoning request for the property located at 101-405 Doveview Drive (Doveview Apartments), an option would be to approve Proposed Ordinance #2011-03 with the deletion of the Land Use Classification Change from Institutional to Residential High Density amendment.

In response to concerns of Mrs. Russell, Mrs. Townshend stated that the rezoning would not affect the ability to have an age-restricted community at the Doveview Apartments site. She clarified that, under the proposed zoning, an applicant could still develop the project under the senior citizen housing option; however, senior citizen housing is the only type of housing currently permitted. In addition, Mrs. Townshend stated that if the property is not developed as a senior housing project, this would not preclude senior citizens from residing in the facility. She noted that, due to its close proximity to the Modern Maturity Center, it serves as a favorable location to market to senior citizens.

Mrs. Townshend advised members that the interconnection between Doveview Apartments site and the Modern Maturity Center is an issue pending before the Planning Commission, explaining that the Modern Maturity Center has submitted a request to the Planning Commission to remove the requirement for interconnection. She stated that this is a decision that will be made by the Planning Commission following a public hearing on March 21, 2011. However, she noted that the development of a high-density residential facility adjacent to the Modern Maturity Center would be an issue that City Council could consider.

Responding to Council President Hogan, Mrs. Townshend reiterated that the site plan and conditional use application associated with Doveview Apartments have expired; therefore, in order to proceed with completion of the buildings for senior housing, the owners must reinitiate the process with a sketch plan approved by City Council, followed by consideration by the Planning Commission. She stated that this could include a traffic impact study from DelDOT.

Mr. Ruane questioned if there have been other examples in the City's history of zoning and rezoning in which a property that originated as a 55+ community has reverted due to marketing conditions or other reasons. Responding, Mrs. Townshend stated that there have been two (2) other instances when applicants submitted a request to the Planning Commission to remove the age restrictions: 1) Seskimore, which was voluntarily planned for senior housing and not approved as a requirement; and 2) The Arbors. She stated that although staff has not conducted a study, in both instances the Planning Commission was advised that there was no market for senior housing. However, she stated that there is an indication that there is a demand for multi-family, quality apartments.

Mrs. Williams felt that permitting unrestricted high-density residential units adjacent to the Modern Maturity Center could create safety issues.

In response to Dr. McGlumphy, Mrs. Townshend stated that the Planning Commission will hold a public hearing on March 21, 2011 regarding a request to remove the interconnection. She noted that the Planning Commission will make a final decision in this regard, explaining that this issue will not come before City Council for consideration.

Public Hearing
Council President Hogan declared the public hearing open.

Mr. Gregory Moore, Vice President, Becker Morgan Group, 309 S. Governors Avenue, stated that he represents Sun Trust Bank, who currently owns the property known as Doveview Apartments. He stated that Sun Trust Bank had a market analysis conducted which resulted in a decision to market the property as "age targeted" rather than "age restricted." He stated that the property will be targeted for senior residence; however, the market analysis indicated that there is not sufficient demand to make the project viable at its current size; therefore, it is necessary to open it to market rate as well as seniors. Mr. Moore explained that Sun Trust Bank will pursue a developer to purchase and rebuild the property. However, he noted that construction cannot commence without going through an orderly process before the City.

Regarding concerns with the interconnection, Mr. Moore stated that the interconnection was a requirement of the Planning Commission during previous reviews. He stated that this property has access to three (3) public streets and, therefore, there is no reliance on any cross connection to the Modern Maturity Center to provide safe and efficient access to the property.

Mr. Moore noted that the demand for market rate apartments in the area is strong and that this has been a national trend which has resulted from the degrading of the housing market. He explained that many individuals who are unable to obtain a mortgage, those that have lost homes to foreclosure, etc., are using apartment projects as their "relief valve."

Responding to Dr. McGlumphy, Mrs. Townshend stated that conditions cannot be placed on a rezoning. In addition, she advised members that the Zoning Ordinance has a requirement for cross access easement, in accordance with the Corridor Overlay Zone, and the interconnection is not simply a condition of the Planning Commission but is also specified in the Code as a requirement.

In response to Mr. Leary, Mr. Moore stated that the intent of Sun Trust Bank is to invest money into this project so that it becomes a viable project for a developer to proceed. He reminded members that the buildings have been opened and subjected to outside elements and will require further assessment. Mr. Moore stated that if the rezoning request is denied, restricting the development to a senior project, the market analysis has indicated that it may take longer to sell or be impossible to sell to a viable developer in a reasonable amount of time.

Mr. Moore advised members that converting this project to market rate apartments will reduce the total number of apartments from 190 to between 120 and 140, due to ordinance requirements. This will result in a reduction in the number of buildings from four (4) to three (3). He explained that a smaller scale project will be more viable due to the disarray in the market that has occurred since the project was first planned.

Mr. Ruane relayed concern that age-restricted apartments are bound by fair housing legislation and suggested that, even if the property remains age restricted, the owner would be subject to fair housing legislation. Responding, Mr. Moore noted that federal law sets parameters as to the number of occupants for senior projects. He explained that a limited number of non-senior residents are permitted in housing designated for those aged 55 and over. Elaborating, Mrs. Townshend stated that she believed that the limit for non-seniors is 20% and those that are not a part of the 20% is the head of household. Therefore, there could be instances, for example, where a residence is occupied by a 60-year-old man with a 35-year-old wife and children. She stated that the City does not regulate 55 and over housing; however, the City requires that this provision be included as a deed restriction, which the City cannot enforce. As a result, she stated that the only way a deed restriction could be enforced is if a suit were filed.

Noting that the Corridor Overlay Zone requires similar use of properties, Mrs. Williams indicated that patrons of the Modern Maturity Center are seeking specific services; whereas, the adjacent properties are a service destination for all types of individuals. It was her opinion that these are not similar uses, explaining that one is for a defined population and the others are for the public in general.

Mr. Moore noted that the concerns regarding the rezoning are related to interconnection and suggested that members consider tabling the rezoning request until after the Planning Commission has made a decision regarding the request to eliminate the cross connection requirement.

Responding to the suggestion of Mr. Moore, Mrs. Townshend explained that if Council does not take action regarding the amendment to change the land use classification from Institutional to Residential High Density, the Planning Commission will consider the request to eliminate the cross connection requirement for property that is "age restricted," which could affect their decision.

Ms. Carolyn Fredricks, Executive Director for the Modern Maturity Center, agreed that it is important to develop the apartment buildings and relayed no objections to the age restriction being lifted. She stated her concerns are strictly with the interconnection, noting that, as an age-restricted community, the project was originally considered at 1.25 cars per unit. She stated that if no age restriction is in place, 2.5 cars per unit would be allowed.

