LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

A G E N D A

January 10, 2011 - 6:00 P.M. - Council Chambers - City Hall - City of Dover

Public comments are welcomed on any item and will be permitted at appropriate times. When possible, please notify the City Clerk (736-7008 or e-mail at Tmcdowell@dover.de.us) should you wish to be recognized.

AGENDA ADDITIONS/DELETIONS

1. Review and Recommendation - Filling Critical Positions - Local Area Network (LAN) Analyst - Information Technologies Department

2. Presentation - Public Financial Management - Final Results of 2010 Electric Revenue Bond Refunding (*Geoff Stewart*)

3. Authorization to Purchase - Vehicle Computers/In-Car Camera Systems

4. Accounting Procedures for Federal Forfeiture Funds

5. Proposed Ordinance #2010-01 - Chapter 102 – Taxation, Article I - In General, Section 102-1 - Annual Valuation and Assessment and Proposed Companion Ordinance #2011-02 - Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, (New) Section 102-117 - Construction of new facility *(On January 25, 2010, City Council Approved the Committee's Recommendation that the City Assessor's Office, the City Manager's Office, and the Real Estate Community Meet to Attain a Workable Solution Within 90 Days)*

6. Adjournment by 7:00 P.M.

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THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS.

1. Explain the principal function of this job.
The LAN Analyst is responsible for installation and maintenance of:
   - Over 200 computers and 16 servers across the City.
   - The Local Area Network (LAN) infrastructure which includes switches, routers, cabling and firewall.
   - The Wireless Local Area Network (WLAN) including wireless access points and related software.
   - The Cisco VoIP system including CallManagers, Unity voicemail, Mobility Manager, CallCenter, and Meeting Place Express.
   - Microsoft Exchange, Microsoft SQL database, Desktop software,

2. Explain why this position is critical and cannot go unfilled or postponed?
The volume of work exceeds what can be completed in a timely manner by one person. There used to be two LAN Analysts and a Senior LAN Analyst. All that work is being completed by one person, now. There is no way for that person to keep up with routine tasks such as documentation. Whereas a work order was submitted for most tasks, only a fraction of the work orders are submitted, now. The LAN Analyst is so busy going from job to job, there is little time to document daily activities. Additionally, several projects are on hold while trying to keep up with the day to day requests for maintenance.

3. How would city services diminish if this position were not filled or postponed at this time?
Having only one person in this position results in unnecessary down time by other workers when more than one user has a problem – one will have to wait until someone can come help. This is exacerbated by needing to service computers in City buildings, the power plant, and fire stations. The LAN Analyst is frequently helping someone in one building when an immediate need arises on the other side of town. The server at the fire station was down for several days partly because of additional demands. The current LAN Analyst used to provide regular support to the Police Department but has been unable to do so recently.

4. Are there other employees whose ability to perform would be diminished by not filling or postponing this position?
Yes. This could be any employee who doesn't get the timely response needed due to a backlog of calls. Having more than one LAN Analyst allows them and the Director to triage and shuffle tasks based on critical needs. However, with only one, this cannot be done quickly and other employees will suffer some downtime.

5. Is there a person that can be promoted into this position and whose position is less critical at this time and can go unfilled permanently or temporarily?
No.

6. Can one or more existing employees absorb the duties of this position?
No.

The PFM Group
Public Financial Management, Inc.
PFM Asset Management LLC
PFM Advisors

Two Logan Square
Suite 1600
18th & Arch Streets
Philadelphia, PA
19103-2770

215 567-6100
215 567-4180 fax
www.pfm.com

January 3, 2011

Donna S. Mitchell, Controller & Treasurer
City of Dover, Delaware
5 East Reed Street, Suite 300
Dover, DE 19901

FINANCIAL ADVISORY MEMORANDUM

Dear Ms. Mitchell:

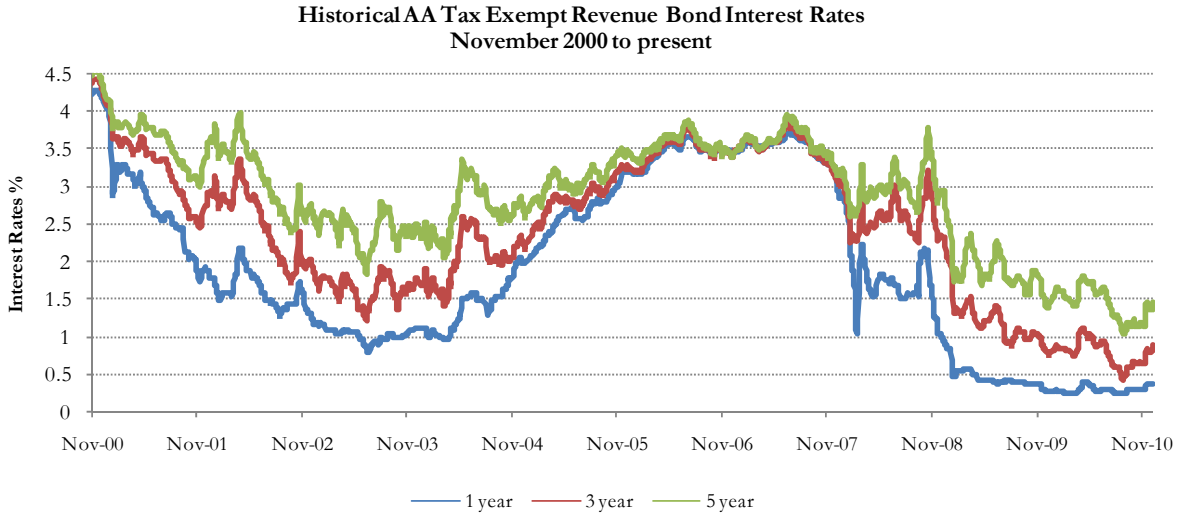
Public Financial Management, Inc. ("PFM") is pleased to provide this Financial Advisory Memorandum to the City of Dover (the "City") describing the structure and pricing of $8,810,000 Electric Revenue Refunding Bonds, Series 2010 (the "Bonds"). The Bonds are being issued to refund $11,430,000 of the City's outstanding Electric Revenue Bonds, Series 2004 for savings.

Plan of Finance

The plan of finance was developed to meet the following objectives: 1) optimize the refunding of prior debt for savings to lock in historically low tax-exempt fixed rates; and 2) structure the refunding bonds to provide debt service savings in fiscal years 2011-2016.

Interest Rates at Historic Lows

The chart below plots AA tax-exempt revenue bond interest rates over the last decade to provide some perspective. Remarkably, at the time of sale, interest rates on bonds with maturities 1 to 5 years had been lower only 1% of the time in the last ten years.



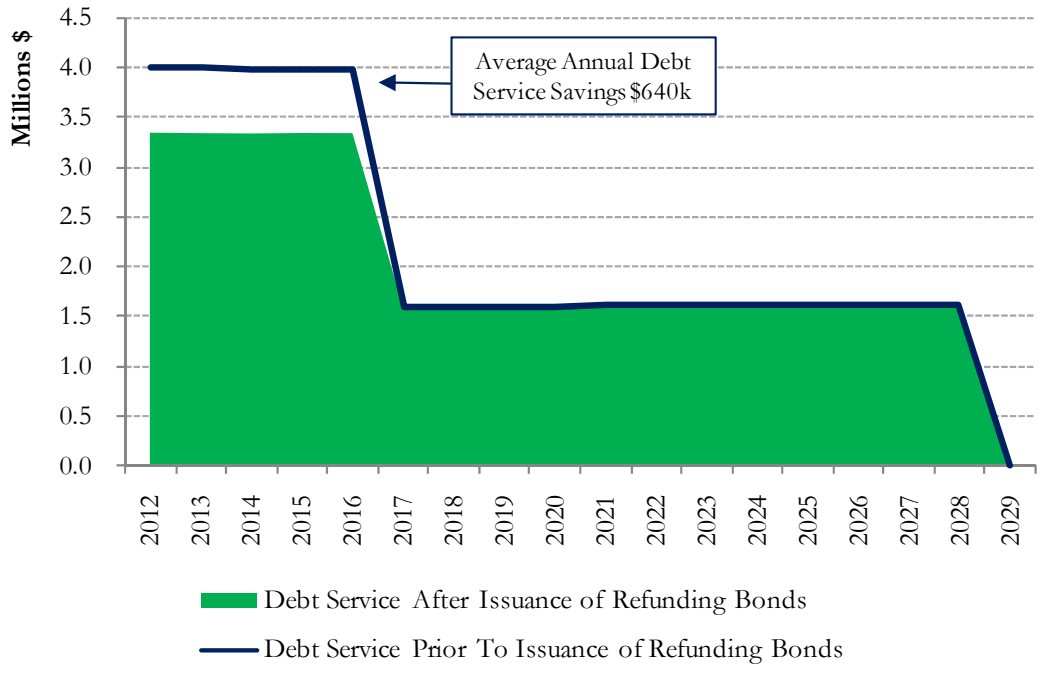
PFM coordinated with bond counsel and the City to issue a conditional redemption notice for the 2004 Refunded Bonds prior to closing, rather than issuing a standard redemption notice after closing. By issuing a conditional redemption notice prior to closing, the City enhanced savings by eliminating over $17,000 of expenses, including (i) establishing a refunding escrow account, (ii) employing a verification agent, and (iii) 30 days of negative arbitrage on the reinvestment of refunding bond proceeds.

