2005 CHARTER REVIEW COMMITTEE

A G E N D A

May 18, 2006 - 7:00 P.M. - Caucus Room - City Hall - City of Dover

AGENDA ADDITIONS/DELETIONS

1. ARTICLE I. GENERAL PROVISIONS
   - A. Sec. 1. - Municipal corporation continued; boundaries.
   - B. Sec. 1A. - Procedure to extend boundaries.
   - C. Sec. 2. - Status, general corporate powers, specific provisions for condemnation of property.
   - D. Sec. 3. - Enumeration of power not exclusive; manner of exercise of powers; employee pension, benefit and retirement systems authorized.

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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.

ARTICLE I. GENERAL PROVISIONS

Sec. 1. Municipal corporation continued; boundaries.

The municipal corporation of the State of Delaware, known as "the City of Dover" shall continue to be a body politic and corporate. The boundaries of the City of Dover are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County and State of Delaware as presently existing and as hereinafter amended.

(Amd. of 7-12-2005 (S.B. 126))

Sec. 1A. Procedure to extend boundaries.

In order to extend the boundaries of the City of Dover the council shall adopt a resolution proposing the inclusion of territory or territories within the limits of the City of Dover and calling for a special election to be held in said territory or territories in accordance with Title 22, Chapter 1, Section 101, Delaware Code (22 Del. C. § 101) insofar as applicable. Said resolution shall contain a description of the territory or territories proposed to be annexed and shall specify the date of such election, which shall be not less than 30 nor more than 60 days after the adoption of said resolution, and the place or places of said election. Said resolution shall be published in at least two issues of a newspaper of general circulation within the City of Dover at least two weeks prior to the day of said election.

Elections may be held in more than one of said territories on the same day, but the said elections shall be separate; only the votes of qualified voters of a territory as herein described shall be counted in the election to determine whether the territory shall be annexed.

Any such election shall be held by the election officers of the election district or districts of Kent County which shall include the territory proposed to be annexed. Every person 18 years of age or upwards who is duly registered upon the books of registered voters for said election district, or districts, who is a resident of the territory proposed to be included within the limits of the City of Dover, and who does not own real estate within said territory shall be entitled to one vote at the election todetermine whether said territory shall be annexed; and every person who is the owner of real estate within a territory proposed to be included assessed to them on the assessment records of Kent County, shall be entitled to one vote. Owners of real estate in common shall be entitled to one vote each. Life tenants shall be entitled to one vote each but the holders of the remainder interest or similar interest subject to the life estate shall not be entitled to vote. Corporations, firms or associations shall be entitled to one vote, the same as private persons.

The Council of the City of Dover shall provide the ballots for any such election and shall bear the cost of holding such election. The ballots shall briefly indicate the territory proposed to be included and shall provide two boxes on the ballot beside which shall appear the words "FOR inclusion within the City of Dover," and "AGAINST inclusion within the City of Dover." Each voter shall indicate their preference by making a mark within the box beside the words expressing their preference.

At any such election the polls shall he open from 11:00 a.m. to 8:00 p.m. When the polls are closed the election officers shall publicly count the votes and forthwith certify to the clerk of the council the number of votes cast for and against inclusion within the city limits. At the next regular or special meeting of the council the mayor and council shall receive the results of the election and make the same a part of the minutes of said meeting.

If a majority of the votes cast in an election held in a territory proposed to be annexed shall be in favor of the inclusion of that territory, the council may thereupon adopt a resolution annexing said territory and including same within the limits of the City of Dover. Upon the adoption of a resolution of annexation a copy thereof certified by the clerk of council and a plot of the area annexed shall be forthwith filed for record with the Recorder of Deeds of Kent County, and the area so annexed shall forall purposes thenceforth be part of the City of Dover.

If a majority of the votes cast in an election held in a territory proposed to be annexed shall be against the inclusion of that territory within the limits of the City of Dover, the proposed annexation of said territory shall be declared to have failed. Nothing in this Charter shall prohibit the council from resubmitting a proposal of annexation to the voters of said territory, or any portion thereof, under the authority of this section and in accordance with the provisions thereof.

