

# AD-HOC HAGGERTY & HAGGERTY REVIEW COMMITTEE

## A G E N D A

**October 30, 2008 - 6:00 P.M. - Council Chambers - City Hall - City of Dover**

1. Review of Financial Procedures Recommended by Haggerty & Haggerty
2. Adjournment

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## **EXCERPT OF REGULAR COUNCIL MEETING MINUTES OF SEPTEMBER 8, 2008**

The Regular Council Meeting was held on September 8, 2008 at 7:30 p.m. with Vice President Salters presiding in the absence of Council President Hogan. Council members present were Mr. Leary, Mrs. Russell, Mr. McGlumphy, Mr. Slavin, Mr. McGiffin, Mrs. Williams, and Mr. Ruane.

Council staff members present were Captain Sammons, Ms. Russell, Mrs. Mitchell, Mrs. Townshend, Fire Chief Carey, Mr. DePrima, City Solicitor Rodriguez, Mrs. McDowell, and Mayor Carey.

### **LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE REPORT - AUGUST 25, 2008**

The Legislative, Finance, and Administration Committee met on August 25, 2008 with Chairman Slavin presiding.

#### **Independent Accountant Report (Haggerty & Haggerty)**

During their meeting of February 25, 2008, members were provided the Independent Accountant's Report on Applying Agreed Upon Procedures pertaining to the Dover Fire Department prepared by Haggerty & Haggerty, Certified Public Accountants and Management Consultants, and accepted the Report, with the understanding that the Fire Chief and Finance Director will report back to the committee within two (2) to four (4) weeks with a set of procedures that will be beneficial to all parties involved.

Mrs. Mitchell, Controller/Treasurer, advised members that several meetings were held and the agreed upon procedures were reviewed and agreed upon with the City Manager. She provided members with several solutions developed by staff members of the Finance Department, Central Services, and the Fire Department. At the request of the Fire Chief, Council President Hogan and Councilman Slavin met with the Fire Chief and the President of Robbins Hose Company to discuss this issue on July 3, 2008.

Staff recommended acceptance of the agreed upon procedures.

As a result of some discrepancies, Council President Hogan advised members that he, along with the City Manager, met with several members of the Fire Department to review the procedures. All participants agreed upon procedures 2, 5, 6, 7, and 8. He stated that there were unresolved issues with 1, 3, and 4 and that the Fire Department submitted alternative recommendations. Council President Hogan noted that item #3 of the Fire Department's Recommendations should not have been listed since it was agreed upon. He also noted that an alternative Action Form, dated August 25, 2008, has been submitted by the Fire Department.

At the request of Mr. Slavin, Fire Chief Carey clarified that the Fire Department will only agree to Option 1 of the Independent Accountant's Report on Applying Agreed-Upon Procedures by Haggerty & Haggerty.

Responding to Mrs. Williams, Fire Chief Carey indicated that if Option 1 of the Independent Accountant's Report is rejected, the membership of the Fire Department has requested to be provided a letter explaining their reasons.

Referring to Option 1, Dr. Jones questioned what the Fire Department views as the City's role in terms of accountability for the funds once they are allocated by the City. Fire Chief Carey declined to respond, explaining that he was directed to bring Option 1 to members and request a response if it were rejected.

Mr. Ruane noted that the Action Form provided by the Controller/Treasurer indicates that staff's recommendation is a result of several meetings with the Fire Chief and consists of agreed upon procedures. Responding, Mr. Slavin explained that when the meetings were held, each representative was attempting to come to an agreement for those they serve. He reminded members that the Fire Chief is elected by the membership of the Fire Department and that this membership does not concur with the agreed upon procedures and requested that the Fire Chief submit an alternative. He explained that the Fire Chief's representation at the meetings was similar to that of Council President Hogan and himself. There was an agreement, in principle, between those that met; however, there was an understanding they would present the agreed upon procedures to those they represent.

Responding to Dr. Jones, Mr. Slavin suggested that the Fire Department would select their representatives to participate in the negotiations. Dr. Jones relayed concern that if a number of representatives of the Fire Department are not participants, the matter will not be resolved.