Summary of Bonds Refunded

Series 2004 Refunded Bonds				
Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
7/1/2011	4.60%	2,080,000	11/17/2010	Par
7/1/2012	4.75%	2,180,000	11/17/2010	Par
7/1/2013	4.95%	2,270,000	11/17/2010	Par
7/1/2014	5.05%	2,390,000	11/17/2010	Par
7/1/2015	5.10%	2,510,000	11/17/2010	Par

Consistent with the objectives in the plan of finance, the refunding bonds were structured to target debt service savings in fiscal years 2012-2016, providing welcome budgetary relief and bolstering debt service coverage during an economic downturn. The average annual debt service savings in fiscal years 2012 – 2016 is $640,000.

Electric Revenue Bond Debt Service
Before and After Issuance of the Refunding Bonds



Over the life of the loan, the City will realize $3,470,838 in gross debt service savings or $1,016,580 on a net present value basis. The table below summarizes some of the key refunding statistics.

Refunding Savings Statistics	
Par Amount of Refunded Bonds	$11,430,000
Average Coupon of Refunded Bonds	5.00%
Par Amount of Refunding Bonds	$8,810,000
Arbitrage Yield of Refunding Bonds	1.134%
Present Value Savings $	$1,016,580
Present Value Savings % (1)	8.89%

(1) As a % of refunded bonds

Source & Uses of Funds

City of Dover, Delaware Electric Revenue Refunding Bonds, Series 2010	
	Series 2010
Sources of Funds	
Bond Proceeds	
Par Amount	8,810,000.00
Net Bond Premium	627,867.00
Other Sources of Funds	
2004 Interest & Sinking Fund	889,295.95
Debt Service Reserve Fund	1,470,000.00
Total Sources of Funds	11,797,162.95
Uses of Funds	
Redemption of 2004 Bonds	11,641,668.89
Cost of Issuance	130,246.36
Underwriter's Discount	25,247.70
Total Uses of Funds	11,797,162.95

Series 2010 - Competitive Sale

The Bonds were sold competitively via PARITY – the free internet sealed bid platform from i-Deal. Eight bids were received at 10:30 am on November 10, 2010. The table below ranks the bids received from low to high by true interest cost (TIC). PFM independently verified each of the bids received to confirm the TIC and to ensure each bid conformed with the specifications set forth in the Notice of Sale. Once verified, the City awarded the Bonds to J.P. Morgan Securities. Upon notice of award, J.P. Morgan Securities provided the re-offering yields and prices for the Bonds. The gross underwriting spread charged by J.P. Morgan Securities was $25,247.70 or 0.2865% of the par amount of the Bonds. This spread is very aggressive and below market pricing which further enhanced savings realized by the City.

Bidder	TIC	Spread to Winning Bid
J.P. Morgan Securities LLC	1.2351%	-
TD Securities	1.2486%	0.013%
Robert W. Baird & Co. Inc.	1.2779%	0.043%
Hutchinson, Shockey, Erley & Co.	1.3401%	0.105%
Morgan Stanley & Co Inc	1.3454%	0.110%
Southwest Securities, Inc.	1.3772%	0.142%
BMO Capital Markets	1.5145%	0.279%
Stifel Nicolaus & Company, Inc.	1.5188%	0.284%

City of Dover, Electric Revenue Refunding Bonds
Series 2010 Final Pricing

Maturity	Principal	Coupon	Yield	CUSIP
7/1/2011	1,670,000	2.00%	0.43%	260039JD5
7/1/2012	1,700,000	2.00%	0.71%	260039JE3
7/1/2013	1,740,000	3.00%	0.90%	260039JF0
7/1/2014	1,810,000	4.00%	1.17%	260039JG8
7/1/2015	1,890,000	5.00%	1.43%	260039JH6

Conclusion

We are extremely pleased with the timing and results of this financing which locked in an incredibly low 1.23% fixed rate cost of capital for the 4.5 years remaining on the loan. This is the lowest fixed rate ever secured by the City on a loan of this size and tenor. Further, the refunding reduced the par value of the City's Electric Revenue Bonds outstanding by $2,620,000 and generated gross debt service savings in excess of $3,400,000 with average annual debt service savings of $640,000 in fiscal years 2012 - 2016.

PFM appreciates the opportunity to serve as the City's financial advisor. If you have any questions, please call us at (215) 567-6100.

Sincerely,
Public Financial Management

Geoffrey Stewart

Geoffrey Stewart
Senior Managing Consultant

ACTION FORM

PROCEEDING: 1/10/11 Legislative and Finance Committee	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Police	**DATE SUBMITTED:** 12/1/10
PREPARED BY: Captain Steven Getek / Administrative Division Commander	
SUBJECT: Vehicle Computers/In-Car Camera Systems Purchase	
REFERENCE: Budget & Grant Funding	
RELATED PROJECT: N/A	
APPROVALS: City Manager, Controller/Treasurer	
EXHIBITS: Photos Attached.	
EXPENDITURE REQUIRED: $72,416.10	**PROJECT BUDGET:** $72,416.10
FUNDING SOURCE (Dept./Page in CIP & Budget): Budget & Grant (see attached breakout)	
TIMETABLE: **Budget & grant funding is currently available. Equipment can be received within 30 days after order is placed. Receipt of vehicles expected in late February 2011.**	
RECOMMENDED ACTION: Council approve the project and purchase as requested.	

BACKGROUND AND ANALYSIS

We request the purchase above be approved as an allowable Sole Source Procurement because a new configuration of computers, in-car camera equipment and associated parts/accessories is required to fit within the smaller space constraints of new/future police vehicles. This will minimize impacts to officer safety in the vehicles from the space constraints and reduce operational and maintenance costs for the city over in the long term.

We incorporated digital video technology in police vehicles with the purchase of 10 digital cameras and server through a sealed bid process approved by city council in January 2007. The initial purchase totaled $99,025 and the cameras were installed as separate stand alone units from the computers already installed in the vehicles. Several additional units were subsequently purchased to total 22 units currently in use in our police fleet.

This solution worked as long as the larger model police sedan, the Ford Crown Victoria, was available. However, in 2011, (vehicle model year 2012) the Crown Victoria will no longer be available. Ford is downgrading their police interceptor vehicle model to the Ford Taurus, which is much smaller. Other police interceptor models available from other manufacturers include the Dodge Charger and Chevy Impala. Both are comparable in size to the Ford Taurus.

Since police officers come in all sizes, space constraints inside the vehicle automatically become a major issue because as equipment is added to the officer occupied space inside a vehicle, its placement often interferes with the deployment of air bags and other safety/vehicle equipment as well

as the officers' ability to comfortably use the vehicle and equipment. As a result, the department has been researching other vehicle equipment combinations and configurations during the past year to find a solution that could best balance these concerns.

