

# REGULAR COUNCIL MEETING

## AGENDA



NOVEMBER 27, 2017 - 7:30 P.M.

CITY HALL COUNCIL CHAMBERS  
15 LOOCKERMAN PLAZA  
DOVER, DELAWARE

### **OPEN FORUM - 30 MINUTES PRIOR TO OFFICIAL MEETING (7:00 P.M.)**

THE "OPEN FORUM" SEGMENT IS PROVIDED TO EXTEND THE OPPORTUNITY TO THE GENERAL PUBLIC TO SHARE THEIR QUESTIONS, THOUGHTS, COMMENTS, CONCERNS, AND COMPLAINTS. DISCUSSION OF ANY ITEM APPEARING ON THE AGENDA AS A PUBLIC HEARING IS PROHIBITED DURING THE OPEN FORUM AS AN OPPORTUNITY WILL BE PROVIDED DURING CONSIDERATION OF THAT ITEM. CITIZEN COMMENTS ARE LIMITED TO THREE (3) MINUTES. COUNCIL IS PROHIBITED FROM TAKING ACTION SINCE THEY ARE NOT IN OFFICIAL SESSION; HOWEVER, THEY MAY SCHEDULE SUCH ITEMS AS REGULAR AGENDA ITEMS AND ACT UPON THEM IN THE FUTURE.

**INVOCATION BY BISHOP THOMAS L. HOLSEY**

**PLEDGE OF ALLEGIANCE LED BY COUNCILMAN SUDLER**

### **AGENDA ADDITIONS/DELETIONS**

\* **CONSENT AGENDA**

THOSE ITEMS ON THE COUNCIL AGENDA WHICH ARE CONSIDERED ROUTINE AND NON-CONTROVERSIAL SHALL BE MARKED WITH AN ASTERISK (\*) AND WILL BE ACTED UPON BY A SINGLE ROLL CALL VOTE OF THE COUNCIL. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS A MEMBER OF COUNCIL SO REQUESTS, IN WHICH EVENT THE MATTER SHALL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED A SEPARATE ITEM.

\* **1. ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF NOVEMBER 13, 2017**

**2. PRESENTATIONS**

**A. CERTIFICATE OF CONGRATULATIONS - JEANINE KLEIMO**

**B. RECOGNITION OF SERVICE - COLONEL RICHARD E. SCRAFFORD, RET. - DOVER PUBLIC LIBRARY ADVISORY COMMISSION (MAY 1981 - JUNE 1984) AND HISTORIC DISTRICT COMMISSION (APRIL 1998 - OCTOBER 2017)**

\* **3. COUNCIL COMMITTEE OF THE WHOLE REPORT - NOVEMBER 14, 2017**

**A. LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE**

**(1) DISCUSSION - DEVELOPMENT OF PROCEDURES/POLICIES FOR COUNCIL COMMUNITY ENHANCEMENT FUND EXPENDITURES**

(COMMITTEE RECOMMENDED THAT COUNCIL AUTHORIZE MR. LINDELL TO PREPARE A FIRST DRAFT OF THE COMMITTEE'S IDEAS FOR APPROVAL DURING A FUTURE MEETING OF THE COUNCIL COMMITTEE OF THE WHOLE/LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE)

\* 3. **COUNCIL COMMITTEE OF THE WHOLE REPORT - NOVEMBER 14, 2017 (CONTINUED)**

**B. PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE**

**(1) LANDBANKS (SUE HARRIS)**

(COMMITTEE RECOMMENDED THAT MR. HUGG PREPARE: 1) A PACKET OF RESEARCH MATERIALS, INCLUDING EXISTING ORDINANCES FOR THE DDP AND OTHER LOCAL GOVERNMENTS, AND DISTRIBUTE IT TO ALL MEMBERS OF COUNCIL AS BACKGROUND, AND 2) A DRAFT ORDINANCE CREATING A LAND BANK, BASED ON THAT RESEARCH, FOR DISCUSSION AT THE FEBRUARY MEETING OF THE COUNCIL COMMITTEE OF THE WHOLE/PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE)

(COMMITTEE RECOMMENDED THAT, AS PART OF THE FY 19 BUDGET DISCUSSIONS, MR. HUGG AND MRS. DONNA MITCHELL, ACTING CITY MANAGER, IDENTIFY POSSIBLE FUNDING MECHANISMS THAT ARE IN PLACE IN OTHER LOCAL GOVERNMENTS THAT COULD HELP TO FUND THE LAND BANK INITIATIVE)

**(2) PLAN FOR HOUSING ALTERNATIVES (VICTORY CHURCH)**

(COMMITTEE ACTION NOT REQUIRED)

**C. UTILITY COMMITTEE**

**(1) REQUEST FOR STREET NAME CHANGE - KRISKO CIRCLE (REMAINING SEGMENT OF KRISKO CIRCLE WHICH RUNS IN A WEST-EAST DIRECTION FROM STOVER BOULEVARD JUST EAST OF BAY ROAD) (PLANNING REFERENCE: MI-17-07)**

(COMMITTEE RECOMMENDED APPROVAL OF THE REQUESTED STREET NAME CHANGE FROM KRISKO CIRCLE TO ENERGY LANE, AS RECOMMENDED BY THE PLANNING COMMISSION, AND THAT A PUBLIC HEARING BEFORE CITY COUNCIL BE SET FOR DECEMBER 11, 2017 AT 7:30 P.M.)

**(2) NEIGHBORHOOD BUILDING BLOCKS GRANT - CENTRAL DOVER LED LIGHTS**

(COMMITTEE RECOMMENDED APPROVAL OF THIS PROJECT, NOT TO EXCEED \$194,634)

**(3) ELECTRIC UTILITY COST OF SERVICE AND RATE DESIGN STUDY**

(COMMITTEE RECOMMENDED APPROVAL OF NEW GEN STRATEGIES & SOLUTIONS IN THE AMOUNT OF \$45,300)

\* 4. **QUARTERLY REVIEW OF CAPITAL INVESTMENT PLAN (CIP) (JULY, AUGUST, AND SEPTEMBER)**

\* 5. **ELECTION OF OFFICERS - ROBBINS HOSE COMPANY - YEAR 2018 FIRE LINE OFFICERS**

- FIRE CHIEF - CARLETON E. CAREY, JR. (UNCONTESTED)**
- DEPUTY FIRE CHIEF - RONALD W. RHODES, SR. (UNCONTESTED)**
- FIRST ASSISTANT FIRE CHIEF - DAVID CAREY (UNCONTESTED)**
- SECOND ASSISTANT FIRE CHIEF - GLENN WHITT (UNCONTESTED)**
- THIRD ASSISTANT FIRE CHIEF - MICHAEL O'CONNOR, JR. (UNCONTESTED)**
- FOURTH ASSISTANT FIRE CHIEF - CHRISTOPHER JACOBS**
- FIRST FIRE LINE CAPTAIN - SEAN BYRON (UNCONTESTED)**
- SECOND FIRE LINE CAPTAIN - MICHAEL MORRIS (UNCONTESTED)**

**6. FINAL READING - PROPOSED ORDINANCES**

THE FIRST READING OF THE FOLLOWING PROPOSED ORDINANCES WAS ACCOMPLISHED DURING THE COUNCIL MEETING OF NOVEMBER 13, 2017. COPIES OF THE PROPOSED ORDINANCES ARE AVAILABLE AT THE ENTRANCE OF THE COUNCIL CHAMBERS.

- A. #2017-14 AMENDING CHAPTER 30 - CODE OF CONDUCT AND ETHICS COMMISSION, AND APPENDIX F - FEES AND FINES**
- B. #2017-15 AMENDING CHAPTER 34 - ELECTIONS, ARTICLE III - ABSENTEE VOTING**

**7. ACTING CITY MANAGER'S ANNOUNCEMENTS****8. COUNCIL MEMBERS' ANNOUNCEMENTS****9. ADJOURNMENT**

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**EXECUTIVE SESSION PURSUANT TO:**

**29 DEL. C. §10004(B)(2) - PRELIMINARY DISCUSSIONS ON SITE ACQUISITIONS FOR ANY PUBLICLY FUNDED CAPITAL IMPROVEMENTS, OR SALES OR LEASES OF REAL PROPERTY;**

**29 DEL. C. §10004(B)(4) - STRATEGY SESSIONS, INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO COLLECTIVE BARGAINING OR PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE BARGAINING OR LITIGATION POSITION OF THE PUBLIC BODY;**

**29 DEL. C. §10004(B)(6) - DISCUSSION OF THE CONTENT OF DOCUMENTS, EXCLUDED FROM THE DEFINITION OF "PUBLIC RECORD" IN §10002 OF THIS TITLE WHERE SUCH DISCUSSION MAY DISCLOSE THE CONTENTS OF SUCH DOCUMENTS;**

**29 DEL. C. §10004(B)(9) - PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED, UNLESS THE EMPLOYEE REQUESTS THAT SUCH A MEETING BE OPEN**

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(E)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING.

## REGULAR COUNCIL MEETING

The Regular Council Meeting was held on November 13, 2017 at 7:30 p.m. with Council President Slavin presiding. Council members present were Mr. Anderson, Mr. Sudler, Mr. Neil, Mr. Lewis, Mr. Cole, Mr. Polce, Mr. Hare, and Mr. Lindell.

Staff members present were Police Chief Mailey, Ms. Peddicord, Mrs. Mitchell, Mr. Hugg, Fire Chief Carey, City Solicitor Rodriguez, and Mrs. McDowell. Mayor Christiansen was also present.

### **OPEN FORUM**

The Open Forum was held at 7:00 p.m., prior to commencement of the Official Council Meeting. Council President Slavin declared the Open Forum in session and reminded those present that Council was not in official session and could not take formal action.

Council President Slavin advised that Council members had received correspondence earlier in the day from Dr. Margaret McKay (**Exhibit #1**). Dr. McKay thanked members for the opportunity to speak and expressed her opposition to naming the Dover Police Community Room after James Hutchison, as described in her letter to City Council members.

Mr. Eric Abernathy stated that the weather is getting cold and there are still people out on the street. He noted that he was very disappointed this past weekend when the temperature went down to 23 degrees and they had a Code Purple in Sussex County, but there was not one here. He advised that someone personally put people up in a motel to get them out of the cold; however, he noted that there were others who were stuck out there with nowhere to go. Mr. Abernathy stated that the weather did not change because they were out there, it was still cold, and they still needed shelter and somewhere to go. He noted that we are already back into the winter months and we still have the same problem, people are still out on the street and they need a place to stay all the time.

Mr. Abernathy advised members that he had heard that Code Purple would not be starting until December 1<sup>st</sup>; however, he believed that there would be a lot of cold weather before then. He stated that something needs to be done. Mr. Abernathy noted that he had heard about the task force and asked what they had done and what they were doing. He explained that they need to get these people off the street before there is an incident and someone dies from exposure or the cold. Mr. Abernathy indicated that they would continue to ask for help and continue to do what they do, regardless. He stated that they know that one of these days they are going to get help, and if they do not get it from members of Council, God will supply everything they need.

Mr. Ron Poliquin made the following statement:

Good evening, Council President, Mr. Mayor, Council. I'm speaking tonight because I was denied the right to speak on my client's, Brian Lewis's, behalf at the last Council meeting. Last month for the first time in history, a member of Council was censured despite not violating any law or breaching any ethical code. Councilman Lewis was censured after being denied his basic due process rights, which would've been given to any prisoner or state employee. No investigation was conducted. It's been confirmed that President Slavin did not speak with the only two individuals involved, Mike Finney from the State News, or Brian Lewis.

Prior to filing his proposed censure, President Slavin couldn't be bothered with conducting an investigation or confirming the allegations. You don't have to be a lawyer to understand that, at the very least, fairness requires you give someone a chance to tell their side of the story. Here President Slavin didn't give Brian Lewis the courtesy of explaining himself prior to filing a censure. At the last meeting, Councilman Neil asked President Slavin if he confirmed the allegations in the proposed censure, President Slavin said yes, which could not possibly be true. The substantive portions of the censure, paragraphs 13 through 17, actually confirm this not to be true, as the censure states, "according to published reports." That language demonstrates that the author, President Slavin, doesn't even know if events actually occurred but is merely relying on published reports.

And let's not confuse that vote at the last Council meeting with a real hearing. It was obvious that the fix was in and the vote was already pre-determined. Shame on the majority of this Council, many of them of who sat here like potted plants, who allowed this injustice to casually go through without an investigation or even asking questions. Ironically, with this backdrop, President Slavin is now proposing a change to the ethics code. A portion of the change to this ethics code, the language will read, "Disputes that arise among public servants shall be resolved at the lowest possible level, keeping in mind that public money spent on resolving these disputes is money not spent on important public needs."

Why wasn't Brian Lewis's matter handled with the same guidelines which are now being proposed? The only reasonable explanation is that it's political retribution. Perhaps Brian Lewis doesn't play well with the good old boys' network here, or he goes to the media a little too fast, or he raises tough questions, or he doesn't keep all the conversations in the inner circle. President Slavin recently stated to the media, "We govern ourselves." I say no, President Slavin, you're governed by the same laws and the same ethics code everyone is governed by. I'm a little disappointed here because I see some people looking at their cell phones while I'm speaking, and Brian Lewis deserved better, and so did the citizens of Dover. Thank you.

The invocation was given by Bishop Thomas L. Holsey, followed by the Pledge of Allegiance.

#### **AGENDA ADDITIONS/DELETIONS**

**Mr. Hare moved for approval of the agenda, seconded by Mr. Neil and unanimously carried.**

Mr. Sudler requested that item #6-A-1 - Council Committee of the Whole Report - October 24, 2017, Safety Advisory and Transportation Committee, Update - Alternative to Speed Bumps - Ann Avenue (Sudler), be removed from the Consent Agenda.

**Mr. Anderson moved for approval of the Consent Agenda, as amended, seconded by Mr. Neil and carried by a unanimous roll call vote.**

**ADOPTION OF MINUTES - SPECIAL COUNCIL MEETING OF OCTOBER 23, 2017**

**The Minutes of the Special Council Meeting of October 23, 2017 were unanimously approved by motion of Mr. Anderson, seconded by Mr. Neil and bore the written approval of Mayor Christiansen.**

**ADOPTION OF MINUTES - REGULAR COUNCIL MEETING OF OCTOBER 23, 2017**

**The Minutes of the Regular Council Meeting of October 23, 2017 were unanimously approved by motion of Mr. Anderson, seconded by Mr. Neil and bore the written approval of Mayor Christiansen.**

**PROCLAMATION - GEOGRAPHIC INFORMATION SYSTEMS (GIS) DAY AND GEOGRAPHY AWARENESS WEEK**

The City Clerk read the following Proclamation into the record:

**WHEREAS**, fascination with the earth's geography inspired the early explorers of our country to learn and record information about the surface of the land and its people, environments, resources, political boundaries, and characteristics and today remains a fundamental part of our national heritage; and

**WHEREAS**, geographic information has many useful applications for our municipal government and is a valuable resource used in the analysis of infrastructure, emergency services, economic development, and long-range planning; and

**WHEREAS**, Geographic Information Systems (GIS) technology provides an efficient means of managing geographic information and providing data that allows for effective decision-making and improved delivery of services to the residents of the City of Dover and our surrounding area; and

**WHEREAS**, the City of Dover's GIS Division plays a vital role in the continued growth of the City and has been nationally recognized for its outstanding efforts in the advancement of GIS and its foresight in creating programs that can be used to better manage services in the City.

**NOW, THEREFORE, I, ROBIN R. CHRISTIANSEN, MAYOR OF THE CITY OF DOVER, DELAWARE**, do hereby proclaim November 15, 2017 as **GIS Day**, and November 12 – 18, 2017 as **GEOGRAPHY AWARENESS WEEK** in the City of Dover and urge all residents to participate in this special observance.

On behalf of the Mayor and Council, Mayor Christiansen presented the Proclamation to Mr. Mark Nowak, GIS Manager for the City of Dover. Mr. Nowak thanked members for the Proclamation. He advised that this would be the City's 12th year celebrating GIS Day. Mr. Nowak stated that Wednesday from 10:00 a.m. - 2:00 p.m. in the City Hall Conference Room they would be presenting what GIS has done, particularly in the past year. He noted that when he puts together the GIS presentation and materials each year, something always sticks out to him, and this year it was mapping potato farms around the City and the work they are doing with the environmental scientist and Public Works. Mr. Nowak stated that it is all good stuff and encouraged everyone to come out and see what GIS can do, and maybe get some ideas on how the City can utilize more of its mobile technologies and citizen engagement.

**RESOLUTION NO. 2017-14 - DEDICATION OF THE CITY OF DOVER POLICE DEPARTMENT PUBLIC ASSEMBLY ROOM - JAMES L. HUTCHISON, SR.**

The City Clerk read the following Resolution into the record:

**WHEREAS**, James L. Hutchison, Sr. occupies a unique position in the annals of City of Dover history, as he has served the City in a wide-ranging career that spanned more than four decades. He began his employment in the Dover Police Department where, over the course of twenty-five years, he advanced from Patrolman to Chief of Police. After his retirement from the Police Department, he served as the At-Large City Council Representative for one year, ran successfully for Mayor and held that office for ten years, and capped his career with an additional seven years of service as the First District City Council Representative; and

**WHEREAS**, in every capacity that James L. Hutchison, Sr. has served, he has demonstrated his passion for protecting the citizenry of the City of Dover and his pride and respect for the men and women of the Dover Police Department. His vision, decisive leadership, and congenial personality have served the Department and the City of Dover exceedingly well. His integrity and high standards of conduct continue to inspire others as a lasting example of an outstanding leader and a committed and selfless public servant.

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council extend their deepest gratitude to James L. Hutchison, Sr. for his invaluable contributions to the City of Dover and highly commend him. The results of his vision and hard work have left an indelible mark on the City that he has loved and served so long and so well, and it is fitting to commemorate his extraordinary diligence and devotion.

**BE IT FURTHER RESOLVED** that the City of Dover Police Department public assembly room is hereby dedicated to James L. Hutchison, Sr. in recognition of his exceptional service to the City of Dover.

**ADOPTED:** NOVEMBER 13, 2017

**Mr. Sudler moved for the adoption of Resolution No. 2017-14, seconded by Mr. Hare and unanimously carried.**

On behalf of the Mayor and Council, Mayor Christiansen presented the Resolution to Mr. James L. Hutchison.

Mr. Sudler expressed congratulations to Mr. Hutchison, noting that he really appreciated the service that Mr. Hutchison provided to the City of Dover. He stated that it had been a great honor to serve as a councilperson with Mr. Hutchison, who had taught him a lot.

Mr. Anderson thanked Mr. Hutchison for his years of service and commitment to the City. He indicated that this dedication was definitely very fitting, explaining that, through Mr. Hutchison's leadership and public relations, he was one of the first to make sure that everyone in the City knew that the Police Department was their police department. Mr. Anderson recalled that Mr. Hutchison invited people in, in an inclusive fashion and went to the churches and into the community to truly

take a message of community to everyone. He stated that having the community room named for Mr. Hutchison is something that is very appropriate and he was pleased to support it.

Mr. Neil stated that Mr. Hutchison had been an inspiration to him since he moved to the City of Dover. Noting Mr. Hutchison's dedication, leadership, and all the time spent and activities that he has been involved in, Mr. Neil indicated that Mr. Hutchison deserved this dedication in a building where the public will have a chance to gather.

Mr. Lewis expressed congratulations to Mr. Hutchison.

Police Chief Marvin Mailey noted that there is a picture of him and Chief Smith from his swearing-in, which took place in the Council Chambers in 1993, when he first began his career, and standing behind him was then Mayor Hutchison. Chief Mailey stated that Mr. Hutchison had been in their lives as a positive role model and had moved the City of Dover Police Department forward in ways that cannot be imagined. He stated that Mr. Hutchison had increased the Department's manpower by about 20 people when he was Chief of Police and continued to pay forward with his dedication and work for this City. Chief Mailey indicated that this Resolution was a small token of the Department's appreciation, noting that they truly love Mr. Hutchison, who is the best of all of them, and they wanted to honor him and thank him for being a part of their lives.

Mr. Hutchison expressed his appreciation to the Mayor and members of Council. He thanked everyone for their commitment and focus each year to ensure they take care of public safety. Mr. Hutchison expressed his pride in Police Chief Mailey and the people he surrounds himself with, noting that he thought he was going to be a great leader for the City.

Mr. Hutchison advised that it is always important to remember where you come from. He shared that he is one of a triplet, and when he was eight (8) years he lived with his mom and dad on a farm they rented, until all of a sudden his dad came down with cancer and passed away. Mr. Hutchison stated that about two (2) to four (4) weeks later, his sister, brother and he were put in Murphey School, a home away from home, with 50 other kids. He noted that, at that time, he was not happy and expressed his discontent from time to time. Mr. Hutchison stated that they were there for 10 years, and today he thanks God every day that he was in Murphey School because it gave him an opportunity to go on in life. He noted that it was the responsibility of every student to go to the Presbyterian Church every Sunday and sit in the front pew.

Mr. Hutchison stated that when he looks back over his life and all the things that he has done, he has to thank the chief, the people that served with him, and those that served before them, noting that they laid the foundation, the bricks and mortar for the Dover Police Department to become a truly premier police department in the State of Delaware. He stated that the City of Dover is blessed and he stands very proud of the men and women of the Dover Police Department and cannot say enough about the City's volunteer fire service. He thanked the Mayor and Council for their support, noting that the City would not be where it is without that support.

Mr. Hutchison stated that having his name on the wall next to James Turner is an honor. He explained that James Turner hired him in 1967, 50 years ago, when he started his police career.



Mr. Hutchison noted that he worked for as a policeman for 25 years and can now say that he has been retired for 25 years.

Mayor Christiansen requested a moment of personal privilege to remind everyone that on November 13, 1882, at a building about a block and a half away, the Robbins Hose Company No. 1 was founded by 17 members of this community and named after James Washington Robbins, one of the partners in Richardson Robbins. He thanked Chief Carey and the volunteers of the Robbins Hose Company, noting that it is the Dover Fire Department. Mayor Christiansen advised that the Company answered their first alarm on January 23, 1883 and since that time they have answered 48,909 fire and rescue calls.

**SPECIAL DOVER HUMAN RELATIONS COMMISSION REPORT -  
SEPTEMBER 21, 2017**

The Special Dover Human Relations Commission (DHRC) meeting was held on September 21, 2017 at 6:00 p.m. with Chairman Henderson presiding.

**DHRC Committee Updates**

**Government Policy, Programs, and Practices Committee (Gaddis)**

No report was provided.

**Community Engagement Committee (Mullen)**

Ms. Mullen advised members that she had met with Pastor Mark Walters, St. Andrew's Lutheran Church, and had received a phone call from Pastor Christopher Hall, The Church The Body Of Christ, on Townsend Boulevard. She stated that she also went to a Police Athletic League (PAL) event hosted at Towne Point Elementary School and met with the leader of that organization, who was looking to do more than just policing and really get into the communities. Ms. Mullen indicated that they had a conversation regarding getting to know the cultures of the community and what communities make up Dover.

Ms. Mullen indicated that she thought it was time to get some hard dates and move forward with a community day. She noted that several churches were represented within the core of the DHRC, and there were other churches in the community that wanted to take part. Ms. Mullen stated that Pastors Walters and Hall want to do something. She noted that Pastor Hall has a social work background and is very community driven. Ms. Mullen suggested inviting all of the communities in the City to a community day, like a "Tearing Down the Walls Day", having the churches present, and addressing different issues or concerns that the DHRC is unaware of and that people may not be comfortable expressing. She noted that this would be an opportunity for members to hear some of the issues, and from there they could perhaps start coming up with resolutions.

Mr. Henderson stated that this was an aggressive agenda that could be discussed. He stated that he agreed with Ms. Mullen and that members could support her.

Ms. Mullen suggested holding the event on The Green once the date is set. She indicated that the different churches could be invited and the event could be advertised in the Dover Post. Mr. Henderson asked when the event would be held, noting that summer was nearly over, and suggested holding it at Delaware State University or the Delaware Technical and Community College auditorium. He indicated the need to be careful of quorum restrictions, explaining that it would probably be Ms. Mullen and himself who would participate. In response to Mr. Henderson, Mrs. Jody Stein, Administrative Assistant, City Clerk's Office, indicated that she thought members may be discussing an event as opposed to a meeting. *(City Clerk's Office Note: Subsequent to the meeting, it was determined that this event, as described, would not be permitted under Chapter 58 - Human Relations, Article II - Human Relations Commission, Section 58-33(c) of the Dover Code, which states that all meetings shall be held at City Hall and in accordance with the Laws of Delaware regarding the Freedom of Information Act (FOIA) and City of Dover procedures.)*

Ms. Mullen indicated that she would rather hold an event outside, stating that she thought members would get more support outside.

Mrs. Herbert asked if this would require money, if food would be provided, and if this would be done through the churches. Responding, Ms. Mullen stated that she was not thinking in terms of food but in terms of having a board and some post cards, noting that people who do not want to be vocal could write their community concern on a post card and turn it in or post it. She suggested that the pastors may want to have a national prayer.

Ms. Mullen asked who to contact to reserve The Green. Mr. Henderson stated that some type of permit would probably be needed, permission could probably be obtained at City Hall, and the Police Department may authorize it. Mrs. Stein offered to obtain information, noting that the Parks and Recreation Department may have to be contacted. Mrs. Mullen stated that once this was done, not much else would be needed to move forward. She noted that the event would have to be announced and the public made aware of it, stating that this could be done through the Dover Post, and she asked if this would be free. Responding, Mr. Henderson stated that this would not be free. Mrs. Herbert indicated that an announcement for a gathering could be free, and noted that if the Dover Post wanted to do an article about it, that would be free.

Mr. Henderson stated that, if done correctly, the event would require coordination and input from various members, noting that this could not be done next week. He stated that this might be something that is brought before Council, who may have some issues and want to be there. Mr. Henderson expressed his belief that Councilman Sudler would be particularly interested in participating. He expressed the need to know who the players are, the subject matter, and if it is a ministerial or civil event.

Ms. Mullen advised that she would like to be proactive as opposed to being reactive. She noted that there was always rioting somewhere, in different states, and thanked God that the City had not experienced this. Ms. Mullen stated that this event would not be a riot but something positive and members would welcome all issues and concerns, both positive and negative, and see what Dover as a city and City Council could do to put things in place.

Mrs. Herbert suggested having a unity walk where everyone could walk together for a period of time.

Mr. Gaddis asked whom members would want to have involved, noting that churches would obviously be involved. He suggested developing a handout, which he could print and could be dropped off at a church. Mr. Gaddis asked what other organizations the DHRC would touch base with, stating that City Council would be a good idea, and perhaps police departments and schools. Noting that bad weather was approaching, he suggested trying to have the event in a school gymnasium, such as Dover High School. He reiterated the need to determine who else the Commission would like to involve in the event, besides churches.

Responding to Mr. Henderson, Ms. Mullen stated that she could brainstorm what the event would be called and suggested something like "Breaking Down the Walls", because there are so many different ethnic groups and nationalities and other cultures are sometimes not understood. She indicated that something she may not find offensive may be offensive to another culture, and she may not be aware of this. Ms. Mullen noted that sometimes it just takes a little bit of educating to let someone know about the culture of a particular ethnic group. She stated the need to respect one another.

Mrs. Herbert advised that it would be a good idea to have a variety of different people, like Muslims, etc., who would be willing to speak for approximately five (5) minutes about their culture.

Mr. Henderson stated that he loved the idea and suggested having a brainstorming session to flesh it out a little more. He suggested that colleges or libraries could serve as a back-up, rainy day location. Mr. Henderson advised that it would not really be that difficult to put the event on if members did it right. He stated that he and Ms. Paige are with the Interdenominational Ministerial Alliance (IMA). Mr. Henderson suggested getting Ms. Paige involved as administration is her strength. He noted that he would also be willing to work with Ms. Mullen.

Ms. Stein suggested that this item be placed on the next meeting agenda for discussion, stating that if members planned to hold the event they would need Council's approval.

Mr. Gaddis suggested that all members come up with ideas and noted the need for a name. He stated that he was unsure about "Breaking Down the Walls" but that

there was a need for something that gets across the idea that it is going to be multicultural. Mr. Gaddis indicated that members need to come up with people, organizations, and cultures that they want to have represented, determine a date, and work on the format. He suggested communicating this to the three (3) absent members and that an email go out saying that Ms. Mullen had presented the idea of a gathering of cultures to get to know each other. Mr. Gaddis indicated that a title was needed to communicate the concept to a broad base of people. He noted that churches were being considered and suggested that this be broadened to religious organizations, synagogues, mosques, etc. Mr. Gaddis asked if there were other groups that members felt needed to be included. He suggested that members could brainstorm this issue at the next meeting.

Mr. Henderson stated that he agreed with Mr. Gaddis. He indicated that there may be a need to narrow the scope or plan for a series of workshops, stating that when that many people are involved, it will not all be done in one (1) session. Mr. Henderson advised that there may be a wide spectrum of community issues and suggested that members may be able to create a format where this type of thing can be done on a regular basis.

Mr. Henderson expressed the desire to give the concept a chance to grow and nurture it. He stated that, as a Commission, members want to make sure they put out a good, clear, coherent product, so that the community knows what the DHRC is talking about. Mr. Henderson noted that former Commissioner James McGiffin had previously done a survey of diversity issues that started out with an embryonic concept. He suggested brainstorming and getting other Commissioners and people involved.

#### Education Committee (Fleming)

Mr. Henderson explained that Mr. Fleming was unable to attend but had asked that members be provided a handout regarding a Parent Student Resource Fair being put on by the Community Engagement Forum, Restoring Central Dover, National Council on Agricultural Life and Labor (NCALL) on September 30, 2017 from 10:00 a.m. to 1:00 p.m. at the Wesley College Center. He noted that Mr. Fleming had indicated that representatives from the State and the Capital School District would attend the event and there would be a keynote speaker, as well as a panel of speakers, including Mr. Kevin Tinsley, who would be speaking on the rights of disabled students. Mr. Henderson noted that DHRC members were welcome to attend and were invited to post signs about the event in their communities.

#### Communications Committee (Paige)

Mr. Henderson stated that Ms. Paige was unable to attend but was continuing to work on a brochure for the DHRC. He indicated that he thought Ms. Paige would appreciate input. Mr. Henderson noted that he had advised Ms. Paige that he wanted to make some slight changes to the pamphlet.

During the Regular City Council meeting of April 10, 2017, Council considered the Development of a Concise Statement - Mission and Functions of DHRC and approved the DHRC's recommendation to accept the concise statement as written. Mr. Gaddis stated that he wondered if Ms. Paige would be willing to put the shortened mission statement that the DHRC came up with several months ago in the brochure. Responding, Mr. Henderson indicated that Ms. Paige was amenable to any input members have and was looking for them to become actively involved. He noted that Ms. Paige had emailed him the pamphlet and stated the need for members to look at the pamphlet and get it done.

**State Human Relations Commission Liaison Report (Herbert)**

Mrs. Herbert advised members that she and Mr. Henderson had attended the State Human Relations Commission (SHRC) executive committee meeting held on August 10, 2017 and expressed to the SHRC the fact that the DHRC wanted to be able to work together with them. She noted that Mr. Calvin Christopher, Chair, SHRC, stated that this would be placed on the September agenda for the whole SHRC; however, when she and Mr. Henderson arrived at the September meeting, this item was not on the agenda.