Chief Carey suggested that Council write a letter to the Fire Department explaining why Option 1 was rejected. Once received, the Fire Department would then make any necessary decisions.

Mrs. Williams questioned why members would reject Option 1 when it is no different than the Federal Government granting money to the City. Although she does not feel that it is the City's responsibility to micro-manage the Fire Department, she felt that it is the City's responsibility to assure that the monies provided to them are spent as dutifully as intended.

The committee recommended that negotiations continue between the Fire Department, including the Controller/Treasurer and Council, and that those members of Council participating be appointed by Council at their next meeting and be given authority to represent Council for a report back at a future meeting of the committee for a final resolution of this matter.

Mrs. Williams moved for approval of the committee's recommendation, seconded by Mr. Slavin.

Mr. Slavin moved to suspend the rules to allow the Fire Department members the opportunity to speak, seconded by Mrs. Williams. The motion failed by a roll call vote of four (4) no, four (4) yes (Mrs. Russell, Mr. Slavin, Mr. McGiffin, and Mrs. Williams) and one (1) absent (Council President Hogan).

Since there have already been agreed upon procedures that occurred during previous negotiations, Mr. Ruane explained his opposition to the continuation of any further negotiations and indicated his support for the list of eight (8) procedures approved during the previous negotiations.

**On a call for the question the motion for approval of the committee's recommendation that negotiations continue between the Fire Department, including the Controller/Treasurer and Council, and that those members of Council participating be appointed by Council at their next meeting and be given authority to represent Council for a report back at a future meeting of the committee for a final resolution of this matter was carried by a roll call vote of five (5) yes, three (3) no (Mr. Leary, Mr. McGlumphy, and Mr. Ruane), and one (1) absent (Council President Hogan).**

Vice President Salters indicated that the appointment of Council Members to review the Haggerty & Haggerty recommendations will take place during the latter part of the meeting.

The committee recommended that the negotiating principles are the eight (8) points found on the action form submitted by the Controller/Treasurer.

**Mr. Slavin moved for approval of the committee's recommendation that the negotiating principles are the eight (8) points found on the action form submitted by the Controller/Treasurer (*Exhibit #1*). The motion was seconded by Mr. McGiffin and carried by a roll call vote of six (6) yes, two (2) no (Mr. Leary and Mr. McGlumphy), and one (1) absent (Council President Hogan).**

The committee recommended denial of Option #1 of the Independent Accountant's Report.

Mr. McGlumphy moved for approval of the committee's recommendation for denial of Option #1 of the Independent Accountant's Report, seconded by Mr. Leary. The motion failed by a roll call vote of five (5) no, three (3) yes (Mr. Leary, Mr. McGlumphy, and Mr. Ruane), and one (1) absent (Council President Hogan).

Mr. Slavin moved that Option #1, to provide monthly payments to the fire department, be added as another point that can be considered during the negotiations, seconded by Mrs. Williams.

Responding to Mr. McGlumphy, Mr. Slavin clarified that the intent of the motion is to simply allow for all options to be open for discussion. He concurred that the addition of Option #1 would provide for nine (9) principles in play. He explained an understanding that Option #1 has a binary quality associated, whereby, if adopted, the other eight (8) points would be eliminated. However, if Option #1 is not adopted, the remaining eight (8) points would each be negotiated.

**The motion that Option #1, to provide monthly payments to the fire department, be added as another point that can be considered during the negotiations was carried by a roll call vote of five (5) yes, three (3) no (Mr. Leary, Mr. McGlumphy, and Mr. Ruane), and one (1) absent (Council President Hogan).**

Noting several firefighters in attendance, Fire Chief Carey requested the opportunity to discuss concerns regarding the recommendations. Vice President Salters explained that since the motion to suspend the rules failed, no further discussion would be permitted regarding this matter.