After reviewing several models of computers and in-car cameras, we found an integrated system for both that also installs easily into the glove box and AM/FM radio spaces of many vehicles, without impacting airbag deployment. It is the only model that also provides secure access to the in-car camera media to satisfy evidence internal control standards. As a result, we contracted with the vendor (Hub-Data911) to test two versions of the equipment in two Ford Crown Victoria vehicles; one with an integrated computer/in-car camera system and the other was a stand alone in-car camera. Both setups tested have been received extremely well by our officers in terms of ease of use and impact on space.

FUNDING

A combination of budget and grant funds will be sourced for this purchase. Budget funds programmed for annual recurring mobile data computers (MDC) replacements as well as funds for vehicle equipment replacements will be combined with available Justice Assistance Grant funding to complete this purchase. In addition, we would like to continue the purchase of these systems into future years to replace the current configuration of equipment in the vehicles as they are replaced through the normal vehicle replacement cycle. As the process continues, savings in maintenance costs will be realized as the number of vendors needed to provide maintenance will be minimized.

Following is a breakout of the funds for this purchase:

Funding Sources	**Amount**
FY11 Budget (20-37 acct) – mobile data computers (MDCs)	$23,400.00
FY11 Budget (30-63 acct) – vehicle equipment	11,400.00
Justice Assistance Grants	37,616.10
Total	**$72,416.10**

ACTION REQUESTED

The Legislative and Finance Committee recommend Council approval for the Police Department to purchase the new configuration of computers and in-car cameras for its vehicles as well as the continued purchase of these items for future years as part of the normal recurring replacement cycle.

City of Dover
Finance Department
PO Box 475
Dover DE 19903-0475
Phone: (302-736-7018
FAX: (302) 760-4930
E-Mail: dmitchell @dover.de.us

MEMORANDUM

To: Members of Legislative, Finance, & Administration Committee

From: Donna Mitchell, Controller/Treasurer
Chief Hosfelt, Police Chief

Copy: Mayor, City Council, City Manager, City Clerk, & Asst. Finance Director

Date: December 29, 2010

Subject: Accounting Procedures for Federal Forfeiture Funds

Background

This past summer, it was brought to my attention that a separate bank account was being maintained by the Police Department and the transactions were not being accounted for in the City's records. I met with Chief Hosfelt and he confirmed that this statement was correct. Chief Hosfelt also agreed to provide the documentation to have a compliance review completed of the deposits and disbursements and to explain to City Council the existence of the account and the purpose for which it was being used. Chief Hosfelt provided a discussion on the Criminal Investigation Fund to the Legislative, Finance, & Administration Committee on August 23, 2010. It was agreed that once all records and documents have been transferred to the Finance Department and an audit has been performed, an update will be provided to Committee members.

Update

Chief Hosfelt and the Police Department staff worked cooperatively with the Finance Department to close out the separate bank account and deposit the cash balance into our City account we currently use for Law Enforcement Grants. All activity is now being processed through the City's accounting system in compliance with all policies and procedures. Please note, the previous bank account was being reconciled, financial reports were being prepared by the Police Department, and controls were in place to prohibit unauthorized spending per the Department's internal policies. However, these activities were not shared with anyone outside of the Police Department.

The Chief agreed to a compliance review conducted by the City auditor, Faw, Casson & Company, LLC to be paid for out of the federal forfeiture funds. It was decided to review a sample of transactions back to July 2006 (4 years) for time and cost purposes. Faw, Casson's report is attached for your review. Most of the non-compliance items were a result of not using the City's financial systems and has now been remedied. Also attached is a summary of the Fund Balances, Receipts, and Disbursements for the four years reviewed.

Staff Recommendations

We recommend that annual budgets be established for Police Grants and all other Criminal Investigation Funds. All estimated receipts and planned disbursements be adopted through the budget process and accounted for in the same manner as all other funds to insure visibility and accountability of the use of these funds. Everyone understands, through the use of the City's budgeting and financial systems all policies and procedures will be adhered to. Until such time a budget can be established the Finance Department will issue a summary of activity for these funds in conjunction with our monthly report.

Use of Federal Forfeiture Funds

Federal Forfeiture Funds come with some restrictions for their use. We have included a summary of permissible uses and impermissible uses.

General restriction – Sharing must be used to increase or supplement the resources of the receiving local law enforcement agency. Shared resources shall not be use to replace or supplant the appropriated resources of the recipient. The agency must receive a benefit from the shared funds. Example – A police department receives $100,000 in federal sharing money only to have its budget cut $100,000 by city council. In this instance, the police department has received no direct benefit from equitable sharing. Rather, the city as a whole has.

Permissible Uses	
Law enforcement investigations	Language assistance services
Law enforcement training	Transfers to other law enforcement agencies
Law enforcement and detention facilities	Law enforcement awards and memorials
Law enforcement equipment, furniture, supplies	Asset accounting and tracking; Grant audits
Law enforcement travel and transportation	Support of community based programs
Drug and gang education and awareness programs	Matching funds for the agency's matching contribution in a federal program
Pro rata funding – for the Police departments share of interdepartmental items or facilities. i.e. computerized payroll system with 20% use for police payroll	Exercise prudence to avoid the appearance of extravagance, waste, or impropriety

Impermissible Uses	
Salaries & benefits of current personnel unless permitted by: (1) Express statutory authorization – i.e. COPS program matching funds (2) Overtime of officers and investigators (3) New positions. First year salary & benefits of a new officer that supplements the current force (4) Salary of an officer hired to replace an officer assigned to a task force	Use of forfeited property by non-law enforcement personnel. Includes equipment; Payment of education-related costs Uses contrary to the laws of the state or local government Non-official government use of shared assets Purchase of food and beverages, unless for a conference package policy or meals during local operation

Federal Forfeiture Funds	**2007**	**2008**	**2009**	**2010**
Beginning Balance	$ 73,475.84	$ 34,709.68	$ 15,533.02	$ 187,855.42
Receipts	20,223.32	6,288.49	208,678.31	8,939.93
Expenditures	(58,989.48)	(25,465.15)	(36,355.91)	(55,015.99)
Ending Balance	$ 34,709.68	$ 15,533.02	$ 187,855.42	$ 141,779.36

A hold was put on non-essential spending from this account until the auditor completed their review. We have received additional federal funds this fiscal year and the cash balance as of December 31 is $166,986. Included with the January monthly report will be a financial report on Police Grants for this fiscal year as included in the staff recommendation.

OFFICES
DOVER, DE
OCEAN CITY, MD

Faw, Casson & Co., LLP
CERTIFIED PUBLIC ACCOUNTANTS BUSINESS CONSULTANTS

MEMBERS
AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
AGN INTERNATIONAL

INDEPENDENT ACCOUNTANTS REPORT ON APPLYING AGREED-UPON PROCEDURES

DONNA MITCHELL,
CONTROLLER/TREASURER
CITY OF DOVER
Dover, Delaware

We have performed the procedures enumerated below, which were agreed to by the City of Dover ("the City"), solely to assist the City in evaluating compliance with City Policies and Procedures and the Guide to Equitable Sharing for State and Local Law Enforcement Agencies ("the Program Guide") relating to funds received by the Dover Police Department under the Department of Justice Asset Forfeiture Program ("the Program") from July 1, 2006 to June 30, 2010. The management of the City of Dover is responsible for compliance with City of Dover Policies and Procedures and compliance with the Program Guide. The agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the City of Dover. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

Procedures

1. Obtain and review the following City Policies and Procedures and extract significant compliance requirements applicable to the Program:

   a. Budget Administration - Guidelines for Operating Departments
   b. Training, Conference and Travel
   c. Grant Application
   d. Grants Management and Compliance
   e. Purchasing.

2. Review the "Guide to Equitable Sharing for State and Local Law Enforcement Agencies ("the Program Guide") and extract allowable uses for the funds.

3. For all disbursements of $3,000 or more and a sample of 20 disbursements of less than $3,000 made from July 1, 2006 through June 30, 2010, test for compliance with City Policies and Procedures referenced above and allow ability of use under the Program Guide.