Mrs. Herbert noted that she and Mr. Henderson were able to make their presentation of Long-Term Objective C.2 of the City of Dover Human Relations Commission Strategic Plan 2015 - 2018, which states, "Develop an understanding with the State Human Relations Commission that will delineate the roles and procedures of the two Commissions in the solution of alleged discrimination complaints which fall within the jurisdiction of the State Human Relations Commission, and identify and maintain specific ways the two Commissions will work together." She indicated that Mr. Christopher stated that he would put this on next month's SHRC agenda. Mrs. Herbert explained that the SHRC requested that she provide them Objective C.2 and Ms. Kelly Brown, their assistant, would distribute it to all the SHRC Commissioners.

Mrs. Herbert noted that Mr. Christopher had stated that he wanted to have a chance to talk with the people in Sussex and Kent Counties, as opposed to the people that are up in Wilmington and Newark, and to have one (1) of the people that represents those counties be a liaison to the DHRC to work with them to answer questions and figure out ways they should interact together. She stated her assumption that this would be handled at the next meeting on the second Thursday of the month at 5:30 p.m. in the conference room on the second floor of the Cannon Building on Silver Lake Boulevard. Mrs. Herbert advised that she planned to attend. She noted that the SHRC was very glad that there was an exact and clear statement of what the DHRC wanted and how they wanted to do it, and they were going to send out precisely what Mrs. Herbert had stated about Objective C.2.

Mr. Henderson noted that he also planned to attend the next SHRC meeting, unless someone else would like to go.

**Future Meeting Dates**

During the Special DHRC meeting of August 24, 2017, members tabled the motion to recommend that the DHRC meet on the fourth Thursday of the month pending further research regarding Chapter 58 of the Dover Code and potential other dates.

**Mr. Gaddis moved to lift the matter from the table, seconded by Mr. Henderson and unanimously carried.**

Mrs. Jody Stein, Administrative Assistant, City Clerk's Office, noted that, if it would work out well with members, holding meetings on the third Thursday of the month, as opposed to the fourth Thursday, would be preferable for staff.

Mr. Henderson asked if members could agree to meet on the third Thursday of the month.

The Commission recommended that the DHRC meet on the third Thursday of the month at 6:00 p.m.

**By consent agenda, Mr. Anderson moved for approval of the Commission's recommendation, seconded by Mr. Neil and carried by a unanimous roll call vote.**

**By consent agenda, Mr. Anderson moved for acceptance of the Special Dover Human Relations Commission Report, seconded by Mr. Neil and carried by a unanimous roll call vote.**

**SPECIAL DOVER HUMAN RELATIONS COMMISSION REPORT - OCTOBER 19, 2017**

The Special Dover Human Relations Commission (DHRC) meeting was held on October 19, 2017 at 6:00 p.m. with Chairman Henderson presiding.

**DHRC Committee Updates****Government Policy, Programs, and Practices Committee (Gaddis)**

No update was provided.

**Community Engagement Committee (Mullen)**

No update was provided.

**Education Committee (Fleming)**

During the Special Dover Human Relations Commission meeting of September 21, 2017, members were provided a handout regarding a Parent Student Resource Fair being put on by the Community Engagement Forum, Restoring Central Dover, National Council on Agricultural Life and Labor (NCALL) on September 30, 2017. Mr. Fleming stated that this event had been held and was not extremely well attended; however, a lot of valuable information was dispensed. He noted that Mrs. Herbert and Mr. Gaddis had attended. Mr. Fleming advised that the conference was interesting, presented a lot of perspectives, and a lot of individuals

were present who gave information on what is available to parents of students with special needs.

Mrs. Herbert stated that, even though they failed to get parents to come, there were many professional people at the conference who knew their own professions but not someone else's, and they learned a lot. Mrs. Herbert indicated that she thought that the advertising for the event might have been the problem.

#### Communications Committee (Paige)

Mr. Offredo advised that he and Ms. Paige had worked on the draft Dover Human Relations Commission brochure, which was pretty much in its completed format, aside from the section under "Our Meetings." He noted that they had left this section blank because he was unsure if members had discussed on which Thursday of the month they would be meeting. Mr. Offredo indicated that the brochure was 99.9% complete and suggested that it be placed on the next meeting agenda.

Mrs. Herbert explained that, during the DHRC meeting of September 21, 2017, members had recommended that the DHRC meet on the third Thursday of the month. Mr. Offredo stated that before the next meeting he would update the brochure to reflect that information, review it, and provide it to Mrs. Jody Stein, Administrative Assistant, City Clerk's Office, to be included on the agenda. Responding to Mrs. Stein, Mr. Offredo stated that he would prefer to wait until the next meeting to finalize the brochure, rather than attaching it to the current meeting minutes, so that members could review it once again prior to Council's review.

Mr. Henderson suggested that it be included somewhere in the brochure that he is the Chair of the DHRC. He stated that he had no other problems with the brochure.

Mr. Fleming stated that he had reviewed the draft brochure, which looked really good. He indicated that, at one point, members were thinking about modifying the statement regarding DHRC meetings in Chapter 58 - Human Relations of the Dover Code. Responding, Mrs. Herbert stated that she thought that members had resolved that issue during a previous meeting when they stated that they would hold special meetings and could then meet as much as they wanted. Mr. Fleming stated that he was not aware that the Commission could do that. He explained that he wanted to mention it before Mr. Offredo finalizes the brochure, if members were thinking of making a change.

#### **State Human Relations Commission Liaison Report**

During the Special DHRC Meeting of September 21, 2017, Mrs. Herbert advised members that she and Mr. Henderson had attended the State Human Relations Commission (SHRC) executive committee meeting held on August 10, 2017 and expressed to the SHRC that the DHRC wanted to be able to work together with them. She noted that Mr. Calvin Christopher, Chair, SHRC, stated that this would be placed on the September agenda for the whole SHRC; however, when she and Mr. Henderson arrived at the September meeting, it was not on the agenda.

Mrs. Herbert explained that she attended the SHRC meeting on October 12, 2017 and the DHRC's request was again not on the agenda. She stated that she asked when the item would be placed on their agenda and they settled the matter by provided a contact, Dr. Nancy Maihoff, Ph.D. Mrs. Herbert informed members that, according to Dr. Maihoff's card, she is a consultant in research design, statistics evaluation, educational testing, and test development who lives in Dover. She advised that she had told Dr. Maihoff that she would call her; however, she was unsure whether members wanted Dr. Maihoff to come before the DHRC or if they wanted Mrs. Herbert to have a conversation with her before that.

Mr. Henderson asked what the value would be in having Dr. Maihoff come and share with the DHRC. Responding, Mrs. Herbert stated that she did not know because she had not had a chance to talk with Dr. Maihoff. She indicated that she had heard that someone had come from the State in the past. Mrs. Herbert noted that she left the SHRC meeting after she accomplished her mission; however, the person who stood up to speak as she was leaving stated that they wanted their concern to be kept confidential. She stated that she assumed this individual was told that their concern could not be kept confidential since it was an open meeting. Mrs. Herbert explained that apparently the SHRC hears complaints; however, she was unsure whether this individual was in the correct place to state her complaint.

Mrs. Herbert stated her assumption, based on the wording in the DHRC's Strategic Plan, that members want to know how to communicate with the SHRC if there is an issue that they feel the SHRC should handle. She indicated that Dr. Maihoff is very nice and had attended every SHRC meeting, noting that some of the people do not. Mrs. Herbert advised that she would call Dr. Maihoff to see if she had time to chat on the phone or sit down and talk. She stated her belief that the SHRC knows that the DHRC members are new and not quite sure of the path they should be taking. Mrs. Herbert noted that the SHRC is also an advisory committee and should understand the DHRC's issue on that.

Mr. Fleming stated that he and Mrs. Herbert questioned the value of attending all of the SHRC meetings. He suggested, once they find out the SHRC's meeting schedule, that DHRC members take turns going so each of them would have some understanding of what the State is doing. Mr. Fleming noted that this would take the burden of attending every meeting off Mrs. Herbert.

Mrs. Herbert indicated that, from what she had seen by going to SHRC meetings, she did not feel it was worth going to every meeting and was unsure if DHRC members would get that much out of it. She advised that the DHRC needed to know how to connect with the SHRC and touch base periodically. Mr. Henderson stated that he concurred and that DHRC members might want to go just to see what the State meetings are like. Mrs. Herbert indicated that the meetings are open to anyone.

Mrs. Herbert stated her understanding that the SHRC liaison position did not involve attending all of the SHRC meetings but creating a way for the DHRC and the SHRC



to communicate with each other, as was written in the DHRC Strategic Plan. She advised that, in this case, this communication would be through calls between herself and Dr. Maihoff, noting that members may want to do this differently.

In response to Mr. Henderson, Mrs. Herbert advised that the SHRC meets on the second Thursday of every month at 5:30 p.m. in the Cannon Building on Silver Lake Boulevard. She indicated that she would like to discuss with Dr. Maihoff the possibility of having Dr. Maihoff tell her if the SHRC will be considering something that she feels the DHRC needs to come to a meeting to observe and hear, and set up this kind of rapport with her.

Mr. Offredo noted that the SHRC is a public body and DHRC members could view the SHRC agendas and minutes online to see if there is something that they need to know about or attend, in addition to any reports they may have. Mrs. Herbert advised that she had been checking the SHRC agendas, which was how she knew the DHRC had not been included. She stated that she thought DHRC members had attended three (3) or four (4) meetings to get on the agenda. Mrs. Herbert indicated that she had been looking at the SHRC's minutes and a lot of what they talk about is legislative, which she thought the DHRC should be very interested in. She noted that homelessness is one (1) of the issues. Mrs. Herbert stated that she thought that the SHRC was in the same position as the DHRC, noting that they cannot support anyone in particular, but can say things like, "The homeless should be treated as fairly as everyone else." Mrs. Herbert stated that until she talks to Dr. Maihoff she will not know how to go about this. She stated that she wanted to develop a working relationship with Dr. Maihoff and was more concerned about the process of how to interact together than attending the meetings because all of their minutes are online.

Mrs. Herbert stated that she did not know how often the SHRC has executive sessions, noting that she and Mr. Henderson went to a meeting that was supposed to start at 5:30 p.m. and it started at 6:15 p.m. She explained that SHRC agendas are available ahead of time and suggested that members check them if they wish to attend a meeting because cancellations are sometimes reflected online.

Mr. Henderson noted that Mr. Gerald Rocha had approached Ms. Paige regarding his interest in joining the DHRC. Responding to Mr. Henderson, Mrs. Jody Stein, Administrative Assistant, City Clerk's Office, stated that Mr. Rocha resides in the First District. Mr. Henderson stated that he knew Mr. Rocha very well because they are in the same fraternity and he thought that Mr. Rocha would be very good for the Commission, noting that he is an active individual and a very good man. Mr. Henderson stated that he looked forward to possibly having Mr. Rocha on the Commission.

**By consent agenda, Mr. Anderson moved for acceptance of the Special Dover Human Relations Commission Report, seconded by Mr. Neil and carried by a unanimous roll call vote.**

**COUNCIL COMMITTEE OF THE WHOLE REPORT - OCTOBER 24, 2017**

The Council Committee of the Whole met on October 24, 2017 at 6:01 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson (arrived at 6:06 p.m.), Mr. Sudler, Mr. Neil, Mr. Lewis, Mr. Cole, Mr. Polce (departed at 6:18 p.m. and returned at 6:21 p.m.), Mr. Hare, and Mr. Lindell. Mayor Christiansen was also present. Civilian members present for their Committee meetings were Mr. Garfinkel and Mr. Shelton (*Safety Advisory and Transportation*), and Mr. Shevock (*Legislative, Finance, and Administration*). Dr. Stewart (*Legislative, Finance, and Administration*) was absent.

**SAFETY ADVISORY AND TRANSPORTATION COMMITTEE**

The Safety Advisory and Transportation Committee met with Chairman Lewis presiding.

**Update - Alternative to Speed Bumps - Ann Avenue (Sudler)**

During their meeting of July 24, 2017, City Council approved the Council Committee of the Whole/Safety Advisory and Transportation Committee's recommendation to: a) install a traffic enforcement sign on Ann Avenue; b) install strictly enforced speed limit signs on Ann Avenue; and c) perform a traffic study on Walker Road and Ann Avenue indicating the timing of the lights and the count, date, and time of traffic flow.

Police Chief Mailey advised members that the Police Department conducted a speed survey of Ann Avenue, just north of Walker Road, after receiving a complaint from Mr. Sudler in reference to speeding through the neighborhood. He recalled that the original question was whether speed bumps would be feasible, explaining that he did not believe they would be because of a stipulation in the City Code. Chief Mailey reviewed the results of the speed survey conducted between July 14, 2017 and July 25, 2017, noting that 3,715 cars passed through the neighborhood during that time. He informed members that the average speed of vehicles passing through was 21.9 miles per hour (mph), the maximum speed was 57.6 mph, and the minimum speed was 6.3 mph. Chief Mailey noted that the posted speed limit in the neighborhood is 25 mph and 29 percent of the 3,715 vehicles were traveling between the speeds of 20 and 25 mph. He stated that 983 vehicles or 26.5 percent were traveling between 15 and 20 mph, and 715 vehicles or 19.2 percent were traveling between 25 and 30 mph. Chief Mailey noted that approximately 10 percent were traveling between 10 and 15 mph, and 6.6 percent or 245 vehicles were traveling between 30 and 35 mph. He offered to email the results of the speed survey to members. (*City Clerk's Office Note: Subsequent to the meeting, the "MetroCount Traffic Executive Speed Statistics" report (as on file in the City Clerk's Office) was provided to members.*)

Chief Mailey advised that he had contacted Mr. Windley from Senator Carper's office, who helps the Police Department with grants, and asked about the feasibility of grants for speed measuring devices. He stated that Mr. Windley informed him that there were no grants available at that time that the Department could apply for.

Chief Mailey stated that he thought that the best way to solve this problem would be through visibility and enforcement. He noted that there are several areas in the City that have similar problems and the Department's motorcycle unit moves from location to location throughout the month to try and serve the whole City. Chief Mailey advised that the motorcycle unit is understaffed due to a promotion and an officer injury from May of 2017. He explained that he has people in the academy, however, they will not come out of the academy until March of 2017, and then it will be approximately six (6) months before they go on their own. Chief Mailey stated that, with the depleted motorcycle unit, he also asked the patrol unit to move around the City and conduct enforcement, noting that they do a very good job in between going to complaints.

Mr. Sudler asked if Chief Mailey thought that a speed indicator that says slow down or too fast, like the one on Slaughter Street, could make a difference with the traffic issue on Ann Avenue and not cost that much. Responding, Chief Mailey stated that he thought that a speed sign would help. He noted that he had just come from an International Association of Police Chiefs (IACP) conference in Philadelphia that had several displays, and he and the Major were trying to price trailers that can be towed behind to move from one location to another. Chief Mailey stated that the Department is going to try to get one of them because they receive complaints from all over the City and these trailers do serve as a deterrent. He explained that when people are going 5, 10, or 15 mph above the speed limit and see a flashing sign, this brings about public awareness. Chief Mailey stated that people on the street see it, which is like peer pressure. He noted that drivers either slow down or ignore it, and they typically slow down. Chief Mailey advised that the Department is looking to correct the behavior and they do not want to write a bunch of tickets; however, they do have to maintain public safety.

Mr. Anderson asked whether Chief Mailey thought that the City should consider adding strictly enforced signs, not in the whole City but in developments. He indicated that these signs could be used when City needs to enforce speed limits, like on Ann Avenue or Village Drive, where 25 mph is the top speed that would be wanted, as opposed to most of Governors Avenue or Division Street, where there is more leeway because of the size of the street. In response, Chief Mailey stated that he thought this would help, noting that Mrs. Donna Mitchell, Acting City Manager, had information on signs and Mr. Anderson may want to pose this question to her.

Mr. Anderson asked if State guidelines indicate that the State wants municipalities to add strictly enforced signs or else give substantial leeway in the speed enforcement. Responding, Mrs. Mitchell stated that she thought that this was a

municipal decision and that the State did not care whether municipalities put up strictly enforced signs; however, she could check on it.

Mrs. Mitchell informed members that Mrs. Sharon Duca, Public Works Director, had advised her that the City asked for money from Senator Bushweller in one (1) of the Community Transportation Fund (CTF) agreements for a mobile sign, and he had given \$8,500 for it. She indicated that, based on the discussion during the meeting when this matter was considered previously, Ann Avenue was one (1) of the areas where staff planned to put a sign to start with. Mrs. Mitchell advised that this CTF agreement was underway. She noted that, during the previous discussion, it was stated that if strictly enforced signage is put out, there will be a need to strictly enforce, and it would be up to Chief Mailey how aggressively he could do this, with staff and time, etc. Mrs. Mitchell stated that the traffic sign could be put out there and noted that Mrs. Duca indicated that if this is a permanent battle out there, a permanent sign may be wanted instead of the mobile sign. She advised that staff had been waiting for the police traffic study to come back to determine whether a permanent sign would be better than the mobile sign.

In response to Mr. Anderson, Mrs. Mitchell stated that she did not have cost estimates on the strictly enforced signs.

Mr. Hare noted that he had seen cameras used for speeding in other states and they work. Responding, Chief Mailey indicated that there had been a lot of talk about camera use; however, he noted that this would have to be passed by the State legislature. He advised that Maryland has these cameras; however, as far as he knew, nothing had been drafted or was on the Delaware legislative floor.

Mayor Christiansen indicated that he had gone to sit in the Ann Avenue area on several occasions, the latest being earlier in the day, and noticed that the timing of the light at Saulsbury and Walker Roads was one (1) of the things affecting the high volume of traffic through Ann Avenue. He stated that he wondered if the City should check with the Delaware Department of Transportation (DelDOT) because these are both DelDOT controlled roads. Mayor Christiansen advised that he noticed that if traffic is backed up at clock-out time at for one (1) of the local employers, people cut through this neighborhood. He suggested putting strict enforcement out there during that time if there is enough staff.

Chief Mailey indicated that he could reach out to Mr. Rivera at DelDOT, who had helped with a lot of issues and could perhaps provide some guidance and help on the cycling of that light.

In response to Mr. Shelton, Chief Mailey stated that he did not check how many tickets were written during the time period of the traffic study. He explained that typically staff conducts the speed survey and tries to let the area be unaffected by enforcement to get a good barometer of what is going on. Chief Mailey advised that having an officer there would skew the numbers.

Mr. Shelton stated that writing tickets would offer a deterrent for speeders cutting through. He indicated that he goes through the area and sees a lot of traffic coming out of Edgewell, going through the area, and heading north on Saulsbury Road.

Mr. Neil requested that the light on North State Street be kept green longer so that traffic can go back and forth safely.

Mr. Hare asked if Chief Mailey had looked at the possibility of hiring officers from Camden or Wyoming on a part-time basis and basing their pay on the number of tickets they write. Responding, Chief Mailey indicated that he did not love the idea of having another officer come in and enforce laws within the City of Dover and thought it would be problematic to pay officers to come and write tickets. In response to Mr. Hare, Chief Mailey stated that they could look at hiring an off-duty City officer. He noted that the Department pays an hourly rate based on enforcement efforts, which are always at 110 percent. Mr. Hare stated that one (1) officer could probably make a living just sitting on Wyoming Avenue.

In response to Mr. Lewis, Chief Mailey advised that he would continue to keep a vigilant eye on this matter.

During the Council meeting, Mr. Sudler stated that he thought that the City needed to put something in place immediately. He suggested that, as a worse case scenario, a digital speed indicator could be placed permanently in that area. Mr. Sudler advised that there seemed to be a continuous amount of reports of speeding in that community and conveyed that his constituents would like to have something done as soon as possible.

Mrs. Mitchell advised members that after Mrs. Duca listened to the police report, she determined that Ann Avenue should have a permanent fixture rather than the portable sign. Mrs. Mitchell stated that the City has the portable fixtures on order and Mrs. Duca is going to get a permanent sign as quickly as possible.

#### **UTILITY COMMITTEE**

The Utility Committee met with Chairman Cole presiding.

##### **Americans with Disabilities Act Sidewalk Compliance - Lincoln Street**

Members were advised that the Fiscal Year 2017 Street & Alley Program includes Lincoln Street as a street that is scheduled to be reconstructed. Staff identified that the northern side of Lincoln Street, near the intersection with Forest Street, has sidewalk that is not compliant with the Americans with Disabilities Act (ADA) as the cross slope does not meet the standards, and it would be impossible to regrade the driveways to meet this requirement. Staff's recommendation was to bump out the new sidewalks into the road, an example of which exists on Washington Street. An adjustment to the adjacent catch basin would be required as well. The road width would be reduced to 26 feet and, as a result, parking would only be allowed on one (1) side of the street.

Staff recommended approval of the proposed sidewalk orientation to comply with the Americans with Disabilities Act.

Mr. Anderson noted that Lincoln Street is very busy and asked how the width reduction would affect traffic and if it would make this a substandard portion of the road. In response, Mrs. Mitchell stated that the road would still meet the requirements for road width. She indicated that if sidewalks had to be done on both sides it would not be doable; however, Mrs. Sharon Duca, Public Works Director, had included a sidewalk on just one (1) side, which made the 26-foot roadway width doable. Mrs. Mitchell stated that she could not speak from an engineering perspective; however, she had advised Mrs. Duca that she would present this matter since it Mrs. Duca's daughter's birthday.

Mr. Neil moved to recommend approval of the proposed sidewalk orientation to comply with the Americans with Disabilities Act, as recommended by staff. The motion was seconded by Mr. Hare.

Mr. Hare asked who requested this item. Responding, Mrs. Mitchell indicated that, during the Council Committee of the Whole/Utility Committee meeting of October 10, 2017, there was an ADA presentation and that, as streets are being improved, the City is having to upgrade sidewalks to meet federal ADA requirements. In response to Mr. Hare, Mrs. Mitchell explained that the sidewalk upgrades were not optional due to federal ADA requirements. Noting that the original width would be reduced from 32 feet to 26 feet, she reiterated that there would not be parking on both sides of the street.

Mr. Sudler stated that he personally thought this matter should be deferred until Mrs. Duca was present. Responding to Mr. Sudler, Mrs. Mitchell stated her understanding that a sidewalk was not required on the other side of the street; however, she would have to confirm that with Mrs. Duca. Mr. Sudler indicated that he would be voting no because he thought that members needed to get more information from Mrs. Duca before making a final decision.

The Committee recommended approval of the proposed sidewalk orientation to comply with the Americans with Disabilities Act, as recommended by staff.

Mrs. Mitchell stated that she would ask Mrs. Duca to provide additional information. *(City Clerk's Office Note: Subsequent to the meeting, Mrs. Mitchell notified members that Mrs. Duca advised her that the sidewalk section on the other side of Lincoln Street is at the correct grade and already compliant.)*

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

**Conwell Street Discussion**

During their meeting of August 28, 2017, City Council approved the Council Committee of the Whole/Utility Committee's recommendation that a legal opinion regarding the ownership of Conwell Street and the City's legal options in regard to this matter be provided at the next Utility Committee meeting.

Mr. Slavin advised that on October 23, 2017, members of Council held an Executive Session regarding this matter and the contents of that session could not be discussed in a public forum, nor could the legal opinion that members received.

The Committee recommended that the concerns of residents of Conwell Street be directed to the State legislators for that district and request that the State of Delaware take ownership of that street.

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

**LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE**

The Legislative, Finance, and Administration Committee met with Chairman Hare presiding.

**Proposed Ordinance #2017-14 Amending Chapter 30 - Code of Conduct and Ethics Commission, and Appendix F - Fees and Fines (City of Dover Ethics Initiative) (Sponsors: Lindell, Polce, and Slavin)**

During their meeting of September 12, 2017, members of the Council Committee of the Whole/Legislative, Finance, and Administration Committee considered a Proposed City of Dover Ethics Initiative, and during their meeting of October 10, 2017, members deleted Proposed Ordinance #2017-14 from the agenda, due to the absence of Council President Slavin, who was a sponsor of the ordinance, and due to Mr. Polce's conversations with Mrs. Traci McDowell, City Clerk, regarding tightening up some of the language.

Mr. Polce expressed appreciation to Mrs. McDowell for the tremendous amount of time and effort she had placed in revising this specific section of the ordinance, and to his colleagues for their comments on how to strengthen a raw idea with regard to the City's Code of Conduct and Ethics. He explained that the Proposed Ordinance would make general revisions to the ordinance, bring it up to current practice, and address four (4) items that were discussed approximately one (1) month and two (2) weeks ago.

Mr. Polce advised that a four-pronged process would be used to ensure that Council members are operating in a transparent fashion when it relates to financial holdings. Referring to line 73 of the Proposed Ordinance, Mr. Polce stated that the first prong would require both elected and appointed officials to receive and read the Standards of Ethical Conduct and Ethics Commission either electronically or in hard copy and

sign and acknowledge that they have read the contents. He advised that the second prong was a financial disclosure report, noting that a template of the report was attached as an appendix to the Proposed Ordinance. Mr. Polce indicated that this document was modeled directly after the Public Integrity Commission's (PIC's) document that all elected officials both in the General Assembly and the executive branch have to file annually. He stated that the document is fairly straightforward and essentially asks for disclosure of where financial interests are vested to ensure operation in the most open and transparent fashion possible.

Mr. Polce explained that the Proposed Ordinance also requires members to receive annual training to be received in the modality that is best. He noted that there had been a great partnership with the PIC, and the executive director of the Commission had offered to come to a Council meeting to offer guidance on specific procedures.

Mr. Polce stated that the spirit and revisions of the ordinance would get to the issue that members had been facing: operating in an open and transparent fashion and ultimately holding themselves accountable where potential conflicts of interest rooted in financial holdings come into play. He indicated that the revisions would bring the ordinance to standard and best practice. Mr. Polce stated that Mrs. McDowell did extensive research on several different municipalities and cities to incorporate language that strengthens the City's current practice.

Mr. Sudler, referring to the Financial Disclosure Report, Section 1(A) Instruments of Ownership, noted that the form states "Do not include dollar amounts." Responding to Mr. Sudler, Mr. Polce explained that only the entity that members work for was needed. Mr. Slavin stated his understanding that the instructions for Section 1 indicate that legal or equitable ownership in excess of \$5,000 needs to be disclosed and below \$5,000 does not need to be disclosed.

Mr. Sudler stated that he did not agree that a dollar amount is necessary at this segment of government and that he thought that this should be stricken from the template. He indicated that he thought it was okay to disclose the entity for which members work, but disclosing how much one makes from that entity was irrelevant and he asked that this be removed. Responding, Mr. Slavin advised that members would never have to disclose how much they make but only the interest they have if the amount is above \$5,000. He explained, for example, that if he owns Company A and determines that it is worth \$1,000, he would not list Company A; however, if he owns Company B, which is worth \$6,000, he would list "Company B" without any dollar amounts.

Mr. Lewis noted that Section 1(A) of the Financial Disclosure Report states that the instruments of ownership includes retirement accounts, 401K, IRA, etc., and advised that he works for the State of Delaware and has investments in a 401K and an IRA. He indicated that money in his fund is disbursed in different areas and asked if he would be required to name all of those companies. Responding, Mr. Slavin noted that he files this form on an annual basis and only the manager of the fund, such as



Fidelity Investments, Voya Financial, or the State of Delaware pension system, needs to be named.

Mr. Neil stated that he is receiving money from his 401K and would report those who are managing it; however, if Mr. Lewis is in a 401K and is not receiving money but just putting it into the fund, he did not believe that Mr. Lewis would have to report it since he would not be taking it out until he retires. Responding, Mr. Slavin stated that it would be a matter of where someone's interests are. He indicated that if a member bought interest in a particular fund's 401K, they would list that fund manager.

In response to Mr. Lewis, Mr. Slavin stated that these funds would be considered an investment and all investments are required to be disclosed at the highest level, but not at the individual level. He advised that he thought that individual stocks are not asked for. Mr. Slavin noted that if a member has a mutual fund, they will list the owner of the mutual fund.

Mr. Anderson advised that there had been a lot of work and improvement in this process and expressed thanks. He indicated that he still had a problem with unnecessarily cutting and pasting this type of form to have things that really should not be included at either level. Mr. Anderson stated that he thought a 401K should be treated the same as a bank account, which is not required to be disclosed, and that this particular element should be removed. He advised that, with a thrift account, someone could change their monetary allocation twice a month and their future contributions every day if they wanted to, not that he would do so. Mr. Anderson stated that the proposed provision would not really give any information, noting that someone has no more financial interest in having their bank account at Fidelity than they do in having it at Citizens. He indicated that these are instruments for anonymous investments for which members do not control the outcome. Mr. Anderson advised, for example, that the City deciding whether or not to get a Templeton fund or a Fidelity fund would not remotely affect the value in any way possible. He stated that this provision was just more paperwork, should be dropped from the City's form, and members should focus on things that could create a possible conflict of interest. Mr. Anderson indicated that most of the rest of the form dealt with more practical things, such as business enterprises and other instruments of ownership. He reiterated that he thought that a 401K should be treated like a bank account and should not be included on the City's form.

Mr. Slavin stated that he appreciated the concern that Mr. Anderson had raised; however, he disagreed because there are times when members are asked to choose fund managers. He indicated that it would be important for them to disclose any relationships they have so that there would not be even the sniff of a conflict of interest. Mr. Slavin advised that he would go with the fact that this is a system that works for judges, legislators, and every appointed official in the State of Delaware and that he will vote for it to be adopted by the City. Mr. Slavin stated that if people

are uncomfortable with having this standard of ethics and disclosure behind them, they can vote against it.

Mr. Slavin moved to recommend adoption of Proposed Ordinance #2017-14, seconded by Mr. Lindell.

Mr. Neil stated that he was happy with the Proposed Ordinance and thought it a very solid piece of legislation. He informed members that he had taken money and put it aside in his 401K and this was deferred compensation. Mr. Neil explained that the Internal Revenue Service states that he has to remove 10 percent of this every single year, and he will list who is handling that account because it is real income that he is using. He noted that he did not think that a person who is putting funds into that type of account is accountable until they retire and start drawing money out, because they are not benefitting from the money. Mr. Neil noted that these funds are put aside as a pension for the future. He stated that he would list his Social Security, his pension, and the money he receives from the City. Mr. Neil indicated that he would support the Proposed Ordinance because he thought that the transparency issue was the issue really at stake.

Mr. Lewis noted that Mr. Polce had mentioned that it might behoove Council to receive a presentation from a representative of the PIC or its director. He suggested that it would be good for members who have reservations to direct their individual questions to the PIC representative for final clarification.

Mayor Christiansen commended everyone for their work and comments and noted that Mr. Polce had offered, once the Proposed Ordinance is adopted, for members to receive additional training as they move forward with filling out their documents. He stated that he thought that, in these days and times, the public requires members to be above reproach with the citizens that they serve. Mayor Christiansen indicated that he thought that all of those in the room serve with integrity, honor, and to the best of their ability. He noted that once they set an example to the public that they are serving in this manner, the public's trust and belief that the actions of Council and City staff are in the best interests of the citizens will be confirmed. Mayor Christiansen expressed thanks to Mr. Polce for bringing this matter to members' attention, to the other sponsors, and to Mrs. McDowell for the yeoman duty that she put forth.