Mr. John Tracey, of Young, Conway, Stargatt, and Taylor, attorney for Sun Trust Bank, echoed Mr. Moore's suggestion to allow the proceedings at the Planning Commission to move forward. He explained that he anticipates that the Planning Commission will address the request to eliminate the cross connection requirement based on the expectation that Sun Trust Bank will be moving forward with the rezoning request.

Mr. James Hutchison, 15 Gleneagles Court, indicated that he is a member of the Modern Maturity Center Board of Directors and supports the project; however, he relayed serious concerns with the interconnection between the Modern Maturity Center and proposed apartments.

Mr. Leonard Iacono, Newport Delaware, stated that he has observed this project due to his involvement in the City of Dover both as a developer and an apartment owner. He noted that he has

been intrigued by this project since, after much research and attendance at several seminars, it is evident that the 55+ community is the wave of the future and is usually in very much demand in certain areas. Mr. Iacono disagreed with previous comments that market studies indicate differently. It was his opinion that there is a need for a 55+ community and stated that, as a developer, he has attempted to contact the bank to determine if he could intervene to retain it as a 55+ community designation but has not received a response. Mr. Iacono indicated that he is aware of two (2) other developers who have attempted to contact the bank without response. He stated that he felt there is a need for a 55+ community and that he would like to meet with representatives of Sun Trust to determine the possibility of moving forward with such a community. As an apartment operator, he stated that a 55+ community is slower to stabilize but, in the long run, a good rate occupancy can be achieved. Mr. Iacono stated that the overall occupancy rates and market rates in Dover are volatile, which is attributable to the Dover Air Force Base, since 30%-50% of occupancy is the result of Dover Air Force Base personnel. He requested the opportunity to review the market study and pursue the opportunity to develop the site as a 55+ community.

There being no one else present wishing to speak, Council President Hogan declared the public hearing closed.

Mrs. Williams moved to defer action on the third amendment proposed to the 2008 Comprehensive Plan - Land Use Classification Change from Institutional to Residential High Density (Map 12-1), included in proposed Ordinance #2011-03. The motion was seconded by Mrs. Russell and carried by a roll call vote of five (5) yes, two (2) no (Mr. Leary and Council President Hogan), and two (2) absent (Mr. Bonar and Mr. Salters).

Mr. McGiffin moved for the adoption of Ordinance #2011-03, as amended to include revised Table 12-1: Land Use and Zoning Matrix *(Exhibit #2)*, and revised Map 12-1: Land Development Plan *(Exhibit #3)*, amending the 2008 Comprehensive Plan, as recommended by the Planning Commission. The motion was seconded by Dr. McGlumphy and by a roll call vote of five (5) yes, two (2) no (Mr. Leary and Council President Hogan), and two (2) absent (Mr. Bonar and Mr. Salters), Council adopted Ordinance #2011-03, as follows:

AN ORDINANCE AMENDING THE 2008 COMPREHENSIVE PLAN BY REPLACING TABLE 12-1: LAND USE AND ZONING MATRIX, AND MAP 12-1: LAND DEVELOPMENT PLAN

WHEREAS, the City Council of the City of Dover, on February 9, 2009, adopted the 2008 Comprehensive Plan pursuant to Title 22, Section 702 of the Delaware Code; and

WHEREAS, the Honorable Jack Markell, Governor of the State of Delaware, certified the 2008 Comprehensive Plan on April 24, 2009; and

WHEREAS, the City Council of the City of Dover, on November 23, 2009, adopted the 2009 Comprehensive Rezoning Project and 2009 Comprehensive Plan Amendments; and

WHEREAS, the City Council of the City of Dover, on June 4, 2010, adopted an amendment to the *Zoning Ordinance* creating the Recreational and Open Space Zone; and

WHEREAS, the City Council of the City of Dover, on August 9, 2010, adopted the 2010 Recreational and Open Space Zone Map Amendments; and

WHEREAS, the 2008 Comprehensive Plan allows for an annual amendment process; and

WHEREAS, the Planning Staff has identified necessary changes to the Land Development Plan Map (Map 12-1) and the Land Use and Zoning Matrix (Table 12-1) of the 2008 Comprehensive Plan, as amended on November 23, 2009; and

WHEREAS, two property owners have requested amendments to the Land Development Plan Map (Map 12-1) in accordance with the process set forth in the 2008 Comprehensive Plan; and

WHEREAS, the Planning Commission held a public hearing on February 22, 2011, after which the Commission made a recommendation in regards to the proposed amendments to the Land Development Plan and the Land Use and Zoning Matrix.

NOW, THEREFORE, BE IT ORDAINED THAT the Mayor and Council of the City of Dover hereby amend Chapter 12: Land Development Plan, Table 12-1: Land Use and Zoning Matrix and Map 12-1: Land Development Plan of the 2008 Comprehensive Plan, as amended on November 23, 2009, by replacing the referenced table and map with the Amended Table 12-1 and Map 12-1 presented to City Council on March 14, 2011.

ADOPTED: MARCH 14, 2011

(City Clerk's Office Note: Due to a notification error, on February 28, 2011 Council deferred consideration of the rezoning of the property located at Grove Street and Railroad Avenue, which was associated with this amendment. This matter has been rescheduled for consideration by Council on April 11, 2011.)

(On March 14, 2011, Council Ordinance #2011-03 was amended to defer consideration of the portion of the Comprehensive Plan Amendment related to the rezoning of the property located at 101-405 Doveview Drive, which was also associated with this amendment. The rezoning of this property has been rescheduled for consideration by Council on April 11, 2011.)

PUBLIC HEARING/FINAL READING - PROPOSED ORDINANCE #2011-05 - REZONING OF PROPERTY LOCATED AT 101-405 DOVEVIEW DRIVE (DOVEVIEW APARTMENTS), OWNED BY CRM MID-ATLANTIC, LLC AND SUN TRUST BANK

A public hearing was duly advertised for this time and place to consider rezoning of property located at 101-405 Doveview Drive (Doveview Apartments), consisting of $6.735^{+/-}$ acres, owned by CRM Mid-Atlantic, LLC and Sun Trust Bank. The property is currently zoned IO (Institutional and Office) and subject to the COZ-1 (Corridor Overlay Zone) and the proposed zoning is RG-5 (General located on the north side of Forrest Avenue (Route 8) just west of the Saulsbury Road intersection. (Tax Parcel: ED05-076.07-01-30.00-000; First Council District; Planning Reference: Z-11-03.)

Mrs. Williams moved that the Final Reading of Proposed Ordinance #2011-05 be acknowledged by title only, seconded by Mr. Leary and unanimously carried. *(The First Reading of this ordinance was accomplished during the Council Meeting of January 24, 2011.)*

Planner's Review

Based on the previous discussion regarding the third amendment proposed to the 2008 Comprehensive Plan - Land Use Classification Change from Institutional to Residential High Density (Map 12-1), included in Proposed Ordinance #2011-03, Mrs. Ann Marie Townshend, Director of Planning and Community Development, suggested that it would not be necessary to review the petition to amend the zoning district and the findings and recommendations of the Planning Commission at this time.