Findings

1. Budget Administration - The City of Dover Budget Administration Policy #F306 requires a Form #306 to be prepared to document the approval process for supplemental budget appropriations. Such a form was not prepared for any of the disbursements we sampled.
2. Training, Conference and Travel Policy - The City of Dover Training, Conference and Travel Policy requires that a Travel Approval Form (Form #047) be completed and approved by the City Manager of Council Designee prior to out of state travel beyond one day. Although a travel approval form was completed and approved by a police department management official, no approval was noted by the City Manger or Council Designee for the five out of state travel- related disbursements sampled. City of Dover Travel Policies also require a Travel Expense Report be completed. One of the five travel-related disbursements we tested did not have a corresponding Travel Expense Report Form, check # 357 dated August 26, 2009 payable to US Airways in the amount of $1,171.80.
3. The Grant Application Procedures - The City Of Dover Grant Application Procedures (Procedure F317) were not followed except for the maintenance of a grant-related file. A Grant Application Form was not completed, Department Head approval on the form was not obtained, and further approval by the Mayor and City Council (since the funds received exceeded $25,000) were not obtained. Documents supporting assets purchased were not forwarded to the Finance Department for the purpose of updating the City of Dover's fixed asset reporting system records.
4. Grant Management and Compliance-We noted no disbursements for political activities in our sample.
5. Purchasing Procedures - Invoices for items and services purchased were not processed through the City of Dover Accounts Payable Department. Purchase orders were not issued through the City of Dover purchasing system. Seven of the thirty-three items sampled did not have approval signatures noted on the corresponding invoices. Two items did not have supporting invoices, but had other documentation supporting for the purchase. We did not have supporting documentation for three of the thirty-three items selected in our sample.

   The seven items with no approval signatures on the corresponding invoices are:

Check #	Date	Payee	Amount
302	4/16/07	Lawmen Supply	$12,694.32
304	4/27/07	Lawmen Supply	$ 5,148.00
305	5/16/07	Lawmen Supply	$ 3,302.40
314	7/2/07	Iron Brigade Armory	$13,868.00
339	11/13/08	Action Fighting Arts, LLC	$ 900.00
376	3/15/10	Chrome World	$ 2,147.80
379	4/30/10	Pugh's Service, Inc.	$15,539.00

   The three items with no corresponding invoices are:

Check #	Date	Payee	Amount
337	10/6/08	U.S. Marshalls Service	$1,842.77
343	1/23/09	Diane Glenn	$ 451.63
344	2/24/09	Lt. Hosfelt	$ 700.00

The two items with no corresponding invoices but other supporting documentation are:

Check #	Date	Payee	Amount
278	8/4/06	Von Liche Kennels	$5,000.00
334	8/11/08	Venosa Kennels	$6,500.00

6. Program Guide Requirements - three items included in our sample were not supported by corresponding paperwork. We could therefore not determine if the disbursement was for a permissible use according to the program guide. The remaining thirty items included in our sample appeared to be permissible uses. The items without paperwork are:

Check #	Date	Payee	Amount
337	10/6/08	U.S. Marshalls Service	$1,842.77
343	1/23/09	Diane Glenn	$ 451.63
344	2/24/09	Lt. Hosfelt	$ 700.00

7. Guide For Financial Reporting - We were not provided with copies of the Forms DAG-71 used to request Forfeiture Funds. We could not determine if the requirement to update the permanent log of Forfeited Funds received was completed once funds were received. We could not determine from the information provided if the items purchased were held for use for two years. We were also unable to determine if in the case that an item was sold after two years, its sales proceeds were deposited into the Federal Forfeited Funds account and used according to the policies and procedures of the program. As we previously determined in the Purchasing Polices, City of Dover Purchase Orders were not utilized in the purchasing process. As we determined in the Grant Application Process, approval of the "governing body" was not obtained prior to the disbursement of funds.

We were not engaged to, and did not; conduct an audit, the objective of which would be the expression of an opinion on our tests of compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is solely for the information and use of City's management and is not intended to be and should not be used by anyone other than this specified party.

Fair, Cason & Co., LLP

Dover, Delaware
December 23, 2010

ACTION FORM

PROCEEDING: Legislative, Finance, and Administration Committee	**AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Assessor's Office	**DATE SUBMITTED:** 1/10/2011
PREPARED BY: Cheryl A. Russell, AAS Assessor	
SUBJECT: Proposed Ordinance Amendments –**Section 102-1 Annual Valuation and assessment;**	
REFERENCE: IAAO Audit	
RELATED PROJECT: IAAO Audit	
APPROVALS: Council;	
EXHIBITS: 1. Draft Ordinance Amendments; 2. IAAO Recommendations; 3. Memo to Council dated 11/23/2009 4. Proposed Ordinance (with back-up reference ordinances) 5. Minutes from Real Estate Meetings	
EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED:** N/A **FUNDING SOURCE (Dept./Page in CIP & Budget):** N/A	
TIMETABLE: Ordinance Amendments and proposed Ordinance to become effective upon Council Approval.	
RECOMMENDED ACTION: Staff recommends that the attached Ordinance Amendment and Proposed Ordinance be approved.	

BACKGROUND AND ANALYSIS

The City of Dover Assessor's staff has completed amendments to the Dover City Ordinance. A copy of the Ordinance Amendments and its related attachments are attached. The Ordinance Amendments were based on recommendations of an audit of the City of Dover Assessor's Office performed by Frederick Chmura, CCMA, AAS and William Ford, IAO AAS of IAAO (International Association of Assessing Officers) dated June 2008.

A meeting was conducted with the Assessor; the City Manager and members of the Real Estate Community as requested by the Legislative and Finance Administrative Committee on January 11, 2010; to agree on a workable solution

The purpose of the Ordinance Amendments is to follow the recommendations from the IAAO audit; and to become compliant with the Charter.

Section 102-1. (Annual valuation and assessment)

This ordinance is being brought back through the process to revert the ordinance back to its original intent and to strike out the amendments made by the Mayor that were approved at the November 9th 2009 Council Meeting. Additional information has been provided to better explain the calculations for the new assessments. Also included are opinions by Fred Chmura(IAAO) and Paul Miller (Tyler Technologies)

The amendment to this ordinance will allow the Assessor to value the property as to its status as of January 1.

The Members of the Real Estate Community are in agreement with the amendments to this ordinance if the proposed Ordinance 102-117 (Construction of new facility) is also adopted.

Section 102-117 (Construction of new facility)

This ordinance was written to accompany Section 102-1 (Annual valuation and assessment). This ordinance will allow for an application for abatement of taxes; if they meet the eligibility requirements outlined on subsection (b). The contents of the ordinance were agreed upon at a meeting with Members of the Real Estate Community. The notes of the meeting were given to Erika Schrader (Attorney for the Assessor's Office); whereas she drafted the attached ordinance. Nick Rodriguez has also reviewed and approved the ordinance.

CITY OF DOVER PROPOSED ORDINANCE #2010-01

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

That Chapter 102 – Taxation, Article I - In General, Section 102-1 - Valuation and Assessment, be amended by inserting the text indicated in bold, blue, italics and deleting the text indicated in red strikeout as follows:

Sec. 102-1. Valuation and assessment.

Section 47 of the Charter provides that an impartial valuation and assessment of all real property within the city shall be conducted by the city assessor every third year. The council may also direct that in lieu of the reassessment and valuation by the city assessor, such reassessment and valuation may be done by an outside appraiser chosen by the council. Pursuant to section 47 of the Charter, commencing with the year 2010 and every ninth year thereafter, the valuation and assessment of all real property shall be conducted by an outside appraiser chosen by the council. All property shall be valued as to its status; as of its ownership; and as of its current market value as of the January 1st assessment date~~*; except if improvements are not deemed by the assessor to be complete; property shall be partially valued if construction has ceased for 90 days as of the January 1st assessment date*~~.

ADOPTED: *

SYNOPSIS

The proposed ordinance amendment provides language that property shall be valued as to its status; as of its ownership; and as of its current market value.

Actions History

January 10, 2011 - Scheduled for Consideration by Legislative, Finance, and Administration Committee

January 11, 2010 - Legislative, Finance, and Administration Committee Referred Back to Staff to Work with Real Estate Community

Draft

EVALUATION OF THE PRACTICES AND PROCEDURESOF THE ASSESSOR'S OFFICE AND APPEAL PROCESS - JUNE 2008

RECOMMENDATIONS ONLY

Assessment Change #

- ***Recommendation – Changes to the City Charter and City Code***
  There are a number of recommendations that should be implemented to bring the assessment process in line with current industry standards.