(Amd. of 7-12-2005 (S.B. 126))

Sec. 2. Status, general corporate powers, specific provisions for condemnation of property.

The inhabitants of the City of Dover within the boundaries defined in section 1 of this Charter, or within the boundaries hereafter established, shall continue to be a body politic and corporate, by the name of "the City of Dover," and under that name shall have perpetual succession; may have and use a corporate seal; may sue and be sued; may hold and acquire by purchase, gift, devise, lease or condemnation, real property and personal property within or without its boundaries for any municipal purpose, in fee simple or lesser estate or interest, and may sell, lease, hold, manage, and control such property as its interest may require; and shall have all other powers and functions requisite or appropriate for the government of the city, its peace and order, its sanitation, appearance and beauty, the health, safety, convenience, comfort and well-being of its population, and the protection and preservation of property, public and private.

Whenever it shall be necessary for any municipal purpose to condemn any real property or personal property under this Charter, except as is herein otherwise specifically provided, the council must follow applicable state law.

(Amd. of 7-12-2005 (S.B. 126))

Sec. 3. Enumeration of power not exclusive; manner of exercise of powers; employee pension, benefit and retirement systems authorized.

The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive but, in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof, it is intended that the City of Dover shall have, and may exercise, all powers which,

under the Constitution of the State of Delaware, it would be competent for this Charter specifically to enumerate. All powers of the City, whether expressed or implied shall be exercised in the manner prescribed by this Charter, or, if not prescribed herein then in the manner provided by ordinance or resolution of the council.

The City of Dover is hereby authorized, empowered and permitted to establish a system of pensions or benefits through group insurance or otherwise as may be found proper and necessary, providing for life, accident, health, hospitalization and death benefits, or any or either of them, for the regular employees of the said "City of Dover." The said "City of Dover" is hereby authorized, empowered and permitted to enter into an agreement or agreements with one or more insurance companies to provide a group insurance plan or plans, as may be required or proper to carry out such system of pensions or benefits. The election to exercise such authority on the part of the city shall be evidenced by an ordinance or resolution duly adopted by the council of the City of Dover as other ordinances or resolutions are adopted, and the same shall be recorded in the official minutes of the said council. Such ordinance or resolution shall provide for and establish a fund for the payment of the costs of such pension system or benefits by making appropriations out of the treasury of the said "City of Dover," or by requiring contributions payable from time to time by the employees included in such plan or plans, or by a combination of both, or by any other method not prohibited by law. The participation in any plan adopted shall be deemed to be mandatory by the City of Dover and made a condition of employment and continuing employment.

The city council shall have power to enact ordinances for a pension or retirement system for the police of the City of Dover, and to set aside a special fund for that purpose which fund shall be administered in accordance with ordinances made and provided in that behalf and the laws of the State of Delaware.

Notwithstanding any statute to the contrary, the City of Dover shall have the power by ordinance to impose and collect a tax, to be paid by the transferor or transferee as determined by council, upon the transfer of real property within the city not to exceed one and one-half percent or as amended by state law of the value of the real property as represented by the document transferring the property. The provisions of Section 5401 and Section 5403 of Chapter 54, Title 30 of the Delaware Code (30 Del. C. §§5401, 5403) shall apply with respect to any realty transfer tax imposed by the City of Dover pursuant to the authority granted herein. The council of the City of Dover may adopt an ordinance or ordinances to provide for the effective administration and regulation of any tax adopted pursuant to the authority conferred herein. If the taxing power and authority granted herein shall be exercised by way of a stamp affixed to a document, the recorder of deeds in and for Kent County shall not receive for record documents subject to said tax unless stamps provided by the City of Dover are affixed thereto showing payment of the tax.

(Amd. of 7-12-2005 (S.B. 126))

TITLE 22

Municipalities

CHAPTER 1. GENERAL PROVISIONS

§ 101. Annexation by city or town.