Public Hearing

Council President Hogan declared the public hearing open.

Mr. Gregory Moore, Vice President, Becker Morgan Group, 309 S. Governors Avenue, requested that his testimony provided during the previous discussion regarding the Land Use Classification Change from Institutional to Residential High Density be incorporated and considered regarding this matter.

Mr. Leonard Iacono, Newport Delaware, also requested that his previous comments provided during the discussion regarding the Land Use Classification Change from Institutional to Residential High Density be considered for this matter.

Mr. James Hutchison, 15 Gleneagles Court, requested assurance that the concerns relayed during the previous discussion regarding the Land Use Classification Change from Institutional to Residential High Density are forwarded to the Planning Commission for their consideration during the review of the interconnection.

Responding to Council President Hogan, Mrs. Townshend assured members that staff provides the Planning Commission a briefing on all issues and will forward the concerns relayed in regard to this matter.

There being no one else present wishing to speak, Council President Hogan declared the public hearing closed.

Mr. Leary moved to defer the rezoning request. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote (Mr. Bonar and Mr. Salters absent).

SAFETY ADVISORY AND TRANSPORTATION COMMITTEE REPORT - FEBRUARY 23, 2011

The Safety Advisory and Transportation Committee met on February 23, 2011 with Chairwoman Williams presiding.

Request for Waiver of Land Subdivision Regulations - Reduction of Street Right-of-Way Width - Dover High School Project (South Side of Forrest Avenue)

Mrs. Dawn Melson-Williams, Principal Planner, reviewed a street waiver request for the reduction of street right-of-way from sixty (60) feet to fifty (50) feet (Land Subdivision Regulations, Article VI.A.13) for construction of the new Dover High School. She advised members that the project is located on four (4) parcels of land totaling $106.5222^{+/-}$ acres and is zoned R-10 (One Family Residence Zone) and subject to the COZ-1 (Corridor Overlay Zone). Mrs. Melson-Williams noted that the subject property is located on the south side of Forrest Avenue (DE Route 8) approximately 1,500 feet west of Mifflin Road and the owner of record is Capital School District. She noted that the Conditional Use and Site Development Master Plan are for the construction and use of a three (3) story 315,000 S.F. school with associated parking, roadways, stormwater management, landscaping, sports fields, stadium, and other site improvements. Mrs. Melson-Williams stated that the overall Site Development Master Plan for the New Dover High associated transportation network to access the site and internal circulation of the site.

Mrs. Melson-Williams advised members that during the applicant's presentation to the Planning Commission at their December 20, 2010 meeting, members were provided information on ongoing discussions regarding shared infrastructure improvements between the Capital School District and the adjoining developer (Leander Lakes, LLC) for the Leander Lakes Apartments project (a development to be located to the west of the school property). Exhibits were reviewed showing proposals for the right-of-way, construction of the western entrance access road, and the connection to Tribbitt Street, which will serve both the school and the residential project. She noted that negotiations on the infrastructure are continuing. Mrs. Melson-Williams reviewed information regarding the Transportation and Circulation Network for the new Dover High School project, which is associated with consideration of the waiver request for a reduction in street right-of-way width.

Mrs. Melson-Williams advised members that the Planning Commission reviewed the proposed street waiver request as part of its review of the Conditional Use/Site Development Master Plan for the new Dover High School. The Planning Commission granted conditional approval to the Conditional Use/Site Development Master Plan and to a series of waivers and considerations, including the reduction of the required street right-of-way width from sixty (60) feet to fifty (50) feet for portions of the proposed streets in the southwest area of the property, including the interconnection to Tribbitt Street. She indicated that, as part of the motion for conditional approval, the Planning Commission also adopted comments and recommendations from the Development Advisory Committee (DAC) Report. It was noted that comments and recommendations from multiple departments or agencies may be associated with the development of streets.

In response to Mrs. Williams, Mrs. Melson-Williams stated that the school is being designed to accommodate an overall count of 1,800 students.

Referring to the proposed ingress and egress for this property, Mr. Bonar expressed his desire for a roadway width of no less than 28 feet in order for a 110 foot aerial apparatus to access the high school to protect it against fire. In addition, he strongly urged signalization at both proposed intersections at the new high school along Forrest Avenue/Route 8.

Responding to Mr. Ruane, Mrs. Melson-Williams stated that the reduction in the street right-of-way width would not create a reduction in the paved width of the street.

Several members questioned why the applicant or engineers were not in attendance to explain the need for the waiver and address concerns of members. Responding, Mrs. Melson-Williams stated that the engineers were unable to attend since they were making a presentation at the Planning Commission Quarterly Workshop, which was running concurrently with the Safety Advisory and Transportation Committee meeting.

Mr. Davis relayed concern with any reduction due to potential bicycle and pedestrian traffic in the area. In addition, he stated that if there is a connector road between Forrest Avenue and Hazlettville Road, Amish horses and buggies will also be using the roadway.

Mrs. Melson-Williams explained that if a regional connector between Rt. 8 and Hazlettville Road is constructed in the future, the right-of-way and segment of road involved would probably be enlarged. However, she indicated that the waiver is being requested at this time due to the proposed time frame for construction of the school, which has a scheduled opening date of 2014.

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison for the Delaware Department of Transportation (DelDOT), reminded members that there was previous discussion regarding vehicle connectivity from the Village of Westover. Responding, Mrs. Melson-Williams stated that there is a street stub from Westover to its north property line with a terminus of Worchester Drive. She indicated this is planned for a pedestrian/bicycle connection to the site but will not convey vehicular traffic.

Responding to Mrs. Williams, Mrs. Melson-Williams confirmed that the proposed opening for the new high school is in 2014; however, it is anticipated that the first phases of major utility work will begin during the summer of 2011.

In regards to the roadway through the farmland preservation property to Hazlettville Road, Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that she attended a meeting with DelDOT on February 22, 2011 and was assured that this road would not be completed in the near future. She stated that DelDOT has not added any new projects to the Capital Transportation Program due to funding issues and that DelDOT was very clear that the City should not anticipate this project coming to fruition anytime soon.

In light of this information, Mrs. Williams suggested that the school district meet with DelDOT to develop a good, practical plan for an interconnection roadway to Hazlettville Road and that the motion be amended accordingly. There were no objections from the maker or seconder of the motion.

The Committee recommended that this request be referred back to the Planning Commission for further study and clarification of the following: actual reasons for narrowing the roadway to 50 feet, a deeper look into pedestrian and bicycle traffic and ingress and egress to the school, and serious consideration of developing a good, practical plan for a roadway to Hazlettville Road.