- **Annual Assessment Date:** Institute and clarify the annual assessment date in the City Code. Currently the assessor uses January 1st of each year as the assessment date. This is probably the most common assessment date in the United States and a date that works very well for the Dover tax system. 1

- **Valuation of Property as of the Assessment Date:** Clarify that all property is valued as of its ownership and current market value as of the January 1st assessment date. Currently property under construction cannot be placed on the tax rolls until a Certificate of Occupancy is issued.[1] This is not common practice in the assessment profession in other states. The general practice is that all property is assessed as of its status on the assessment date. For example, if a building is under construction as of January and is 50% complete on that date, then the assessor values the property as its 50% complete status and places this partial value on the annual assessment roll. Then the Certificate of Occupancy is issued, the assessor then reassesses the building and adds the additional increased assessment as a supplemental assessment on the next quarterly supplemental assessment date. Property receiving a change in zoning or specific use would also be adjusted based upon the assessment date. 2

- **Proration of New Assessment:** In the assessment process outlined above, the additional increased assessment for the Supplemental Assessment is prorated from the date of the Certificate of Occupancy to the next January 1st annual assessment date. For example, if a building is 50% complete on January 1st and is valued at $100,000 for its incomplete building status and the Certificate of Occupancy is issued on following July 1st; the assessor adds the additional $100,000 to the value of the building for the Supplement Roll. The amount to be added to the July Supplemental Roll would be a prorated assessment in the amount of $50,000. ($100,000 X 6/12 = $50,000 or $100,000 X 0.5 = $50,000). The proration of this additional assessment can be done either on a monthly basis (January = 1.00 factor, February = 0.917, March = 0.833 etc.) or daily basis (January 10 = 346/356 or 0.972). Both monthly and daily proration's are the basis of adding new construction to the assessment roll and are commonly used throughout the United States. 3

- **Addition of Property to Supplemental Roll when Used or Occupied:** Clarify the time period that property can be added to the Supplemental Roll either by the date the Certificate of Occupancy is issued by the Building Inspection Department or in those cases when a Certificate of Occupancy is not issued but the new construction is being used or occupied for its intended purpose. This additional language of *"being used or occupied for its intended purpose"* will allow the assessor to add completed new construction to the supplemental roll whether or not a Certificate of Occupancy is issued. This case may occur for minor residential construction. 4

- **No Supplemental Addition if Increase is less the $25,000:** The City should also codify the current assessment practice of not adding to the supplemental role any new construction of less than $25,000 in assessed value. This will eliminate the generation and collection of small tax bills that may in fact cost the City more dollars to process than is actually collected. The new construction of less than $25,000 will be realized on the next annual assessment roll. 5

- **Date of Assessment Roll Filing:** The City should add to the City Code the date by which the Assessor is required to finalize and make the annual assessment role available for public inspection. Current practice is that the Assessment Register for the annual assessment roll is completed and available for public review on April 1st of each year. This is a reasonable amount of time for the Assessor to complete the roll after the January 1st assessment date and it is recommended that is current practice be codified. 6

- **Date of Notification of Assessment Increase:** The City should add to the City Code the date or a period of time after the filing of the assessment roll by which the Assessor's Office must mail notifications of assessment changes to the property owner. It is generally an industry standard that the assessor must notify the property owner of changes in their assessment in a set period of time. This ensures that all taxpayers receive a notice of assessment change and have sufficient time to file for an appeal if they chose to appeal their new assessment. 7

- **Elimination of Freehold Requirement:** Eliminate the requirement set forth in Section 47 of the City Charter that, "Assessor must be a freeholder within the corporate limits of the city." The requirement that the Assessor must be a freehold is an archaic requirement. No other City Official is required to be a freeholder. Also, the City Charter does not define the term "freeholder". Interestingly, when we inquired about the definition of the term we received different answers from different City Officials. A common definition is "One who possesses a freehold." A freehold is ..."An estate in land held in fee simple, in fee tail, or for term of life."[2] There are two schools of thought on this issue of an assessor being a resident of the jurisdiction. Those in favor of a residence requirement believe that the Assessor should be a taxpaying property owner of the jurisdiction that employs them. On the other hand, those not in favor of a residency requirement believe that the requirement restricts the potential pool of applicants for the position, and places the Assessor in the position assessing their own property and the property of their neighbors. If the City Council wishes to continue the requirement that the Assessor be a resident of the City then, at a minimum, the Charter should be changed. Replace the term "freeholder" with "a resident". 8

- **Elimination of Certified Independent outside Appraiser for Reassessment:** The City Code Section 102-1 should be changed to eliminate the requirement that the three year "...reassessment and valuation may be done by a certified independent outside appraiser chosen by the Council." Under current Delaware State statutes a certified appraiser must be an individual certified by the State Council on Real Estate Appraisers and hold such certification in accordance with Federal regulations set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the act of August 9, 1989 (FIRREA). This certification is required for fee appraisers performing real estate appraisals for federally related transactions. Although Certified Real Estate Appraisers have demonstrated education and competency in appraisal and qualified as regulated professionals, this requirement is a very high standard for mass appraisal for assessment purposes. Jurisdictions similar to the City of Dover, utilize companies that specialize in mass appraisal for assessments. The City currently has contract with one such company. Although some of its employees may hold state certification it is very restrictive and expensive to require that all the properties be assessed using certified appraisers. Also, a different model of performing reassessments is discussed in the section "Adequacy of Staffing" below. 9

- **Income and Expense Reports:** The City Code should be amended to allow the Assessor to require that owners of rental properties complete and file annual reports of income and expenses on forms developed by the Assessor's Office. Income and expense information is invaluable in developing the valuation of income producing properties, both as to the individual properties income and expenses and to the general information related to similar properties to develop typical income and expenses for comparable properties. Income producing properties are bought and sold on the real estate market on the basis of their ability to generate net income for their owners and the possible of future appreciation in value. The Income Approach to Valuation is the most common used methodology, by both assessors and fee appraisers, to value these types of property. Critical to this approach to valuation is accurate income and 10

expense information concerning the property being valued. Also critical to this approach is information concerning other comparable properties or typical property's operating income and expenses. Although there are national services that publish this type of information, the information is at best regional information that needs to be verified and adjusted to the local City of Dover real estate market to ensure accurate individual valuations for the taxpayers of Dover.

- **Update Tax Stamps Affixing for the Transfer Tax:** City Charter in Article III, Section 102-74 and subsequent sections refer to the affixing of adhesive documentary stamps to the document as evidence of payment of the transfer tax. Section 102-77 requires the Assessor ....."shall make provisions for the sale of such stamps in such places as may be deemed necessary." This is outdated language. The Charter should be updated to reflect the current practice of marking the document with an indication that the transfer tax has been paid and the amount paid. 11

- **Auditing of Transfer Tax:** The City Code should be amended to state that the Assessor may review the payment and the "value" stated for purposes of this tax. The review or audit process should also state a period of time for the audit after the filing of the documents with the Assessor, such as ten (10) business days. 12

- **Update language in the Code to identify or clarify:** "true value in money" as "full market value". Delaware State Code § 8306. Standard of assessment; requires all property subject to assessment shall be assessed at its true value in money. The clarification of true value in money, as the full market value of the property as of the valuation date, (January 1st of each year) will go further in creating transparency in the assessment process. 13

- ***Recommendations – Adequacy of Staffing***
  The City may wish to consider that the three year reassessment be completed by a combination of in-house valuations for one to three family residential properties and outside contractors for the apartments, commercial and industrial properties and valuation modeling. This model of conducting a revaluation is often a transitional model between using outside services completely for reassessment and complete in-house reassessment. If the City staffs the Assessor's Office with an additional Residential Assessment Technician, changes the position of part-clerk to a full time clerk, fills the current vacancy in either the Assessor's position or Assistant Assessor position (see Appendix A - 4) it is possible for the City to perform the reassessment with the more limited assistance of an outside contractor.