Any city or town proposing to extend its boundaries, irrespective of any municipal charter provisions, whether such extension is proposed by action of the General Assembly or pursuant to the provisions of a home rule charter, except any proposed annexation that has been submitted to the Office of State Planning Coordination prior to July 13, 2001, for review, shall conform to the following provisions:

(1) All annexations must be consistent with the most recently adopted municipal comprehensive plan meeting the requirements of Chapter 7 of this title. The area(s) being considered must be depicted as area(s) for future annexation on the adopted plan. If a municipality does not have an adopted comprehensive plan, or if its adopted comprehensive plan does not depict areas for future annexation, it shall prepare and adopt a plan or plan amendment within 12 months of July 13, 2001. The municipality shall not approve any annexations until such plan or plan amendment is adopted, notwithstanding any other charter provisions; except that during the 12-month period a municipality may consider an annexation of already developed parcels where the proposed use(s) will not change from that currently authorized in the adjacent jurisdiction and where the primary purpose of the annexation is to address existing public health or safety issues such as, but not limited to, failing on-site wastewater disposal systems or contaminated or inadequate drinking water. In such cases, subdivisions (2) through (5) of this section shall not apply.

(2) Anything in this chapter or in any municipal charter notwithstanding, a municipal corporation shall have the ability to annex a parcel only if and to the extent that such parcel is contiguous with existing municipal boundaries. "Contiguous" means that a part of the boundary of the parcel sought to be annexed by a municipal corporation is conterminous with a part of the boundary of the municipal corporation. The separation of the parcel sought to be annexed from the annexing municipal corporation by (i) a right of way for a highway, road railroad, canal or utility, or (ii) a body of water or watercourse, running parallel with and between the parcel sought to be annexed and the annexing municipality shall not prevent annexation pursuant to this section; provided, however, that nothing herein shall be construed to allow rights of way, utility easements, waterways or like entities to be annexed in corridor fashion or to be utilized as a corridor route for annexation to gain contiguity.

(3) A city or town shall prepare a plan of services indicating those services it expects to provide to the newly annexed area, how such services will be provided, and the fiscal and operating capabilities of the municipality to provide such services. Should any services be provided by another jurisdiction or a public utility regulated by the Delaware Public Service Commission, the written comments of such provider on the provider's ability to provide the necessary services for the proposed annexation shall be obtained and included in the plan of services. The study shall be conducted in accordance

with standards or criteria established by the Cabinet Committee on State Planning Issues as administered by the Office of State Planning Coordination.

(4) At the time of annexation the jurisdiction shall by ordinance rezone the area being annexed to a zoning classification consistent with the adopted comprehensive plan or development strategy.

(5) A municipality proposing annexation must fully comply with the provisions of Chapter 92 of Title 29 as to state notice, and must demonstrate that it has notified all other affected jurisdictions, conducted a public hearing, and provided a comment period of at least 30 days before formal annexation. The city or town proposing annexation shall file with the State Office of Planning Coordination any written comments received concerning such proposed annexation together with any response(s) thereto.

(6) The Advisory Council on Planning Coordination shall establish a mechanism for resolving disputes between jurisdictions regarding annexations. The mechanism developed by the Council shall address:

a. Determination of how the costs for the dispute resolution process are born among the parties;

b. Timeline for the dispute resolution process; and

c. Extent to which the dispute resolution process will be enforceable. (42 Del. Laws, c. 120, § 1; 22 Del. C. 1953, § 101; 55 Del. Laws, c. 265; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 186, § 10; 73 Del. Laws, c. 213, § 1.)

§ 101A. Annexation by large municipalities; special elections.