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

Discussion - Crossover Bridge for Pedestrians at the New Dover High School

At the request of Mr. Davis, members were provided detailed information regarding a 40-foot pedestrian bridge for possible construction at the new Dover High School site. Under the premise that there will be signalization at both the eastern and western ends of the new Dover High School site, Mr. Davis noted that a development is located across Route 8 and that, although an additional traffic signal could be installed at Cranberry Run, as an alternative, consideration could be given to an overhead walkway. He advised members that a similar bridge, which crossed over five (5) lanes of traffic, was built in a town in Pennsylvania approximately four (4) to five (5) years ago at a cost of $1.3M. Although he acknowledged that funding must be considered regarding this matter, he suggested that members consider the safety and traffic issues involved.

In regards to the costs, Mr. Bonar advised members that the economic impact of one (1) fatal accident is approximately $900,000. It was his opinion that the construction of pedestrian overpasses should be considered for several major roadways.

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison for the Delaware Department of Transportation (DelDOT), noted that the example provided appears to be located in a more urban setting than the proposed new Dover High School. He advised members that a pedestrian overpass has been placed across College Avenue in Newark; however, getting individuals to use the structure has been problematic. Mr. Laing noted that a wall was constructed at the College Avenue bridge to prevent pedestrians from crossing by other means. He questioned where a crossover bridge could be located if this option was chosen for the new school. In addition, Mr. Laing advised members that the minimum clearance required for a pedestrian bridge is 17'6" in height. For each foot in height, in order to be compliant with the Americans with Disabilities Act (ADA), he indicated that either ramps or an elevator would be required and stated that there is no area available to accommodate the length of ramp needed.

Mr. Davis noted that the crossover in Pennsylvania is located in a rural setting, not urban, with sidewalks on the north side. He stated that the pedestrian ramp curls around rather than extending in a linear fashion. Responding, Mr. Laing stated that, because of the degree of angle that would be required, regardless of the manner in which the ramp would be constructed, the area needed for the ramp would be substantial. As an alternative, he stated an elevator could be installed; however, this would create issues with maintenance, security, safety, etc. In addition, he noted that a pedestrian bridge would require maintenance to keep it free of trash, debris, and snow.

Responding to Mrs. Williams, Mr. Laing stated that his understanding was that "cork-screw" ramps are not ADA compliant.

Mr. Davis questioned how the children who live on the north side of Forrest Avenue/Route 8 will cross the street if the overpass is not built and who would be responsible for their safety.

Mr. Bonar suggested that the Capital School District be requested to make a presentation to address some of these concerns.

Mrs. Townshend advised members that all of the concerns relayed by members have been discussed before the Planning Commission. She noted that the Planning Commission required that the School District connect into Tribbitt Street, at the rear of Cannon Mill, which connects to the Village of Westover, to provide relief for the approximately 900 dwelling units.

Responding to Mrs. Williams, Mrs. Townshend stated that the design of the street network in the Village of Cannon Mill is not conducive to cut-through traffic. Disagreeing, Mr. Bonar noted an increase in vehicular traffic in Woodcrest as a result of students attending Dover High School.

After much discussion, it was the consensus of members that staff should invite the Capital School District to attend the next Committee meeting to discuss these issues further.

Briefing on Delaware Department of Transportation (DelDOT) Projects - *Gary Laing*

Mr. Gary Laing, Community Relations Officer and Public Relations Liaison for the Delaware Department of Transportation (DelDOT), provided a briefing on DelDOT projects, as follows:

West Dover Connector

Mr. Laing reminded members that DelDOT held a workshop regarding the West Dover Connector in September 2010, at which time DelDOT presented the preferred alternative for the location of the connector. He noted that the workshop was well attended. Mr. Laing stated that Phase 1 of the archeology research, which consists of researching historic properties in the area of the connector, will begin soon and that Phase 2 field work should follow in the Spring of 2011. He stated that DelDOT is working on preparing environmental assessments, as directed by the Federal Highway Administration (FHA) and the assessment will be reviewed by the State Historic Preservation Office, and FHA. He indicated that survey plans are being compiled and preliminary plans should be completed later in the year, semi-final construction and right-of-way plans are targeted to be completed in approximately one (1) year, and the final right-of-way will be determined in July 2012, followed by the real estate acquisition process. As reflected in the Community Transportation Plan, Mr. Laing stated that construction is scheduled for 2014 through 2016.

Responding to Mr. Mark Brata, representing Eden Hill Commercial, Mr. Laing stated that no specific date or further details were provided by the project manager regarding preliminary plans for the project.

South Governors Avenue Improvements

Mr. Laing reported that the South Governors Avenue Improvements have been substantially completed, with the exception of some "punch list" items to be completed or repaired by the contractor. He anticipated that these items will be addressed once the weather permits.

Water Street Railroad Crossover

Mr. Laing advised members that there is no new information to report on the Water Street Railroad Crossover, explaining that this is a long-term project with a substantial amount of preliminary work required.

Wyoming Mill Road Project

Mr. Laing advised members that a construction contract was awarded to Diamond Materials, LLC for the Wyoming Mill Road Project. He stated that advanced utility work is underway and construction is scheduled to begin in the Spring of 2011, with a completion date anticipated in the fall.

Transit Center

Mr. Laing stated that a meeting was held with potential bidders for construction of the Transit Center. Certain submissions must be reviewed by DelDOT and, once completed, DelDOT will announce the awarding of the contract and work will begin on Phase 2 of the project.

Briefing on Dover/Kent County Metropolitan Planning Organization (MPO) Projects - *Juanita Wieczoreck*

Ms. Juanita Wieczoreck, Executive Director of the Dover/Kent County Metropolitan Planning Organization (MPO), stated that the most significant project for the MPO is the Dover Transit Center Neighborhood Plan. She stated that MPO has been making presentations in an effort to obtain support from various organizations. It was noted that a presentation of the Dover Transit Center Neighborhood Plan and Design Book was provided to City Council during their Regular Meeting of February 14, 2011.

Referring to the executive summary of the Dover Transit Center Neighborhood Plan and Design Book, Ms. Wieczoreck noted that the purpose of the Plan and Design guidelines is to provide the City of Dover with a design and planning strategy to guide development around the new Transit Center site and provide a very specific understanding of what the City could realize for this area.

Ms. Wieczoreck stated that the MPO is beginning to develop their annual work program and requested ideas from the City.

Responding to Mr. Ruane, Ms. Wieczoreck stated that the MPO has been working on a regional bike plan and anticipates a presentation to the Committee once it has been finalized. She indicated that Mr. Michael Albert, Planner II, represents the City of Dover on this committee.

Mr. Ruane requested that Mr. Albert make a presentation to the Committee regarding the proposed Bike Plan to obtain recommendations from members.

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

Mr. David Truax, Fire Marshal, reviewed Proposed Ordinance #2011-06, and advised members that the Ordinance would enhance the safety of commercial and recreational barbecuing and control and maintain the proper use of open burning. He explained that the proposed amendment would expand the present open burning ordinance to better define open burning and barbecuing; more clearly define where and how open burning and barbecuing are permitted; and better address the use of outdoor portable fireplaces. Mr. Truax stated that the draft ordinance depicts additions in blue text and deletions in red strike-outs and advised members that the proposed ordinance has been reviewed by the Deputy City Solicitor.