- ***Recommendation – Management Style***
  - Annually the Assessor should continue to adopt and communicate a set of specific goals delineating the expectations for the Assessor's Office for the coming year. This should include a level of assessment, what equity measures will be used and what the expected equity level is, the number of parcels to be physically inspected, the expected number of permits to be worked, deeds to be processed, land splits, etc. and a quality measure of acceptable error rates. Formatted: Bullets and Numbering
  - Annually, the Assessor should adopt and communicate an annual assessment calendar. The calendar should include all important legislative and city dates, IT deadlines for data entry closings, important processing dates and periodic benchmark dates reflecting the levels of tasks that must be done to achieve the goals. Formatted: Bullets and Numbering
  - Institute a Quality Review Program to determine data quality and error rates, as well as uniformity of practices within the office. Formatted: Bullets and Numbering
  - After setting the annual goals the Assessor should meet with pertinent staff to develop a strategic plan to achieve the goals. Formatted: Bullets and Numbering

- A search feature for recent sales of properties, at minimum for residential properties, should be added. This query function could consist of a "drop-down" list of neighborhoods or sub-sections of the city allowing the user to select a subdivision to view recent sales that have occurred within that subdivision. The Assessor's Office Annual Report should be directly available on the Web site.
- It would be helpful to the public for the Assessor's office to provide copies of the applications for such initiatives as tax relief for Senior and Disabled Citizens, the program for the Tax Abatement for Agricultural in the Assessor's Section of the web site. Also during the time for filing tax relief applications for seniors and disabled citizens a highlighted link should be on the home page of the City's site for public awareness of this program to assist the eligible taxpayers of the City.

- The information for appealing one's assessment to the Board of Tax Review should be located in the Assessor's Section of the web site. Although these documents are available on the web site if the visitor searches the site to find them, it is not intuitive to a taxpayer where to find these documents on the site. Information concerning the appeal process should listed both in the both the Assessor's section of the site and in a Board of Tax Review section of the web site. Also, currently the Board of Tax Review's Appeal forms and Policy Statements are on the web, it would be more meaningfully and user-friendly if these policy statement were incorporated into one document that the taxpayer can see and print rather than searching the site and hoping that they found all the information that is needed for submitting an appeal.

- The Web site needs to be updated regularly to ensure that the public has access to the most accurate information.

- ***Recommendations – Appraisal Methodology***
  Retrain and rededicate their efforts to become a mass appraisal office, maximizing the use of ias World's capabilities in valuing, analyzing, and reporting.

- ***Recommendations – Appraisal Data***
  All the data fields in the CAMA system be defined in the new appraisal manual and the appraisers conduct an analysis of the valuation model to determine if they are collecting the appropriate data for the factors that affect value in the City of Dover.

- ***Recommendations: - Appeals and Board of Tax Review***
  - It is recommended that the City of Dover develop a similar impartial Board to review formal complaints from taxpayers. The Board can be elected by the voters of the City or appointed by the City Council. The terms of appointment should be for a period of at least four years, in order for members to gain experience in this area of valuation and should have terms that expire in staggering years, so that there is always some experienced members on the Board.

  14

  - If such an independent Board is created it should be named Board of Assessment Appeals or Board of Assessment Review. The word "tax" should not be the name of the Board as it is not a "tax" review board but a board that reviews the valuation or assessment of properties. This name change may remove the misconception that the Board can reduce the tax burden on a property owner.

  - The City Code should include a section on property tax exemptions for governmental property. Certainly property owned by high levels of government should be exempt by right as these governmental bodies will not pay local property taxes and the current process of the Assessor appealing on behalf of these governments before the City Council does not seem to be a good use of time. The following property owners should be exempt by right and do not have to apply for the exemption:
    - Property owned by the United States
    - Property Owned by the State of Delaware
    - Property owned by the County
    - Property owned by the City

  15

- The City Code should include a section on property tax exemptions for religious, educational, and other not-for-profit organizations. The typical standard for these exemptions is that the property must be owned by the organization and be used for the intended purpose that serves a public benefit. Another characteristic standard for these property tax exemptions is that the organization hold an exemption from federal taxes in compliance with Section 500 (c) (3) of the Internal Revenue Code of 1954 as amended and/or a State tax exemption as issued by the State's Department of Revenue. The Code should set forth a process for applying for the exemption and periodic review of property that received the exemption to ensure that they are still in compliance.

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- The City Code should be amended to include a section on the exemption process. The exemption can be processed and granted by the Assessor or by the recommended Appeals Board. Either of these two alternates is common in the United States. Often there is a requirement that the exemption application is reviewed by the City's legal counsel to ensure that the organization and property comply with the legal requirements set forth for the exemption.

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It is also recommended that a review of the existing exempt properties be performed to determine the current status of those property owners receiving exemptions and to confirm their continued 501(c) (3) tax exempt status. A review period of once every five or six years should be codified in the City Code to ensure that the properties receiving an exemption continue to quality for the exemption from the City's property tax.

- The Assessor's Office and Board of Tax Review must apply their rules and procedures for the appeal process consistently and fairly to all taxpayers. Public trust and acceptance of a tax system is based on the tax being applied "fairly and equitably" to all taxpayers.

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- The requirement, that is stated in the Board's Tax Policy #3 "*Procedure For Commercial/Industrial/Income Producing Properties*", that these appeals must include a "self-contained written appraisal report" is too high a standard at this level of appeal. The general practice of documentation for an appeal is that this highest standard of a USPAP compliant appraisal is not required until the third level of the appeal process – the appeal to the state court.

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The general and more typical standard, at the second level of appeal before a formal board of review, is a **recommendation** that a summary appraisal is submitted to the local appeal board. A summary appraisal is required to meet all the USPAP standards but is not fully written in a report. An appeal should not be dismissed solely on the lack of submitting a USPAP appraisal. The taxpayer should be able to submit the documentation and evidence that they believe is relevant to their case and it is the function of the Board to make its decision based on the quantity, quality and credibility of the evidence submitted by the taxpayer. In many cases the issue(s) of the appeal and valuation of the property do not require an appraisal but may be issues of law or facts. Also, for many complex commercial properties even the time period for the owner to contract an appraiser that is qualified to appraise the type of property under appeal is greater than thirty days and the time to produce a USPAP compliant appraisal can be many months.

16

MEMORANDUM

TO: **Mayor and City Council**

FROM: **Cheryl Russell, AAS**
City Assessor

DATE: **November 23, 2009**

RE: **Ordinance 102-1 Valuation and Assessment**

I have requested information concerning the Ordinance Amendment for Sec. 102-1. Valuation and assessment.

Fred Chmura, IAAO (Conducted IAAO Audit in June 2008)

"As to the January 1st valuation. Understand that the City Council wants to give tax breakers to developers during the construction period and that is a policy decision. We, Bill and I, believe that all taxpayers should be treated equally and fairly and should be valued and taxed on the value of a property as of the assessment date. If the property is completed (Certificate of Occupancy issued) during the year then the prorated increase between the January 1 value and the C of O date value should be added to the quarterly supplemental.

That position is a policy decision and theirs to make. Tax policy and who pays the property tax are the decisions of the lawmakers and not ours as administrators. So if they want to give tax breaks to developers and reduce revenue or shift tax burden to the other tax payers that is tax policy. Just remember reducing taxes on one section of the population just increases or shifts the tax to the other tax payers.

Proving that construction has ceased is probably difficult.

The State of Kansas passed legislation a few years ago doing the same thing. Developers do not get valued on buildings under construction just on the land. So Dover is not unique in giving developers a tax break. "

Fred

Paul Miller, Project Supervisor, Sales Executive Tyler Technologies (Re-Assessment Firm)

"A key element to any appraisal is the appraisal date. To non-appraisers, this might not seem like a big deal, but every appraisal, whether it is for a mortgage or an assessment, must have a date associated with it. The appraiser is giving their opinion of value of the real estate as it exists on that date. So, as it relates to what we do, we are to accurately inventory and value every piece of real estate as of the Date of Value. If there is just a foundation, you value the land and the foundation."

As stated by Fred Chmura, determining that construction has ceased will be very hard to prove. An employee of the Assessor's Office would need to visit the location(s) every day to determine if any work has been done. If not, the developer(s) could claim work was done at any time without detection and there would be no way of verifying.

A valid point that must be made is fairness and equality. Any tax breaks or incentives will be shifted to other property owners within the City Limits.