(a) Any municipality in the State having a population in excess of 50,000, as enumerated in the most recent federal census, may extend the boundary limits of the municipality so as to include any portion of adjoining or adjacent territory, under the following terms and conditions:

(1) The annexation process under this section shall only be initiated by a written petition to annex adjacent or adjoining territory submitted by the municipality's chief executive officer, or by member(s) of the municipality's legislative body, or by at least 25% of the qualified voters in the territory. The petition to annex, containing a general description of the territory, must be filed with the clerk of the municipality or equivalent municipal officer who is the keeper of official municipal legislative records and with the equivalent clerk or officer of the county in which the territory is situated.

(2) Upon the filing of a petition under subsection (a)(1) of this section, the annexation must be approved in the following order:

a. The legislative body of the municipality must enact an ordinance approving the proposed annexation. The ordinance must provide a legal description of the territory, adopt the corresponding changes to the boundaries of the municipality and contain such other provisions as may be required by law.

b. The chief executive officer of the municipality must approve the proposed annexation, as evidenced by the chief executive officer's actual signature approving the ordinance enacted by the

municipality's legislative body pursuant to subparagraph a of this paragraph.

c. The legislative body of the county in which the territory is situated must enact an ordinance approving the proposed annexation. The ordinance may incorporate by reference all or a portion of the ordinance enacted by the municipality's legislative body pursuant to subparagraph a of this paragraph.

d. The chief executive officer of the county in which the territory is situated must approve the proposed annexation, as evidenced by the chief executive officer's actual signature approving the ordinance enacted by the county's legislative body pursuant to subparagraph c of this paragraph.

e. A majority of the qualified voters in each parcel of the territory, voting in a special election held by the proper election official, must approve of the annexation. Such special election shall be held not less than 30 days nor later than 60 days following the date of approval of the county ordinance by the chief executive officer of the county pursuant to subparagraph d of this paragraph.

f. If the proper election official certifies that the results of the special election indicate that a majority of the qualified voters in each parcel of the territory who voted in such election approved of the proposed annexation, the annexation shall become effective on the first day of the month immediately following such certification.

(b) If either legislative body shall fail to enact the respective ordinances required under subsection (a)(2)a. and c. of this section, or if either chief executive officer shall fail to approve such respective ordinances as required by subsection (a)(2)b. and d. of this section, or if the certification of the votes cast in the special election shall indicate that a majority of the qualified voters in each parcel of the territory who voted in such election was against the annexation of the territory, the proposed annexation of the territory shall be declared to have failed. Nothing in this section shall prohibit any interested party from resubmitting a petition for annexation of the territory, or any portion thereof, under the authority of and in accordance with this section.

(c) The following definitions shall apply to this section:

(1) "Adjacent" means to lie upon or touch the boundary of the municipality.

(2) "Adjoining," in addition to its general meaning, shall also mean to lie upon or touch a highway, railroad right-of-way, or watercourse which lies upon the boundary line of the municipality and separates the municipality and the territory by only the width of such highway, railroad right-of-way or watercourse. If more than 1 highway and/or railroad right-of-way and/or watercourse, or any combination of the same, separates the municipality and the territory, and such highways and/or railroad rights-of-way and/or watercourses lie upon or touch each other, then the municipality and the territory shall be deemed adjoining.

(3) "Election official" shall mean the person designated as the judge of the election under any special election law concerning annexations which applies to the particular municipality under Title 15 or otherwise.

(4) "Parcel" shall mean the property in the territory to which is assigned a separate tax parcel number on the books and records of the county Board of Assessment.

(5) "Qualified voter":

a. With respect to any petition filed by voters in the territory pursuant to subsection (a)(1) of this section, the term "qualified voter" shall mean each voter qualified to vote under any special election law concerning annexations which applies to the particular municipality under Title 15 or otherwise, as of the date of filing of the petition; and

b. With respect to any such special election, the term "qualified voter" shall have the meaning set forth under any special election law concerning annexations which applies to the particular municipality under Title 15 or otherwise.

(6) "Territory" shall mean the property or properties proposed to be annexed to the municipality. (66 Del. Laws, c. 135, § 1; 70 Del. Laws, c. 186, § 1.)