Mrs. Williams read into the record a statement in support of the ordinance provided by Ms. Rita Kropiewnicki.

Mr. Bonar stated his experience with Wesley College students who have had open pit fires burn late into the evening and early morning.

The Committee recommended adoption of Proposed Ordinance #2011-06.

By consent agenda, Mr. Leary moved for approval of the Committee's recommendation, seconded by Mr. McGiffin and carried by a unanimous roll call vote (Mr. Bonar and Mr. Salters absent). *(The First Reading of the ordinance will take place during the latter part of the meeting.)*

By consent agenda, Mr. Leary moved for acceptance of the Safety Advisory and Transportation Committee Report, seconded by Mr. McGiffin and carried by a unanimous roll call vote (Mr. Bonar and Mr. Salters absent).

UTILITY COMMITTEE REPORT - FEBRUARY 28, 2011

The Utility Committee met on February 28, 2011 with Chairman Ruane presiding.

Yard Waste Collection Program

Mr. Anthony DePrima, City Manager, advised members that staff developed the following goals in formulating a Yard Waste Collection Program: 1) compliance with the Delaware Solid Waste Authority (DSWA) ban on yard waste; 2) avoid an increase in costs to the customers; and 3) the development of public education to lessen or eliminate yard waste.

Mr. Scott Koenig, Public Services Manager/Director of Public Works, reviewed the Yard Waste Separation Plan. He reminded members that on January 1, 2011, DSWA implemented a ban on yard waste at the Sandtown landfill and that, beginning July 1, 2011, the DSWA will start enforcing this ban. He noted that the ban was a condition of approval from the Department of Natural Resources and Environmental Control (DNREC) to continue to operate the landfill and that all waste haulers will be required to separate yard waste from the municipal solid waste stream.

In reviewing the New Rules, Mr. Koenig referred to Page 2 of the Yard Waste Separation Plan and advised members that a revision was made to the second sentence in Item #2, which should read "No metal containers will be allowed." He explained that metal containers can be easily damaged. In addition, he stated that members of Council may receive complaints from residents regarding Item #5, which modifies the current collection schedule for bulk items.

Noting that bulk trash will be picked up every other week, Mr. McGiffin questioned if residents will be permitted to place large items, such as refrigerators, out for pick-up for an extended period of time. Responding, Mr. Koenig stated that this could create potential concerns for property maintenance staff. Mr. DePrima noted that, although the current bulk pick-up schedule provides for a weekly pick-up, residents are not permitted to place bulk items out until the day of the scheduled pick-up. However, he noted that many residents do not adhere to this requirement.

In response to Mr. Ruane, Mr. Koenig indicated that education sessions will be provided for the public, office and field staff, and homeowners associations.

Responding to Mr. McGiffin, Mr. Koenig estimated that a stick would be considered less than 2" in diameter, limbs are from 2" to 6," branches are 6" and above.

Although he supported recycling and maintaining a cleaner environment, Mr. Bonar relayed his concerns with legislators enacting laws that affect municipal-level operations without prior communication.

Responding to Mr. Ruane, Mr. DePrima assured members that the program will be advertised locally and billing inserts will be distributed to customers to inform them of the change.

The Committee recommended endorsement of the Yard Waste Separation Plan, as presented by staff.

As a result of concerns relayed to him by constituents, Dr. McGlumphy requested that staff provide an explanation of the Yard Waste Collection Program. Responding, Mr. Anthony DePrima, City Manager, stated that a marketing plan will be developed regarding the program to provide a detailed understanding for everyone. He explained that yard waste separation is required by the DSWA. He stated that staff developed a program that could be implemented without additional resources (staffing, trucks, supplies, etc.). Mr. DePrima indicated that residents should utilize containers that hold 35 gallons or less for grass cuttings and yard waste. There is no limit as to the number of containers a resident may have; however, containers must be provided by the resident.

Mr. DePrima stated that there are new rules for residents, as follows: 1) all household trash should be bagged and placed in the black containers (extra bags setting along side of the black containers will not be permitted); 2) containers for yard waste should be made of plastic; 3) grass clippings may not be placed at the curb; and 4) clippings may not be placed in plastic bags; they should be placed directly into the yard waste container. He indicated that the City will continue to pick up large bulk yard waste (logs, large branches, etc.) and that the only change is that the bulk collections will be alternated, with bulk yard waste collection occurring during the same week as recycling and bulk household items (mattresses, furniture) during the following week. He stated that the same standards will be required for all bulk waste, such as restriction to a 4 x 4 x 8 area, and there will be a fee for exceeding those parameters.

Responding to Mrs. Williams, Mr. DePrima stated that, beginning in the spring, staff will extend the leaf collection program to accommodate residents who have an exorbitant amount of leaves.
Mr. DePrima stated that a public education plan is being developed and that residents will be encouraged to create less yard waste by recycling on-site through the use of mulch mowers, compost piles, etc. He noted that staff has met with two (2) other companies to discuss the disposal of waste and that the associated cost will be less than fees charged by the DSWA.

In response to Council President Hogan, Mr. Koenig stated that yard waste (items that fit into a 35 gallon container) will be collected every week and bulk yard waste will be collected every other week.

Dr. McGlumphy thanked staff for the explanation and requested that staff emphasize the amount of cost savings for customers as a result of the program when providing public education.

Mr. Leary moved for approval of the Committee's recommendation for endorsement of the Yard Waste Separation Plan, as presented by staff. The motion was seconded by Dr. McGlumphy and unanimously carried.

Generation Revenue Forecast

Mr. Anthony DePrima, City Manager, introduced Mr. Holt Bradshaw, Pace Global, who reviewed a Presentation of Generation Revenue Forecast. He explained that the forecast includes a "real" analysis that should be kept updated. Mr. Bradshaw advised members that there is a good deal of value in the assets and that they should be maintained and improved upon in order to keep cash flow. It is the opinion of Pace Global that there is great potential for revenue.

Responding to Mr. Ruane, Mr. Vince Scire, Plant Manager, stated that, as an example of continued maintenance, air heater work for Unit #3 was included in the CIP, which is necessary if Unit #3 is expected to run for 15-20 years. With regards to unanticipated expenses, he stated that approximately six (6) projects have been added to the plan as a result of the Pace life extension analysis. Mr. Bradshaw stated that a $100,000 capital contingency charge for each unit was built in to allow for capital "surprises."

With regards to materials and equipment used in the plants, Mr. Scire stated that replacement parts are sometimes extremely expensive; therefore, it can be beneficial to re-evaluate the situation and consider redesign.