The valuation of property as of a certain date is an inventory issue as well, as stated by Paul Miller-The assessor's job is to accurately inventory and value every piece of real estate as of the date of value (January 1st)

Example:

If a commercial property has been vacant, they have been receiving a property tax bill on land only. If the anticipated amount of improvement value is $1,000,000, based on our software and the property is 50% complete on January 1st (and not complete for the July billing), the tax amount based on the improvement only is $1,650.00. They are currently paying tax on the land so the $1,650.00 would be an increase to their July tax Bill.

$1,000,000 x .0033 =	$3,300 x .25 =	$ 825.00
$1,000,000 x .0033 =	$3,300 x .50 =	$1,650.00
$1,000,000 x .0033 =	$3,300 x .75 =	$2,475.00

Assessor's Recommendation:

I recommend approval of the ordinance as it was originally written and recommended by IAAO.

CITY OF DOVER PROPOSED ORDINANCE #2011-02

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

That Chapter 102 - Taxation, Article IV - Abatement of Real Estate Taxes, be amended by inserting a new Section 102-117 - Construction of new facility, as follows:

Sec. 102-117. Construction of new facility.

(a) Tax abatement benefit. During the construction of a new facility or an expanded facility, meaning after the issuance of a building permit and prior to the issuance of a Certificate of Occupancy, improvements less than one hundred percent (100%) complete by January 1 shall be eligible for an abatement of City real estate taxes.

(b) Application. Eligibility.

(1) Separate application under this subsection shall be submitted to the Office of the Assessor pursuant to the requirements of § 102-114(a) no later than thirty days after notice of eligibility is issued.

(2) Applicants must certify that they are in good standing pursuant to § 1-13 of the City Code. All construction must be active at the time of application.

(c) Limitation on applicability.

(1) Abatement under this subsection may not exceed a period of 12 months.

(2) Notwithstanding other provisions of this subsection, the abatement period may, at the discretion of the Assessor, be extended for a period not to exceed an additional 12 months for good cause shown. Good cause includes, but is not limited to, increase in the scope of the project, acts of nature, and, as long as no party with control of the new facility is at fault: fire, or vandalism. Abandonment of a project shall not be good cause.

(d) Right to appeal. Any aggrieved taxpayer shall have the right to appeal the decision of the Assessor to the City Council. Appeals must be filed with the Council not more than ten (10) days after the date the written decision of the Assessor is issued.

ADOPTED: *

SYNOPSIS

*

Actions History

January 10, 2011 - Scheduled for Consideration by Legislative, Finance, and Administration Committee

Draft

Sec. 102-114. Application process.

(a) *Letter.* An initial application for abatement shall be by letter sent to the city assessor by the taxpayer, specifying the exact provisions under which the applicant qualifies (i.e., type of industry, financial investment, level of city/county resident staffing, level of ownership and control, etc.).

(b) *Time of application.* Applications may be made at any time prior to the issuance of a certificate of occupancy for the subject property. Applications for tax abatement received after the certificate of occupancy for a subject property has been issued will be rejected.

(c) *Notice.* The city assessor shall notify the applicant within 30 days if the project would meet all conditions for approval.

(d) *To council.* After a certificate of occupancy is issued for the subject property, the city assessor shall determine if all qualifications for a tax abatement have been met. When so satisfied, the city assessor shall present the abatement request, with all qualifying documentation, to the city council for approval.

(e) *Extension.* When the applicant cannot meet all qualifications for tax abatement at the time the certificate of occupancy is issued, an automatic 24-month approval extension shall be activated. If qualifications remain unfulfilled at the expiration of the approval extension, the abatement application will be denied by the city assessor.

(f) *Statement of compliance.* The council shall require an annual statement of compliance as a condition to remain eligible for the abatement program. The statement, due by April 15 of each year, shall be used to ensure continued fulfillment of all abatement qualifications. Failure to submit a requested statement of compliance shall disqualify any participation in the abatement program for the property tax billing following the missed April 15 deadline. The reduction of taxes percentage for the disqualified billing year will be extinguished as unused, with the next lower percentage becoming available for the following tax year.

(Code 1981, § 19.5-34; Ord. of 12-11-2000)

Sec. 1-13. Denial of permits or approvals for failure to comply with requirements for payment, actions, or filings.

(a) *Noncomplying actions or filings.* Prior to any administrative agency or official of the city charged with evaluation and approval of any permit required so that a legal or equitable owner of real property located in the city may utilize city services or otherwise involve the city officers, agents, or employees to permit any use of such real property, approving or issuing any permit or other indication of approval, that administrative agency or official shall make reasonable effort to determine that no payments, actions, or filings related to obligations due to or requirements by the city for the use of that parcel or any other parcel of real property remain incomplete or in violation of the city requirements. If any such noncomplying or incomplete payments, actions, or filings are determined to exist, then the administrative agency or official shall, in writing, deny the permit or other form of approval until such existing requirement for payment, action, or filing has been fully complied with or completed as to that parcel, identifying in that written denial the payment, action, or filing to be completed or complied with. Failure by the appropriate administrative agency or official to issue such written denial within five working days from receipt of application shall enable the applicant to have the application reviewed without consideration of the requirements of this section.

(b) *Appeal; hearing.* Any applicant for a permit or other form of approval who receives the aforesaid written denial of a permit or other form of approval by an administrative agency or official of the city may appeal that denial to the city council within 20 calendar days of such denial. The city council or its designee shall thereafter hold a hearing wherein said applicant shall be permitted to give evidence that such payment, action or filing has been properly carried out, or otherwise show that such denial is not lawful as to that applicant.

(Code 1981, § 1-13; Ord. of 11-25-2002)

Meeting with the Real-Estate Community

The first meeting with the Real-Estate Community was held on May 6, 2010 at 9:00 a.m. Staff present was: City Assessor Cheryl A. Russell and Administrative Assistant Annette Hart.
Members of the Real-Estate Community present were: Mr. McGinnis, Mr. Burns, Mr. Kidner, Mr. Harrington and Ms. Casey.

The purpose of this meeting was to go over the new ordinance 102-117, which was proposed by the IAAO at the time the Assessor's Office went through an audit during the month of June 2008. One of the recommendations by the IAAO was as follows:

Proration of New Assessment: ***In the assessment process outlined above, the additional increased assessment for the Supplemental Assessment is prorated from the date of the Certificate of Occupancy to the next January 1st annual assessment date. For example, if a building is 50% complete on January 1st and is valued at $100,000 for its incomplete building status and the Certificate of Occupancy is issued on following July 15\ the assessor adds the additional $100,000 to the value of the building for the Supplement Roll. The amount to be added to the July Supplemental Roll would be a prorated assessment in the amount of $50,000. ($100,000 X 6/12 = $50,000 or $100,000 X 0.5 = $50,000). The proration of this additional assessment can be done either on a monthly basis (January = 1.00 factor, February = 0.917, March = 0.833 etc.) or daily basis (January 10 = 346/356 or 0.972). Both monthly and daily proration's are the basis of adding new construction to the assessment roll and are commonly used throughout the United States.***

Mr. Kidner asked how the city was going to break the percentage complete down. His concern was that the owners and their attorneys would fight the city as far as how the percentage complete was determined.

Mr. Burns pointed out that before a building was complete it already generates revenue such as Realty Transfer Tax, permit fees, inspection fees and more. He believed that the city was generating sufficient revenue long before a property was taxed. He explained that he was not arguing whether a building should be assessed or not, his argument was, that the owner was already paying from start to finish.

Ms. Russell explained that the recommendation was to value the property only. Mr. McGinnis pointed out that it is written in the Delaware State code, that once a property was valued, it would be taxed. Ms. Russell explained that the ordinance had recently been changed to where the Assessor can assess a property once it has been complete, even if no Certificate of Occupancy has been filed.

Ms. Casey's concern was that, while the city is trying to revitalize the downtown area, this might keep new developers from coming into downtown Dover.

Mr. Russell pointed out that there were not a lot of properties which would fall under this new ordinance.

Mr. McGinnis pointed out Doveview LLC, a project where the lenders had pulled financing. He believed that this was not a company who was trying to get out of paying taxes, that under the given circumstance they simple could not do so at the time.