Mr. Lindell stated that he supported the measure fully and appreciated the work that Mr. Polce and Mrs. McDowell put into researching, and putting the document together. He advised that he did not see this as a big issue, noting that when he ran and was elected, he expected that members should be held to a higher standard, which meant he should be expected to share a little more information than the average Joe or Jane citizen should share. Mr. Lindell indicated that he would report Voya on his sheet, noting that members would not be disclosing dollar amounts. He indicated that members were getting lost in the weeds and that the system works

throughout the State and is a vetted process. Mr. Lindell stated that if training was needed, this could be done after the Proposed Ordinance is approved.

Mr. Anderson moved to amend the Financial Disclosure Report, Section 1(A) to state “excludes retirement accounts not receiving distribution.” The motion was seconded by Mr. Lewis and failed by a roll call vote of nine (9) no (Sudler, Neil, Lewis, Cole, Polce, Hare, Lindell, Slavin, Shevock) and one (1) yes (Anderson).

The Committee recommended adoption of Proposed Ordinance #2017-14.

Mr. Polce thanked his colleagues for the positive feedback that they provided him approximately a month and a half ago.

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

**Proposed Ordinance #2017-15 Amending Chapter 34 - Elections, Article III - Absentee Voting (Sponsors: Anderson and Lindell)**

Mrs. Traci McDowell, City Clerk, advised members that Proposed Ordinance #2017-15 was brought about by a change in State legislation that removed the requirement for notaries for absentee ballots. She explained that the Proposed Ordinance would amend Chapter 34 of the Dover Code to remove this requirement for the City, and combine a couple of paragraphs that were very similar. Mrs. McDowell explained that the Proposed Ordinance would also remove the list of reasons for eligibility to vote by absentee ballot and reference the Delaware Code instead, explaining that sometimes the State’s reasoning for absentee eligibility changes and the City is not made aware right away.

Staff recommended adoption of Ordinance #2017-15.

The Committee recommended adoption of Ordinance #2017-15.

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

**Update - Resolution No. 2017-10 - Establishing the “Making Dover Prosper” Initiative**

During their meeting of August 14, 2017, City Council adopted Resolution No. 2017-10 - Establishing the “Making Dover Prosper” Initiative, which included a direction to the City Manager and Director of Planning and Community Development to report to City Council not later than October 31, 2017 with recommendations and a path forward.

Mr. David Hugg, Acting Director of Planning and Community Development, reviewed an outline, plan, and status report regarding Resolution No. 2017-10 - Establishing the "Making Dover Prosper" Initiative.

Mayor Christiansen stated that Mr. Hugg had made the City shine lately by drawing new businesses downtown and giving out appropriate information. He advised that Mayor Purzycki, City of Wilmington, was scheduled to attend the Economic Development Committee meeting of October 25, 2017, to share some of the successes, failures, and strategies used in Wilmington. Mayor Christiansen invited everyone to attend, noting that Mayor Purzycki had been and continues to be successful in Wilmington.

Mr. Anderson thanked Mr. Hugg for all of the work that he was doing, stating that he was focused like a laser and was cutting through the problems.

Mr. Neil noted that the Kent Economic Partnership had recently honored Mr. Hugg for his work in Smyrna. He stated that the light Mr. Hugg had brought to Smyrna was beginning to shine here and expressed his hope that Mr. Hugg could earn another significant honor from the Partnership for what he was doing for the City of Dover.

Mr. Hugg thanked members of Council, not only for bringing him complaints but for helping staff to find solutions. He advised that Dover has a great future and that approximately half a dozen new businesses either opened or were about to open downtown in the last six (6) months. Mr. Hugg stated that he could not take credit for all of these businesses but this was a good sign, and he thought everyone should be positive about this and tell this story.

#### **Discussion - Development of Policies/Procedures**

Mr. Slavin advised members that he had requested that the Discussion - Development of Policies/Procedures regarding Legal Opinions and Excused Absences be added to the agenda because he has concerns and is unsure whether the City needs new procedures. He indicated that if new procedures are necessary, he would need members' help in creating them.

#### **Legal Opinions**

Mr. Slavin stated that the City currently has a practice that allows for legal opinions to be requested by anyone and that legal opinions cost money; therefore, there was an unrestricted burner going on when it comes to these costs. He explained that it is not known how much a legal opinion will cost when it is obtained, and without knowing this, there is no control on how much is spent for legal opinions. Mr. Slavin stated that in some cases, over the course of the last 10 or 20 years, legal opinions had been requested for the same matter multiple times and he expressed the desire to avoid that issue. He indicated that he wanted to open this matter for suggestions. Mr. Slavin noted that he did not want to create a choke point and did not think that being the gatekeeper would be an appropriate role for him; however, he thought that members could do something together to make this procedure better.

Mr. Anderson stated that he agreed with Mr. Slavin on both points, noting that he did not think that members want to choke off legal opinions because many times legal opinions save money in the long run, so that huge mistakes are not made for something that would have cost \$125 for an opinion. He indicated that he would like to see a library of legal opinions that is easy to access so they are not duplicated. Mr. Anderson indicated that if members question if an opinion that is 20 years old is valid, they could ask if it should be updated, and this is the approach he would use if he had this concern. He asked if this could be done through the City Clerk's Office, stating that he thought it would be nonsense to duplicate things that the City already has.

Mr. Slavin noted that the City has a body of knowledge to which access is needed; however, it is a restricted, confidential body of knowledge. He expressed the need to keep tight control over this information, stating that he did not think it would even be put on a protected intranet. Mr. Slavin indicated that a gatekeeper may be needed to take requests and suggested perhaps having the City Clerk's Office service those requests and advise whether or not there had been a previous legal opinion. Mr. Anderson asked if it would be feasible to use the City Clerk's Office as a clearinghouse for legal opinions, noting that this may possibly save on both time and money. Mr. Slavin stated that perhaps the City Clerk's Office could be called or emailed first to see if there is any precedent, and if not the request for a legal opinion would proceed.

Mr. Slavin suggested that an appropriate motion would be to ask the City Clerk's Office to come up with some procedures in this regard. He also suggested a second motion to have Mrs. Donna Mitchell, Acting City Manager, compile the City's legal costs related to legal opinions for fiscal years 2017 and 2018 so members can correlate where the requests are coming from, explaining that in addition to the nine (9) members of Council, there are also staff members who request legal opinions. He stated that the data would indicate how much of an issue the City has.

The Committee recommended that Mrs. Donna Mitchell, Acting City Manager, compile the costs associated with legal opinions requested in FY 17 and year-to-date FY 18 correlated by requestor.

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

Mr. Hare stated his belief that members had stated some time ago that all legal opinions would be vetted through the Clerk's Office. He advised that he agreed with this process and thought that someone who obtains a legal opinion on their own which had previously been obtained should be the one to pay for the opinion.

Mr. Sudler stated that he agreed with Mr. Anderson, Mr. Slavin, and Mr. Hare and expressed his belief that this matter had been discussed previously. He indicated that he liked the idea of having the City Clerk's Office review requests for legal opinions

and get back to members; however, he stated that he would like to read for himself the literature on the opinion rather than just receiving a call stating whether or not an opinion had been obtained.

Mr. Anderson moved to recommend that the City Clerk's Office develop recommended guidelines for the issue of legal opinions and the compilation of existing legal opinions. The motion was seconded by Mr. Lindell.

Mrs. Traci McDowell, City Clerk, requested clarification regarding the compilation of legal opinions. Responding, Mr. Anderson advised that he would like the City Clerk's Office to give members guidelines on a procedure for obtaining legal opinions and recommendations on establishing a compilation of existing legal opinions.

Mr. Hare stated that he agreed to a certain degree that if members need a legal opinion, they could ask the City Clerk's Office to get the information. He explained that he did not think it was necessary to have the City Clerk's Office put together a whole list of legal opinions, for example, from the last 15 years; however, if a question is raised that requires a legal opinion, the City Clerk's Office could research to determine if an opinion was previously provided and advise members of that opinion.

Responding to Mayor Christiansen, Mrs. McDowell explained that legal opinions are currently archived by title and subject and are permanent, according to the State records retention policy. She indicated that staff has all legal opinions ever obtained; therefore, making a compilation would be mind-boggling. Mrs. McDowell stated that the opinions are easy to retrieve, noting that all of the legal opinions received in paper format are stored electronically and the City Clerk's Office can search the whole database.

In response to Mr. Anderson, Mrs. McDowell advised that staff essentially has a compilation because legal opinions are filed electronically in Fortis, the City's document management system. Mr. Anderson stated that members do not need a compilation and have the City Clerk to access the opinions.

Mr. Anderson suggested that the motion be amended to recommend that the City Clerk's Office develop a recommended procedure for requesting legal opinions and, as the seconder, Mr. Lindell agreed to the amendment.

**By unanimous consent, the motion was amended to recommend that the City Clerk's Office develop a recommended procedure for requesting legal opinions.**

Mrs. Mitchell stated that she had compiled legal costs through most of last year and the prior year; however, it would be very time consuming to determine which of the costs related to legal opinions and which to legal services. She stated that she could provide the legal costs that had been compiled summarized by department, by whom

the legal opinion was requested, and what the matter was, but not necessarily to indicate that the City Clerk had these opinions.

Mr. Slavin stated, as the maker of the motion, that what Mrs. Mitchell had compiled would meet the intent of the motion. He advised that he did not want to cause any additional work at this point, stating that he thought members had a solution that would work, and any additional data she could provide on overall legal costs would just give them a better sense of what was being spent.

Mrs. Mitchell noted that, when she became Acting City Manager, she put out a directive to department heads that everything had to be run by her. She noted that staff had managed the legal costs, which came in under budget through the end of June, rather than being over budget as in prior years.

The Committee recommended that the City Clerk's Office develop a recommended procedure for requesting legal opinions.

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

#### Excused Absences

Mr. Slavin stated that this item was a housekeeping issue related to Section 13 of the City's Charter, which states that missing three (3) consecutive regular meetings by a Council member without being excused by Council calls for the removal of the member. He noted that he did not believe this provision had ever been exercised. Mr. Slavin expressed concern that, as a current practice, members notify him if they are going to miss a meeting and there is no action taken by Council to state that they are excused. He advised that he did not want to be put in this position, noting that the power to grant excuses is vested with Council as a whole, and not with the Council President. Mr. Slavin proposed that a procedure be developed that could be as simple as an email or letter sent to Council stating, "I will be missing the following meeting for the following reason," with the level of specificity to be determined by the person requesting it. He indicated that such a request would be placed on the consent agenda for the next meeting so that an action of Council would grant the excuse.

Mr. Slavin moved to recommend that the City Clerk's Office develop a procedure for Council members to request being excused for absences, with the level of specificity to be determined by the person requesting it, and that members' requests be placed on the consent agenda for the next meeting so that an action of Council grants the excuse. The motion was seconded by Mr. Sudler.

Mr. Lewis asked how "excused" would be defined and if this would apply to work-related and family-related matters. Responding, Mr. Slavin noted that this question went to the heart of the matter and it was up to Council, and not him, to define this.

Mr. Anderson stated that this item needed more discussion because certain items, such as bereavement, military service, and work conflicts, should be spelled out. He indicated that there are other reasons which may be worthy of discretion and Council's consideration, such as health issues. Mr. Anderson advised that members may need to review this and possibly develop an ordinance.

Mr. Hare stated that the motion on the floor was for members to send an email to Mrs. Traci McDowell, City Clerk, stating that they will not be attending a meeting because, for example, they have a work obligation, a sick mother, or have to go out of town. He noted that it may be a different matter if someone states they will miss the next six (6) meetings because they are going on vacation to Florida. Mr. Hare stated that he thought members were making a mountain out of a mole hill, giving a reason for not attending would be simply following the existing ordinance, and there was no need to write something into the ordinance. He noted that a member had been away for the better part of year while in the military and this absence was approved.

Mr. Slavin stated that the motion he put forward was to have the City Clerk's Office come up with recommendations. He indicated that a request may be passed through the Clerk's Office and presented to members as an excuse that meets the conditions set forth. Mr. Slavin noted that citing a person's medical excuse or illnesses on the floor would put the City in violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and he expressed the need to be careful about this. He stated that he thought it would be easy for the City Clerk's Office to put a recommendation together and that he was sure that there is some human resources language that would allow for this.

Mr. Cole stated that the more general the process is, the easier it would be to follow. He stated that when things start being listed, it becomes more cumbersome and this had occurred in his other jobs.

Mr. Neil noted that the problem was not with missing one (1) meeting but with missing three (3) consecutive meetings unless there were extenuating circumstances, such as military service. He stated that he thought the proposal would work and there should not be a problem with it. He noted that multiple absences could cause problems for constituents.

The Committee recommended that the City Clerk's Office develop a procedure for Council members to request being excused for absences, with the level of specificity to be determined by the person requesting it, and that members' requests be placed on the consent agenda for the next meeting so that an action of Council grants the excuse.

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



**Mr. Sudler moved for acceptance of the Council Committee of the Whole Report, seconded by Mr. Neil and unanimously carried.**

**MONTHLY REPORTS - SEPTEMBER 2017**

**By motion of Mr. Anderson, seconded by Mr. Neil, the following monthly reports were accepted by consent agenda:**

- City Assessor's Report
- City Council's Community Enhancement Fund Report
- City Manager's Report
- City Planner's Report
- Controller/Treasurer's Budget Report
- Fire Chief's Report
- Police Chief's Report

**QUARTERLY REVIEW OF OPERATIONS/REVENUES - PASSPORT ACCEPTANCE FACILITY**

Members were provided the Quarterly Review of Operations/Revenues for the Passport Acceptance Facility as of October 22, 2017.

**By consent agenda, Mr. Anderson moved for acceptance of the Quarterly Review of Operations/Revenues for the Passport Acceptance Facility as of October 22, 2017. The motion was seconded by Mr. Neil and carried by a unanimous roll call vote.**

**APPOINTMENT RECOMMENDED BY COUNCIL PRESIDENT SLAVIN - HUMAN RELATIONS COMMISSION - GERALD L. ROCHA, SR. - FIRST DISTRICT (TO FILL THE EXPIRED TERM OF S. RENEE SMITH - TERM TO EXPIRE FEBRUARY 2020)**

Council President Slavin recommended the appointment of Gerald L. Rocha, Sr. to serve on the Human Relations Commission, as the First District representative (to fill the expired term of S. Renee Smith) for a term to expire February 2020.

**By consent agenda, Mr. Anderson moved for approval of the appointment of Gerald L. Rocha, Sr., as recommended by Council President Slavin. The motion was seconded by Mr. Neil and carried by a unanimous roll call vote.**

**COUNCIL AND COMMITTEE MEETINGS - HOLIDAY SCHEDULE**

Council President Slavin noted that, as Council had done in the past, due to the holiday season, it was recommended that the December 25, 2017 City Council meeting, the December 26, 2017 Council Committee of the Whole meeting, and the December 27, 2017 Economic Development Committee meeting be cancelled. He assured members that if the need arose, special meetings would be called.

**Mr. Hare moved to cancel the Council and Committee meetings as presented by Council President Slavin. The motion was seconded by Mr. Neil and unanimously carried.**

**FIRST READING - PROPOSED ORDINANCE #2017-14**

Council President Slavin reminded the public that copies of the proposed ordinance were available at the entrance of the Council Chambers, on the City's website at [www.cityofdover.com](http://www.cityofdover.com) under "Government," or by contacting the City Clerk's Office at 736-7008 or [cityclerk@dover.de.us](mailto:cityclerk@dover.de.us). Final action by Council on the proposed ordinance will take place during the Council Meeting of November 27, 2017.

Mr. Slavin reminded members that Proposed Ordinance #2017-14 amends Chapter 30 - Code of Conduct and Ethics Commission by adding required financial disclosure reports, acknowledgment of receipt of policies, and required ethics training. It also makes organization changes to Chapter 30.

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

#2017-14 Amending Chapter 30 - Code of Conduct and Ethics Commission, and Appendix F - Fees and Fines (City of Dover Ethics Initiative)

**FIRST READING - PROPOSED ORDINANCE #2017-15**

Council President Slavin reminded the public that copies of the proposed ordinance were available at the entrance of the Council Chambers, on the City's website at [www.cityofdover.com](http://www.cityofdover.com) under "Government," or by contacting the City Clerk's Office at 736-7008 or [cityclerk@dover.de.us](mailto:cityclerk@dover.de.us). Final action by Council on the proposed ordinance will take place during the Council Meeting of November 27, 2017.

Mr. Slavin reminded members that Proposed Ordinance #2017-15 amends Chapter 34 - Elections by revising the requirements to request an absentee ballot to comply with recently amended State law. This amendment will become effective January 1, 2018.

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

#2017-15 Amending Chapter 34 - Elections, Article III - Absentee Voting

**ACTING CITY MANAGER'S ANNOUNCEMENTS**

Mrs. Donna Mitchell, Acting City Manager, reminded members that leaf collection is underway and would continue through January 12, 2018, and there are three (3) holidays in November that affect the trash collection schedule, including Veteran's Day (11-10), Thanksgiving (11-23) and the Day After Thanksgiving (11-24). She advised that trash collection resumes the next business day following the holiday(s) and crews work hard to get collection caught up as quickly as possible. Mrs. Mitchell stated that information regarding leaf collection guidelines, as well as updates regarding trash collection, were available on the Public Works page on the City of Dover website.

Mrs. Mitchell announced that the goal for the Mayor's Turkey Drive is 51 turkeys, which will go to the Boys and Girls Club for distribution. She stated that anyone interested in donating turkeys should bring them to City Hall on November 21, 2017 between 10 a.m. and 11:00 a.m.

Mrs. Mitchell stated that the Annual Holiday Food Drive is accepting non-perishable food donations through November 30, 2017 at the following locations: J.W. Pitts Recreation Center, City Hall, Library, Customer Services (Reed Street), and the Warehouse. She advised that all food donations are shared among local food banks and each donation directly helps those in our community. Mrs. Mitchell reminded everyone to join the City of Dover on Thursday, November 30, 2017 at the Capital Holiday Celebration, where food donations would also be collected.

Mrs. Mitchell announced that the Police Department's Operation Gobble would be held on November 21, 2017 at 4:00 p.m. and they would be giving away turkeys to families in Dover (Simon Circle and Derby Estates) in partnership with the Dover Housing Authority, NCALL and other partners.

Mrs. Mitchell stated that the Library has a new cultural series titled "Celebrate the Arts," and announced that this month's event is Pape Demba "Paco" Samb. She stated that "Paco" is a world-renowned African percussionist, who will be joined by storytellers, drummers, and dancers on Friday, November 17, 2017 at 6:30 p.m.

Mrs. Mitchell advised that \$2 off coupons for LED Christmas lights are available for download on the Customer Service page of the City's website. She stated that the coupons are valid for use at Ronnie's Garden World in Smyrna, sponsored by the Delaware Municipal Electric Corporation (DEMEC). Mrs. Mitchell announced that DEMEC is also sponsoring the Winter Wonderfest in Cape Henlopen, which opens on Friday, November 17, 2017.

Mrs. Mitchell reminded everyone that City Offices will be closed November 23, 2017 and November 24, 2017.

### **COUNCIL MEMBERS' ANNOUNCEMENTS**

Mr. Lewis wished all of the citizens of the City of Dover a Happy Thanksgiving.

Mr. Anderson wished everyone a Happy Thanksgiving and announced that there would be a Thanksgiving dinner on November 21, 2017 from 4:00 p.m. 7:00 p.m. at the Holy Trinity Church of the Living God, off 425 West Division Street in Dover. He stated that the dinner is cosponsored by the Central Delaware branch of the National Association for the Advancement of Colored People (NAACP), the greater Dover Interdenominational Ministerial Alliance (IMA), and the City of Dover Police Department, and he was happy to be able to join in the partnership as well. Mr. Anderson advised that, in the past, they had served about a couple hundred people in the Fourth District. He stated that it would be an entertaining and nutritious event. Mr. Anderson thanked everybody involved, noting that many people had volunteered to help serve and give other donations, and it was an effort that the whole City was participating in.

Mr. Anderson thanked Mr. Slavin for providing very important leadership in regard to the Schwartz Center, noting that the charrette to save the Schwartz Center would be held on November 14, 2017. Mr. Anderson stated that he thought that it was a very important project and expressed his hope that members would join Mr. Slavin and support him in this effort.

Mr. Anderson advised members that they would be hearing more about the Kent County Drug Prevention Coalition with the Venus Project and expressed his hope that they would get involved in this very important effort. He thanked the City of Dover Police Department for being a part of the Coalition.

On behalf of his daughter, Mr. Lindell thanked the Dover Police Department for their Trick or Treat event on October 28<sup>th</sup>, noting that it was a great event and he, his wife, and his in-laws enjoyed it as well. He stated that it was great to see the community and all the different community groups involved, they had good food for the adults, while the kids were getting the candy, and he expressed his hope that the event would continue for years to come.

Mr. Lindell advised members that he would be undergoing a medical procedure on Thursday, November 16, 2017 and expected to be back by the next Council meeting or the Council meeting scheduled for December 11, 2017.

Mr. Slavin wished Mr. Neil a Happy Birthday on November 26<sup>th</sup>.

**Mr. Lewis moved for adjournment, seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 8:00 p.m.

TRACI A. McDOWELL  
CITY CLERK

All ordinances, resolutions, motions, and orders adopted by City Council during their Regular Meeting of November 13, 2017, are hereby approved.

ROBIN R. CHRISTIANSEN  
MAYOR

/TM

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Exhibits

Exhibit #1 - Correspondence from Dr. Margaret McKay, dated November 9, 2017

City of Dover  
RECEIVED

NOV 13 2017

CITY MANAGER/MAYOR

Mayor Robin Christianson,

City Councilman's Rip off:

November 9, 2017

Some years ago (close to twenty) I received information from a Dover City Councilman,(who has long since left the Council and the region) that a member of the Council, James Hutchinson, has been spending large amounts of City money to wine and dine local business men and officers from Dover Air Force Base.

To verify his story I requested to see months of past City expenditures. The story proved to be correct. Moreover, these expenditures were excluded from the City Council Budget and public review because they came out of a Federal "Parks and Recreation" grant that did not require Board approval. Consequently, because no public funds were involved; no Council approval was required. Thus this expenditure was beyond the scrutiny of the Council, the Mayor and the public. If my source had not brought these figures to my attention, I would not have known about them what and how they were being used.

Through further inquiry on my part, I discovered that these expenses went for golfing fees, large dinners at expensive restaurants and gifts to Executives of large companies in the Dover area and high powered officers from Dover Air Force Base. These expenditures were paid for by Dover's Federal Parks and Recreation grant.

I recently discovered that the Dover City Council is considering naming a room after James Hutchinson in the Dover Police Station. Given Councilman Hutchinson's questionable past as a public servant concerning the expenditure of public funds, I believe this to be an inappropriate appointment on the part of the City Council,

I request to speak to the City Council in a public forum so that I may bring this information to the public's attention.

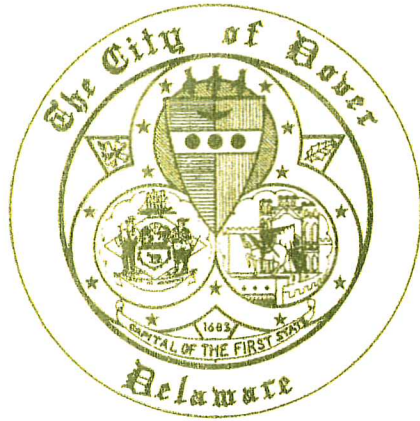
Respectfully,

  
Dr. Margaret McKay

54 Rodney Rd.

Dover, DE 19901

734-8355



## **CERTIFICATE OF CONGRATULATIONS**

*presented to*

***Jeanine Kleimo***

*Ms. Jeanine Kleimo has been a tireless activist for affordable housing, an advocate for the homeless, and has given generously of her time, expertise, and leadership to help low-income households and underserved communities in Dover. In 1976, she founded the National Council on Agricultural Life and Labor Research (NCALL) in Dover, which offers affordable housing and community development programs for low-income residents. She served as NCALL's Executive Director through 1981 and has served on its Board of Directors for 30 years.*

*Ms. Kleimo founded the Dover Interfaith Mission for Housing in 2008 by bringing together religious institutions from across Dover to provide food, shelter, job training, and counseling for homeless men and is currently the Chair of this organization. She also serves as Chair of the Mayor's Blue Ribbon Task Force on Ending Homelessness and is the architect of its strategic plan.*

*On November 15, 2017, National Philanthropy Day, Ms. Kleimo received the Lifetime Achievement Award from the Association of Fundraising Professionals (AFP), which is presented to honor a unique individual who is universally seen as deserving. The City of Dover offers its sincere congratulations to Ms. Kleimo for receiving this prestigious award in recognition of her dedication and commitment to transforming the lives of many in the City of Dover and its surrounding communities.*

*November 27, 2017*

  
ROBIN R. CHRISTIANSEN  
MAYOR

  
TIMOTHY A. SLAVIN  
COUNCIL PRESIDENT

## COUNCIL COMMITTEE OF THE WHOLE

The Council Committee of the Whole met on November 14, 2017 at 6:00 p.m., with Council President Slavin presiding. Members of Council present were Mr. Anderson, Mr. Sudler, Mr. Neil, Mr. Cole, Mr. Polce, Mr. Hare, and Mr. Lindell. Mr. Lewis was absent. Mayor Christiansen was also present (departed at 6:33 p.m. and returned at 6:34 p.m.). Civilian members present for their Committee meetings were Mr. Caldwell and Dr. Warfield (*Parks, Recreation, and Community Enhancement*), and Mr. Shevock and Dr. Stewart (*Legislative, Finance, and Administration*).

**Mr. Hare moved to amend the agenda to change the order of the committees, as follows: Legislative, Finance, and Administration Committee; Parks, Recreation, and Community Enhancement Committee; and Utility Committee. The motion was seconded by Mr. Anderson and unanimously carried.**

### LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

The Legislative, Finance, and Administration Committee met with Chairman Hare presiding.

#### AGENDA ADDITIONS/DELETIONS

**Mr. Neil moved for approval of the agenda, seconded by Mr. Shevock and unanimously carried.**

#### Discussion - Development of Procedures/Policies for Council Community Enhancement Fund Expenditures

Mr. Lindell stated that he had requested the discussion of this matter because he had received concerns from several constituents over approximately the past two (2) months regarding the use of community enhancement funds. He stated that some people who had talked to him felt that it is the people's money and did not think there should be big checks and things like that when it comes to donating money.

Referring to checks and balances in regard to the use of the community enhancement funds, Mr. Lindell stated that Mrs. Donna Mitchell, Acting City Manager, has had a standard that she has been using; however, he explained that he is interested in drafting set rules that will apply to Council. He noted that he had not spent any of his community enhancement funds because he wants to make sure that there are set guidelines for each member and that they are consistent. Mr. Lindell noted that his common sense may be different than someone else's common sense; however, he thought that members need to maintain some consistency and be proactive in regard to setting some type of policy. He stated that he was willing to draft a policy, noting that he would be laid up for the next few weeks and would have plenty of time to work on it. Mr. Lindell explained that he wanted to solicit some discussion as far as ideas or anything that should be included.

Mr. Slavin thanked Mr. Lindell for agreeing to take this on. As a matter of context, he reminded members that these funds were created to provide Council the ability to spend within the districts in which they live for improvements, for example, to a park, roadway, etc. Mr. Slavin noted that when members opened this up, they knew that they were going to have to see how it went, and he

thought that they now knew and should probably develop some procedures in regard to what is and is not acceptable. He stated that he did not think that anything had been out of bounds to date but that it is better to be proactive.

Mr. Slavin reminded members that part of this was driven by a complaint from various members of Council who felt that the budget process was the last moment for the next 364 days where they could direct projects within their districts, and this was a way of giving them a toe hold to help things out. He noted that a good example would be speed enforcement in neighborhoods and the need for a detection sign, explaining that these funds would provide members with the ability to contribute along with a legislator and other City funds to make sure that this happens.

Mr. Anderson stated that he agreed with Mr. Slavin that the funds have been spent well and there have not been any abuses; however, he also agreed with Mr. Lindell that there are no guidelines in writing, and it was the intention of members to develop those. Mr. Anderson indicated that a good place to start would be to determine what the understood procedures and guidelines are that members and staff have been operating under, as Mrs. Mitchell and Mrs. Traci McDowell, City Clerk, see them. Responding, Mrs. Mitchell explained that, for the most part, she has been requiring a receipt for reimbursement, where possible, when the request is not a straight donation. For example, she stated that the Fire Department was buying equipment and asked to have money contributed toward that equipment and a receipt was requested for the purchase of the equipment and the City then reimbursed them. Mrs. Mitchell stated that some requests have also been for partial contributions that have not covered 100% of the cost of a purchase. She stated that she thought that Mr. Slavin's example regarding speed enforcement signs in the neighborhoods and asking a legislator to help with community transportation funding (CTF) would be a terrific example of what Council's community enhancement funds would go toward.

Mrs. Mitchell reiterated that the policy has been to try to follow a reimbursement, explaining that the City requests other organizations it helps to provide receipts as well. She indicated that the City's Community Development Block Grant (CDBG) funds are all predicated on providing the accounting records to show that they spent the money to give them the reimbursement, noting that some of these funds are allocated to the Interfaith Mission for Housing. Mrs. Mitchell explained that since this was the way CDBG funds are handled, she was trying to handle the community enhancement funds the same way; however, not everything falls under that, for example, straight donations, like when Mr. Sudler had the park event. She stated her understanding that the funds are supposed to be for community organizations or helping in a member's district, and that is what she has tried to follow.

Mr. Anderson noted that different community organizations often provide a lot of help to organizations within the City. He indicated that it is important for members to know the community organizations, explaining that the YMCA had sponsored an organization that was based in the Fourth District when there was not a facility large enough to hold their event, and although the YMCA is only about 1,000 feet outside the District, it is within the City and the people who participated were from the Fourth District.



Mr. Sudler stated that his concern is the restriction of limiting the discretionary funds to one (1) district, noting that when he first became a councilperson, Mayor Christiansen advised him that “We all serve the City of Dover. It doesn't matter what district we represent. We all represent the City of Dover.” Mr. Sudler stated that he believed that there does need be guidelines; however, he would like to see that if a councilperson wants to spend discretionary funds in the guidelines of the usage or ordinance for the City of Dover, it would be okay to assist someone else in another District with a project. He explained that he does not want to see a restriction to only one (1) district. In response to Mr. Sudler, Mrs. Mitchell stated her recollection that in the motion that was made for these discretionary funds, the intent was for each Council member to be able to use that money for their District, so that was the guideline being followed. She indicated that Mr. Sudler raised a good point regarding use of the funds by district or City-wide, and noted that some of the community organizations cross over from the City to the County. Mrs. Mitchell stated that she thought this was something that Mr. Lindell may be able to address in what he had volunteered to do.

Mayor Christiansen stated that he concurred with the intent of Mr. Lindell's efforts to formulate policies that are site specific to these funds; however, he also agreed with Mr. Sudler's thoughts and suggested that it may be something for members to consider. He noted that there are many worthy causes throughout the entire City that may be beneficial to some funding from any or all of the members of Council.

Mr. Lindell asked, for clarification, if Mr. Sudler was fine with spending money within City limits, not necessarily District bound. Responding, Mr. Sudler stated that he would be in agreement with that, as long as it is in the City limits.

Mrs. Mitchell noted that she did not know whether the girl scout troop that was giving out bags earlier this year was from within the City or not. She did not necessarily think that community organizations have to be in City limits, but explained that if that is something that needs to be cleared up, this was the time for clarification.