In response to Mr. Bonar, Mr. DePrima reminded members that a plant evaluation was conducted a few years ago and that the analysis constitutes another evaluation. He noted that, in previous evaluations, it was assumed that the plants had a five (5) year life expectancy; however, in the new evaluations a 15-year life span is expected. In regards to the $100,000 contingency charge, he noted that the City has nearly $10M in its depreciation fund, which could be a resource for repairs if necessary. He assured members that thresholds are established to determine if repairs should be made or the equipment should be abandoned.

Mr. Ruane noted that the 2030 Energy Committee continues to discuss opportunities to attract alternative energy suppliers, such as encouraging a combined-cycle gas power plant at the Garrison Tract and buying purchased power energy agreements from this source. He questioned how this would correlate to the maintenance and continuation of the physical plant if energy needs can be addressed through such purchased power agreements and whether this possibility was factored into the analysis.

Responding, Mr. Holt stated that the capacity market has been willing to pay for units that are capable, available, reliable, and able to run when prices are very high or when there are reliability issues on the grid. He noted that, to date, the market has been willing to pay for this from the City and other suppliers.

Mr. Bonar questioned if the City would be at a financial disadvantage if a new combined cycle unit or more modern unit becomes available and can be more readily put on line. Responding, Mr. DePrima stated that going forward with a plant at the Garrison Tract is not mutually exclusive of the idea of keeping the existing power plant running.

Mr. Bonar suggested that thought be given to placing a combined cycle unit at the Garrison Tract before a competitor moves forward with such a concept. Responding, Mr. DePrima stated that, based on the Committee's recommendation, the City contracted with Macquarie Energy, LLC for two (2) years and that they are performing due diligence on making applications to PJM and other regulatory bodies to move forward on that plant.

Mr. Francis Hodsell, Pace Global, advised members that the capacity market is a three (3) year forward market. He noted that it is the opinion of Pace that the City's assets are valuable within the structure of the capacity market and it is clear that this structure will be in place for a long period of time. Mr. Hodsell noted that if additional capacity enters the market, such as the Macquarie West Deptford Plant, this would not be seen as a risk to these assets and they could continue to generate significant cash flow for the City.

Mr. Ruane stated he anticipated that West Deptford would be brought forward to the Committee next month. Responding, Mr. Hodsell stated that he will be working with City staff on a time frame for the analysis.

Due to time constraints, Mr. Ruane requested that the remainder of the agenda items: 1) Power Plant FY 2012 Capital Investment Plan (CIP) Review; 2) 2012-2016 Utility Capital Investment Plan (CIP); and 3) PACE/NAES Monthly Report *(December)* be deferred until the next meeting.

The Committee deferred the remainder of the agenda items until the next meeting.

Mr. Ruane moved for acceptance of the Utility Committee Report, seconded by Mr. McGiffin and unanimously carried.

LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - FEBRUARY 28, 2011

The Legislative, Finance, and Administration Committee met on February 28, 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. Salters noted that there were no critical positions to be considered; therefore, no further action was required.

Latest Estimate (LE) for Fiscal Year 2011 Budget

Mrs. Teresa Tieman, Senior City Administrator, advised members that the Latest Estimate was prepared prior to the February 17, 2011 meeting of the Joint Legislative, Finance, and Administration and Safety Advisory and Transportation Committee. Therefore, she felt that it would not be appropriate to include the committee recommendations regarding police staffing and programs until acted on by Council during the Regular Council Meeting on February 28, 2011.

Mrs. Tieman informed members that the Joint Legislative, Finance, and Administration and Safety Advisory and Transportation Committee recommended that two additional officers be sent to the spring police academy class, and that a one-time $40,000 Police Chief's Discretionary Fund be established, noting that these expenses can be covered by savings in this year's budget, as reflected in the Latest Estimate. She stated that no further adjustment would be necessary in the proposed police salary budget because the police academy class has been rescheduled for mid-April. Mrs. Tieman explained that, since the cost of four officers in a mid-April class is about the same as the budget for two officers in a February class, which was originally approved by City Council, no further adjustments will be needed to the Latest Estimate.

Mrs. Tieman stated that, if the City Council approves the recommendation of the Joint Legislative, Finance, and Administration and Safety Advisory and Transportation Committee during the Regular Council Meeting on February 28, 2011, the Latest Estimate will be amended before the First Reading of the budget ordinances.

Mrs. Tieman reviewed a Presentation - Fiscal Year 2010-2011 Latest Estimate, February 2011 and noted that this presentation is to be viewed in conjunction with the Latest Estimate, Fiscal Year 2010-2011 Budget. Mrs. Tieman reminded members that the latest estimate factors in known changes since the budget was approved.

Referring to Page 5 of the Presentation, Mrs. Tieman informed members that the Transfer Tax revenue is projected at $750,000, which increases the total to approximately $1.4M. She stated that the $750,000 is due to recent large receipts, which were identified in the December Quarterly Revenue Report, and several others received since that time.

Mrs. Tieman stated that Trash Fees revenues have decreased $194,511, and explained that some of this decrease was expected because several out-of-City customers canceled trash service following the last fee increase; however, a reduction in expenses is also reflected.

Responding to Mr. Salters, Mrs. Tieman explained that the Parks and Recreation Silver Lake Watershed Coordinator is employed by the State of Delaware; however, the $51,000 grant pays for the City's portion of the expense.

In response to Mr. McGiffin, Mr. Anthony DePrima, City Manager, stated that the Tax Assessor legal expenses for tax appeals in the amount $88,000 resulted from having a tax attorney present during Tax Appeals and write new ordinances related to taxes, as well as costs associated with a recent law suit that has been settled.

Responding to Mr. Shevock, Mrs. Tieman explained that the reduced expense for landfill fees referenced on Page 8 of the Presentation is due to less tonnage which is probably due, in part, to recycling.

Mrs. Tieman clarified, in response to Mr. Shevock, that the fund balances are projected over the minimum as the result of departmental savings and enhanced revenue, particularly noting the Transfer Tax, which was approximately $750,000 more than anticipated.
Referring to Page 1 of the Latest Estimate, Fiscal Year 2010-2011 Budget, Mr. Ruane questioned if it would be fiscally allowable to utilize the excess Electric Fund balance funds to provide a Power Cost Adjustment (PCA) to customers. Responding to Mr. Ruane, Mr. DePrima indicated that staff feels comfortable, based on the Latest Estimate, that $1.4M would be available for a Power Cost Adjustment (PCA) credit, which could be layered in over a 15-month period, beginning April 1, 2011, so that it would remain in sync with the fiscal year.

Mrs. Tieman reviewed Estimated Savings from Proposed PCA Calculation, as of February 28, 2010.

In response to Mr. Hogan, Mrs. Tieman stated that the Proposed PCA Calculation suggests a credit in the amount of $.0043 from April 1 through June 30 and $.0015 beginning July 1 through June 30, 2012.