**Mr. Slavin moved for a brief recess, seconded by Mrs. Williams and carried by a roll call vote of five (5) yes, three (3) no (Mr. Leary, Mr. McGlumphy, and Mr. Ruane), and one (1) absent (Council President Hogan).**

**Meeting Recessed at 8:06 P.M.**

**Mrs. Williams moved to reconvene, seconded by Mr. Slavin and unanimously carried.**

**Meeting Reconvened at 8:14 P.M.**

For clarification, Mr. Slavin stated that since the motion to suspend the rules failed, no public testimony by the fire department was permitted at that time; however, he stressed that this action does not reflect a decision of Council to cease discourse or that Council does not wish to hear the concerns of the fire department. He explained that the more appropriate venue for further discussions with the fire department would be during the negotiations. When this matter is brought back to Council, after the negotiations, Mr. Slavin relayed his hope that Council would allow for public testimony (by scheduling a public hearing or waiving the rules) and provide the fire department the opportunity to speak on the merits of the issue.

#### **APPOINTMENT OF COUNCIL MEMBERS TO REVIEW HAGGERTY & HAGGERTY RECOMMENDATIONS**

As recommended by the Legislative, Finance, and Administration Committee during their meeting of August 25, 2008 and approved by Council earlier this evening regarding the Haggerty & Haggerty Recommendations, it is necessary to appoint members of Council to participate in the continuing negotiations with the Fire Department. Those members of Council appointed shall be given the authority to represent Council for a report back at a future meeting of the committee for a final resolution of this matter.

Vice President Salters advised members that Council President Hogan, Mrs. Williams, and Mrs. Russell have agreed to serve as Council representatives in the negotiations with the Dover Fire Department regarding the Haggerty & Haggerty Recommendations.

Mr. Slavin requested that he be appointed to serve in this capacity as well.

For clarification, Mr. Ruane noted that as previously approved by Council, the Controller/Treasurer, as well as Council representatives, are to participate in the negotiations with the Fire Department.

**Mr. McGiffin moved to appoint Council President Hogan, Mrs. Williams, Mrs. Russell, and Mr. Slavin to serve as Council representatives in the negotiations with the Dover Fire Department regarding the Haggerty & Haggerty Recommendations. The motion was seconded by Mrs. Williams and carried by a unanimous roll call vote (Council President Hogan absent).**

**ACTION FORM**

<b>PROCEEDING:</b> Legislative, Finance, & Administration	<b>AGENDA ITEM NO.:</b>
<b>DEPARTMENT OF ORIGIN:</b> Finance Department	<b>DATE SUBMITTED:</b> 06/23/08
<b>PREPARED BY:</b> Donna Mitchell, Controller/Treasurer	
<b>SUBJECT:</b> Independent Accountant Report – Haggerty & Haggerty	
<b>EXHIBITS:</b> N/A	
<b>EXPENDITURE REQUIRED:</b> N/A	<b>AMOUNT BUDGETED:</b> N/A
<b>FUNDING SOURCE (Dept./Page in CIP &amp; Budget):</b>	
<b>RECOMMENDED ACTION:</b> Acceptance of Agreed Upon Procedures	

**BACKGROUND**

A review was conducted of the financial procedures being followed by the Fire Department when expending funds provided by the City of Dover. Council requested the Finance Director and Fire Chief to report back to the committee within two (2) to four (4) weeks with a set of procedures that will be beneficial to all parties involved.

Several meetings have been held. The Agreed Upon Procedures were also reviewed and agreed upon with the City Manager.

**AGREED UPON PROEDURES**

Members of the Finance Department, Central Services, and the Fire Department met in March 2008 and have come up with the following solutions. At the request of the Fire Chief, Ken Hogan and Tim Slavin met with the Fire Chief and the President to discuss this issue on July 3, 2008.