Mr. Slavin stated that he concurred with Mr. Sudler, noting that he thought that the districts themselves are kind of artificial boundaries for this purpose. He explained that they are good boundaries for election purposes but once members get on as a council, it is helpful to look across the Council districts and help others out.

Mr. Anderson noted that he agreed with Mr. Slavin and, referring to Mrs. Mitchell's comment, he stated that he also wanted to make sure that it was clear that it is about services for the people in the City, not necessarily organizations that are in the City. He explained, for instance, that one (1) of the major service points for The People's Place is in the City; however, their checks are sent to Milford. Mr. Anderson stated that he wanted to make sure that it is clear that the purpose matters and who they are trying to serve.

Mr. Lindell asked, for clarification, if Mr. Anderson was saying that the funds are to be used within City limits and as long as there is a demonstrable ability that the citizens of Dover are benefitting, the organization may be outside of City limits. Mr. Anderson responded that the project should benefit the people in the City.

Mr. Neil stated that he is kind of stingy with this money because it is the taxpayers' money and he is not going to be lavish with anybody. He advised that he did make a contribution to the organization within the Dover Air Force Base for the open house because he thought that was seed money to help people come here and have it grow. Mr. Neil stated that he had also donated money from this source to a scholarship program, in the amount of \$100. He explained that he does not think that he has to spend all of that money simply because it is there, noting that he did not spend it all last year. Mr. Neil asked members to keep that in mind. He stated that it is not members' money, noting that they are using it to enhance something or somebody that is going to be beneficial for the City or to protect a group of people, etc.

Mr. Anderson asked Mrs. Traci McDowell, City Clerk, what the current procedures are for accessing the money. Responding, Mrs. McDowell advised that currently City Clerk's Office staff looks for written documentation that members, in fact, do want to donate or contribute to a cause or event. She stated that the City likes to get the receipts in advance; however, there are situations where organizations do not have the funds in advance to make a purchase. For example, she explained that the Dover High ROTC did not have the funds in advance, so the City processed the payment before they made the purchase. Mr. Anderson indicated that this information would make it easier when drafting the procedure.

**Mr. Sudler moved to recommend that Council authorize Mr. Lindell to prepare a first draft of the Committee's ideas for approval during a future meeting of the Council Committee of the Whole/Legislative, Finance, and Administration Committee. The motion was seconded by Mr. Anderson and unanimously carried.**

**By unanimous consent, the Legislative, Finance, and Administration Committee meeting was adjourned at 6:18 p.m.**

## **PARKS, RECREATION, AND COMMUNITY ENHANCEMENT COMMITTEE**

The Parks, Recreation, and Community Enhancement Committee met with Chairman Sudler presiding.

### **AGENDA ADDITIONS/DELETIONS**

**Mr. Neil moved for approval of the agenda, seconded by Mr. Lindell and unanimously carried.**

#### **Landbanks (Sue Harris)**

Ms. Sue Harris, 241 Pine Street, reviewed a presentation entitled "Land Banking...What, Who, Why and How" (**Attachment #1**). She also provided an article, entitled "What is a Land Bank" by Dan Kildee, Co-Founder and President, and Amy Hovey, Co-Founder and Senior Vice-President, Center for Community Progress (**Attachment #2**), and an Ordinance to authorize the execution of the Memorandum of Understanding and Annual Funding Agreement between the City of Wilmington and the Wilmington Neighborhood Conservancy Land Bank (**Attachment #3**).

Mr. Slavin expressed appreciation to Ms. Harris for the time and effort she had put into this matter. He stated that when any issue comes forward, he asks himself three (3) questions: 1) “What is the problem we are trying to solve?”, 2) “How is that problem being addressed now?”, and 3) “What other entities are addressing the problem and why is this better?”. Mr. Slavin asked Ms. Harris to address these questions. Responding, Ms. Harris indicated that the problem is a lack of affordable housing opportunities. She advised that subsidized housing is great; however, it is lacking and housing is needed that people can afford. Ms. Harris indicated that being able to come up with affordable housing would get rid of blight, which is not helping taxes or neighborhoods. She indicated that land banks could help turn properties around to become something very useful.

Mr. Slavin asked how the problem is being addressed now, noting that it seemed that there were four (4) or five (5) entities addressing it. Responding, Ms. Harris stated that everyone is doing the best that they can; however, efforts are hit and miss, scattered, and random, and coordination is needed. She advised that there is a need to go outside of the box, not looking at what has always worked but using new ideas and looking at things in a new way. Ms. Harris suggested such options as turning properties back into group housing, shared living situations, and micro-apartments. She stated that there used to be lots of opportunities for single dwelling units and expressed the need to go back to this since there is a real need for individual housing. Ms. Harris indicated that home ownership is being addressed in the area through Restoring Central Dover, etc.; however, a path to rental and affordable housing is missing in the plan. She noted that actionable steps are needed and she thought that land banking would be one (1) of those steps.

Mr. Slavin asked how the land bank alternative would be better and if it would be a replacement for other approaches, a coordination function, an additional approach, or a hybrid with the other programs. In response, Ms. Harris stated that she thought it would be all of these alternatives, noting that right now it is not being addressed. She indicated that there are a lot of properties at a standstill that no one knows what to do with and that zombie properties are tangled up in courts, probates, etc. Ms. Harris expressed the need to look at all the different angles.

Mr. Polce stated that this topic is of particular interest to him and indicated that he is always looking at economic vitality in Delaware communities. He advised that he remembered that Senator Townsend had created the initial statewide legislation with \$6M - \$10M enabling language, and noted that, unfortunately, this \$6M - \$10M enabling language would probably not be coming anytime soon with the fiscal climate of the State. Mr. Polce indicated that his colleagues in Wilmington had made him aware of the \$2.125M initial investment from the City of Wilmington. He noted that approximately \$325,000 of that was consulting, so there was some reduction in that cost; nonetheless, it was a pretty hefty price tag. Mr. Polce expressed appreciation to Ms. Harris for bringing land banks to members’ attention, stating that this would allow for conversation on how they can be creative in thinking about increasing the housing inventory and looking at potential ways to make housing affordable. Mr. Polce advised that his major concern was the price tag and cost of the initial investment.

Mr. Polce indicated that there are numerous grants available from the Department of Housing and Urban Development (HUD); however, he noted that little movement had been seen from HUD and more than \$1B had been cut from the federal government’s budget under the current administration.

He stated that he did not want to be pessimistic and wanted the conversation to go further. Mr. Polce indicated that he was looking forward to the conversation regarding the next item on the agenda, Plan for Housing Alternatives, and discussing how the less fortunate are treated and how to increase housing stock for individuals who are below the poverty line. He stated that there are ways to utilize community block grants from the Centers for Disease Control and Prevention (CDC) in more creative ways and expressed the need to talk about access to behavioral health services in the brain health arena and a litany of approaches.

Mr. Polce asked if the City was positioned strategically for the initial up-front investment that it would have to undergo. Responding, Ms. Harris indicated that there had already been a lot of research, foundation, and private funding apart from the government. She noted that a lot of people are interested in this and funding would not all necessarily come back on the shoulders of the City.

Mr. Anderson asked if Ms. Harris had looked at other opportunities, such as evaluating a partnership with the County, community reinvestment funds, or other types of funding. Responding, Ms. Harris indicated that an entity that is created would certainly be able to look at these types of funding. She stated that she wants to present this matter to the County. Ms. Harris explained that the City and County are two (2) separate governmental foreclosing units, and the County is not supposed to encroach on City property matters; however, there can be agreements. Ms. Harris stated that the City and the County have all kinds of things happening with properties; however, she had not looked for that type of funding. She explained that she had applied for other types of funding; however, her organization is very new, and funding sources look at those without a background as if they have six (6) heads. Ms. Harris indicated that Port Hope, Inc. did not have any chance of getting the funding that Mr. Anderson suggested; however, there would be some credibility behind an organization that was doing something like creating entities.

In response to Mr. Anderson, Ms. Harris stated that funding is being lost to other areas of the State because there are not mechanisms in place here to accept money. Mr. Anderson noted that the First State Community Action Agency opened an office here because all of the funding was going upstate, and this created another mechanism to obtain funding.

Mr. Neil advised that, as a veteran who had appeared at many Habitat for Humanity homes, he liked their system because somebody has to pay for a home. He indicated that, in essence, the City is doing what Ms. Harris had said, noting that Dover's existing approach is to combine with the National Council on Agricultural Life and Labor Research (NCALL) in trying to get derelict homes turned over to the City for back taxes. Mr. Neil stated that if land banking is viable, he would be in favor of it because Ms. Harris was right that there is not enough housing. He stated that the City deserves applause because it has done and will continue to do a terrific job combining with NCALL to make sure the people are there, and with Habitat for Humanity to make sure there is a lot of sweat equity going into the process.

Mr. Neil thanked Ms. Harris for bringing forward the idea of land banking, noting that he thought it has merit; however, he questioned whether it can be incorporated into what the City is already doing, which are a lot of the same things. Ms. Harris stated that she agreed, noting that she had worked on at least four (4) of the houses downtown and is always part of the Habitat for Humanity

crew. She explained that not all homes go to home ownership and there is a population whose only hopes for their future will be rentals. Ms. Harris expressed her hope that the same kind of rehab could be done to upgrade rental property.

Mr. Polce advised that Syracuse has an interesting model with a robust land bank and requires roughly 50% of their stock inventory to be rental properties specifically micro-targeting those who are below the poverty line. He noted that 50% of their stock looks at first time home ownership, and they work in continuity with HUD on a lot of first-time home buying programs. Mr. Polce indicated that the status of HUD in a few months is unknown and expressed his hope that those programs and incentives will still be there for first-time home buyers.

In response to Mr. Sudler, Ms. Harris advised that she is not a member of the Mayor's Blue Ribbon Task Force to End Homelessness but attends all of their meetings. Mr. Sudler asked if Ms. Harris had thought about getting on the Task Force's agenda to propose partnering for this project. Responding, Ms. Harris indicated that she would like to present the idea of land banking to them, which could possibly be a piece of the entity that they are going to create or part of what they are doing. Ms. Harris noted that she does not have anything with which to partner and was just presenting the idea in hopes that it could be created. She advised that Port Hope would certainly be a part of this and noted that her organization is early in its creation.

Mr. Hare asked whether they were looking at something like what Habitat for Humanity and NCALL are doing to create affordable housing or at creating housing for the homeless. In response, Ms. Harris advised that the bottom line is affordable housing. She noted that Habitat does affordable housing for home ownership, but something beyond that is needed and her organization is looking at rentals.

Mr. Hare noted that he had been hearing much about the homeless, and Ms. Harris stated that homeless individuals are only missing a home and wraparound services. Mr. Hare indicated that, in discussing affordable housing for the homeless, nothing is affordable if someone is not working. Responding, Ms. Harris indicated that this is a misnomer because very few people do not have some form of income if they are getting the services that they should. She explained that people are either disabled, and will get a disability check, or not disabled, and can work a little and create a little income. Ms. Harris stated that if they are too mentally or physically disabled to work, the government offers a safety net. She noted that many people who are left out in the streets appear to have no funds coming in because they have gotten into such a deep well that it is hard to get back into the stream of doctor appointments and meetings with social workers to get the food stamp cards or services they need. Ms. Harris advised that it is sometimes a lot easier for the homeless to stay where they are.

Ms. Harris advised that there are very few people who do not have an opportunity for at least a small amount of income and almost everyone can get at least a \$700 monthly minimum disability or Social Security check, and it is impossible to live on this amount in the City of Dover or anywhere. She indicated that those who are not disabled can work and straighten up. Ms. Harris noted that there will always be those who cannot be helped and have chosen not to be a part of society, but many more can be helped. She explained that someone who has a place that costs \$300 per month

and receives a food stamp card can easily live on their own in a community and support themselves. Ms. Harris advised that this would not be a burden on the City, would be totally self-supporting, and would give these individuals a little self-esteem. She reiterated that, in Port Hope's view, almost everyone has an opportunity to have some income if they are given the services and help that they need.

Mr. Hare stated that he had spoken with two (2) unemployed individuals at an event where employers were present and offered to get them jobs where they would make \$10 per hour and receive a meal every day. He advised that when he told them the job was at a fast food place, they indicated that this was beneath them and they would not work there. Mr. Hare noted that these were the same people that members see in the Council Chambers all the time.

In response to Mr. Hare, Ms. Harris advised that you can fix a lot of things but you cannot fix stupid, and it was a shame that those who are seen all the time had become the face of the homeless. She informed members that there are quiet individuals who stay in their tents, come to the Hopes and Dreams Peer Resource Center in the daytime, and look for help at the Dover Interfaith Mission for Housing, and they are not seen so much. Ms. Harris advised that she wished members would get to know a lot more of the homeless people out there, noting that her organization would be happy to take members out there one day. Mr. Hare stated that he had gotten to know quite a few homeless individuals. Ms. Harris indicated that she was afraid he had gotten to know the ones that had given him the wrong idea, and there were a lot more out there who are good rather than bad.

Ms. Harris stated that something had been mentioned about Port Hope becoming a partner; however, she explained that nobody could do anything until the City creates the ordinance, law, and resolution regarding land banking.

Mr. Anderson stated that the City had more than 450 vacant houses and easily qualified when this legislation passed. He noted that there had been a lot of private and public efforts and asked if the City's vacancy rates qualify for the 3% cutoff. Responding, Mr. David Hugg, Acting Director of Planning and Community Development, stated that, to the best of his knowledge, the City's vacancy rates, etc., are all such that the City would qualify. He advised that the vacancy rate is substantially above 3% and is more like 15%. Mr. Hugg reminded members that, in essence, the City has a land bank organization in action in Dover called the Downtown Dover Partnership (DDP), which, by its charter, is a 501(c)(3) with the authority to buy and transfer land to do those kinds of things. He noted that the DDP's focus is not as broad as what members were discussing; however, they had been a participant in some of the activities of Habitat, NCALL, and Milford Housing. Mr. Hugg stated that the DDP is a quasi-City organization that does not really operate under the City's name.

Mr. Anderson stated that, from his experience, the DDP is approximately 95% focused on the business side. Responding, Mr. Hugg advised that the DDP is focused primarily on commercial and other non-residential projects, which he thought may be part of its stated mission. He noted that the DDP had been involved in some housing-related projects and its Board would have to decide whether or not this entity would be appropriate for the City's charge. Mr. Hugg stated that the Town of Smyrna has a redevelopment authority that was set up under earlier State legislation that has the same kinds of powers and has invested in mixed residential/commercial projects. He

indicated that this had not been an easy road and they probably do not qualify in the sense of the land bank discussion.

Responding to Mr. Anderson, Mr. Hugg advised that the initial funding for Smyrna's redevelopment corporation was obtained by transferring the fines and penalties from the vacant building ordinance to the redevelopment authority. He stated that this was the funding mechanism that allowed them to create a revolving loan fund, and a \$300,000 grant from the United States Department of Agriculture (USDA) bankrolled some of their activities. Mr. Hugg indicated that the thinking was that fees and fines collected for a vacant building probably ought to be put toward removing that vacant building, with the idea that someday the fund would go to \$0.

Mr. Sudler stated that, as a housing rental professional, the only way he realistically saw someone being able to afford a \$300 rental cost would be to rent a room that has access to a common kitchen and bathroom area. He advised that, looking at the HUD regulations, he thought that the amount for a one-bedroom unit would be at least \$850 with full utilities and as high as \$787 with partial utilities. Mr. Sudler stated that, from what he had seen, partial disability checks are approximately \$700 to \$800 and full disability from \$900 to a maximum of \$1,000. He noted that he did not know of any rental housing assistance program in the City, other than HUD public housing, where someone would pay \$200 or \$300, apart from federal or State programs. Mr. Sudler advised that he did not think any renter could afford to allow someone to stay in a one-bedroom apartment, house, or trailer for \$300. He indicated that a key issue was how to provide adequate housing for the homeless at a cost they can afford and suggested that Ms. Harris may want to try to address this moving forward.

Mr. Slavin stated that, as a member of the DDP speaking on his own behalf, he did not think the DDP is a good fit and would much rather see a separate entity created. He noted that the DDP's focus is in a particular geographic area of the City and members had heard that there was a need to have a spread of properties across the City. Mr. Slavin advised that this matter is not the DDP's concern, noting that the DDP had not brought it to members, who would have to convince the DDP that this is now part of their mission. Mr. Hugg indicated that he agreed and had mainly offered the DDP as an example of an organization in the City. Mr. Slavin stated that the structure of how the DDP operates is on the books; therefore, it would not take reinventing the wheel.

Mr. Slavin moved to recommend that the City Clerk prepare: 1) a packet of research materials, including existing ordinances for the DDP and other local governments, and distribute it to all members of Council as background, and 2) a draft ordinance based on that research for discussion at the February meeting of the Council Committee of the Whole/Parks, Recreation, Community Enhancement Committee. The motion was seconded by Mr. Anderson.

In response to Mr. Hugg, Mr. Slavin clarified that the research materials and draft ordinance would be prepared by Mr. Hugg.

Responding to Mr. Sudler, Mr. Slavin stated that the objective of the ordinance would be to create a land bank. Mr. Hugg noted that it would be enabling legislation.

Mr. Hare stated his understanding that the motion was to bring back a first draft proposal for review. Mr. Slavin stated that the proposal would go to the Committee first and noted that he would make a second motion regarding funding.

Mr. Hare indicated that he would like to have the particulars and to find out how a land bank would be funded and whether the City would have to hire an executive director.

**The motion to recommend that Mr. Hugg prepare: 1) a packet of research materials, including existing ordinances for the DDP and other local governments, and distribute it to all members of Council as background, and 2) a draft ordinance creating a land bank, based on that research, for discussion at the February meeting of the Council Committee of the Whole/Parks, Recreation, and Community Enhancement Committee was unanimously carried.**

**Mr. Slavin moved to recommend that, as part of the FY 19 budget discussions, Mr. Hugg and Mrs. Donna Mitchell, Acting City Manager, identify possible funding mechanisms that are in place in other local governments that could help to fund the land bank initiative. The motion was seconded by Mr. Neil and unanimously carried.**

**Plan for Housing Alternatives (Victory Church)**

Pastor Robert Appling, 2465 Sharon Hill Road, representative of Victory Church, advised that they had come to Council meetings for over a year and a half with anywhere from 20 to 50 homeless individuals and had worked with the homeless with great results. He explained that some of the homeless are in jobs, some in homes, and some are self-sufficient. Pastor Appling indicated that many of the homeless are also drunks and drug addicts who just do not care and this distinction must be made. He explained that, to facilitate what Victory Church has been doing, he met with Mayor Christiansen, who introduced him to Mr. David Hugg, Acting Director of Planning and Community Development; several members of the City's inspections team; and the Fire Marshal. Pastor Appling advised that Victory Church made a \$550,000 bid on a property on Loockerman Street with empty buildings, met with a committee from Dover, and were finally turned down on that project.

Pastor Appling stated that most of the homeless that Victory Church worked with when outside the City were from the City, and Victory Church sold their church and moved into the City. He indicated that they were currently partnering with People's Church on Bradford Street, and were preparing to hold their third service there the following Sunday. Pastor Appling advised that Victory Church is trying to get a central location to do more to help the homeless, as they had been discussing each week when they attended City Council meetings. He indicated that Victory Church's suggestion for helping the homeless is something like group homes. Pastor Appling noted that they have been asking for empty, abandoned property to remodel and fix, but not like Habitat for Humanity's approach where property is sold to a single family. He stated that they are talking about rehabilitating a property for five (5) to eight (8) people, with a manager on the property to see to it that things run properly.



Mr. Mark Harmon, 731 West Division Street, Lead Pastor, Victory Church, stated that Victory Church's mind-set is to try to collaborate with the City, as opposed to working against the City, which works better for everybody in the community. He advised that they had come up with an idea to use homes downtown that are dilapidated or do not have residents any longer for a group home. Pastor Harmon stated that, as Mr. Sudler had indicated during discussion of the previous agenda item, Landbanks, it is almost impossible to find any house to occupy in the range of \$300 or \$400. He noted that in a group home, three (3) or four (4) different people could pay for the property so that it would still be able to make money and be run efficiently. Pastor Harmon explained that he had learned that it is not always the case that housing through the Dover Housing Authority or Delaware State Housing Authority is cheaper because someone still has to pay the rent, and if someone is paying \$300 this means that the government is paying whatever else is left. He advised that a group home would, in their minds, be true affordable housing paid for by those who are inside the units. Pastor Harmon stated that this makes more sense to him than a situation where people are not able to pay rent on their own and the government, City, or County has to put in funds.

Pastor Harmon noted that Mr. Hare had previously stated that a lot of homeless people do not work; however, he advised that this is a misconception and a lot of them do have jobs and income but have situations that are sometimes mind-boggling. He explained, for instance, that a young man with mental issues works for them and is retired from the military. Pastor Harmon indicated that this individual does not stay at his own house because he does not want to bring more damage to his wife and children and feels that they are safer without him in the home. He advised that the family receives this individual's military retirement check and is able to take care of their house. Mr. Harmon noted that this may not make sense to some, but it makes every bit of sense to this man. He advised members that there are situations that go beyond their logic and thinking, explaining that homelessness is not always the result of an individual not having money or other things but because they are struggling with a lot of issues. Mr. Harmon advised that the Mayor had already taken on the challenge of homelessness for a lot of the military and retired individuals, and the Mayor probably understands that there are a lot of situations that go beyond what people may think.

Pastor Harmon stated that there is money available for homeless ex-military men and women and homes that can be purchased through these types of funding. He indicated that there are also ways to collaborate between all of the different homeless shelters and coalitions in the area, and collaboration would work well because the government does not give a lot of money to individuals anymore. He explained that collaboration would allow for the money to be spread out, and a lesser amount could be used while still getting the job done. Pastor Harmon stated that their proposal would be for Victory Church to have some of the buildings downtown that may not be used and refurbish them to be used by some of the homeless people. He explained that the homeless would be paying for these buildings while renting there.

Mr. Slavin, noting that Victory Church had identified vacant buildings, asked whom the buildings were owned by and how the Church proposed to get ownership or permission to use them in this way. Responding, Mr. Harmon advised that there are buildings downtown that were owned by different landlords who lost them, noting that the City had seized some of them. He indicated that they are unsure who owns them and that they could not give specific names, except for a few.

Mr. Slavin asked if Pastor Harmon was talking about eminent domain and asking the City to come in, take over a property, and give it to them. In response, Pastor Harmon stated that he was not and was talking about homes that are already abandoned and no longer in someone's possession.

Mr. Slavin indicated that he understood the solution they were suggesting and that it economically fits a need for those who cannot afford housing. He explained that the House of Pride, a social service agency on New Street, had run places where people could rent a room and have a shared common area. Mr. Slavin noted that the City received many complaints that this housing was not managed well and asked how the proposed group housing would be different. He indicated that he knows it would be different because he knows who Pastor Harmon and Pastor Appling are; however, he thought they needed to answer that question and be prepared to answer it over and over again.

Responding to Mr. Slavin, Pastor Harmon noted that he had managed homeless buildings for more than 17 years with some of the hardest of populations. He explained that most of them were kids who aged out of foster care, and this involved trying to prevent them from being on drugs, being thieves, and some of the issues that follow foster care children at times. Pastor Harmon indicated that Victory Church's project would be run differently due to the fact that there is experience and people who understand making sure that the community is first. He stated that they were not going to try to create a cash cow, as some people say or had said in the past, noting that it is ridiculous for anybody who gets into this line of work to have that type of focus. Pastor Harmon stated the need, if they are going to proceed, to do it together with the ordinances of the City, as well as their own morals.

Mr. Sudler stated his belief that Connections Community Support Programs, Inc. has a home on Bertrand Avenue where at least four (4) to five (5) individuals live. He indicated that he was unsure if they rent rooms or are placed there individually under one (1) umbrella. Mr. Sudler asked if Victory Church had looked at the Connections model and if this might assist them in adhering to the ordinance or changing their objective to fit in with the ordinance without complexity. In response, Pastor Harmon advised that he had recently met with Mr. Darius Brown, who he stated is the director of housing for Connections from Wilmington. Mr. Harmon indicated that he had a chance to go through the houses, some of which are bigger than normal. He explained that the houses have bedrooms and the residents are able to have televisions, beds, and couches in their rooms. Mr. Harmon noted that they have people there 24 hours per day, which he thought was wise because it is desired to make sure that a house is maintained properly and there is no type of violence or anything like that going on in the house, and to get rid of quarrels quickly. He explained that Connections is one (1) of the groups he had been talking about collaborating with because they have a lot of money for housing. Pastor Harmon indicated that Connections does not have enough housing in Kent County and is trying to get housing and collaborate to help with funding. He stated that Connections understands that there is a homeless situation here and, because most of their clients are homeless, they have been focused on housing in this area.

Mr. Anderson thanked Pastor Harmon and Pastor Appling for coming and their efforts in the community. He advised that he would like to support what they are doing and requested that they look at some of the lessons of the past. Mr. Anderson stated that there are several small group homes that work well most of the time and people do not know that they exist. He indicated that the

numbers that Victory Church was discussing seemed reasonable and cautioned them not to push the numbers to expand. Mr. Anderson explained that problems have existed when people try to get 10, 15, or 20 people into a place, which causes real disruptions in the neighborhood. He noted that, in his opinion, part of what caused what used to be a vibrant community in the area of Queen Street, Governors Avenue, and New Street to go downhill was converting these houses to micro-apartments with a dozen people in places that were built originally for one (1) large family. Mr. Anderson stated that the model that Victory Church was speaking of would work and is very necessary, and he supported it. He noted that he wanted it to be on record that he wanted to be cautionary. Mr. Anderson advised that he thought the City's limit of five (5) unrelated people is something that should not be tinkered with because he thought that exceeding it had brought problems not only in the neighborhood but also with safety, as was evidenced in some fires where people had problems escaping.

Mr. Polce stated that this topic was of particular interest to him, especially looking at national and regional statistics indicating that roughly 73% of the homeless population is comorbid, meaning that they have classic behavioral health diagnoses coupled with substance use disorder and potentially opioid use disorder. He indicated that, as an individual who has a personal interest in brain health and substance use disorder, it is really important to have this conversation. Mr. Polce stated that he would welcome Pastor Harmon and Pastor Appling at the Delaware Center of Health Innovation (DCHI) Behavioral Health Subcommittee for the Dover/Smyrna Healthy Neighborhoods, which is a statewide entity that Mr. Polce currently chairs. He explained that DCHI has three (3) Healthy Neighborhoods, including one (1) in Wilmington and Claymont, one (1) in Smyrna and Dover, and one (1) in the Seaford area. Mr. Polce indicated that he chairs the subcommittee that looks specifically at behavioral health, noting that more often than not they talk about homelessness and the housing stock issue. He stated that the next meeting was scheduled for December 4, 2017 from 2:00 to 4:00 p.m. and invited them to attend, noting that he would follow up via email.

Mr. Polce asked if Victory Church would ideally like to adopt a model that is similar to Oxford Homes, if their efforts were not specific to individuals with substance use disorder and behavioral health, or if they would be truly just a safe gap for homelessness. Responding, Pastor Harmon stated that they want to put in a model that is like Oxford Homes, since the reason for the epidemic is that people who were mentally disabled were put out of mental homes because these homes were keeping people too long. He explained that people who could have returned to their homes or the community with medication were being kept by hospitals for 30 or 40 years. Pastor Harmon indicated that these individuals were put out of hospitals and there were then many homeless people on the street. He noted that a lot of the homeless are not where they are simply because they decided one day to quit their jobs but because they have mental issues. Pastor Harmon stated that he did not believe that you can have a homeless shelter without having someone there who is giving some type of help for mental conditions.

Mr. Polce concurred with Pastor Harmon and stated that, with this clarification, the conversation is very timely because this currently an issue statewide. He indicated that he would like to connect Victory Church with Mr. Jim Martin, a certified peer recovery and resilience individual that Mr. Polce works with on a daily basis. He explained that Mr. Martin runs a number of these types of facilities modeled after Oxford and is primarily in Georgetown. Mr. Polce noted that the City is

not unique in dealing with exponential volumes of individuals who are going through some form of trauma leading to substance use disorder, specifically heroin use disorder, and determining how to combat it from a community health population perspective. He indicated that a number of communities statewide had asked, "How do we ensure that there's a balance? That these individuals who are vulnerable are receiving critical services and a shelter adopted by a home first model, but also striking the balance with the local community?" Mr. Polce noted that there is nothing more fearful in communities than change and there could be an uprising if an Oxford House is put in certain communities, and he stated the need to realize this and strike a proper balance. He advised that members would see legislation coming out of the General Assembly regarding Oxford Homes and sober living communities that will require them to be credentialed and accredited by the Community Healthcare Association. He explained that this is a national organization and entity that accredits these types of facilities to ensure that a proper balance is struck.

Mr. Polce expressed appreciation for Mr. Anderson's comments, stating that Mr. Anderson was very thoughtful when he stated that there has to be a proper balance in making sure that there is a right fit. He indicated that he was more than willing to help in Victory Church's endeavor as much or as little as they want, noting that he is able to connect them with resources at any level. Mr. Polce stated that this is an important issue because of the need to make sure that addiction and interdiction of the addiction itself are critical components to any form of sober living facility and that important critical services are being offered. He noted that an element that is often forgotten is making sure that there is a component with the Department of Labor, local business, or whatever might work to build a true workforce and career pipeline for these individuals. Mr. Polce advised that if this could be tackled simultaneously while providing shelter, there would be a winning model, but only if there was the ability able to do all those things.

Mr. Caldwell thanked Pastor Harmon and Pastor Appling for bringing up the issue of the homeless and what is needed. He informed members that he lives on Bertrand Drive in the Lincoln Park area, so he knows the issues that are taking place in that community. Mr. Caldwell advised that he had seen the problems that the HUD house there has had in the past couple of years. He explained that he is a member of the neighborhood watch in the Lincoln Park area and, noting the discussion of crime and mental illness, he advised that there would be an uprising if another homeless house is put in this community. Mr. Caldwell stated that he concurred about the need for a serious discussion regarding this problem in the City of Dover. He indicated that the Lincoln Park area had dealt with this problem and he constantly sees the homeless walking up and down the streets, whether it be Lincoln Street, Bertrand Street, or throughout the area. Mr. Caldwell reiterated that there would be concern among the people about anything of this magnitude for group housing in their community.

Mr. Caldwell explained that there is a house behind his which has been vacant for two and one half or three (3) years and a house across the street that has been vacant for two and one half years, and both homes are just sitting there. He informed members that if anyone or group with any magnitude of a problem with mental illness is put in these homes, people will not be happy and there will be an uprising within the community. Mr. Caldwell noted the need for this discussion to continue. In response to Pastor Harmon, Mr. Caldwell stated that he lives in the Bertrand area right across the street from the HUD house. Pastor Harmon asked if Mr. Caldwell knew how many people with mental illnesses live in Lincoln Park. Responding, Mr. Caldwell indicated that this was the problem

and that they did not need more in addition to what they already have in that particular area. Pastor Harmon noted that mental illness does not mean crime. Mr. Caldwell advised that he was not saying that; however, he knew of issues with mental illness in his community. He indicated that their community has officers who tell the neighborhood watch what has taken place within their community based upon problems in certain houses, and he wanted to let members know.