Mr. DePrima reminded members that, ultimately, Council has the authority to provide the PCA.

In response to Mr. Bonar, Mrs. Tieman stated that a First Reading would be held on March 14, 2011 and a Final Reading on March 28, 2011. She stated that the PCA would be effective with all bills billed on or after April 1, 2011.

Replying to Mr. Bonar, Mrs. Tieman clarified that the estimated savings for the average residential customers would equal approximately $12.90 for three months or $4.30 per month for three months.

The Committee recommended acceptance of the Latest Estimate (LE) for Fiscal Year 2011 Budget Report.

The Committee recommended instituting a Power Cost Adjustment (PCA) to use $1.4M, applied over 15 months, effective with all bills billed on or after April 1, 2011.

Regarding the Latest Estimate (LE) for Fiscal Year 2011 Budget, Dr. McGlumphy requested a synopsis of the information received and clarification that the City remains in the negative for the Kent County Sewer Adjustment in the amount of $1.8M. He suggested that Council direct departments to adhere to their original budget, as outlined in July 2010, to be reviewed at the end of the year.

Responding, Mr. DePrima advised members that, last year, Council instituted the Ground Water Inflow Adjustment Fee in an attempt to recover some of the losses incurred; however, staff realized that not all necessary funds would be collected. He reminded members that, as a result of the "President's Day Snow Storm" in 2002, a high groundwater level affected the Kent County Fee fund balance. At that time, a 43% fee was added to the sewer fee in an attempt to recover the loss. Mr. DePrima stated that this loss was recovered after a few years; however, the City then experienced rainy weather, which affected the Kent County Fee fund balance again. He noted that two (2) pro-active steps have been taken by the City: 1) instituting the Ground Water Inflow

Adjustment Fee; and 2) fixing the problem (leaky sewer pipes). Mr. DePrima indicated that, although the deficit has been paid down, he felt that it will take a couple of "dry" years to recoup all costs.

Mr. Ruane felt that it was unfair to suggest that money collected is not being put to use. He noted that members are provided the Capital Budget on a monthly basis to show progress. He requested that staff elaborate on the Division Street Project that will address the infiltration issue and the Bayard Avenue Project that will address water quality. Mr. Ruane stated that these are major projects and that the rates collected in the Enterprise Funds are specifically being used. He stated that the City would need $1M each year for the next 50 years to settle the issues, and even this would probably not bring resolution due to aging water and sewer pipes in the City.

At the request of Mr. Ruane, Mr. DePrima stated that the Division Street Project consists of relining a major sewer line in the middle of Division Street (from Railroad Avenue to the Elizabeth W. Murphey School) and the cost of this project is significant. He noted that "smoke tests" have determined that this is a major source of leaking stormwater. Mr. DePrima stated that this will be the first major realignment that the City has ever attempted to solve this problem, noting that this problem was first discussed in the early 1990s. He indicated that several water lines have been replaced and that Bayard Avenue is the next project scheduled for the City. Mr. DePrima stated that the most significant water line proposed for replacement is north of Division Street almost up to State Street in Route 13 (over 1 mile of water line to be replaced) and that bids are being solicited for this project. He reminded members that the rate increases instituted last year were to fund the debt service for much of the borrowing the City has done for projects.

Mr. McGiffin moved for approval of the Committee's recommendation for acceptance of the Latest Estimate (LE) for Fiscal Year 2011 Budget Report. The motion was seconded by Mr. Leary and carried, with Dr. McGlumphy voting no.

Mr. McGiffin moved for approval of the Committee's recommendation to approve instituting a Power Cost Adjustment (PCA) to Use $1.4M, applied over 15 months, effective with all bills billed on or after April 1, 2011. The motion was seconded by Mr. Leary and unanimously carried.

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

Mr. Scott Koenig, Public Services Manager/Director of Public Works, reviewed Proposed Ordinance #2011-07 Amending Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permit and Appendix F - Fees and Fines.

Mr. Koenig stated that Delaware State Fire Prevention Regulations require periodic inspections, testing, and maintenance of fire alarm signaling, fire suppression, and any other fire protection systems, devices, and equipment installed within the State of Delaware, in accordance with the National Fire Protection Association's National Fire Codes and Standards.

Mr. Koenig advised members that, currently, Delaware State Fire Prevention Regulation 703, Chapter 9.1.1 requires that an Annual Certificate of Inspection and the appropriate fees be forwarded to the State Fire Marshal, with the exception of systems that are located in the jurisdiction of a Jurisdictional Assistant State Fire Marshal. He explained that, in these exceptions, the fees are paid to the appropriate Jurisdictional Assistant State Fire Marshal's office. Mr. Koenig stated that Dover, Newark, New Castle, and Wilmington are considered to have Jurisdictional Assistant State Fire Marshals; however, currently, only the City of Wilmington and the City of Newark require the fees to be paid to the municipality. The City of Dover and the City of New Castle do not require the fees.

Mr. Koenig explained that, in an effort to develop new revenue streams, staff proposes implementation of the fees identified in the Delaware State Fire Prevention Regulations. He stated that Proposed Ordinance #2011-07 would allow the City to collect fees and begin additional monitoring associated with receiving the certificates. He informed members that, in the past, the City has received fees collected by the inspection agencies but, without the proper authority to collect these fees, has had to return them.

Mr. Koenig expressed his feeling that this would not be new to the community, noting that the inspection agencies are aware that these fees are required by State regulation.

Mr. Koenig stated that staff has estimated that the collection of these fees will generate approximately $50,000 per year in additional revenue. He also stated that, once the City begins receiving the certificates, staff will update the GIS systems and the monitoring systems to ensure that accurate records are kept.

Mr. Koenig stated that the proposed fees support the following Critical Success Factors identified in the Strategic Initiatives Section of the Fiscal Year 2010-2011 Annual Operating Budget: Citywide Safety and Cost and Revenue Efficiency.

Responding to Mr. Salters, Mr. David Truax, Fire Marshal, stated that the City does not perform annual inspection of any fixed fire protection, including sprinkler, fire alarm, hood suppression, or fire extinguisher equipment. He explained that these inspections are performed by contractors licensed through the State Fire Marshal's Office. The City Fire Marshal's Office is notified of violations within the City of Dover and follows up to ensure compliance or issues summonses as needed.

In response to Dr. Jones regarding anticipated administrative cost increases associated with managing the new fees, Mr. Koenig stated that, during the first year or two, there will be additional responsibilities with the collection of fees and ensuring that the City has all of the certificates in place. However, once the database is established, the intent is to utilize the GIS system; therefore, only maintenance would be required from that point forward. Mr. Koenig explained that, additional staff is not being requested at this time.

Responding to Mr. Shevock, Mr. Koenig explained that the City will not be involved in related invoicing. He stated that the inspection agency will provide the City with a copy of the certificate of inspection, as well as a check. The check will be processed and the information will be entered into the database and the GIS system or perhaps just the database, with information subsequently

being imported into the GIS system. He informed members that all of the certificates will be kept on file and will be available to the Fire Marshal's Office, and possibly the Fire Department, through the GIS system.