1. We reaffirmed that the City would make the agreed upon loan payments on Robbins Hose Company loans for fire apparatus directly to the lending bank. The amount of the loan payments will be included in the fire department budget. The fire apparatus will be titled to Robbins Hose Company.
2. The Fire Chief or his designee will adhere to provisions of personnel policies and contracts as applicable to City employees.
3. The Fire Department will adhere to the provisions of the City of Dover Purchasing Policy as adopted on April 28, 2008 and any subsequent changes to said policy in expending City monies.
4. The Fire Department will prepare blanket bids for purchasing of all items that have recurring use to insure economic benefits and access to government procurement by responsible contractors or suppliers. A sample copy of a blanket bid and material listing was provided to the Fire Department by the Contract & Procurement Manager.
5. The City Contract & Procurement Manager will be presented with a detailed plan on the type of fire apparatus that needs to be purchased and the approximate cost as outlined in the CIP. The Fire Department will spec the apparatus. The spec will be reviewed by the Contract & Procurement Manager prior to going to bid.
6. The Fire Department is receptive to using the on-line vehicle and equipment sale process that the City is currently using to try and obtain the greatest amount of proceeds from the sale.
7. The Fire Department will turn over to the City any proceeds from the sale of apparatus that has been fully funded by the City. In return the City will deposit the funds in an account that will be used for the purchase of equipment needed for the new apparatus.
8. We all agreed to seek clarification and assistance when ever needed.

## **FIRE DEPARTMENT RECOMMENDATIONS**

1. The City of Dover will give monthly contributions to the fire department for operating cost equal to the budgeted amount as outlined in the City Budget. City utilities and fuel cost will be excluded from the contribution, and will come directly out of the City budget as it presently does.
2. The Fire department will set up separate accounts isolating City funds from fire department funds to establish accountability and eliminate any confusion between the two entities.
3. The Fire Chief or his Designee will adhere to provisions of personnel policies and contracts as applicable to City employees.
4. The administrative assistant assigned to the fire department will monitor and control any expenditures of all city money contributed to the Dover Fire Department from the City of Dover. The Administrative Assistant will be responsible for a monthly detailed report to the status of the bank and loan account balances along with the documentation supporting all deposits withdrawals and payments made to or from such accounts. This report will be submitted to the Finance department and City Council monthly along with the Fire Chiefs report.



HAGGERTY & HAGGERTY, P.A.

CERTIFIED PUBLIC ACCOUNTANTS  
& MANAGEMENT CONSULTANTS

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**Independent Accountant's Report  
on Applying Agreed-Upon Procedures**

**To the City of Dover  
and Dover Fire Department**  
Dover, Delaware

We have performed the procedures enumerated below, which were agreed to by the City of Dover (the "City") and the Dover Fire Department (the "DFD"), solely to assist the specified parties with respect to the accounting records [addressed below] pertaining to DFD for the period commencing July 1, 2003 to June 30, 2007. DFD's management is responsible for the specified accounting records. This 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 parties specified in the report. 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 results are as follows:

- **Procedure:** Determine that annual City appropriations for "building and equipment loans" were used to pay the principal and interest of the respective loans based on the City budget and "Memorandum of Agreement" dated December 27, 2001.

**Results:** The annual City appropriations for "building and equipment loans" were used by the DFD to pay the loan principal and interest.

- **Procedure:** Validate balances for the bank accounts [established for loan accountability], and outstanding loan principal.

**Results:** Three separate bank accounts were established by the DFD to maintain accountability for the annual City allocations for loan payments. During our procedures the following exceptions were noted:

- Wilmington Trust Account No. 1294-4071:
  - May of 2006 withdrawal of \$17,949.75, \$7,153.75 did not contain any supporting documentation to determine whether the withdrawal made by the DFD was appropriate.
- Wilmington Trust Account No. 1305-3669:
  - August of 2005 deposit of \$30,000, no documentation was available to support the source of the funding [verbal statement provided by DFD officials: "proceeds are from the sale of Ladder No. 4"].
  - November of 2005 withdrawal of \$43,016.89 did not contain supporting documentation to determine whether the withdrawal made by the DFD was appropriate.
  - March of 2006 withdrawal of \$182,498.58 did not contain supporting documentation to determine whether the withdrawal made by the DFD was appropriate. It was ascertained [by other means] that \$88,000 of the \$182,498.58 was for the "2003 Pierce Pumper Fire Truck" loan payment to Wilmington Trust.
- **Procedure:** Determine that City appropriations greater than the loan payments were applied to the loan principal, or held in separate bank accounts for early loan payoff.

**Results:** City appropriations greater than the loan payments are maintained in the above noted bank accounts.

To the City of Dover  
and Dover Fire Department  
Dover, Delaware

- **Procedure:** Validate Station 2 balances provided to City Council on January 8, 2007 for the bank balances, and outstanding loan balances.