Mr. Neil stated that he was scared by the comment that Pastor Appling had made that he had talked to the gentleman from Connections in Wilmington who was looking for places in Kent County. He stated that there are people who are homeless in Dover and asked that people not be brought down from Wilmington. Pastor Harmon explained that there are already homeless people here who live in Kent County.

Mr. Sudler indicated that, as a State Human Relations Commissioner who promotes fair housing in the State of Delaware, he would be remiss in not stating that people cannot be discriminated against based on mental or physical illness. He noted that he was not saying that anyone is right or wrong and asked everyone to keep in mind that these individuals have a right to affordable housing in any community. Mr. Sudler advised that he thought that the main objective and concern were to communicate with existing community members to see how transition can be easy, fair, and respectable in the community, and noted that there are valid concerns.

Mr. Polce stated that he thought the most appropriate venue would be with grassroots advocates at DCHI. He reiterated that he would send information, noting that he would love to further the conversation in that venue.

**Mr. Neil moved for adjournment of the Parks, Recreation, and Community Enhancement Committee meeting. The motion was seconded by Mr. Lindell and unanimously carried.**

Meeting adjourned at 7:29 p.m.

## **UTILITY COMMITTEE**

The Utility Committee met with Chairman Cole presiding.

### **AGENDA ADDITIONS/DELETIONS**

**Mr. Hare moved for approval of the agenda, seconded by Mr. Neil and unanimously carried.**

### **Request for Street Name Change - Krisko Circle (Remaining segment of Krisko Circle which runs in a west-east direction from Stover Boulevard just east of Bay Road) (Planning Reference: MI-17-07)**

In accordance with Chapter 98, Article II, Section 98-45 Street Name Change Procedure, of the Dover Code, members considered a petition, submitted by Mr. Garth E. Jones, P.E., Chesapeake Utilities, to change the street name of the remaining segment of Krisko Circle to Energy Lane. The petition requests that the remaining segment of Krisko Circle, which runs in a west-east direction from Stover Boulevard just east of Bay Road, be changed to Energy Lane.

Mr. David Hugg, Acting Director of Planning and Community Development, indicated that the street name change request was initiated by Chesapeake Utilities. He noted that this property was the Stover business park a number of years ago and estimated that there were approximately a dozen lots with a hotel on the front lot, but that the rest of the property had not been developed. Mr. Hugg informed members that Chesapeake Utilities had acquired the property for its new headquarters, warehouse, etc. He explained that at the time the Stover Park project was active, Krisko Circle was in fact a circle; however, under the Chesapeake development plans, it is now a cul-de-sac.

Mr. Hugg stated that Chesapeake Utilities would like to have a street name that is more appropriate to their business and proposed Energy Lane. He indicated that the proposed street name is consistent with street naming protocols and staff recommended that this matter go to Council for consideration.

Staff recommended approval of the requested street name change from Krisko Circle to Energy Lane, as recommended by the Planning Commission, and that a public hearing before City Council be set for December 11, 2017 at 7:30 p.m.

Mr. Neil asked if there would be any City expenses for the street name change, for example the cost of maps, etc. Responding, Mr. Hugg, stated that since the street is currently only partially developed, and he believed it was a private street, as part of the site plan development, the naming will change and Chesapeake Utilities will be responsible for putting up the street signs and those kinds of things. He indicated that he was unaware whether Chesapeake Utilities plans to dedicating this as a public street. Mr. Hugg explained that if they do want to dedicate the street to the City, it would go through the City's normal process to ensure it meets the standards for being accepted by the City, which is a function of the Public Works Department. In regard to the street name change, Mr. Hugg stated that there is no immediate cost to the City for maps or anything like that, explaining that it is one of the rolling changes that staff will make as part of the mapping process. Mr. Hugg advised that 911 would change their maps, indicating that it is probably the most important change so that public safety personnel would be aware of the name change to Energy Lane.

**Mr. Hare moved to recommend approval of the requested street name change from Krisko Circle to Energy Lane, as recommended by the Planning Commission, and that a public hearing before City Council be set for December 11, 2017 at 7:30 p.m., as recommended by staff. The motion was seconded by Mr. Sudler and unanimously carried.**

**Neighborhood Building Blocks Grant - Central Dover LED Lights**

Mrs. Donna Mitchell, Acting City Manager, advised members that the Neighborhood Building Blocks Grant Application was completed by Mrs. Ann Marie Townsend, former Director of Planning and Community Development, in December 2016, and the City was notified of the grant award on June 29, 2017. Since that time, staff has been working through the details and an action plan.

Mrs. Mitchell explained that, in working with the Sustainable Energy Utility (SEU), this project will serve as a pilot for a complete City-wide LED light change out. She explained that the SEU has six (6) pre-qualified vendors for their energy efficiency programs and the City is working with two (2) of the vendors on proposals for the pilot in accordance with the Cooperative Purchasing provisions of the City's Purchasing Policy. Mrs. Mitchell advised that the goal is to have the pilot

program completed by June, and the larger project will be budgeted next fiscal year. She noted that when the pilot program is complete, the City could have an event for members of Council and community to demonstrate the difference between the LED lights and the non-LED lights that the City currently has.

Mrs. Mitchell stated that the streets identified in the grant application are in the Central Dover area, and are part of the Restoring Central Dover efforts. Members were advised that the installation is planned for the following streets: South Kirkwood, South Queen, Reed, and North New.

Mrs. Mitchell noted that a lot of technology had gone into these new lights, therefore, with this program, the City can get lights that will provide many opportunities. She explained that there are lights with sensors on top which can be brightened if there is crime in an area, or dimmed if there are complaints regarding light pollution. Mrs. Mitchell stated that these lights also have control mechanisms which can be set, noting that this will help if there is a shooting, because the lumens on the lights can be raised to make it brighter if there are police working in the area.

Mrs. Mitchell reiterated that this would be part of a larger project that will be budgeted for in Fiscal Year 2019. She stated that the current staff recommendation is for Committee approval of the project not to exceed \$194,634, which is the money awarded under the grant plus the \$100,000 budgeted in the Electric Fund. Mrs. Mitchell noted that item #3, Electric Utility Cost of Service and Rate Design Study, was scheduled for consideration by the Council Committee of the Whole/Utility Committee next, and advised members that she also had the rate consultant working with this in regard to the new rate tariffs for the LED lights. She also noted that the energy cost for the lights is in the street light budget in the General Fund, and changing all of the City lights to LED lights would use less energy; therefore, her long-term goal would be a reduction in the General Fund budget through these LED lights.

**Mr. Sudler moved to recommend approval of this project, not to exceed \$194,634, as recommended by staff. The motion was seconded by Mr. Anderson and unanimously carried.**

**Electric Utility Cost of Service and Rate Design Study**

Mrs. Donna Mitchell, Acting City Manager, advised members that City staff solicited a Request for Proposals to update the electric utility cost of service rates as well as design the rate structure for parity between each customer class and received eight (8) very good proposals. She stated that one (1) of the goals of this rate design study is to look at what the City is charging for demand versus energy.

Mrs. Mitchell noted that the 2015 Energy and Information data had the average electric rate for Delaware at 11.17 cents per kilowatt and the average rate for Dover was 11.11 cents per kilowatt. She stated that the same information had industrial rates for Dover at 11.5 percent higher than the average industrial rate in Delaware, however, the residential rates were 4.9 percent lower. Mrs. Mitchell advised that this data shows that the City's commercial customers are being charged above the average and demonstrates the need for this rate design study.

Mrs. Mitchell stated that staff recommended New Gen Strategies & Solutions because of the modeling that they demonstrated, how they do the rate model, and the services provided with that rate model. She explained that it can be done specifically for one (1) customer if needed and it is very intuitive, which is why she thought it was the best rate study model. It will be turned over to the City for our future use and they do biannual training for staff on the model.

Staff recommended approval of New Gen Strategies & Solutions in the amount of \$45,300.

**Mr. Hare moved to recommend approval of staff's recommendation, seconded by Mr. Sudler and unanimously carried.**

**Mr. Sudler moved for adjournment of the Utility Committee meeting. The motion was seconded by Mr. Neil and unanimously carried.**

Meeting adjourned at 7:39 p.m.

**By unanimous consent, the Council Committee of the Whole meeting was adjourned at 7:39 p.m.**

Timothy A. Slavin  
Council President

TAS/TM/dd/js

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Attachments

- Attachment #1 - Presentation entitled "Land Banking...What, Who, Why and How", provided by Ms. Sue Harris
- Attachment #2 - An article, entitled "What is a Land Bank" by Dan Kildee, Co-Founder and President, and Amy Hovey, Co-Founder and Senior Vice-President, Center for Community Progress, provided by Ms. Sue Harris
- Attachment #3 - An Ordinance to authorize the execution of the Memorandum of Understanding and Annual Funding Agreement between the City of Wilmington and the Wilmington Neighborhood Conservancy Land Bank, provided by Ms. Sue Harris



# Land Banking...

## What, Who, Why and How

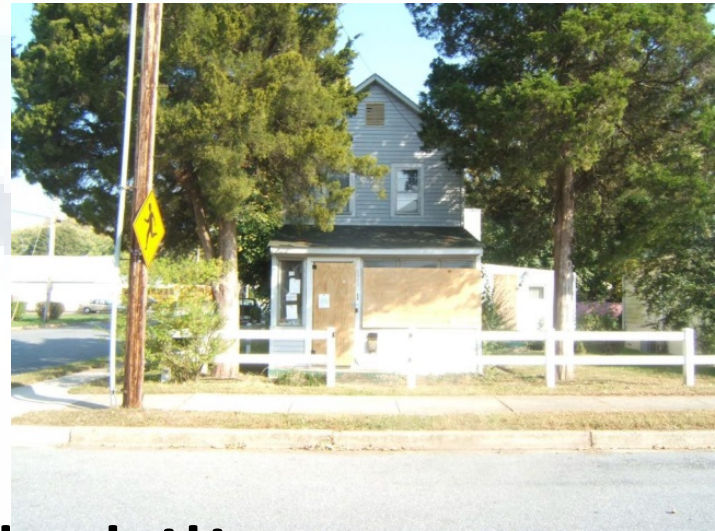


# What is a Land Bank

A Public or community-owned entity created to acquire, manage, maintain, and repurpose vacant, abandoned, and foreclosed properties --  
--the worst abandoned houses, forgotten buildings, and empty lots.



# What Does a Land Bank Do?



The purpose is to rehabilitate or demolish the properties or get them into the hands of the new owners who will improve them in accordance with the long term interests of the community.





In July 2008, Congress passed the Housing and Economic Recovery Act of 2008 (HERA), marking the first time that land banking was expressly recognized in federal legislation.



As of June of 2017 there are 170 land banks operating in the country.

A land bank is a *direct response* to a growing inventory of problem properties that the private market has altogether rejected.



# Who creates Land Banks

- Typically land banks are created as public entities provided for in local ordinance, pursuant to authority provided in state enabling legislation.
- Land bank programs can also be developed within existing entities, such as redevelopment authorities, housing departments or planning departments.





**Because a land bank is not a traditional form of local government and exercises only limited powers, some form of state enabling legislation is usually necessary.**

As of August of 2015, the following eleven states have passed comprehensive land bank legislation:

- Michigan 2004
- Ohio 2009
- New York 2011
- Georgia 2012
- Tennessee 2012
- Missouri 2012
- Pennsylvania 2012
- Nebraska 2013
- Alabama 2013
- West Virginia 2014
- Delaware 2015



On August 11, 2015, Governor Markell signed into law Senate Bill No. 66, as amended. This enables counties and municipalities to create land banks in order to acquire vacant or abandoned property through foreclosure and other means.

## § 4701 Short title.

This chapter shall be known and may be cited as the "Delaware Neighborhood Conservation and Land Banking Act."  
effective September 10, 2015

[80 Del. Laws, c. 155, § 1.](#)





# Governor Carney Signs Anti-Blight Legislation

Governor John Carney on Thursday September 7, 2017, signed into law House Bills 187 and 188.



# **Why** are Land Banks Created

The concepts of “**land banks**” and “**land banking**” first emerged in the 1960s

As a new urban planning tool.



With a growing inventory of abandoned tax-delinquent inner-city properties, land banks acquire and manage the properties no longer accessible or desired by the market.



# Land banks have special powers

Land banks are designed to acquire and maintain problem properties and then transfer them back to responsible ownership and productive use in accordance with local land use goals and priorities.

In order to accomplish these tasks, land banks are granted special powers and legal authority pursuant to state-enabling statutes.





Michigan Land Bank  
Fast Track Authority

One of the most important special powers of a land bank is they have the authority to target and complete property transfers, without seeking additional approvals from other levels of local government.



# How are Land Banks Created

A foreclosing governmental unit (a political subdivision of the State) may create a land bank by the adoption of a local law, ordinance, or resolution, as appropriate to such foreclosing governmental unit.



The local law, ordinance, or resolution creating the land bank shall specify all of the following:

- (1) The name of the land bank.
- (2) The number of members of the board of directors, requiring not less than 7 members.
- (3) The names of the initial individuals to and the length of terms for which they are to serve.
- (4) The qualifications, manner of selection or appointment, and terms of office of board members.



\$

\$

Land banks are generally funded through a variety of sources, which may include revenue from the sale of properties, foundation grants, general fund appropriations from local and county governments, and federal and state grants.





# **How** Land Banks Get Properties

- **Tax foreclosure process** – allows for direct transfer of property to a land bank if the impositions are greater than the value of the property.
- **Property forfeited** to the city
- **Transfer of property** from private individuals and probate estates.



- The first task is the **acquisition of title** to such properties;
- The second task is the **elimination of the liabilities**;
- The third task is the **transfer of the properties** to new owners in a manner most supportive of local needs and priorities.



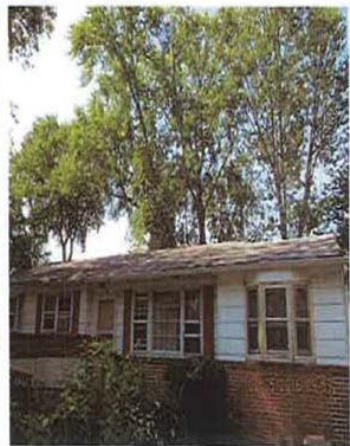
## Land Bank Property Life Cycle:



- In December of 2015, the Center for Community Progress, a national nonprofit that addresses blight and vacancy in cities across the country, produced a report focused on Wilmington.



In Nov of 2015 The City of  
Wilmington's City Council gave final  
approval to a proposal to create a land  
bank for Wilmington with a unanimous  
vote of all members in attendance.  
The Wilmington Neighborhood  
Conservancy Land Bank was  
established.



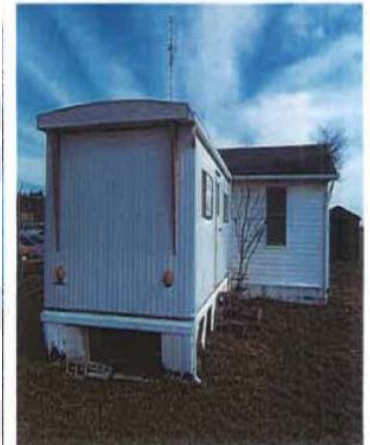


- Agenda No# 4288
  - Sponsors: Council President Gregory
  - Council Member Shabazz
  - **AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING AND ANNUAL FUNDING AGREEMENT BETWEEN THE CITY OF WILMINGTON AND THE WILMINGTON NEIGHBORHOOD CONSERVANCY LAND BANK**
- 

- **WHEREAS**, pursuant to Section 2-308 of the City Charter, the City of Wilmington is authorized to enter into agreements that shall run for more than a period of one year if approved by City Council by Ordinance; and



- The Wilmington Neighborhood Conservancy Land Bank is a 501(c) (3) entity dedicated to translating problem parcels into productive use.
- The WNCLB consists of a 15-person board representing the City, the State, Community Reinvestment Act (CRA), officers of local banks, and neighborhood-serving entities.



# \$5.5 million awarded to Strong Neighborhoods projects statewide

Date Posted: *Monday, March 13th, 2017*

- The housing projects chosen for funding in this round, listed by jurisdiction, are:
- **City of Wilmington**, lead applicant Wilmington Neighborhood Conservancy Land Bank, \$2.1 million
  - Wilmington Neighborhood Conservancy Land Bank, \$645,000 to acquire blighted properties and remove them
- .....





# How Dover can create a Land Bank

- A foreclosing governmental unit may create a land bank by the adoption of a local law, ordinance, or resolution, as appropriate to such foreclosing governmental unit. (after verifying a vacancy rate at 3% or above)
- Each county in this State shall have the ability to create a land bank (*regardless of vacancy rate*)



- There are four critical elements is successful land bank initiatives:
- **Connect the Land Bank to the tax collection and foreclosure system.** Tax collection is the principal interaction with abandoned properties –as owners typically do not pay taxes on abandoned property.
- **Scale the land bank around the most diverse real estate market possible.** Land banks are most effective when they are not relegated to ownership of only the worst of the foreclosed or abandoned properties.



- **Ensure a Land Bank is policy driven – and transparent in policies and transactions.** The public –for good reason – is often suspicious of any government role in the real estate market.
- **Emphasize community engagement and participation.** The land held by Land Banks is typically scattered among neighborhoods throughout the community.



**LANDBANK**



The best land banks do not work alone, but rather develop strategic partnerships with non-profits, community organizations, lenders, and local governments – all in an effort to leverage the resources available to deal with the most distressed land in the community.



The successful land banks often begin with state legislation that streamlines the tax foreclosure process and authorizes the creation of land banks with sufficient powers and funding to be proactive and effective.



We are fortunate that Delaware has enacted enabling legislation that puts the teeth into this that is required to make it successful and meaningful.

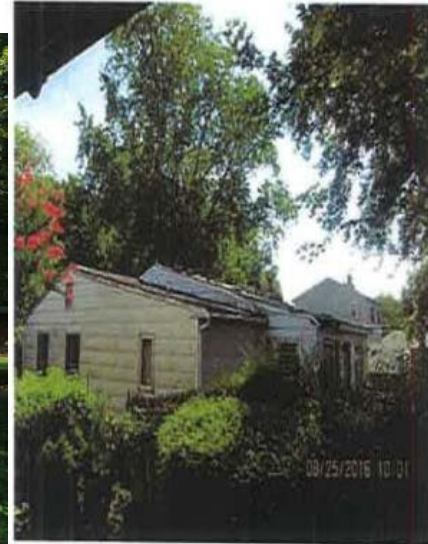
Using the example of Wilmington Land Bank and others, Dover City Council should propose the adoption of a local law, ordinance or resolution to establish a land bank.



# Dover's next steps to begin this process:

- With the benefit of counsel, the City Council should now discuss the make up of the Land Bank they wish to establish. Will you work with an existing entity such as a planning department or form a new public entity?
- Council should discuss the type of ordinance, law or resolution that they would establish setting up the regulations and guidelines in accordance with State Law, the City of Dover Consolidated plan and Action Plan.







## **What is a Land Bank?**

**Dan Kildee, Co-Founder and President**  
**Amy Hovey, Co-Founder and Senior Vice-President**  
**Center for Community Progress**

So, what is a Land Bank?

Land banks are not financial institutions. They are public or community-owned entities created for a single purpose: to acquire, manage, maintain, and repurpose vacant, abandoned, and foreclosed properties –the worst abandoned houses, forgotten buildings, and empty lots.

There are approximately 75 communities now operating formal land bank programs across the country. And while land banks are most often associated with communities with large-scale blight and abandonment, many communities now see the benefit of implementing land banking as a means of preventing the contagious blight that can sweep across urban neighborhoods like a plague, infecting house after house until whole blocks – even neighborhoods - become empty and abandoned shadows of their former selves.

Land banks across the country are often created to replace an antiquated system of tax foreclosure and property disposition. Land banks replace those “liquidation” based systems - generally comprised of the sale of tax liens (the uncollected tax receivables of a given municipality) or public tax auctions are essentially liquidation systems, wherein government trades their interest in tax-delinquent property to speculators, often for pennies on the dollar. Those systems place a higher premium on the modest collections derived from such transactions, with no consideration for the impact such a transaction will have on surrounding properties. That impact, in cities across America, is devastating to a neighborhood struggling to hold its own in an already weakened market. Those local governments sell interest in properties to investors who view property not as real estate, but as an investment on paper to be sold to another investor or simply represent a loss in the larger pool of properties or tax liens they may have acquired. It is rare that such sales lead to reinvestment in those properties. Families don't shop for the family home at tax lien sales, and developers don't seek the site for their next multi-million dollar deal at the courthouse auction.

A land bank is the alternative to such systems, as they give communities the opportunity to repurpose abandoned properties in a manner consistent with the communities' values and needs - demolishing unsalvageable homes and creating open green space or a community garden, restoring interesting buildings, or simply holding land in careful stewardship until a new purpose can be determined.

Land banks treat properties as real estate, not as a disposable commodity that, once used, no longer has a meaningful purpose.

## ***Quick Guide to Land Banks***

### **What Can A Land Bank Do?**

**Sell or convey property through locally developed policies that reflect the community's priorities**

- Sell through negotiated sales
- Convey property for other than monetary consideration
- Sell, lease, manage property with terms deemed to be in the interest of the Land Bank
- Utilize land bank financing tools for tax foreclosed and other targeted properties
- Support local planning decisions by adhering to local priorities as to use and transferee of land bank owned properties

### **Sample Land Bank Programs**

- Demolition
- Property maintenance
- Rental management
- Land Use Planning
- Sales
- Real Estate Development and Rehabilitation
- Land assembly for development

### **Sample Governance Structure**

- Legal authority determined by statute or intergovernmental agreement
- If a formed as an independent or quasi-independent public entity, the Board of Directors appointed according to local ordinance, intergovernmental agreement, or state authorizing statute

- Policies and procedures determined by Board, implemented by staff according to adopted policies -delegation of authority determined by Board policy
- Land banks may create local agreements with county, cities, townships, and villages as to the use and transferee of properties within their specific municipalities
- Public participation may include Advisory Council of citizens and interested parties

### **Potential Sources of Income**

Land bank authorities typically have access to a variety of sources of income to fund land bank programs, including: foundation grants, government contracts, land sale revenues, specific tax collection, developer fees, and rental income. Below is a description of these income sources:

- 1) Land banks are typically eligible for foundation grants due to its corporate structure or governmental status. When a land bank is in its formative stages and initially developing its capacity to operate, it may need to rely heavily upon foundation grants to covers operating costs. Such grant funding allows a land bank to build its capacity to operating programs that will potentially generate resources to operate the programs of the land bank.
- 2) Federal grants funded through HUD's Neighborhood Stabilization Program (NSP) may provide acquisition, maintenance and operating funds for land banks for a maximum period of ten years. Specific guidance for NSP can be found at the NSP Resource Exchange, [www.hud.gov/nspta](http://www.hud.gov/nspta). In addition, land banks can be used in conjunction with the HOME and CDBG programs with certain specific limitations. Be sure to check with local program managers regarding the availability of HOME and CDBG funding and the potential connections for land banks within each program.
- 3) Land sales revenue is generated when the land bank authority is able to sell properties for more than the land cost the land bank. Land banks are able to acquire property at below market value in a variety of ways. First, land banks are able to accept donated land. Property owners may want to donate their land for the tax benefits or even to relieve themselves of the maintenance obligations for the property. It is advisable that the land bank conduct proper due diligence prior to accepting donated property. It is appropriate for a land bank to provide a letter of acceptance for donated properties, but not to designate a donative value to the donor -rather it should advise donors to consult their tax professional for assistance in determining the tax implications for the donor. Secondly, the land bank may purchase low value properties at the auctions though it will be bidding against other buyers.

- 4) Some land bank can receive a portion of the tax revenue for land bank properties that are transferred to new owners. Under Michigan law land banks receive 50% of the specific tax generated on all properties that are sold by the land bank for five (5) years succeed the transfer of the property.
- 5) If the land bank participates as a developer or co-developer in real estate development projects in targets redevelopment areas. As a result of these development projects, the land bank may generate a developer's fee ranging from 7% to 20% of project costs.
- 6) Many land banks have the authority to keep properties in their inventory and rent them to both commercial and residential tenants. A rental program is often necessary in the current economy due to the difficulty in securing financing for real estate. Further, the provision of stable and quality rental properties to the market is an important aspect of any stable real estate market, and this program may be within the overall mission of the land bank.



# Sample Land Banking Agreement



## About this Tool

### Description:

This document provides a sample written agreement for land banks to allow nonprofit developers or other governmental agencies to land bank a property within a land bank until it is ready for disposition or development.

### How to Adapt this Document:

This document should be used as a guide for creating a customized land banking agreement that meets the needs of the land bank and the CDC/governmental entity. It addresses the major land bank categories that should be included at a minimum. However, it should not be used as-is. Each land banking agreement will likely have its own individual structure.

### Source of Document:

Substantial portions of this document come from a document utilized by the Genesee County Land Bank Authority.

### Disclaimer:

This document is not an official HUD document and has not been reviewed by HUD counsel. It is provided for informational purposes only. Any binding agreement should be reviewed by attorneys for the parties to the agreement and must conform to state and local laws.

This resource is part of the NSP Toolkits. Additional toolkit resources may be found at [www.hud.gov/nspta](http://www.hud.gov/nspta)

## LAND BANKING AGREEMENT

This Land Banking Agreement is entered into by and between XXXXX Business XXXXXXX, a XXXXX Corporation, with offices at XXXXXX, ("XXXX") and the XXXXX Land Bank Authority, a XXXX public body corporate (or private non-profit) with offices at XXXXXX, (the "Land Bank").

WITNESSETH:

1. Transfer of Property. Within 14 calendar days of the date of execution of this Agreement, XXXX will transfer to the Land Bank all of its right, title and interest in the following described real estate situated in XXXXXX, County of XXXXX, State of XXXXX, to wit, (the "Subject Property"):

*Commonly Known As:* XXXX, XXX, XX XXXXX

Tax ID # XX-XX-XXX-XX

Described as: (insert legal description)

The Subject Property shall be conveyed by Warranty Deed to the Land Bank by warranty deed with XXXX bearing all costs and fees associated with the transfer.

2. Quality of Title. The Subject Property shall have no liens, judgments, mortgages, or other encumbrances held by any third party. As evidence thereof, XXXX shall furnish suitable title evidence, to wit: a commitment for title insurance or a title search in a form acceptable to the Land Bank. Said title evidence shall be issued in advance of the conveyance and shall be approved by the Land Bank prior to issuance of the conveyance contemplated hereby. As of the date of the transfer of the Subject Property no third party shall have any lease, license, permit or other occupancy or use rights therein.

3. Condition of Property. XXXXX shall provide to the Land Bank in advance of the transfer any and all environmental assessments which it has in its files and shall provide access to surveys, maps, plans and diagrams concerning the Subject Property. If, in the sole discretion of the Land Bank the Subject Property requires any additional site assessment such work will be contracted for and paid by XXXX. The Land Bank retains the right to refuse to accept the

transfer of the Subject Property in the event the Subject Property, or any part of it, is characterized as being subject to environmental contamination. XXXX acknowledges and affirms that neither XXXXX nor any of its officers, directors, agents or employees have actual knowledge of existing environmental contamination on the subject property, except to the extent as may be disclosed within the materials provided.

4. Maintenance and Use by the Land Bank. During the term of this Agreement, the Land Bank shall have no obligation to secure or maintain the Subject Property. The Land Bank shall have no obligation to insure the improvements located on the Subject Property. It is understood that XXXXX will provide any and all required maintenance, insurance and security during the term of this Agreement.

**OR you can you the following language:**

During the term of this Agreement, the Land Bank shall have the right but not the obligation to undertake such action as may be reasonably necessary to secure the donated property. The Land Bank shall have the right, but not the obligation, to provide maintenance services to the donated property and to insure the improvements located on the donated property. The Land Bank shall have no right to make alterations or improvements to the donated property without the prior written approval of the City of Mt. Morris. It is understood that the City will provide any and all required maintenance and improvements during the term of this agreement.

5. Reconveyance.

(a) XXXXX shall have the absolute option at any time during the term of this Agreement to repurchase the subject property. The consideration for such repurchase shall be a pro-rated amount for each parcel conveyed computed based upon an amount equal to the sum of (1) all expenditures of the Land Bank, whether made directly by the Land Bank or through payments to a third party contractor in connection with the subject property incurred subsequent to the date of conveyance to the Land Bank, and (2) an amount determined by the Land Bank, pursuant to its policies and procedures, as the average indirect cost on a per parcel basis of holding its portfolio properties.

(b) It is understood that the XXXXX is currently marketing the subject properties and the Land Bank, accordingly, agrees to issue its conveyance either to the XXXXX or to a purchaser of a unit or units, said conveyance to take place as expeditiously as possible in order to facilitate the closing of the sale of the properties. The conveyance by the Land Bank of all or part of the property shall be by quitclaim deed.

(c) The Land Bank shall also have the right, at any time within the term of this Agreement, to require the XXXXX to exercise its right of repurchase by giving written notice of the requirement that it exercise its right to repurchase, in the amount of the repurchase price. In such case the City of XXXXX must exercise its right to repurchase within sixty (60) days within receipt of such notice. Failure of the XXXXX to exercise and close upon its right to repurchase within such 60 days shall result in termination of all rights of repurchase with respect to the donated property.

6. Hold harmless. XXXXX agrees to hold harmless, indemnify and defend the Land Bank, its officers, directors, employees and agents from and against any and all claims, losses, damages, liabilities and costs, including, but not limited to, costs of defense arising out of, or in any way connected wholly or in part with, this Agreement.

7. Miscellaneous. This Agreement and the other documents and instruments referred to in it contain the entire agreement between the Land Bank, XXXXX and no other party shall be entitled to rely on this Agreement or have any contract or other rights under it. Each party to this Agreement shall pay its own costs and expenses, including without limitation legal fees, associated with entering into this Agreement. Michigan law shall govern this Agreement, which may be amended only by written agreement among all the parties.

8. Effective Date and Term. This Agreement shall be effective when signed by all three parties and shall remain in effect for 360 days unless the Subject Property is conveyed back to XXXXX. XXXXX obligations contained in Paragraph 6 shall survive the termination of this Agreement.