Mr. Kidner pointed out that the city was already planning on increasing all of the taxes and fees for this coming tax year. Mr. Burns was concerned that the city would have to hire more people to assess these properties which would probably not be very cost effective.

Mr. McGinnis explained that if the city would not automatically tax after a value is put onto the property, the Real-Estate Community would not care if the property would be valued after the first trailer was pulled onto the property.

Mr. Burns suggested that city get a cost benefit analysis of the proposal. In his opinion enforcing this new ordinance would cost more than it would generate. He also pointed out that the county was about to raise the school taxes on top of everything else.

Mr. Kidner asked what Ms. Russell intended to do after this meeting. She explained that the City Manager wanted to attend this meeting but was not able to. She told the members that she would like to set up another meeting to include Mr. DePrima in the discussion.

In Mr. Harrington's opinion, going forward with the ordinance would slow down the economic engine in the City of Dover. He believed that developers might not buy a vacant piece of land because of all of the additional cost and would go somewhere else outside city limits.

Ms. Russell brought up the example of the residential owner who might not live in the house but still had to pay taxes on the vacant property, why should the residential owner pay and not the commercial owner.

Mr. Burns was afraid that this new ordinance would chase the people away.

Mr. McGinnis agreed that another meeting was needed with the City Manager.

The meeting was adjourned with the agreement the Assessor would schedule another meeting to include the City Manager.

Meeting with the Real-Estate Community

The meeting with the Real-Estate Community was held on September 16, 2010 at 2:00 p.m. Staff present was: City Manager Tony DePrima, City Assessor Cheryl A. Russell and Administrative Assistant Annette Hart.
Members of the Real-Estate Community present were: Mr. McGinnis, Mr. Burns and Mr. Kidner.

Ms. Russell started the meeting by going over what was discussed at the last meeting which was held May 06, 2010.

Mr. McGinnis emphasized again, that if the city wanted to value construction it was irrelevant as long as no taxes were added. He said that as long the construction was not complete there was no value. He also explained that the city was already taxing the value of the land.

Mr. DePrima believed that there is value in construction; he explained that if one was to sell a building which was not finished, the appraiser would be able to put a value on the building.

Mr. Burns believed that if a building was taxed it should also receive services provided by the city.

Mr. DePrima pointed out that construction sites are receiving services, if an ambulance was needed at a construction site it would respond to the call, if the fire department would be called as well as the police, they would respond to construction sites. In Mr. DePrima's opinion the construction sites receive all of the city services.
He explained that his and the mayors way of looking at this, would be economic development. He wanted to encourage new development.
Mr. DePrima pointed at the city charter and the ordinance that were passed by city council, were out of line with state charter, which was very clear in what the city is supposed to do. He said that this ordinance does not enforce what the charter said. He also pointed out that the council has the ability to waive taxes, which in some cases it already does, such as senior exemptions, disability as well as low income housing. He suggested the members take this opportunity and keep the charter language and create a section, in the exemption section, to waive taxes for new construction and add some

limitations, such as construction sites which are sitting idle, or if an owner still owes taxes on another property in the city.

Mr. McGinnis was concerned with the fact that taxes are supposed to be created while construction is taking place; he wanted to make sure that this is not the case!

Mr. DePrima explained that the owner would get an application from the Assessor regarding abatement of taxes. It would be up to the owner to fill the application out and send it in. There would be requirements to be able to qualify for the abetment:

- the construction would have to be actively under construction

- it should be for new construction and needs to apply to the "Clean Hands Act", if somebody already owes taxes to the city they would not qualify for the abatement.

He also suggested this abatement would only qualify for commercial construction, as the residential construction is usually done within a timely manner as to where commercial construction would last much longer.

Mr. McGinnis refers back to the "Certificate of Occupancy", he brought up Doveview LLC, the company who lost funding and was not able to continue construction. His concern was that properties like this one would be taxed. Mr. DePrima pointed out that there are not a lot of construction sites like Doveview LLC in the city; he also explained that the city received a lot of phone calls regarding that project, asking what was being done regarding the construction site.

Mr. Kidner went over the proposed ordinance; which in his opinion is going to further enforce a tax, but wanted to make sure he understood correctly, that the owner is able to fill out an application which would give them abatement as long as they comply with the qualifications. He was questioning how this would be an economic tool, how this would bring in new business.

Mr. McGinnis asked if there will be an application, and was assured that there would be standards the applicant would have to meet in order to qualify.

Mr. DePrima went over the history; he explained that this was recommended by the IAAO. The city created an ordinance which was vetoed by the Mayor to include a 90 day prevision, the Mayor wanted the ordinance to state, that as long as construction is

active and has not lapsed for 90 days the construction would be exempt from the tax. He pointed out that Doveview LLC did not meet that requirement and was therefore taxed. Mr. DePrima explained that he would like to improve the current situation and bring the city in line with the Charter.

Mr. DePrima and Ms. Russell pointed out that as the ordinance states right now, as of January 01 every property in the city is to be valued as to its status, if it is partially finished it is to be partially valued.

Mr. Kidner recommended the State Charter to be amended.

Mr. Burns wanted to know what the fees for a new construction would be. He asked if all commercial properties would be effected by this ordinance and if most of the properties would be able to exempt, would it only properties such as Doveview LLC which would fall under this taxation. Mr. Burns wanted to make sure that only a hand full of properties would fall under this taxation right now.

Ms. Russell explained that January 01, a letter would be mailed to the commercial constructions with the new assessed value as well as the application which would give the owner the right to appeal his value as well as fill out the application which would exempt them from paying taxes at least for 18 month, unless the construction stops, as discussed before.

Mr. Kidner was concerned that the right to appeal would open the city up to law suits. The Assessor explained that this is already the city's practice, as soon as a value is put on construction and the owner is informed of that value, they have 30 days to appeal.

Mr. McGinnis asked the Assessor if she was already taxing all of the properties now.

Mr. DePrima explained that the sole purpose of this new ordinance is, to give those owners an opportunity to be exempt from taxes if they continue to work on the project.

Ms. Russell explained that on January 01 the property would be assessed and as long as the owner files for the exemption and continues to build, they would not be taxed. The Assessor than visits the property again the following January 01 or if the certificate of occupancy has been issued, at which time it will

be valued on the percentage complete and would be taxed that July with the regular scheduled tax bill.

Mr. DePrima explained to the board that right now, the Assessor values the property in January and they would be billed that July.

Mr. McGinnis asked what would happen if the project would take longer to build. Ms. Russell suggested that the project could be evaluated on need to basis.

Mr. McGinnis wanted to make sure that as long as the construction continues they would be exempt.

Mr. McGinnis was concerned that owners would now wait until February 01 to start construction so the building would not be valued for the first time until the following January 01.

Mr. McGinnis suggested that once the building is complete it should be taxed whether they request the certificate of occupancy or not.

Mr. DePrima explained that this new ordinance is not about the money, because this does not bring in a lot of revenue, it is about perception of exemption companies.

Mr. Burns went over the facts again; he asked if routine constructions that last for about 6 month to a year and does not break the cycle of constructions would be exempt from taxation. His concern was that the single family home would be taxed before completion, which will not be the case.

Mr. McGinnis suggested a list with valid reasons why somebody would be exempt from taxes, or exempted extension should be written.

Mr. DePrima suggested the City type up the new ordinance and meet again with the Real Estate Community for final approval.

Meeting with the Real-Estate Community

The meeting with the Real-Estate Community was held on December 16, 2010 at 9:00 a.m. Staff present was: City Manager Tony DePrima, City Assessor Cheryl A. Russell and Administrative Assistant Annette Hart.
Members of the Real-Estate Community present were: Mr. McGinnis

Ms. Russell handed a copy of the proposed ordinance to Mr. McGinnis at which time he took a moment to read it. After reading the ordinance he agreed that this is what the Real-Estate Community was looking for and that he would let the rest of the Community know that he agreed with the new ordinance.

Ms. Russell informed Mr. McGinnis that the new ordinance will be submitted to the Legislative, Finance and Administration Committee scheduled for January 10, 2011 and the first reading before Council would be January 24, 2010 and then finally go before Council for the final reading on February 14, 2011.

Mr. McGinnis informed Ms. Russell that he will send an official letter to the Assessor's Office.

The meeting was adjourned.