**Results:** The following is a comparison of the bank and loan balances:

Description	At 01/08/07		Over (Under) Reported
	As Reported	Actual	
Bank account balance	\$ 165,000.00	\$ 125,056.23	\$ 39,943.77
Outstanding loan balance	\$ 167,000.00	\$ 227,485.74	\$ (60,485.74)

- **Procedure:** Review Station 2 refinancing documents of May 2001 and determine that the refinancing transaction was properly communicated to the City.

**Results:** We noted no evidence that the DFD notified the City of the Station 2 refinancing. However, the City did not pay more than its commitment based on the analysis of the loan transactions incurred after the refinancing. The mortgage note was repaid in full on September 17, 2007, therefore the City's allocation of \$60,000 is no longer warranted.

- **Procedure:** Determine whether the \$60,000 annual appropriation after the refinancing of May 2001 was still warranted.

**Results:** The annual appropriation of \$60,000 was still warranted after the refinancing in May of 2001. Our conclusion is based on the analysis of the loan transactions performed for the period commencing July 1, 2003 and ending November 29, 2007 [for this transaction only].

- **Procedure:** Review annual vendor payments of \$5,000 or greater, and determine compliance with the City's "Financial Policies". Report any noncompliance with said policies.

**Results:** Our procedures revealed that the DFD circumvented the City's "Purchase Policy" at least in five separate occasions. These violations were also confirmed during the interview process of DFD personnel.

- **Procedure:** Based on the City Code of Conduct, Chapter 30, determine whether any conflicts of interest exist.

**Results:** Based on our inquiries, we noted that certain vendors with whom the DFD conducts business employ previous members of the DFD. This situation [on face value] could appear to be a "conflict of interest" even though one may not exist. To avoid such perception by the public we recommend that all purchases made with City funds be made through the City's Purchasing Department thereby minimizing such perceptions.

- **Procedure:** Make recommendations for policy or procedure improvements.

**Results:** Based on the performance of the agreed-upon procedures of the City funding of the DFD's finances we present the following recommendations:

**Option 1**

The City makes an annual operating and capital allocation payable in equal monthly installments to the DFD. Once the funds are allocated, as authorized by the City annual budget, it becomes the DFD's responsibility to administer these funds as it sees fit to carry on its duties to the City's citizens. This practice is a common practice among other governments within Delaware and other states.

**Option 2**

The City continues to assert administrative control. If it chooses to do so, we recommend the City consider the following revisions to its current policies and procedures relating to the DFD:

- Close out all reserve bank accounts [WT#1294-4071, WT#1294-4128, and WT#1305-3669] and secondly, determine whether these funds should revert back to the City or be set aside for future capital purchases by the DFD.

To the City of Dover  
and Dover Fire Department  
Dover, Delaware

Option 2 (continued)

- The City Purchasing Department be involved in the purchasing of all fire equipment when the City is funding the equipment, since the City has a responsibility to prudently spend the funds entrusted to it by its citizens. Also, consideration should be given as to the ownership of the vehicles purchased and any liability associated with ownership thereof.
- City portion of the DFD Budget should be controlled by the Finance Department and not the DFD, since this portion of the Budget is City funds, and as such should be subject to the same policies and procedures. The administrative assistant currently accounting for these activities should report to the Finance Department and not DFD officials, since the Finance Department accounts for the finances of the City. However, should the City not desire to centralize its fiscal control over the DFD, the City should consider the following at a minimum:
  - Request monthly reporting as to the status of the bank and loan account balances along with documentation supporting all deposits, withdrawals, and payments made.
  - The DFD should provide details to purchases of fire equipment and receive City approval prior to entering into an agreement with vendors.
- The City should make all loan payments, since our procedures revealed that late payments were assessed for not timely paying the loans.

We were not engaged to, and did not, conduct an audit, the objective of which would be the expression of an opinion, on the accounting records of the Dover Fire Department. 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 intended solely for the information and use of the City of Dover and the Dover Fire Department and is not intended to be and should not be used by anyone other than those specified parties.

  
Certified Public Accountants

November 29, 2007  
Wilmington, Delaware