XXXXX BUSINESS GROUP, INC

GENESEE COUNTY

LAND BANK AUTHORITY

By: \_\_\_\_\_

By: \_\_\_\_\_

Its:

Its: Executive Director

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



<i>Function</i>	<i>Lead Entity</i>	<i>Possible Source</i>	<i>Budget</i>	<i>Action Step</i>
Administration	Land Bank	Grant Funding / Land Sales		<ol style="list-style-type: none"> <li>1) Executive Director to develop staff plan</li> <li>2) Create business plan to ensure long-term stability</li> </ol>
Information Technology / GIS	D-Access / CLR	LB General Funds		Executive Director / CLR to begin to build the relationship with D-Access
Legal	ABC Law Firm	LB General Funds		Interview law firms with land bank experience
Office	Land Bank	LB General Funds		Executive Director to locate site
Acquisition	Land Bank / City of XXX	NSP / LOC /Bond		Executive Director to work with Acquisition Committee to create an acquisition strategy and create an acquisition fund
Property Clean-up	Land Bank / City of XXXX / Maintenance Contractor	NSP2 / LB General Funds / alternative sentencing / work release / MPRI		<ol style="list-style-type: none"> <li>1) Executive Director to create property maintenance standards</li> <li>2) send out RFP to maintenance companies &amp; CDCs</li> <li>3) Meet with MPRI to discussion possible collaboration</li> </ol>

<b>Function</b>	<b>Lead Entity</b>	<b>Possible Source</b>	<b>Budget</b>	<b>Action Step</b>
Insurance	Land Bank	LB General Funds		Executive Director to procure require insurance (general liability and property)
Inspection	Land Bank / Contractor / CDCs	LB General Funds / EPA funds		<ol style="list-style-type: none"> <li>1) Executive Director to create an inspection checklist</li> <li>2) Train inspectors</li> </ol>
Grass / Snow removal	Land Bank / Contractor / CDCs	NSP2 / LB General Funds		<ol style="list-style-type: none"> <li>1) Executive Director to create property maintenance standards</li> <li>2) send out RFP to maintenance companies &amp; CDCs</li> <li>3) Meet with MPRI to discussion possible collaboration</li> </ol>
Boarding / Securing	Land Bank / Contractor / CDCs	NSP2 / LB General Funds		<ol style="list-style-type: none"> <li>1) Executive Director to create property maintenance standards</li> <li>2) send out RFP to maintenance companies and CDCs</li> </ol>

<i>Function</i>	<i>Lead Entity</i>	<i>Possible Source</i>	<i>Budget</i>	<i>Action Step</i>
Demolition	Land Bank / Contractor /	NSP1/ NSP2 / Brownfield TIF / CDBG		1) Create a list of targeted demolition in compliance with funding source 2) Procure Demolition contractor according in compliance with funding source
Housing Rehabilitation	Joint Ventures / Developers	Varied		Executive Director to manage in collaboration with the municipality
Catalytic Economic Development	Joint Ventures / Developers	Varied		Executive Director to manage in collaboration with the municipality
Environmental Remediation	Consultants / Contractor	EPA / DEQ / DBRA		Executive Director to manage in collaboration with the municipality

Agenda No# 4288

Sponsors: Council President Gregory  
Council Member Shabazz

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**AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING AND ANNUAL FUNDING AGREEMENT BETWEEN THE CITY OF WILMINGTON AND THE WILMINGTON NEIGHBORHOOD CONSERVANCY LAND BANK**

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WHEREAS, pursuant to Section 2-308 of the City Charter, the City of Wilmington is authorized to enter into agreements that shall run for more than a period of one year if approved by City Council by Ordinance; and

WHEREAS, the City desires to authorize the execution of the Memorandum of Understanding (the "MOU") and the Annual Funding Agreement between the City of Wilmington and the Wilmington Neighborhood Conservancy Land Bank (the "Land Bank"); and

WHEREAS, the City suffers from a large number of vacant, abandoned and blighted properties that drain City resources and that negatively impact quality of life for the citizens of the City; and

WHEREAS, the similar institutions and organizations to the Land Bank have been proven to be an effective vehicle for the removal of vacant, blighted, and abandoned property in other states and cities; and

WHEREAS, the General Assembly of the State of Delaware enacted Chapter 47 of Title 31 of the Delaware Code, known as the "Delaware Neighborhood Conservation and Land Banking Act," which enables any political subdivision of the State of Delaware that has the power to cause the sale of real property located within its respective jurisdiction for the collection of liens inuring to that subdivision to create an entity, known as a land bank, for the purpose of returning vacant, abandoned, and delinquent properties to productive use; and

W0087501.

**WHEREAS**, the City passed Substitute No. 1 to Ordinance No. 15-040 authorizing the establishment of the Land Bank; and

**WHEREAS**, the City and the Land Bank have diligently been working on negotiating an agreement that will enumerate certain rights and responsibilities of the City and the Land Bank to ensure the success of the Land Bank and its mission to help the City fight against crime and blight; and

**WHEREAS**, the City and Land Bank have crafted an agreement that reflects the intentions of both the City and the Land Bank by way of the MOU which is attached hereto and made a part hereof as 'Exhibit A' and by way of the Annual Funding Agreement which is attached hereto and made a part hereof as 'Exhibit B'.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** the MOU, a copy of which, in substantial form, is attached hereto as Exhibit AA,@ for a period of ten (10) years beginning on the date of execution, and the Annual Funding Agreement as contemplated in the MOU, a copy of which, in substantial form, is attached hereto as Exhibit AB,@ are hereby approved, and the Mayor and the City Clerk are hereby authorized to execute as many copies of said agreements, as well as all additional undertakings related thereto, as may be necessary.

**SECTION 2.** This Ordinance shall be effective upon its passage by City Council and approval of the Mayor.

First Reading ..... November 3, 2016  
Second Reading.... November 3, 2016  
Third Reading . . .

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved as to form this  
\_\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Assistant City Solicitor

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance authorizes the execution of the Memorandum of Understanding and Annual Funding Agreement between the City of Wilmington and the Wilmington Neighborhood Conservancy Land Bank (the "Land Bank") which will empower and enable the Land Bank to assist the City in fighting crime and blight that stem from a high number of vacant and abandoned properties located within the City.

## **Fiscal Impact Statement**

This Ordinance authorizes the execution of the Annual Funding Agreement and the Memorandum of Understanding between the City of Wilmington and the Wilmington Neighborhood Conservancy Land Bank for a period of ten (10) years with a non-binding commitment of financial support made by the City to the Land Bank in an amount of \$15,000,000 (fifteen million dollars).

**City of Dover  
Capital Investment Plan  
Project Tracking Report  
Quarterly Report as of September 30, 2017**

**Points to Remember -**

- \* Original Project Budget = Original Total Project Budget initially included in approved annual budget.
- \* Latest Project Budget = Revised Total Project Budget included in most recent approved annual budget or one of the following: bond resolution, revolving fund loan agreement, Council approved budget amendment, or City Manager approved amendment as per the Budget Amendment Procedure.
- \* Current Fiscal Year - Revised Fiscal Year Budget = Current Year approved project budgets plus carry forward balances of unspent budgets in the prior fiscal year. Project Carry Forward balances will be submitted to City Council for amendment in January 2010. Can also be amended with City Manager approval per the Budget Amendment Procedure.
- \* Water Quality, Inflow/Infiltration, Distribution Upgrades and New Development projects are budgeted as a blanket project and once individual projects are identified and estimated they are created using an allocation of the overall budgeted amount.
- \* Status and Comments provided by City Manager.

<b>Current Year Budget Funding Sources</b>	<b>General</b>	<b>Community Transportation</b>	<b>Water &amp; Wastewater</b>	<b>Electric</b>	<b>Total CIP</b>
Budget Balance	\$ 907,300	\$ -	\$ 980,500	\$ 2,076,400	\$ 3,964,200
General Billings for Reimbursement of Expense	33,000	-	-	370,000	403,000
State Community Transportation Funds	-	500,000	-	-	500,000
Transfer from General Fund	1,368,700	-	-	-	1,368,700
Transfer from Operating Funds	-	-	3,173,000	5,000,000	8,173,000
Transfer from Parkland Reserve	205,000	-	-	-	205,000
Transfer from Capital Asset Reserve	418,300	-	-	-	418,300
Interest Income	8,300	-	93,200	109,800	211,300
<b>Total Funding Sources (Unaudited)</b>	<b>\$ 2,940,600</b>	<b>\$ 500,000</b>	<b>\$ 4,246,700</b>	<b>\$ 7,556,200</b>	<b>\$ 15,243,500</b>



City of Dover  
General Fund - Major CIP Projects  
Quarterly Report as of September 30, 2017

TOTAL PROJECT - PAST, CURRENT & FUTURE BUDGETS								CURRENT FISCAL YEAR					Status	Comments	
Project Code	Type	Description	Original Project Budget	Latest Project Budget	Project To Date Expenses	Project Budget Balance	% Budget Spent	Original Fiscal Year Budget	Revised Fiscal Year Budget	Fiscal YTD Expenses	Budget Balance	% of Completion			
		<b>FY 2015 &amp; Prior</b>													
1	PR1402	M	Schutte Park Land Improvements	\$ 100,000	\$ 190,000	\$ 57,255	\$ 132,745	30.1%	\$ 190,000	\$ 190,000	\$ 2,259	\$ 187,741		In Process	
2	ST1504		Old PW2 Site Improvements	535,000	678,300	602,493	75,807	88.8%	-	77,900	2,093	75,808	50.0%	In Process	VCP application being drafted
3	ST1304		Garrison Farm Street Improvement	-	-	-	-	0.0%	-	-	1,265	(1,265)	100.0%	Complete	Prior year exp not accrued <\$5K
4			<b>Totals - FY 2015</b>	<b>\$ 635,000</b>	<b>\$ 868,300</b>	<b>\$ 659,749</b>	<b>\$ 208,551</b>	<b>76.0%</b>	<b>\$ 190,000</b>	<b>\$ 267,900</b>	<b>\$ 5,617</b>	<b>\$ 262,283</b>			
5			<b>FY 2017</b>												
6			<b>FY 2017</b>												
7	ST1701		FY17 Street and Alley Program	\$ 900,000	\$ 878,800	\$ 182,730	\$ 696,070	20.8%	\$ -	\$ 759,600	\$ 63,575	\$ 696,025	75.0%	In Process	Contractor working on Lincoln Street
8	---		Video Broadcasting Equipment	164,100	164,100	164,090	11	100.0%	-	-	155,349	(155,349)	100.0%	Complete	
9	ST1703		Silver Lake Dam Improvements	126,000	280,000	14,550	265,450	5.2%	-	265,500	-	265,500	25.0%	In Process	Contractor mobilized to site work to be completed by November 10th
10			<b>Totals - FY 2017</b>	<b>\$ 1,190,100</b>	<b>\$ 1,322,900</b>	<b>\$ 361,370</b>	<b>\$ 961,530</b>	<b>27.3%</b>	<b>\$ -</b>	<b>\$ 1,025,100</b>	<b>\$ 218,924</b>	<b>\$ 806,176</b>			
11			<b>FY 2018</b>												
12			<b>FY 2018</b>												
13	---		Vehicles & Equipment	\$ 405,400	\$ 405,400	\$ -	\$ 405,400	0.0%	\$ 405,400	\$ 405,400	\$ -	\$ 405,400		In Process	
14	FR1800	R	Annual Contribution for Ladder 1	145,700	145,700	145,614	86	99.9%	145,700	145,700	145,614	86	100.0%	Complete	
15	IT1800		Back Up & Recovery Syst with Software	15,000	15,000	10,731	4,269	71.5%	15,000	15,000	10,731	4,269	100.0%	Complete	
16	IT1801		Network Infrastructure	21,600	21,600	15,000	6,600	69.4%	21,600	21,600	15,000	6,600	50.0%	In Process	
17	PR1800		Park and Playground Improvement Prog	66,000	66,000	-	66,000	0.0%	66,000	66,000	-	66,000	0.0%	In Process	
18	PR1801		Small Park Improvements	15,000	15,800	-	15,800	0.0%	15,000	15,800	-	15,800	50.0%	In Process	
19	PD1800		Police Station Roof Repair	53,100	53,100	-	53,100	0.0%	53,100	53,100	-	53,100	0.0%	In Process	
20	PD1801	R	Police Station Impound Lot	51,000	51,000	-	51,000	0.0%	51,000	51,000	-	51,000	0.0%	In Process	
21	ST1801		FY18 Street and Alley Program	950,000	796,000	-	796,000	0.0%	950,000	796,000	-	796,000	0.0%	In Process	Bid documents being drafted
22	ST1802		Misc Emergency Stormwater Repairs	70,000	70,000	-	70,000	0.0%	70,000	70,000	-	70,000	0.0%	In Process	Project open
23	ST1805		Dover Library Conveyance Syst Improv	50,000	8,000	-	8,000	0.0%	50,000	8,000	-	8,000	0.0%	On Hold	Project on hold
24			<b>Totals - FY 2018</b>	<b>\$ 1,842,800</b>	<b>\$ 1,647,600</b>	<b>\$ 171,345</b>	<b>\$ 1,476,255</b>	<b>10.4%</b>	<b>\$ 1,842,800</b>	<b>\$ 1,647,600</b>	<b>\$ 171,345</b>	<b>\$ 1,476,255</b>			
25			<b>Grand Totals</b>	<b>\$ 3,667,900</b>	<b>\$ 3,838,800</b>	<b>\$ 1,192,463</b>	<b>\$ 2,646,337</b>	<b>31.1%</b>	<b>\$ 2,032,800</b>	<b>\$ 2,940,600</b>	<b>\$ 395,886</b>	<b>\$ 2,544,714</b>			
26															

Legend

M = Multi-year project - a project with a specific schedule to occur over multiple years.  
R = Recurring project - a project that begins and ends each fiscal year and is re-budgeted to start over each fiscal year.  
G = Grant funded project  
B/L = To be financed through bonds or commercial loan.

City of Dover  
Community Transportation - Major CIP Projects  
Quarterly Report as of September 30, 2017

Project Code	Type	Description	TOTAL PROJECT - PAST, CURRENT & FUTURE BUDGETS					CURRENT FISCAL YEAR					Status	Comments	
			Original Project Budget	Latest Project Budget	Project To Date Expenses	Project Budget Balance	% Budget Spent	Original Fiscal Year Budget	Revised Fiscal Year Budget	Fiscal YTD Expenses	Budget Balance	% of Completion			
		<b>FY 2014 &amp; Prior</b>													
1		TE0601 Lincoln Park Center	\$ 900,000	\$ 602,400	\$ 523,277	\$ 79,123	86.9%	\$ -	\$ 79,100	\$ -	\$ 79,100		On-going		
2		<b>Totals - FY 2014 &amp; Prior</b>	<b>\$ 900,000</b>	<b>\$ 602,400</b>	<b>\$ 523,277</b>	<b>\$ 79,123</b>	<b>86.9%</b>	<b>\$ -</b>	<b>\$ 79,100</b>	<b>\$ -</b>	<b>\$ 79,100</b>				
3															
4		<b>FY 2016</b>													
5		CT1627 FY16 Paving Projects - Boggs Drive	\$ 247,400	\$ 247,400	\$ 243,103	\$ 4,297	98.3%	\$ -	\$ 44,600	\$ 40,346	\$ 4,254	100.0%	Complete		
6		<b>Totals - FY 2016</b>	<b>\$ 247,400</b>	<b>\$ 247,400</b>	<b>\$ 243,103</b>	<b>\$ 4,297</b>	<b>98.3%</b>	<b>\$ -</b>	<b>\$ 44,600</b>	<b>\$ 40,346</b>	<b>\$ 4,254</b>				
7															
8		<b>FY 2017</b>													
9		CT1703 Paving Project - Wyoming Avenue	\$ 200,000	\$ 200,000	\$ 97,971	\$ 102,029	49.0%	\$ -	\$ 169,900	\$ 67,866	\$ 102,034	70.0%	In Process	Work is underway, awaiting striping, final invoices to close out agreement	
10		CT1714 Paving Project - Paper Alley	15,000	15,000	4,933	10,067	32.9%	-	15,000	4,933	10,067	99.0%	In Process	Awaiting final invoices to close out agreement	
11		CTxxxx Unapplied CT Projects (placeholder)	500,000	191,400	-	191,400	0.0%	500,000	191,400	-	191,400				
12		<b>Totals - FY 2017</b>	<b>\$ 715,000</b>	<b>\$ 406,400</b>	<b>\$ 102,904</b>	<b>\$ 201,467</b>	<b>25.3%</b>	<b>\$ 500,000</b>	<b>\$ 376,300</b>	<b>\$ 72,799</b>	<b>\$ 303,501</b>				
13															
14		<b>Grand Totals</b>	<b>\$ 1,862,400</b>	<b>\$ 1,256,200</b>	<b>\$ 869,284</b>	<b>\$ 284,887</b>	<b>69.2%</b>	<b>\$ 500,000</b>	<b>\$ 500,000</b>	<b>\$ 113,145</b>	<b>\$ 386,855</b>				
15															

Legend

- M = Multi-year project - a project with a specific schedule to occur over multiple years.
- R = Recurring project - a project that begins and ends each fiscal year and is re-budgeted to start over each fiscal year.
- C = Project funded by combination of CT Funds and General Fund
- B/L = To be financed through bonds or commercial loan.

City of Dover  
Water/Wastewater Improvement & Extension Fund - Major CIP Projects  
Quarterly Report as of September 30, 2017

Project Code	Type	Description	TOTAL PROJECT - PAST, CURRENT & FUTURE BUDGETS					CURRENT FISCAL YEAR					Status	Comments	
			Original Project Budget	Latest Project Budget	Project To Date Expenses	Project Budget Balance	% Budget Spent	Original Fiscal Year Budget	Revised Fiscal Year Budget	Fiscal YTD Expenses	Budget Balance	% of Completion			
		<b>FY 2013</b>													
1		Westover PS	\$ 768,800	\$ 1,405,400	\$ 900,834	\$ 504,566	64.1%	\$ -	\$ 519,400	\$ 14,803	\$ 504,597	70.0%	In Process	Ongoing, station is installed, working on electrical connections and site work	
2		<b>Totals - FY 2013</b>	\$ 768,800	\$ 1,405,400	\$ 900,834	\$ 504,566	64.1%	\$ -	\$ 519,400	\$ 14,803	\$ 504,597				
3		<b>FY 2016</b>													
4		Rolling Acres PS Replacement	\$ 424,000	\$ 478,500	\$ 39,173	\$ 439,327	8.2%	\$ -	\$ 465,200	\$ -	\$ 465,200	65.0%	In Process	Bypass connection complete, awaiting delivery of station to site	
5		<b>Totals - FY 2016</b>	\$ 424,000	\$ 478,500	\$ 39,173	\$ 439,327	8.2%	\$ -	\$ 465,200	\$ -	\$ 465,200				
6		<b>FY 2017</b>													
7	R	Future Well Installation	\$ 100,000	\$ 100,000	\$ 28,430	\$ 71,570	28.4%	\$ -	\$ 71,600	\$ -	\$ 71,600	50.0%	In Process	Staff working with consultant on sensitivity analysis for volume produced	
8		Delaware Tech PS Replacement	52,000	52,000	23,047	28,953	44.3%	-	33,000	4,041	28,959	99.0%	In Process	Bid documents are 95%, awaiting internal and agency approval	
9		Silver Lake PS Replacement	52,000	52,000	39,019	12,981	75.0%	-	20,200	7,210	12,990	99.0%	In Process	Bid documents are 99%, awaiting agency approval	
10		Walker Woods PS Replacement	52,000	52,000	37,824	14,176	72.7%	-	17,400	3,214	14,186	99.0%	In Process	Bid documents are 99%, awaiting agency approval	
11		<b>Totals - FY 2017</b>	\$ 256,000	\$ 256,000	\$ 128,319	\$ 127,681	50.1%	\$ -	\$ 142,200	\$ 14,465	\$ 127,735				
12		<b>FY 2018</b>													
13	R	Vehicles & Equipment	\$ 156,300	\$ 156,300	\$ 21,256	\$ 135,044	13.6%	\$ 156,300	\$ 177,700	\$ 21,256	\$ 156,444				
14	R	Economic Development Program	100,000	100,000	-	100,000	0.0%	100,000	100,000	-	100,000	0.0%			
15	R	Meter Replacement Project	432,200	405,200	-	405,200	0.0%	432,200	405,200	-	405,200	0.0%	On Hold		
16	R	Wellhead Redevelopment	55,000	55,000	11,827	43,173	21.5%	55,000	55,000	11,827	43,173	30.0%	In Process	Well #7 Rehabilitated	
17		Water Quality Improvement - Bradford	425,000	425,000	-	425,000	0.0%	425,000	425,000	-	425,000	0.0%		Bid opening scheduled Oct 4th	
18		Water Quality Improvement - William	621,000	621,000	-	621,000	0.0%	621,000	621,000	-	621,000	0.0%		Bid opening scheduled Oct 4th	
19	R	Misc Emergency Water Repairs	85,000	85,000	6,959	78,041	8.2%	85,000	85,000	6,959	78,041	10.0%	In Process	Project open	
20	R	Misc Emergency Sewer Repairs	100,000	72,800	22,890	49,910	31.4%	100,000	72,800	22,890	49,910	31.0%	In Process	Project open	
21		Lincoln St Gravity Sewer Repair	-	27,200	-	27,200	0.0%	-	27,200	-	27,200	85.0%	In Process	Contractor mobilized, anticipated completion early October	
22		SCADA Equip Technology Upgrade	35,000	35,000	-	35,000	0.0%	35,000	35,000	-	35,000	0.0%			
23		Puncheon Run PS Improvements	320,000	320,000	-	320,000	0.0%	70,000	70,000	-	70,000	0.0%			
24	R	Inflow/Infiltration Removal	1,071,900	1,046,000	-	1,046,000	0.0%	1,071,900	1,046,000	-	1,046,000	0.0%			
25		<b>Totals - FY 2017</b>	\$ 3,401,400	\$ 3,348,500	\$ 62,933	\$ 3,285,567	1.9%	\$ 3,151,400	\$ 3,119,900	\$ 62,933	\$ 3,056,967				
26		<b>Grand Totals</b>	\$ 4,594,200	\$ 5,232,400	\$ 1,090,767	\$ 4,141,633	20.8%	\$ 3,151,400	\$ 4,246,700	\$ 92,201	\$ 4,026,764				

**Legend**

- M = Multi-year project - a project with a specific schedule to occur over multiple years.
- R = Recurring project - a project that begins and ends each fiscal year and is budgeted to start over each fiscal year. No carry forward.
- SL = State Loan Project - construction phase is financed
- I = Impact Fee (partially) financed project
- T = Transfer from blanket WQ or I&I original budget

City of Dover  
Electric Improvement & Extension Fund - Major CIP Projects  
Quarterly Report as of September 30, 2017

		TOTAL PROJECT - PAST, CURRENT & FUTURE BUDGETS							CURRENT FISCAL YEAR							
Project Code	Type	Description	Original Project Budget	Latest Project Budget	Project To Date Expenses	Project Budget Balance	% Budget Spent	Current Fiscal Year Budget	Revised Fiscal Year Budget	Fiscal YTD Expenses	Budget Balance	% of Completion	Status	Comments		
		<b>FY 2015</b>														
1		EE1513	M	Town Point/White Oak Distribution Feeders	\$ 1,650,000	\$ 2,350,000	\$ 819,661	\$ 1,530,339	34.9%	\$ 350,000	\$ 350,000	\$ 43,747	\$ 306,253	70.0%	In Process	3rd planned phase
2				<b>Totals - FY 2015</b>	\$ 1,650,000	\$ 2,350,000	\$ 819,661	\$ 1,530,339	34.9%	\$ 350,000	\$ 350,000	\$ 43,747	\$ 306,253			
3				<b>FY 2016</b>												
4		EE1617		Oak Grove Trailer Park - Dist Upgrade	\$ 78,500	\$ 78,500	\$ 53,733	\$ 24,767	68.4%	\$ -	\$ 31,700	\$ 6,857	\$ 24,843	100.0%	Complete	Awaiting invoices
5		EE1627		Dover East Estates - Dist Upgrade	130,000	130,000	119,505	10,495	91.9%	-	12,800	2,312	10,488	100.0%	Complete	Awaiting invoices
6		EE1631		North Street OH to UG	170,000	170,000	164,489	5,511	96.8%	-	5,500	-	5,500	90.0%	In Process	
7				<b>Totals - FY 2016</b>	\$ 378,500	\$ 378,500	\$ 337,727	\$ 40,773	89.2%	\$ -	\$ 50,000	\$ 9,169	\$ 40,831			
8				<b>FY 2017</b>												
9		EE1709		Substation Relay Upgrade	\$ 350,000	\$ 125,000	\$ 4,882	\$ 120,118	3.9%	\$ -	\$ 120,100	\$ -	\$ 120,100	5.0%	In Process	
10		EG1701		VanSant Unit 11 Major Overhaul	2,098,000	2,098,000	64,340	2,033,660	3.1%	1,548,000	1,942,200	58,500	1,883,700	5.0%	In Process	Long lead time items on order
11		EG1703		McKee Run Building Equip Replacement	59,000	26,000	25,928	72	99.7%	-	700	622	78	100.0%	Complete	
12		EG1704		Unit #3 Hydrogen Analyzer	96,000	96,000	24,708	71,292	25.7%	-	96,000	24,708	71,292	20.0%	In Process	Unit on order with expected delivery by Dec
13		EG1711	R	Preservation of Structures	131,000	14,400	14,393	7	100.0%	-	7,000	6,978	22	100.0%	Complete	
14		EG1712		Remote Start Capability at VanSant	10,800	50,800	42,688	8,112	84.0%	-	18,900	10,795	8,105	90.0%	In Process	Phase one completed and fully functional
15				<b>Totals - FY 2017</b>	\$ 2,744,800	\$ 2,410,200	\$ 176,938	\$ 2,233,262	7.3%	\$ 1,548,000	\$ 2,184,900	\$ 101,603	\$ 2,083,297			
16				<b>FY 2018</b>												
17		---	R	Vehicles & Equipment	\$ 335,500	\$ 335,500	\$ -	\$ 335,500	0.0%	\$ 335,500	\$ 335,500	\$ -	\$ 335,500		In Process	
18		---		Economic Development Program	50,000	50,000	-	50,000	0.0%	50,000	50,000	-	50,000	0.0%		
19		---	R	New Developments	850,000	850,000	275,317	574,683	32.4%	850,000	850,000	127,244	722,756		In Process	
20		EE1802		Garrison Oak/Sun Park Substation	50,000	50,000	-	50,000	0.0%	50,000	50,000	-	50,000	0.0%	On Hold	
21		EE1803		Beechwood Avenue Underground Upgrade	83,000	83,000	-	83,000	0.0%	83,000	83,000	-	83,000	0.0%	Cancelled	Funds to be used for EE1513 per City Manager
22		EE1804		Advanced Metering Infrastructure (AMI)	150,000	150,000	-	150,000	0.0%	150,000	150,000	-	150,000	0.0%	In Process	
23		EE1805		Manor Drive Upgrades	51,000	51,000	-	51,000	0.0%	51,000	51,000	-	51,000	60.0%	Scheduled	
24		EE1806		Hirsch Industries Upgrades	59,000	59,000	-	59,000	0.0%	59,000	59,000	-	59,000	0.0%	Scheduled	Outage around Thanksgiving 2017
25		EE1807		McKee Run Plant Alternate Power	100,000	100,000	2,071	97,929	2.1%	100,000	100,000	2,071	97,929	20.0%	In Process	Complete in March 2018
26		EE1808		North Street Substation Sewer Repair	50,000	50,000	-	50,000	0.0%	50,000	50,000	-	50,000	0.0%	In Process	Scheduled Nov 22
27		EE1809		Fiber Mapping	69,000	69,000	-	69,000	0.0%	69,000	69,000	-	69,000	0.0%	In Process	Coordinating time to accomplish
28		EE1810	R	Fault Indicators	10,000	10,000	-	10,000	0.0%	10,000	10,000	-	10,000	100.0%	Complete	Awaiting final invoice
29		EE1811		Meter Test Bench Replacement	40,000	40,000	-	40,000	0.0%	40,000	40,000	-	40,000	100.0%	In Process	
30		EE1812		ABB Switchgear Replacement	450,000	450,000	-	450,000	0.0%	450,000	450,000	-	450,000	20.0%	In Process	7 of 22 delivered Nov 14
31		EE1814	R	Transmission Line Maintenance Program	50,000	50,000	-	50,000	0.0%	50,000	50,000	-	50,000	0.0%	In Process	
32		EE1815	R	Lighting Project	100,000	100,000	-	100,000	0.0%	100,000	100,000	-	100,000	0.0%	On Hold	
33		EE1816	R	Distribution Cap & Control	35,000	35,000	-	35,000	0.0%	35,000	35,000	-	35,000	10.0%	In Process	
34		EE1817	R	Ampacity Standardization	25,000	25,000	-	25,000	0.0%	25,000	25,000	-	25,000	0.0%		
35		EE1818		Piping/Wire - Heat Pumps	8,500	8,500	-	8,500	0.0%	8,500	8,500	-	8,500	0.0%		
36		EE1820		Ann Avenue Underground Upgrade	133,000	133,000	-	133,000	0.0%	133,000	133,000	-	133,000	0.0%	Cancelled	Funds to be used for EE1513 per City Manager
37		EG1800	R	McKee Run Building Equip Replacement	20,000	19,300	-	19,300	0.0%	20,000	19,300	-	19,300	0.0%	In Process	Equipment on site.
38		EG1801	R	Plant Syst Safety & Compl Improvements	70,000	70,000	-	70,000	0.0%	70,000	70,000	-	70,000	0.0%	In Process	Inverters at Van Sant for CEMS compliance.
39		EG1802	R	Preservation of Structures	55,000	48,000	9,131	38,869	19.0%	55,000	48,000	9,131	38,869	10.0%	In Process	Work in progress at McKee Run
40		EG1803		VanSant Fire Suppression Syst Upgrade	235,000	235,000	-	235,000	0.0%	235,000	235,000	-	235,000	5.0%	In Process	Quotes received. Will need to have them refreshed
41		EG1804		Unit #3 Fast Start Upgrade	200,000	200,000	-	200,000	0.0%	200,000	200,000	-	200,000	5.0%	In Process	Design considerations being reviewed
42		EG1805	R	McKee Run Unit 3 Boiler Systems	100,000	100,000	11,996	88,004	12.0%	100,000	100,000	11,996	88,004	15.0%	In Process	Boiler buckstay repairs.
43		EG1806	R	McKee Run Auxiliary System Components	100,000	100,000	29,694	70,306	29.7%	100,000	100,000	29,694	70,306	25.0%	In Process	Expansion joints and hardware on order for installation in fall or early spring as manpower allows
44			M	Purchase of ERP System	2,606,000	2,606,000	67,500	2,538,500	2.6%	1,500,000	1,500,000	9,248	1,490,752		In Process	
45				<b>Totals - FY 2017</b>	\$ 6,085,000	\$ 6,077,300	\$ 395,709	\$ 5,681,591	6.5%	\$ 4,979,000	\$ 4,971,300	\$ 189,384	\$ 4,781,916			
46				<b>Grand Totals</b>	\$ 10,858,300	\$ 11,216,000	\$ 1,730,036	\$ 9,485,964	15.4%	\$ 6,877,000	\$ 7,556,200	\$ 343,904	\$ 7,212,296			

Legend

M = Multi-year project - a project with a specific schedule to occur over multiple years.

R = Recurring project - a project that begins and ends each fiscal year and is re-budgeted to start over each fiscal year.

B = Bonded Project

S = State fully or partially reimbursed project



# DOVER FIRE DEPARTMENT

DOVER'S VOL. FIRE DEPT.  
Since 1882

November 21, 2017

City of Dover  
Traci A. McDowell, City Clerk  
15 Loockerman Plaza  
Dover, Delaware 19903

RECEIVED

NOV 21 2017

OFFICE OF THE CITY CLERK

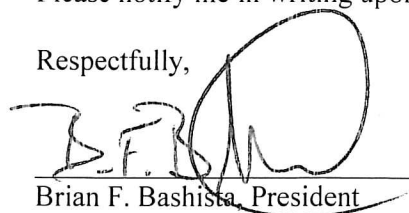
Dear Ms. McDowell,

The following are the results of the November 20, 2017 Dover Fire Department Fire Line Officer Election as certified by the election judges:

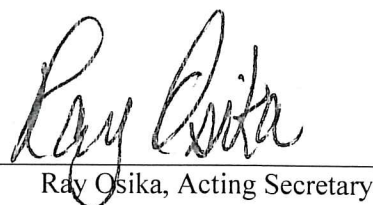
Fire Chief	Carleton Carey Jr. (Uncontested)
Deputy Fire Chief	Ron W Rhodes Sr. (Uncontested)
1 <sup>st</sup> Assistant Fire Chief	David Carey (Uncontested)
2 <sup>nd</sup> Assistant Fire Chief	Glenn Whitt (Uncontested)
3 <sup>rd</sup> Assistant Fire Chief	Michael O'Connor Jr. (Uncontested)
4 <sup>th</sup> Assistant Fire Chief	Christopher Jacobs
1 <sup>st</sup> Fire Line Captain	Sean Byron (Uncontested)
2 <sup>nd</sup> Fire Line Captain	Michael Morris (Uncontested)

Please notify me in writing upon their approval by City Council.