Staff recommended adoption of Proposed Ordinance #2011-07 Amending Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permits and Appendix F - Fees and Fines.

The Committee recommended adoption of Proposed Ordinance #2011-07 Amending Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permits and Amendments to Appendix F - Fees and Fines.

Mrs. Williams advised members of concerns relayed by Brandywine Condominiums, explaining that this organization is currently required to pay a private contractor to conduct a fire inspection and stated that the proposed amendment will require payment to the City of Dover as well. Responding, Mr. Koenig stated that no change will be required for Brandywine Condominiums. He explained that the private contractor should continue to be contacted to conduct a fire inspection. If the proposed ordinance is adopted, the contractor will then pay the City of Dover a Certificate of Inspection fee and will provide the City with the inspection. Staff will then input the inspection data into the HTE and GIS systems. Mr. Koenig stated that the Certificate of Inspection is for recordkeeping purposes for the City and is authorized in accordance with Delaware State Fire Prevention Regulations for the Jurisdictional Fire Marshal's Office. The fee the City is requesting was authorized when the regulations were adopted and it was mandated by the State to perform the inspections and track them through the certificate.

With regard to benefits, Mr. Koenig explained that there are several benefits that this requirement will provide, such as assisting the City in maintaining the database and information which is shared with the fire marshal's office, fire department, property maintenance divisions, and the emergency preparedness office. He noted that this requirement will allow for the development of a database of fire protection inspections throughout the City which will ensure a measure of public safety. He noted that the City is growing and the types of buildings are becoming more complicated; in Mr. Koenig's opinion, this is a transition fee from being a very small city to becoming a larger, medium-sized City.

Mrs. Williams stated that it was her understanding that certain contractors occasionally indicate that their inspection includes a certificate and questioned if that is an accurate statement. Responding, Mr. Koenig stated that currently, the fee is not required if the building is located in the City of Dover. There are several businesses located outside of the corporate city limits that have "Dover" addresses and are paying the fee, in some cases to the State Fire Marshal's Office. He stated that, on occasion, the City has received payments from contractors for businesses located within the City after the inspections were completed; however, because the City is not authorized to collect the fee, these payments were returned.

In response to Mrs. Williams, Mr. Koenig confirmed that those currently paying $125 will be required to pay an additional $25 to the City for the inspection certificate, for a total of $150. He stated that the contractor will collect the fee for the inspection and will transfer a certain portion of the fee to the City for the inspection certificate.

Mrs. Williams moved for approval of the Committee's recommendation to adopt Proposed Ordinance #2011-07 Amending Chapter 46 - Fire Prevention and Protection, Article III - Fire Codes, Section 46-126 - Fire Prevention Permits and Appendix F - Fees and Fines. The motion was seconded by Mr. McGiffin and unanimously carried. *(The First Reading of the ordinance will take place during the latter part of the meeting.)*

Review of Hospitality and Civic Function Policy

Mayor Carleton E. Carey, Sr. advised members that the Central Delaware Chamber of Commerce and Kent County Tourism offer important functions that are currently not covered under the City's Hospitality and Civic Function Policy. He stated his feeling that these functions should be covered for Council Members to attend, and offered a list of examples, as follows:

1. The Kent County Tourism Annual Awards Dinner
2. The Central Delaware Chamber of Commerce Annual Awards Dinner
3. The Mayor's Annual Prayer Breakfast
4. The Governor's Annual Prayer Breakfast
5. Kent County Economic Summit

Mr. McGiffin requested that Mayor Carey provide members with the costs for each of the events listed.

Additionally, Mr. Salters requested that Mayor Carey provide the annual cost for members to attend these events.

The Committee recommended to defer the matter until the next Committee meeting.

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

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

MONTHLY REPORTS - JANUARY 2011

By consent agenda, Mr. Leary moved for acceptance of the following monthly reports, seconded by Mr. McGiffin and carried by a unanimous roll call vote (Mr. Bonar and Mr. Salters absent):

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

SETTING OF PROPERTY ASSESSMENT APPEALS

Mrs. Cheryl Russell, City Assessor, requested that the 2011 Property Assessment Appeals be scheduled, as follows:

May 31, 2011 - June 3, 2011	-	9:00 a.m. to 4:00 p.m.
June 6, 2011 - June 10, 2011	-	9:00 a.m. to 4:00 p.m. (if necessary)

It was noted that the hearing times are subject to change.

Mr. McGiffin moved for approval of the Property Assessment Appeals schedule, as recommended by staff. The motion was seconded by Mr. Leary and unanimously carried.

FIRST READING - PROPOSED ORDINANCES

Council President Hogan reminded the public that copies of the proposed ordinances are available at the entrance of the Council Chambers or can be obtained from the City Clerk's Office. Final action by Council on the proposed ordinances will take place during the Council Meeting of March 28, 2011.

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

A. PROPOSED ORDINANCE #2011-06 AMENDING CHAPTER 46 - FIRE PREVENTION AND PROTECTION - OPEN BURNING

B. PROPOSED ORDINANCE #2011-09 - 2011 BUDGET REVISIONS

C. PROPOSED 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

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.

Mrs. Williams reminded members that the City of Dover has a sister City in Japan that was affected by the recent tsunami and earthquake. Exchange students were scheduled to arrive from this sister City to attend Dover High and Central Middle schools; however, they did not arrive due to the

tragedy and separation from their parents. She noted that an effort is being initiated by Central Middle School to collect supplies, and a freight company in Canada has agreed to transport the items to Japan free of charge. Mrs. Williams suggested that anyone interested in assisting in this effort should contact Ms. Bobbie English, Central Middle School, for a list of items needed.

Mr. McGiffin reminded members to mark their calendars for June 25, 2011 for the next African American Festival. He also noted that there will be a fundraising event on St. Patrick's Day, Thursday, March 17, 2011, for the Interfaith Mission for Housing, Dover's shelter for homeless men. The event will be held from 5:00 p.m. to 7:00 p.m. at the Loockerman Exchange.

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

Meeting Adjourned at 9:35 P.M.

TRACI A. McDOWELL
CITY CLERK

All orders, ordinances, and resolutions adopted by City Council during their Regular Meeting of March 14, 2011, are hereby approved.

CARLETON E. CAREY, SR.
MAYOR

/TM/jg/js/ac/dd
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Exhibits to Original and File Copies
Exhibit #1 - Presentation - City of Dover Police Department 2010 Annual Report
Exhibit #2 - Revised Table 12-1: Land Use and Zoning Matrix, Amendments to the 2008 Comprehensive Plan
Exhibit #3 - Revised Map 12-1: Land Development Plan, Amendments to the 2008 Comprehensive Plan