Respectfully,



Brian F. Bashista, President



Ray Osika, Acting Secretary



CITY OF DOVER PROPOSED ORDINANCE #2017-14

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

3  
4 That Chapter 30, Code of Conduct and Ethic Commission, be amended by inserting the text indicated in  
5 blue font, deleting the text indicated in red strikeout, and moving the text indicated in green font, as  
6 follows:

7  
8 Chapter 30 - ~~CODE OF CONDUCT~~ **STANDARDS OF ETHICAL CONDUCT AND ETHICS** AND ETHICS  
9 COMMISSION

10 ~~ARTICLE I. – IN GENERAL~~

11 ~~Secs. 30-1 – 30-30. – Reserved.~~

12 ~~ARTICLE II. – CODE OF CONDUCT~~

13  
14 **ARTICLE I. – IN GENERAL**

15  
16 Sec. 30-31. - Applicability; ~~statement of policy.~~

17  
18 ~~(a) – Applicability.~~ This ~~article~~ **chapter** shall be applicable to all elected and appointed officials and all  
19 employees of the city.

20 **Sec. 30-2. – Statement of intent and purpose.**

21 ~~(ba) *Statement of policy*~~ **Intent.** The proper operation of democratic government requires that public  
22 officials and employees be independent, impartial, and responsible to the people; that  
23 governmental decisions and policies be made in the proper channels of the governmental structure;  
24 that public office not be used for personal gain; and that the public has confidence in the integrity  
25 of its government. ~~In recognition of these goals, there is hereby established a code of conduct for~~  
26 ~~all city employees and officials. The purpose of this code of conduct is to establish ethical~~  
27 ~~standards of conduct for all such officials and employees by setting forth those acts or actions that~~  
28 ~~are incompatible with the best interests of the city and by directing disclosure by such officials and~~  
29 ~~employees of private financial or other interests in matters affecting the city. It is the intent of~~  
30 ~~the city that all elected and appointed officials and all employees of the city adhere to high~~  
31 ~~levels of ethical conduct, honesty, integrity and accountability to assure that the public has~~  
32 ~~confidence in all aspects of city government and the city officials that exercise discretionary~~  
33 ~~powers. These standards of ethical conduct are intended to uphold the public trust in the~~  
34 ~~persons in positions of public responsibility who are acting for the benefit of the public. All~~  
35 ~~elected and appointed officials and all employees of the city shall comply with both the letter~~  
36 ~~and the spirit of the standards of ethical conduct and strive to avoid situations that create~~  
37 ~~impropriety or the appearance of impropriety. The standards define and discourage certain~~  
38 ~~actions that may create impropriety or the appearance of impropriety that undermine public~~  
39 ~~trust in elected and appointed public officials and employees.~~

40 **(b) *Purpose.*** The standards of ethical conduct should promote public confidence in the  
41 integrity of city officials; state principles of conduct and ethics which are to be applied in  
42 public service; inform the public of the standards to which their city officials are expected to  
43 adhere; and help motivate city officials and public employees to pursue productive conduct  
44 and ethical ideals which exceed minimum standards. The city council finds and declares as

45 matters of public policy goals and objectives for all city employees and elected and appointed  
46 officials, the following:

47 (1) *Public trust.* In our democratic form of government, the conduct of officials and  
48 employees of the city must hold the respect and confidence of the people. They must,  
49 therefore, avoid conduct which is in violation of their public trust or which creates a justifiable  
50 impression among the public that such trust is being violated.

51 (2) *Standards.* To ensure propriety and to preserve public confidence, officials and employees of the  
52 city must have the benefit of specific standards to guide their conduct and disciplinary  
53 mechanisms to guarantee uniform maintenance of those standards. Some standards of this type  
54 are so vital to government that violation thereof should subject the violator to criminal  
55 penalties.

56 (3) *Public service.* In our democratic form of government, it is both necessary and desirable that all  
57 citizens should be encouraged to assume public office and employment, and that, therefore, the  
58 activities of ~~officers~~officials and employees of the city should not be unduly circumscribed.

59 (4) *Performance of duty.* Elected city officials are obligated to uphold the fundamental legal  
60 principles of our system of government, as set forth in the United States Constitution, the state  
61 constitution, and the city Charter, as well as all applicable provisions of federal, state and local  
62 law and court decisions. They are bound to do so, and the failure to so act shall constitute  
63 malfeasance in office.

64 (5) *Fairness.* City officials and employees shall strive for the highest standard of fairness in all of  
65 their activities and shall not grant any special consideration, treatment, or advantage to any  
66 citizen beyond that which is available to every other citizen.

67 (6) *Use of private information.* In the course of their official responsibilities, city officials and  
68 employees are often privy to categories of information which are of a private nature and are  
69 legally protected from public disclosure. City officials and employees shall maintain the  
70 privacy of such information, and they shall not take advantage of such information for personal  
71 gain, or the personal gain of friends or family.

72 (Code 1981, § 2-8; Ord. of 7-13-1998)

73 **Sec. 30-3. – Acknowledgment of policies; required disclosures, and required annual training.**

74 **In order for the mayor, councilmembers, mayoral and council appointees, and city employees to**  
75 **better serve the constituents of the City of Dover in an open, transparent fashion and to further be**  
76 **held accountable, the following actions shall be taken by each of the designated persons:**

77  
78 (a) ***Acknowledgment of policies.* Each elected and appointed official and all city employees**  
79 **shall be furnished copies of Chapter 30 – Standards of Ethical Conduct and Ethics**  
80 **Commission, either electronically or, if requested, in hard copy, before entering upon the**  
81 **duties of their office or employment and shall sign a written acknowledgment of receipt of**  
82 **the copy. The documents shall be read, reviewed, and signed by all appointees by the time**  
83 **of their appointment or re-appointment.**

84  
85 (b) **~~Disclosure statement~~Financial disclosure report.** Any city employee or elected or appointed  
86 **official who has a financial interest in any private enterprise which is subject to the**

87 regulatory jurisdiction of, or does business with, any city agency (and any city official who  
88 has a financial interest in any private enterprise which is subject to the regulatory  
89 jurisdiction of, or does business with, the city agency on which he serves as an appointee)  
90 shall file a financial disclosure report with the ethics commission ~~a written statement~~ fully  
91 disclosing the same. Such disclosure shall be confidential and the ethics commission shall  
92 not release such disclosed information, except as may be necessary for the enforcement of  
93 this ~~article~~chapter. The filing of such financial disclosure ~~statement~~report shall be a  
94 condition of commencing and continuing employment or appointed status with the city.  
95 The financial disclosure report shall be submitted by August 1<sup>st</sup> of each calendar year.  
96 [Moved from Sec. 30-34-Established, (d) Disclosure statement]  
97

98 (c) Disclosure of interest in legislation.  
99

- 100 (1) A councilman who has a financial or other private interest in any legislation shall  
101 disclose on the records of the council or other appropriate authority the nature and  
102 extent of such interest. This provision shall not apply if the councilman disqualifies  
103 himself from voting on such legislation.  
104 (2) Any other city official or employee who has a financial or other private interest in  
105 any legislation and who participates in discussion with or gives an official opinion to  
106 the council shall disclose on the records of the council or other appropriate  
107 authority the nature and extent of such interest.  
108 (3) Any city employee or city officer who has a financial interest in any private  
109 enterprise which is subject to the regulatory jurisdiction of, or does business with,  
110 any city agency, shall file with the ethics commission a written statement fully  
111 disclosing the same. Such disclosure shall be confidential and the ethics commission  
112 shall not release such disclosed information, except as may be necessary for the  
113 enforcement of this subchapter. The filing of such disclosure statement shall be a  
114 condition of commencing and continuing employment or appointed status with the  
115 city.  
116

- 117 (4) *Required annual training.* All city employees and elected and appointed officials shall  
118 undergo and receive annual training on the City of Dover's ethics policies and procedures.  
119

120 Sec. 30-~~324~~. - Definitions.

121 The following words, terms and phrases, when used in this article, shall have the meanings ascribed  
122 to them in this section, except where the context clearly indicates a different meaning:

123 *Close relative* means a person's parents, spouse, children (natural or adopted), and siblings of the  
124 whole and half-blood.

125 *Commission* and *ethics commission* mean the city ethics commission as established by this chapter.

126 *Compensation* means any money, thing of value, or any other economic benefit of any kind or  
127 nature whatsoever conferred on or received by any person in return for services rendered or to be  
128 rendered by the official or employee, or by another.



129 *Employee* includes all persons who receive compensation as an employee of the city or a city  
130 agency, and shall not include persons that are elected or appointed to serve as mayor, city  
131 councilmember or a member of any city committee, commission or board, whether paid or unpaid.

132 *Financial interest.* A person has financial interest in a private enterprise if:

- 133 (1) He has a legal or equitable ownership interest in the enterprise of more than ten percent (one  
134 percent or more in the case of a corporation the stock of which is regularly traded on an  
135 established securities market);
- 136 (2) He is associated with the enterprise and received from the enterprise during the last calendar  
137 year, or might reasonably be expected to receive from the enterprise during the current or the  
138 next calendar year, income in excess of \$5,000.00 for services as an employee, officer, director,  
139 trustee, or independent contractor; or
- 140 (3) He is a creditor of a private enterprise in an amount equal to ten percent or more of the debt of  
141 that enterprise (one percent or more in the case of a corporation the securities of which are  
142 regularly traded on an established securities market).

143 *Matter* means an application, petition, request, business dealing, contract, subcontract, or any other  
144 transaction of any sort with the city.

145 *Official* means any elected or appointed official of the city and all members of any committee,  
146 commission or board appointed by the mayor of the city or appointed by the city council.

147 *Official responsibility* means any direct administrative or operating authority at any level, either  
148 exercisable alone or with others, either personally or through subordinates, to approve, disapprove,  
149 recommend or otherwise direct action on behalf of the city.

150 *Personal or private interest* means an interest in a matter which tends to impair the independent  
151 judgment of an official or employee in the performance of his duties with respect to that matter.

152 *Private enterprise* means any activity conducted by any person, whether conducted for profit or not  
153 for profit, and includes the ownership of real or personal property. The term "private enterprise" does  
154 not include any activity of the city, of any political subdivision, or of any agency, authority, or  
155 instrumentality thereof.

156 ***Public official. All elected and appointed officials and all employees of the city.***

157 **Sec. 30-5 – 30-19. – Reserved.**

158 (Code 1981, § 2-9; Ord. of 7-13-1998)

159 **ARTICLE II. – STANDARDS OF ETHICAL CONDUCT.**

160 **Sec. 30-20. – Established. High ethical standards among public officials and employees are**  
161 **essential to gain and maintain the confidence of the people, because such confidence is essential to**  
162 **the conduct of free government. Public officials and employees are agents of the people and hold**  
163 **office for the benefit of the public. They are bound to observe in their official acts the highest**  
164 **standards of morality and to discharge faithfully and impartially the duties of their offices,**  
165 **regardless of personal considerations, recognizing that the public interest must be their primary**  
166 **concern. Their conduct in both their official and private affairs should be above reproach. These**

167 standards of ethical conduct are adopted in order to secure this desired high level of public trust,  
168 ensure the impartiality of public officials and employees, and impose standards of accountability.

169 (a) *General responsibilities of officials and employees.*

170 (1) Officials and employees have the common obligation of serving the public. In performing  
171 their duties, they shall treat the public and each other with respect, concern, and  
172 responsiveness, recognizing that their common goal of exceptional public service can only  
173 be achieved by working together. Disputes that arise among public servants shall be  
174 resolved at the lowest possible level; keeping in mind that public money spent on resolving  
175 these disputes is money not spent on important public needs.

176 (2) Officials and employees shall treat their position as a public trust, with a fiduciary duty to  
177 use the powers and resources of public office only to advance the public interest and not to  
178 obtain personal benefits or pursue private interests.

179 (3) Officials and employees shall conduct themselves in a manner that justifies the confidence  
180 placed in them by the people, at all times maintaining the integrity and discharging  
181 ethically the high responsibilities of public service.

182 (4) Full disclosure of real or potential conflicts of interest shall be a guiding principle for  
183 determining appropriate conduct. At all times, reasonable efforts shall be made to avoid  
184 undue influence and abuse of office in public service.

185 ~~(+)~~(5) No official or employee may request or receive, and no person may offer any money,  
186 thing of value or promise thereof, other than any city pay received, that is conditioned  
187 upon or given in exchange for promised performance of an official act.

188 [Moved from Sec. 30-34. – Established]

189 ~~(a)~~(b) *Appearance of violation.* Each city employee and official shall endeavor to pursue a course  
190 of conduct which will not raise suspicion among the public that he is engaging in acts which  
191 are in violation of his public trust and which will not reflect unfavorably upon the city and its  
192 government.

193 (c) *Private interest; gifts.* No city employee or official shall have any interest in any private  
194 enterprise, nor shall ~~be~~ he incur any obligation of any nature which is in substantial conflict  
195 with the proper performance of his duties in the public interest. No city employee or official  
196 shall accept other employment, any compensation, gift, payment of expenses or any other thing  
197 of monetary value under circumstances in which such acceptance may result in any of the  
198 following:

199 (1) Impairment of independence of judgment in the exercise of official duties;

200 (2) An undertaking to give preferential treatment to any person;

201 (3) The making of a governmental decision outside official channels; or

202 (4) Any adverse effect on the confidence of the public in the integrity of the government of  
203 the city.

204 (d) *Interest in private enterprise.* No city employee or official shall acquire a financial interest in  
205 any private enterprise which he has reason to believe may be directly involved in decisions to  
206 be made by him in an official capacity on behalf of the city.

207

208 ~~Sec. 30-33.~~

209 (e) *Prohibitions relating to conflicts of interest.* No councilman or other official or employee,  
210 whether paid or unpaid, shall engage in any business or transaction or shall have a financial or  
211 other personal interest, direct or indirect, which is incompatible with the proper discharge of his  
212 official duties in the public interest or would tend to impair his independence of judgment or  
213 action in the performance of his official duties. Personal as distinguished from financial interest  
214 includes an interest arising from blood or marriage relationships or close business or political  
215 association

216 Provided, that upon request from any person with official responsibility with respect to the  
217 matter, any such person who has such a personal or private interest may nevertheless respond to  
218 questions concerning any such matter.

219 (a1) *Restrictions on exercise of official authority.*

220 (1)a. *Prohibited participation.* No city employee or official may participate on behalf of  
221 the city in the review or disposition of any matter pending before the city in which he has a  
222 personal or private interest, provided that, upon request from any person with official  
223 responsibility with respect to the matter, any such person who has such a personal or private  
224 interest may nevertheless respond to questions concerning any such matter. A personal or  
225 private interest in a matter is an interest which tends to impair a person's independence of  
226 judgment in the performance of his duties with respect to that matter.

227 (2)b. *Impairment of judgment.* A person has an interest which tends to impair his  
228 independence of judgment in the performance of his duties with respect to any matter when:

229 a.i. Any action or inaction with respect to the matter would result in a financial  
230 benefit or detriment to accrue to the person or a close relative to a greater extent than  
231 such benefit or detriment would accrue to others who are members of the same class  
232 or group of persons; or

233 b.ii. The person or a close relative has a financial interest in a private enterprise  
234 which enterprise or interest would be affected by any action or inaction on a matter to  
235 a lesser or greater extent than like enterprises or other interests in the same enterprise.

236 (3)c. *Statutory responsibility.* In any case where a person has a statutory responsibility with  
237 respect to action or inaction on any matter where he has a personal or private interest and there  
238 is no provision for the delegation of such responsibility to another person, the person may  
239 exercise responsibility with respect to such matter, provided that, promptly after becoming  
240 aware of such conflict of interest, he files a written statement with the ethics commission, fully  
241 disclosing the personal or private interest and explaining why it is not possible to delegate  
242 responsibility for the matter to another person.

243 (b2) *Restrictions on representing another's interest before the city.*

244 (1)a. *Prohibited.* No city employee or official may represent or otherwise assist any private  
245 enterprise with respect to any matter before the city.

246 ~~(2)~~b. *Exception.* This subsection (b) shall not preclude any city employee or official from  
247 appearing before the city or otherwise assisting any private enterprise with respect to any  
248 matter in the exercise of his official duties.

249 (e3) *Restriction on contracting with the city.*

250 ~~(1)~~a. *Prohibited.* No city employee or official shall benefit from any contract with the city, nor  
251 solicit any contract, and shall not enter into any contract with the city (other than an  
252 employment contract).

253 ~~(2)~~b. *Ownership of enterprise.* No private enterprise in which a city employee or official has a  
254 legal or equitable ownership of more than ten percent (more than one percent in the case of a  
255 corporation the stock of which is regularly traded on an established securities market) shall  
256 enter into any contract with the city (other than an employment contract) unless such contract  
257 was made or let after public notice and competitive bidding.

258 ~~(d)~~f) *Postemployment restrictions.* No person who has served as a city employee or official shall  
259 represent or otherwise assist any private enterprise on any matter involving the city, for a period of  
260 two years after termination of his employment or elected or appointed status with the city, if he  
261 gave an opinion, conducted an investigation or otherwise was directly and materially responsible for  
262 such matter in the course of his official duties as a city employee or official, nor shall any former  
263 city employee or official disclose confidential information gained by reason of his public position,  
264 nor shall he otherwise use such information for personal gain or benefit.

265 (eg) *Unauthorized disclosure of confidential information.* No person shall disclose any information  
266 required to be maintained confidential by the ethics commission under section ~~30-34(d)~~30-3(b), ~~30-~~  
267 ~~35(b)~~30-73 or ~~30-73~~30-74(b).

268 ~~(f)~~h) *Abuse of office.*

269 (1) *Political contributions.* No elected city official shall agree to sponsor legislation, or to  
270 influence in any manner the formulation or passage of legislation, in exchange for political  
271 contributions or promises thereof.

272 (2) *Substantial interest.* No elected city official shall vote for, or promote in any manner  
273 whatsoever, legislation affecting any subject matter in which he has a substantial interest. Any  
274 such interest shall be disclosed by said elected official prior to a vote on any such legislation,  
275 and said elected official shall vote "abstain" when called upon to vote.

276 (3) *Use of city property.* No city official or employee shall request or permit the use of city-  
277 owned vehicles, equipment, materials, or property for personal convenience or profit, except  
278 when such services are available to the public generally or are provided for the use of such  
279 official or employee in the conduct of official business as a matter of municipal policy.

280 (4) *Personal gain.* No city official or employee shall utilize the influence of his office or position  
281 for personal pecuniary gain, or to avoid the legal consequences of his personal conduct.

282 (gi) *Criminal sanctions.*

283 (1) *Penalties.* Any person who knowingly or willfully violates any provision of this section shall  
284 be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more  
285 than one year and by a fine as provided for in Appendix F—Fees and Fines.

286 (2) *Time limitations.* A prosecution for a violation of this section shall be subject to the time  
287 limitations of 11 Del. C. § 205.

288 (h) *Contracts voidable by court action.* In addition to any other penalty provided by law, any contract  
289 entered into by any city agency in violation of this chapter shall be voidable by the city agency;  
290 provided that in determining whether any court action should be taken to void such a contract  
291 pursuant to this subsection, the city agency shall consider the interests of innocent third parties who  
292 may be damaged thereby. Any court action to void any transaction must be initiated within 30 days  
293 after the city agency involved has, or should have, knowledge of such violation.

294 ~~Sec. 30-34. — Established:~~

295 ~~(a) — Appearance of violation. Each city employee and official shall endeavor to pursue a course of~~  
296 ~~conduct which will not raise suspicion among the public that he is engaging in acts which are in~~  
297 ~~violation of his public trust and which will not reflect unfavorably upon the city and its government.~~

298 ~~(b) — Private interest; gifts. No city employee or official shall have any interest in any private~~  
299 ~~enterprise, nor shall be incur any obligation of any nature which is in substantial conflict with the~~  
300 ~~proper performance of his duties in the public interest. No city employee or official shall accept~~  
301 ~~other employment, any compensation, gift, payment of expenses or any other thing of monetary~~  
302 ~~value under circumstances in which such acceptance may result in any of the following:~~

303 ~~(1) — Impairment of independence of judgment in the exercise of official duties;~~

304 ~~(2) — An undertaking to give preferential treatment to any person;~~

305 ~~(3) — The making of a governmental decision outside official channels; or~~

306 ~~(4) — Any adverse effect on the confidence of the public in the integrity of the government of the city.~~

307 ~~(c) — Interest in private enterprise. No city employee or official shall acquire a financial interest in any~~  
308 ~~private enterprise which he has reason to believe may be directly involved in decisions to be made~~  
309 ~~by him in an official capacity on behalf of the city.~~

310 ~~(d) — Disclosure statement. Any city employee or official who has a financial interest in any private~~  
311 ~~enterprise which is subject to the regulatory jurisdiction of, or does business with, any city agency~~  
312 ~~(and any city official who has a financial interest in any private enterprise which is subject to the~~  
313 ~~regulatory jurisdiction of, or does business with, the city agency on which he serves as an~~  
314 ~~appointee) shall file with the ethics commission a written statement fully disclosing the same. Such~~  
315 ~~disclosure shall be confidential and the ethics commission shall not release such disclosed~~  
316 ~~information, except as may be necessary for the enforcement of this article. The filing of such~~  
317 ~~disclosure statement shall be a condition of commencing and continuing employment or appointed~~  
318 ~~status with the city. [Moved to Sec. 30-3 – Acknowledgment of policies...(b) Financial~~  
319 ~~disclosures]~~

320 (ek) *Private gain.* No city employee or official shall use his public office to secure unwarranted  
321 privileges, private advancement or gain.

322 (fl) *Confidential information; prohibited activity.* No city employee or official shall engage in any  
323 activity beyond the scope of his public position which might reasonably be expected to require or  
324 induce him to disclose confidential information acquired by him by reason of his public position.

325 (gm) *Disclosure of information.* No city employee or official shall, beyond the scope of his public  
326 position, disclose confidential information gained by reason of his public position, nor shall he  
327 otherwise use such information for personal gain or benefit.

328 (n) *Ex Parte Communications.* No official or employee shall encourage, make or accept any ex  
329 parte or other unilateral application or communication that excludes the interests of other  
330 parties in a matter under consideration when such application or communication is designed  
331 to influence official decision or conduct of the official or other officials, employees or agencies  
332 in order to obtain a more favored treatment or special consideration to advance the personal  
333 or private interests of himself or herself or others. The purpose of this provision is to  
334 guarantee that all interested parties to any matter shall have equal opportunity to express and  
335 represent their interests.

336 Any written ex parte communication received by an official or employee in matters where  
337 all interested parties should have equal opportunity for a hearing shall be made part of the  
338 record by the recipient.

339 Any oral ex parte communication received under such conditions should be written down  
340 in substance by the recipient and also made a part of the record.

341 A communication concerning only the status of a pending matter is not regarded as an ex  
342 parte communication.

343 (ho) *Sexual favors.* No city employee or official, in the course of his public responsibilities, shall use  
344 the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable  
345 treatment by that person or a city agency.

346 (Code 1981, § 2-11; Ord. of 7-13-1998)

347 **Sec. 30-21 – 30-29. – Reserved.**

348 ~~Sec. 30-35. – Waivers of restrictions and advisory opinions.~~

349 ~~(a) – Authority of ethics commission. Notwithstanding the provisions of sections 30-33 and 30-34, upon~~  
350 ~~the written request of any city agency or of any individual who is or was a city employee or city~~  
351 ~~official, the ethics commission may grant a waiver to the specific prohibitions contained therein if~~  
352 ~~the ethics commission determines that the literal application of such prohibition in a particular case~~  
353 ~~is not necessary to achieve the public purposes of this chapter or would result in an undue hardship~~  
354 ~~on any employee or official. Any such waiver may be granted only by written decision of the ethics~~  
355 ~~commission. Any person who acts in good faith reliance upon any such waiver decision shall not be~~  
356 ~~subject to discipline or other sanction hereunder with respect to the matters covered by the waiver~~  
357 ~~decision, provided there was a full disclosure to the ethics commission of all material facts~~  
358 ~~necessary for the waiver decision.~~

359 ~~(b) – Waiver information confidential; exceptions. Any application for a waiver, any proceeding and~~  
360 ~~any decision with respect thereto shall be maintained confidential by the ethics commission,~~  
361 ~~provided that:~~

362 ~~(1) – Applicant's request. Public disclosure shall be made by the ethics commission upon the~~  
363 ~~written request of the applicant;~~

364 ~~(2) – Violations. The ethics commission may make such public disclosure as it determines is~~  
365 ~~required in connection with the prosecution of any violation of this chapter;~~

- 366 ~~(3) Evidence of crime. The ethics commission shall report to appropriate federal, state and/or city~~  
367 ~~authorities substantial evidence of any criminal violation which may come to its attention; and~~
- 368 ~~(4) Public record. In the event that a waiver is granted, the waiver decision and the record of all~~  
369 ~~proceedings relating thereto shall be open to public inspection.~~
- 370 ~~(c) Advisory opinion authorized. Upon the written request of any city employee or official, the ethics~~  
371 ~~commission may issue an advisory opinion as to the applicability of this chapter to any particular~~  
372 ~~fact or situation. Any person who acts in good faith reliance upon any such advisory opinion shall~~  
373 ~~not be subject to discipline or other sanction hereunder with respect to the matters covered by the~~  
374 ~~advisory opinion, provided there was a full disclosure to the ethics commission of all material facts~~  
375 ~~necessary for the advisory opinion.~~
- 376 ~~(d) Advisory opinion confidential; exceptions. Any application for an advisory opinion, any~~  
377 ~~proceeding and any decision with respect thereto shall be maintained confidential by the ethics~~  
378 ~~commission, provided that:~~
- 379 ~~(1) Applicant's request. Public disclosure shall be made by the ethics commission upon the~~  
380 ~~written request of the applicant;~~
- 381 ~~(2) Violations. The ethics commission may make such public disclosure as it determines is~~  
382 ~~required in connection with the prosecution of any violation of this article; and~~
- 383 ~~(3) Evidence of crime. The ethics commission shall report to appropriate federal, state and/or city~~  
384 ~~authorities substantial evidence of any criminal violation which may come to its attention.~~

385 ~~(Code 1981, § 2-12; Ord. of 7-13-1998)~~

386 Secs. 30-36—30-70. - Reserved.

387

### 388 **ARTICLE III. - ETHICS COMMISSION**

389

390 Sec. 30-71. - Established; composition; removal; terms of office; vacancies; chairperson; quorum;  
391 compensation; legal counsel.

392

393 (a) *Established; composition; removal.* The city ethics commission is hereby established to administer  
394 and implement this chapter. The ethics commission shall consist of five members appointed by the  
395 mayor and confirmed by the city council. No member of the commission shall hold any elected or  
396 appointed office under the government of the United States or the state, county, or city. Members of  
397 the ethics commission may be removed by the mayor, with the concurrence of the city council, for  
398 substantial neglect of duty, gross misconduct in office or a violation of this chapter.

399 (b) *Terms of office; vacancies.* A member of the ethics commission shall be appointed for a term of  
400 office of five years and until his successor has been appointed and has qualified. The members shall  
401 be appointed for staggered terms of office, and until their successors have been appointed. When a  
402 vacancy occurs in the membership of the ethics commission, it shall be filled by appointment for the  
403 unexpired portion of the term in the same manner as the original appointment.

404 (c) *Chairperson; quorum.* The ethics commission shall elect a chairperson from among its  
405 membership. Three members of the ethics commission shall constitute a quorum and, if a quorum is  
406 present, a vacancy on the ethics commission shall not impair the right of the remaining members to  
407 exercise all the powers of the ethics commission. Disciplinary hearings may be conducted and

408 sanctions may be imposed only by the affirmative action of at least three members; otherwise, the  
409 ethics commission may delegate authority to the chairperson to act for the ethics commission  
410 between meetings.

411 (d) *Compensation.* Members of the ethics commission shall receive no compensation.

412 (e) *Legal counsel.* The city solicitor shall provide legal counsel to the ethics commission and shall be  
413 the legal representative of the ethics commission in connection with its duties hereunder, on a case-  
414 by-case basis, or determine that outside counsel is needed and obtain such outside counsel for a  
415 particular matter.

416 (Code 1981, § 2-13; Ord. of 7-13-1998; Ord. No. 2010-23, 8-23-2010)

417 Sec. 30-72. - Powers and duties.

418 (a) The powers and duties of the ethics commission shall be:

419 (1) ~~Rules of conduct~~ *Standards of ethical conduct.* To recommend to the mayor and council, from  
420 time to time, such rules of conduct for public employees and officials as it shall deem  
421 appropriate.

422 (2) *Advisory opinions.* To issue written advisory opinions, upon the request of any city employee  
423 or official, as to the applicability of this chapter to any particular factual situation.

424 (3) *Referrals to solicitor.* To refer to the city solicitor for investigation any alleged violation of  
425 this chapter and, after notice and hearing, to recommend such disciplinary action as it may  
426 deem appropriate to such appropriate official or agency as the ethics commission shall  
427 determine, or to take such other disciplinary action as authorized by section 30-73(~~ep~~) or other  
428 provisions of the city Charter or this Code. The ethics commission may dismiss, without  
429 reference to the city solicitor, any complaint which the ethics commission determines is  
430 frivolous or fails to state a violation.

431 (4) *Report of crimes.* To report to the appropriate federal, state or city authorities any substantial  
432 evidence of a violation of any criminal law which may come to its attention in connection with  
433 any proceeding, whether advisory or disciplinary.

434 (5) *Records.* To maintain a file of its proceedings, waiver decisions and advisory opinions with a  
435 view toward achieving consistency of opinions and recommendations subject to the  
436 confidentiality requirements of sections 30-~~3574~~(d) and 30-73(~~ht~~).

437 (6) *Procedures.* To follow the procedural rules specified in section 30-73 and to establish such  
438 other procedural rules as shall be consistent with the rules prescribed therein.

439 (7) *Witnesses, evidence.* To subpoena witnesses, compel their attendance and testimony,  
440 administer oaths and affirmations, take evidence and require, by subpoena, the production of  
441 books, papers, records or other evidence needed for the performance of the ethics commission's  
442 duties or exercise of its powers.

443 (8) *Assistance to city personnel.* To provide assistance to any city employee, official or agency in  
444 administering the provisions of this chapter.

445 (9) *Provide information.* To prepare any necessary reports and studies to advance the purpose of  
446 this chapter, to provide any necessary materials explaining the duties of individuals covered by



447 this chapter, and to supply instructions and public information materials to facilitate  
448 compliance with, and enforcement of, this chapter.

449 (10) *Request city agencies for assistance.* To request appropriate city agencies to provide such  
450 professional assistance as it may require in the discharge of its duties.

451 (Code 1981, § 2-14; Ord. of 7-13-1998)

452 Sec. 30-73. — **Rules of procedure; ~~€~~complaints; hearings; dispositions.**

453 (a) ~~(a)~~ — **Any person, either personally or on behalf of an organization or governmental body,**  
454 **may file a sworn complaint for the ethics commission with the city clerk. The complaint**  
455 **must be in writing, be signed, and show the address of the person who submitted it. The**  
456 **complaint must state that, to the best of the person's knowledge, information, and belief**  
457 **formed after reasonable reflection, the information in the complaint is true. The**  
458 **complaint must describe the facts that constitute the violation of the standards of ethical**  
459 **conduct in sufficient detail so that the ethics commission and the person who is the**  
460 **subject of the complaint can reasonably be expected to understand the nature of any**  
461 **offense that is being alleged. The commission may request any additional information**  
462 **deemed necessary to screen the complaint or to render a decision. No complaints shall be**  
463 **accepted or considered which relate to actions that took place more than one (1) year**  
464 **prior to the date of filing. The individual filing the sworn complaint has sixty (60) days**  
465 **from the date that the issue is brought to his or her attention to file a complaint.**

466 (b) **After the sworn complaint has been filed, none of the parties or their representatives may**  
467 **communicate on an ex parte basis with any commission members pertaining to the**  
468 **complaint. All communications pertaining to the complaint shall be submitted to the city**  
469 **clerk.**

470 (c) **Within seven (7) days of receiving a sworn complaint the city clerk shall send copies of the**  
471 **complaint to each member of the ethics commission, the city solicitor, and the official or**  
472 **officials against whom such complaint has been filed. Hereinafter, the complaining party**  
473 **shall be referred to as the "complainant" and the official against whom a complaint has**  
474 **been lodged shall be referred to as the "respondent."**

475 (d) **The commission recognizes that distribution to the public of a sworn complaint prior to**  
476 **screening by the commission as required below could harm the reputation of an innocent**  
477 **person and is contrary to the public interest; therefore, the public release of the**  
478 **complaint is prohibited until the screening process has been completed. The commission**  
479 **shall consult in confidence to screen the complaint within fourteen (14) days of receiving**  
480 **the complaint. The commission may immediately dismiss a complaint if:**

481 (1) **It has no jurisdiction; or**

482 (2) **The alleged violation, if true, would not constitute a violation of the standards of**  
483 **ethical conduct; or**

484 (3) **The alleged violation is a minor or de minimis violation; or**

485 (4) **The complaint is, on its face, frivolous, groundless, or brought for purposes of**  
486 **harassment; or**

- 487 (5) The matter has become moot because the person who is the subject of the complaint  
488 is no longer an officer, official or employee; or
- 489 (6) The respondent had obtained an advisory opinion under section 30-74(c) permitting  
490 the conduct; or
- 491 (7) The appointing authority of the respondent has already taken action as a result of  
492 finding a violation and the commission believes the action was appropriate.
- 493 (e) In issues regarding standards of ethical conduct violations, the enforcement process is  
494 intended to be corrective rather than remedial unless the violation is a repeated offense.  
495 In the event the ethics commission determines a standards of ethical conduct violation  
496 has occurred, and it is minor in nature, with the concurrence of the complainant and the  
497 subject of the sworn complaint, the commission may dispense with the hearing process  
498 and conduct a more informal mediation process in lieu of a hearing.
- 499 ~~(a)~~
- 500 (f) If the sworn complaint is not dismissed or otherwise resolved pursuant to subsection 30-  
501 73(d), the city clerk shall promptly contact the members of the ethics commission, the city  
502 solicitor, the complainant, and the respondent in order to ascertain a date and time when  
503 a hearing can be convened on such complaint. As soon as a date and time have been  
504 agreed upon for a hearing before the ethics commission, the city clerk shall send written  
505 notice of such scheduling and a copy of the rules of procedure to the complainant and to  
506 the respondent. No copies of the complaint shall be provided to any other parties before  
507 the respondent receives the complaint. ~~Investigation of violations. Upon the sworn complaint~~  
508 ~~of any person or on its own initiative, the ethics commission may refer to the city solicitor for~~  
509 ~~investigation, any alleged violation of the conflict of interest provisions and of the code of~~  
510 ~~conduct provisions in sections 30-33 and 30-34, respectively.~~ The city solicitor shall be the  
511 prosecuting attorney in all disciplinary proceedings before the ethics commission. In any such  
512 investigation or proceeding, a defendant shall be given an opportunity to be heard after notice,  
513 to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to  
514 cross examine witnesses. A transcript of any such proceeding shall be made and retained,  
515 subject to the confidentiality requirements of this chapter.
- 516 (g) The commission may dismiss a complaint if the complainant does not appear at the hearing  
517 and if, in the opinion of the commission, it would be unfair to the respondent not to have  
518 the opportunity to examine the complainant.
- 519 (h) As promptly as possible after the close of the hearing, the commission shall deliberate to  
520 determine if the allegations have been proven by clear and convincing evidence. Only  
521 ethics commission members who have been present for the hearing may participate in the  
522 deliberations, and any findings and recommendations must be adopted by a majority of  
523 the commission. The commission may consider, when making findings and  
524 recommendations, the severity of the offense, the presence or absence of any intention to  
525 conceal, deceive, or mislead, whether the violation was deliberate, negligent or  
526 inadvertent, and whether the incident was isolated or part of a pattern.
- 527 (i) Within seven days of the conclusion of deliberations, the commission shall issue an order  
528 setting forth its findings and recommendations. In the alternative, the commission where

529 it deems it appropriate, may issue an advisory opinion in lieu of making findings and  
530 recommendations.

531 (j) If the respondent is an employee, the commission may, if it determines corrective action is  
532 necessary, notify the city manager or the council president and recommend that action be  
533 taken, including discipline.

534 (b)(k) If the respondent is a city official, the commission may propose actions to the city  
535 council that are appropriate to the finding as specified in section 30-73(p).

536 (e)(l) The commission shall send a written copy of its findings and recommendations to  
537 the respondent and the complainant.

538 (m) *Proceeding relating to member.* A member of the ethics commission shall be ineligible to  
539 participate, as a member of the ethics commission, in any ethics commission proceeding  
540 relating to his conduct. A member of the ethics commission who has been found by the ethics  
541 commission to have violated this chapter shall be ineligible to serve again as a member of the  
542 ethics commission.

543 (d)(n) *Self-disqualification.* A member of the ethics commission may disqualify himself from  
544 participating in any investigation of the conduct of any person upon submission, in writing and  
545 under oath, of an affidavit or disqualification stating that he cannot render an impartial and  
546 unbiased decision in the case in which he seeks to disqualify himself.

547 (e)(o) *Actions by ethics commission.* With respect to any violation with which a person has been  
548 charged and which the ethics commission has determined as proved, the ethics commission  
549 may take any one or more of the following actions:

- 550 (1) *Reprimand.* Issue a written reprimand or censure of that person's conduct.
- 551 (2) *Discipline.* With respect to a city employee, remove, suspend, demote or take other  
552 appropriate disciplinary action with respect to that person, without regard to any limits  
553 imposed by this chapter, but within the limits of the constitution, the laws of the state, the  
554 Charter of the city, and ordinances and existing collective bargaining agreements.
- 555 (3) *Recommend removal.* With respect to an appointed official, recommend that appropriate  
556 action be taken to remove the official from the appointed position.
- 557 (4) *Recommend fine.* With respect to an elected city official, recommend that such official be  
558 fined in an amount recommended by the ethics commission.

559 (f)(p) *Rights of person charged.* In any proceeding before the ethics commission, upon the  
560 request of any person charged with a violation of this chapter, such person shall be permitted to  
561 inspect, copy or photograph books, papers, documents, photographs or other tangible objects  
562 which will be used as evidence against that person in a disciplinary hearing and which are  
563 material to the preparation of his defense.

564 (g)(q) *Exculpatory information.* In any proceeding before the ethics commission, if the city  
565 solicitor or ethics commission at any time receives any exculpatory information concerning an  
566 alleged violation against any person, it shall forthwith make such information available to such  
567 person.

568 (h)(r) *Subpoenas.* Any person charged with a violation of this chapter may apply to the ethics  
569 commission for the issuance of subpoenas for the appearance of witnesses and for the

570 production of documents on his behalf. The application shall be granted upon a concise  
571 showing by such person that the proposed testimony or evidence is relevant (or is reasonably  
572 calculated to lead to the discovery of relevant evidence) and is not otherwise available. The  
573 application shall be denied if not made at a reasonable time or if the testimony or evidence  
574 would be merely cumulative.

575 ~~(s)~~(s) *Confidentiality of proceedings.*

576 (1) *City employee.* All proceedings before the ethics commission relating to a  
577 violation of this chapter by a city employee shall be maintained confidential by  
578 the ethics commission, unless:

- 579 a. Public disclosure is requested, in writing, by the person charged; or  
580 b. The ethics commission determines after a hearing that a violation has  
581 occurred.

582 (2) *City official.* All proceedings before the ethics commission relating to a violation  
583 of this chapter by a city official, appointed or elected, shall be maintained  
584 confidential by the ethics commission, unless:

- 585 ~~a.~~a. Public disclosure is requested, in writing, by the person charged; or  
586 ~~b.~~b. The ethics commission determines after a hearing that a violation has  
587 occurred.

588 ~~(t)~~(t) *Appeals; public inspection.* Notwithstanding the confidentiality requirements of  
589 subsections ~~(h)~~(1) and (2) of this section, the ethics commission shall make available for  
590 public inspection the record of all proceedings relating to any decision of the ethics  
591 commission which is appealed to the superior court and the ethics commission shall report to  
592 appropriate federal, state and/or city authorities any substantial evidence of a violation of any  
593 criminal law which comes to its attention in connection with any proceeding under this chapter.

594 (u) *Confidentiality procedures.* The chairperson of the ethics commission shall, with the approval of  
595 the ethics commission, establish such procedures as, in the chairperson's judgment, may be  
596 necessary to prevent the disclosure of any record of any proceedings or other information  
597 received by the ethics commission, except as permitted by this chapter.

598 **Sec. 30-3574. - Waivers of restrictions and advisory opinions.**

599 (a) *Authority of ethics commission.* Notwithstanding the provisions of sections ~~30-3320 and 30-~~  
600 ~~34~~, upon the written request of any city agency or of any individual who is or was a city  
601 employee or city official, the ethics commission may grant a waiver to the specific prohibitions  
602 contained therein if the ethics commission determines that the literal application of such  
603 prohibition in a particular case is not necessary to achieve the public purposes of this chapter  
604 or would result in an undue hardship on any employee or official. Any such waiver may be  
605 granted only by written decision of the ethics commission. Any person who acts in good faith  
606 reliance upon any such waiver decision shall not be subject to discipline or other sanction  
607 hereunder with respect to the matters covered by the waiver decision, provided there was a  
608 full disclosure to the ethics commission of all material facts necessary for the waiver decision.

609 (b) *Waiver information confidential; exceptions.* Any application for a waiver, any proceeding  
610 and any decision with respect thereto shall be maintained confidential by the ethics  
611 commission, provided that:

- 612 (1) *Applicant's request.* Public disclosure shall be made by the ethics commission upon the  
613 written request of the applicant;
- 614 (2) *Violations.* The ethics commission may make such public disclosure as it determines is  
615 required in connection with the prosecution of any violation of this chapter;
- 616 (3) *Evidence of crime.* The ethics commission shall report to appropriate federal, state  
617 and/or city authorities substantial evidence of any criminal violation which may come to  
618 its attention; and
- 619 (4) *Public record.* In the event that a waiver is granted, the waiver decision and the record of  
620 all proceedings relating thereto shall be open to public inspection.
- 621 (c) *Advisory opinion authorized.* Upon the written request of any city employee or official, the  
622 ethics commission may issue an advisory opinion as to the applicability of this chapter to any  
623 particular fact or situation. Any person who acts in good faith reliance upon any such  
624 advisory opinion shall not be subject to discipline or other sanction hereunder with respect to  
625 the matters covered by the advisory opinion, provided there was a full disclosure to the ethics  
626 commission of all material facts necessary for the advisory opinion.
- 627 (d) *Advisory opinion confidential; exceptions.* Any application for an advisory opinion, any  
628 proceeding and any decision with respect thereto shall be maintained confidential by the  
629 ethics commission, provided that:
- 630 (1) *Applicant's request.* Public disclosure shall be made by the ethics commission upon the  
631 written request of the applicant;
- 632 (2) *Violations.* The ethics commission may make such public disclosure as it determines is  
633 required in connection with the prosecution of any violation of this article; and
- 634 (3) *Evidence of crime.* The ethics commission shall report to appropriate federal, state  
635 and/or city authorities substantial evidence of any criminal violation which may come to  
636 its attention.

637 (Code 1981, § 2-12; Ord. of 7-13-1998)

638 Sec. 30-~~74~~75. - Judicial review.

639 In the event that the ethics commission finds that any person has violated any provision of this  
640 chapter, said person shall have a right of appeal to the superior court of any such finding, and of any  
641 sanctions imposed with respect thereto, by filing a notice of appeal with the superior court within 30  
642 days of the final action by the ethics commission in a particular case. The appeal shall be on the record  
643 without a trial de novo. If the court determines that the record is insufficient for its review, it shall  
644 remand the case to the ethics commission for further proceedings on the record. The court's review, in  
645 the absence of actual fraud, shall be limited to a determination of whether the ethics commission's  
646 decision was supported by substantial evidence on the record. The burden of proof in any such appeal  
647 shall be on the appellant.

648 (Code 1981, § 2-15.1; Ord. of 7-13-1998)

649 **BE IT FURTHER ORDAINED:**

650  
651 That Appendix F, Fees and Fines, of the Dover Code be amended by deleting the text indicated in red  
652 strikeout and inserting the blue text, as follows:

653

<b>Chapter 30. <del>Code of</del> Standards of Ethical Conduct and Ethics Commission</b>	<b>Fees and Fines</b>
<i>Article II. <del>Code</del> Standards of Ethical Conduct</i>	
Fines not paid within 14 days of the day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount.	
Sec. 30- <del>33</del> 20. Prohibitions relating to conflicts of interest	
Subsec. <del>(g)</del> (1e) Criminal sanctions, penalties	Not to exceed \$1,000.00

654

655

656

ADOPTED: \*

657

658

**SYNOPSIS**

659

This amendment adds required financial disclosure reports, acknowledgment of receipt of policies, and required ethics training. It also makes organization changes to Chapter 30.

660

(SPONSORS: LINDELL, POLCE, AND SLAVIN)

661

662

663

ADOPTED: \*

664

S:\ORDINANCES\2017\DRAFT\ORDINANCE #2017-14 CH 30 CODE OF CONDUCT AND ETHICS COMMISSION\Ordinance #2017-14 - Chapter 30-Code of Conduct and Ethics Commission - Revised for 10-24-2017 CCW-LF&A Review.wpd.doc

665

666

Actions History:

667

11/27/2017 – Scheduled for Final Reading – City Council

668

11/13/2017 – First Reading – City Council

669

10/24/2017 – Considered by Council Committee of the Whole/Legislative, Finance and Administration Committee

670

671

10/10/2017 – Deferred by Council Committee of the Whole/Legislative, Finance and Administration Committee

672

673

674

1. Definitions for Section 1:

- “**Fair market value**” means, if a security, the quoted price as of January 1 of the year in which the report is filed, or, if not a security, the price at which the public officer would sell as of January 1 of the year in which the report is filed. *29 Del. C. § 5812(g)*.
- “**Instrument of ownership**” includes, but is not limited to common or preferred stock, rights, warrants, articles of partnership, proprietary interest, deeds, and debt instruments, if convertible to equity instruments. *29 Del. C. § 5812(k)*.
- “**Business Enterprise**” means corporation, partnership, sole proprietorship or any other individual or organization carrying on a business or profession. *29 Del. C. § 5812(a)*.
- “**Position of management**” means officer, director, partner, proprietor, or other managerial position in a business enterprise. *29 Del. C. § 5812(l)*.
- “**Professional organization**” means an individual engaged in, or an association organized pursuant to, federal or State law for the practice of medicine, law, accounting, engineering, or other profession. *29 Del. C. § 5812(m)*.
- “**Constructively controlled**” means:
  - (a) a financial interest in the name of another which is controlled by a public officer by virtue of any relationship of the public officer to another person which directly benefits the public officer;
  - (b) any financial interest of a public officer held jointly with the spouse or child of such public officer;
  - (c) any financial interest of the spouse or minor child of a public officer. *29 Del. C. § 5812 (d)*.
- “**Time or demand deposits**” means checking and savings accounts in banks or deposits or share in savings and loan institutions, credit unions, or money market funds. *29 Del. C. § 5812(p)*.
- “**Debt Instrument**” means bonds, notes, debentures, mortgages, or other securities having a fixed yield if not convertible to equity instruments. *29 Del. C. § 5812(e)*.
- “**Equity instrument**” means any ownership interest in a corporation or other legal entity giving the rights to the holder upon liquidation of the entity. *29 Del. C. § 5812(f)*.

2. Definitions of terms in the remaining sections are in those sections.

**FINANCIAL DISCLOSURE REPORT  
(29 Del. C., Chapter 58, Subchapter II)**

NAME:

BUSINESS ADDRESS:

STATE POSITION:

Section 1. (**See instruction sheet for definitions of underlined terms**). Report any legal or equitable ownership in excess of \$5,000 fair market value or from which income of more than \$5,000 was either derived during the preceding calendar year or might reasonably be expected to be derived during the current calendar year, in the following:

(A) Instruments of Ownership: (This includes retirement accounts, 401K, IRA, etc. Do **not** include dollar amounts. List name of company, instrument and nature of ownership, e.g., Fidelity, mutual fund, shareholder; IBM, stock, shareholder).

(B) Business Enterprise: (This includes corporations, sole proprietorships, and partnerships. List name, type of ownership & any position of management, e.g., JW Foods, partnership, director)

(C) Professional Organization: (This includes, but is not limited to, law firms, accounting firms, engineering firms. List the name, address, type of professional practice (do not identify individual clients), & any position of management, e.g., ABC Law Firm, 123 Public Rd., Dover, DE, legal services, partner)

(D) Any of the preceding which are constructively controlled. (e.g., ABC Mutual funds, trustee for minor child).

**DO NOT LIST:** Time or demand deposits (includes checking or savings accounts) or a debt instrument (CDs) with a fixed yield unless convertible to an equity instrument.

Section 2. List each creditor to whom you were indebted for 90 or more consecutive days during the preceding calendar year in an aggregate amount in excess of \$1,000. Do **not** list the amount owed.





CITY OF DOVER PROPOSED ORDINANCE #2017-15

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

3  
4 That Chapter 34 - Elections, Article III – Absentee Voting of the Dover Code be amended by inserting  
5 the text indicated in blue font and deleting the text indicated in red strikethrough as follows:

6  
7 **ARTICLE III. - ABSENTEE VOTING**<sup>[3]</sup>

8  
9 Footnotes: --- (3) ---

10 State Law reference— Absentee voting generally, 15 Del. C. §§ 5501—5526.

11  
12 **Sec. 34-61. - Purpose.**

13 The intention of this article is ~~that only to provide~~ qualified voters of the city ~~may vote under the~~  
14 ~~provisions of this article, who may be absent~~who are unable to appear at the polling place of their  
15 ~~district to cast their ballot~~ on the day of an election ~~from the city, with the ability to cast an absentee~~  
16 ~~ballot. because of service in the armed forces of the United States or in the public service of this state or~~  
17 ~~of the United States, or because of his business or occupation, or because of personal sickness or~~  
18 ~~disability, or because of the tenets or teachings of his religion so that he cannot appear at the polling~~  
19 ~~place on the day of any election.~~

20 (Code 1981, § 2-41; Ord. of 2-11-1985)

21 State Law reference— Similar provisions, 15 Del. C. § 5501.

22  
23 **Sec. 34-62. - Persons eligible to vote by absentee ballot.**

24 Any qualified elector, duly registered, of this city may cast ~~his~~their vote by absentee ballot in any  
25 **regular** municipal election or special municipal election if the elector is unable to appear at the polling  
26 place of ~~his~~their election district due to ~~the following~~ reasons:**set forth in 15 Del. C. § 5502 Persons**  
27 **eligible to vote by absentee ballot.**

28 ~~(1) — Public service. Because such person is in the public service of the United States or of this state,~~  
29 ~~or is a citizen of the United States and temporarily residing outside the territorial limits of the~~  
30 ~~United States and the District of Columbia, or such person's spouse or dependents when residing~~  
31 ~~with or accompanying him, or is absent from this state because of illness or injury received while~~  
32 ~~serving in the armed forces of the United States;~~

33 ~~(2) — Armed forces, etc. Because such person is in the armed forces of the United States or the~~  
34 ~~merchant marines of the United States, or attached to and serving with the armed forces of the~~  
35 ~~United States in the American Red Cross or United Service Organizations;~~

- 36 ~~(3) — Business. Because of the nature of such person's business or occupation;~~  
 37 ~~(4) — Sick; disabled. Because such person is sick or physically disabled;~~  
 38 ~~(5) — Vacation. Because such person is absent from the district while on vacation; or~~  
 39 ~~(6) Religion. Because such person is unable to vote at a certain time or on a certain day due to the~~  
 40 ~~tenets or teachings of his religion.~~

41 (Code 1981, § 2-42; Ord. of 2-11-1985)

42 **State Law reference—** ~~Similar provisions~~, 15 Del. C. § 5502.

43 **Sec. 34-63. - Request for ballot; Affidavits** statements required of persons applying for absentee  
 44 **ballots.**

45 Any voter **who is qualified under 15 Del. C. § 5502 - Persons eligible to vote by absentee ballot, and**  
 46 **who desiring** desires to receive an absentee ballot ~~because such voter qualifies under any of the reasons~~  
 47 ~~set forth in section 34-62 shall file an affidavit may request one by filing a statement~~ with the city  
 48 clerk's office, subscribed and sworn to by the voter ~~before authorized by law to administer., no later~~  
 49 **than 12:00 noon the day before the election.**

50 (Code 1981, § 2-44; Ord. of 2-11-1985; Ord. of 11-26-1990, § 3)

51 **State Law reference—** ~~Similar provisions~~, 15 Del. C. § 5503.

52 **Sec. 34-64.— Request for ballot.**

53 ~~Any voter who is qualified under section 34-62 to vote by absentee ballot and who desires to do so shall,~~  
 54 ~~not later than the close of business of the last working day prior to any such election, request from the~~  
 55 ~~election official an official ballot to be voted at such election.~~

56 ~~(Code 1981, § 2-44; Ord. of 2-11-1985; Ord. of 11-26-1990, § 3)~~

57

58 **Sec. 34-654. - Distribution of ballots, envelopes and instructions.**

59 Upon receipt of a ~~request~~ **statement** from a voter, ~~together with an affidavit if required by section 34-63,~~  
 60 the ~~election official~~ **city clerk's office**, not more than 60, nor less than ~~three~~ **four** days prior to the regular  
 61 or special election and within three days after the **absentee** ballots, envelopes and instructions for  
 62 ~~absentee voters completing and returning an absentee ballot~~ become available, shall mail to the voter,  
 63 postage prepaid, an official ballot, enclosed in an official envelope, along with a voucher envelope  
 64 marked "voucher envelope," a copy of the instructions ~~to the absentee voter~~ **for completing and**  
 65 **returning an absentee ballot** and a mailing envelope marked "mailing envelope." Nothing contained in  
 66 this section shall prevent the issuance of an absentee ballot to those lawfully entitled thereto prior to  
 67 12:00 noon on the day prior to any ~~general~~ **regular** or special election when the request is made less than  
 68 ~~three~~ **four** days prior to the ~~general~~ **regular or special** election.

69 (Code 1981, § 2-45; Ord. of 2-11-1985; Ord. of 11-26-1990)

70 **State Law reference—** Similar provisions, 15 Del. C. § 550**54**.

71

72 ADOPTED: \*

73

**SYNOPSIS**

74 The amendments revise the requirements to request an absentee ballot to comply with recently amended  
75 State law. This amendment becomes effective January 1, 2018.

76 (SPONSORS: ANDERSON AND LINDELL)

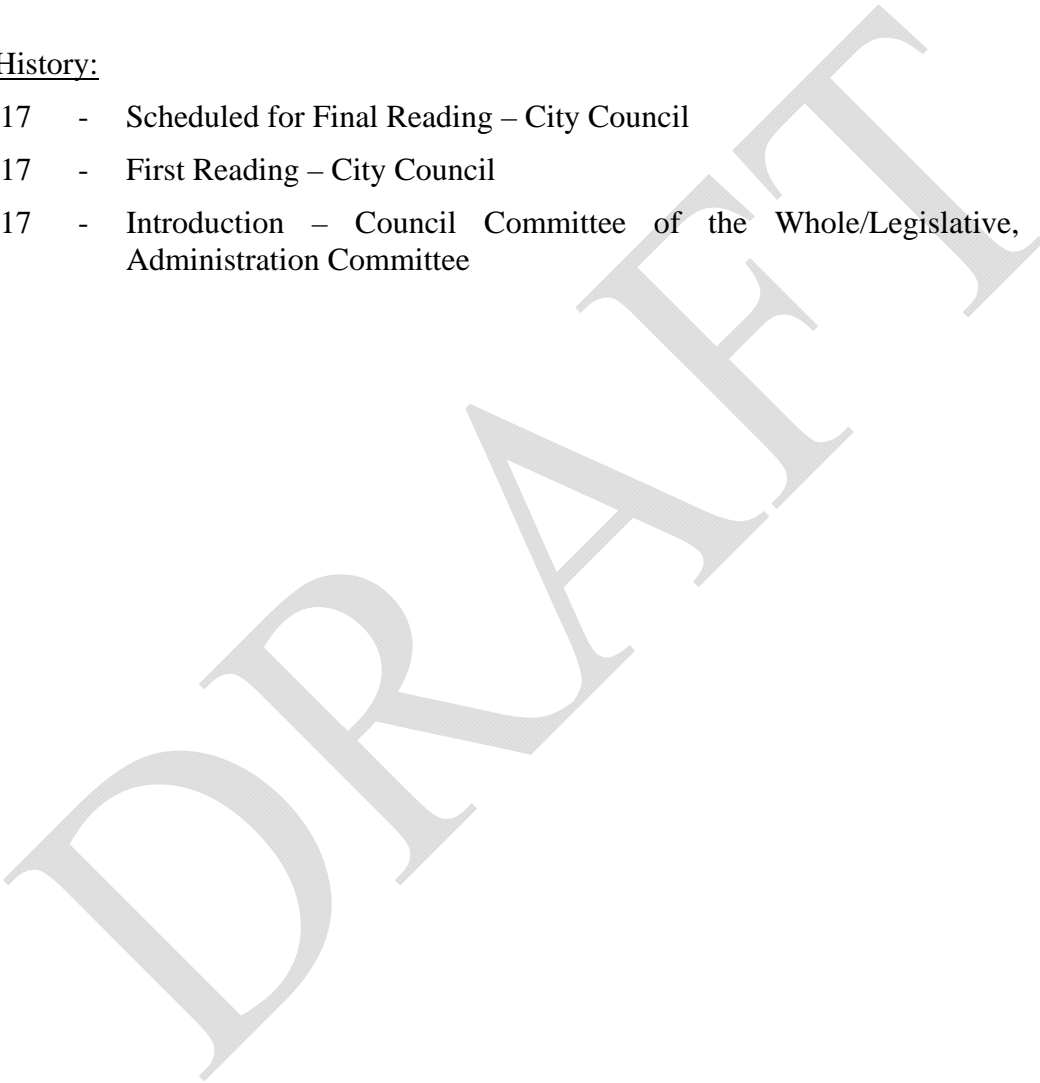
77

78 Actions History:

79 11/27/2017 - Scheduled for Final Reading – City Council

80 11/13/2017 - First Reading – City Council

81 10/23/2017 - Introduction – Council Committee of the Whole/Legislative, Finance, and  
82 Administration Committee





SPONSOR: Rep. Yearick & Rep. K. Williams & Sen. Bushweller & Sen. Pettyjohn  
Reps. Baumbach, Bentz, Dukes, Heffernan, Kowalko, Miro, Outten, Paradee, D. Short; Sens. Ennis, Henry, McDowell, Simpson, Walsh

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 47  
AS AMENDED BY  
HOUSE AMENDMENT NO. 1  
AND  
HOUSE AMENDMENT NO. 2  
AND  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 15 OF THE DELAWARE CODE RELATING TO ABSENTEE VOTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 5503, Title 15 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows and redesignating accordingly:

§ 5503. Request for ballot; ~~affidavits~~ statements for absentee ballots; delivery of absentee ballots.

(a) An elector desiring to vote by absentee ballot in an election for which the elector is a qualified elector may request an absentee ballot from the Department by filing a hand written or electronically prepared ~~affidavit~~ statement with the department no later than 12:00 noon the day before the election.

(b) ~~An affidavit~~ A statement may be filed pursuant to this section by mailing it, delivering it, or causing it to be delivered to the Department.

(d) ~~Affidavits~~ Statements filed pursuant to this section shall:

- (1) Indicate the election or elections for which the elector is requesting an absentee ballot;
- (2) Include at least the following information:
  - a. The elector's name;
  - b. The address of the elector's domicile in the State;
  - c. The address to which the elector requests that the absentee ballot be mailed;
  - d. The elector's date of birth;
  - e. The elector's social security number (optional);
  - f. The elector's political party affiliation;
  - g. The elector's expected location on election day;

h. The reason that the elector cannot appear at the regular polling place for the elector's election district on the day of the election, which shall identify at least 1 of the reasons set forth in § 5502 of this title;

i. A telephone number, if available, to assist in resolving any challenge;

j. An e-mail address, if available, to assist in resolving any challenge; and

k. The elector's signature;

(3) Be subscribed and sworn to by the elector, ~~before an officer authorized by law to administer oaths affirming that under penalty of perjury, the information on the affidavit is correct and true except that the affidavit for a person voting in person at the Department shall not be notarized but shall be accepted upon the voter presenting a form of ID acceptable by a notary;~~

(4) Be dated during the calendar year in which the election is to be held, provided that when a presidential primary election is scheduled and the date of the presidential primary election is less than 90 days before January 1 in the year in which a President of the United States is to be elected, the ~~affidavit~~ statement shall not be dated more than 90 days before the day of the presidential primary election, and further provided that, for special elections conducted pursuant to Chapter 71 of this title, the ~~affidavit~~ statement may be dated as of any date after a writ of election has issued; and

(5) Be promulgated by the State Election Commissioner, in consultation with the Department, and personally approved by the Attorney General of the State; provided however, that the Federal Post Card Application or its successor as promulgated by the Federal Voting Assistance Program or its successor shall also be considered an ~~affidavit~~ statement as used in this chapter.

~~(e) Notwithstanding any other provision of this section to the contrary, the affidavit of any elector desiring to receive an absentee ballot because the person qualifies under any of the reasons set forth in § 5502(1), (2), (4) or (7) of this title or because a person's business or occupation is providing care to his or her parent, spouse, or child who is living at home and requires constant care due to illness, disability, or injury, may be self-administered.~~

(f)(1) If the elector does not indicate the election or elections for which the elector is requesting an absentee ballot, it shall be presumed that the ~~affidavit~~ statement for the next scheduled election in which the elector is eligible to vote; provided however, that an ~~affidavit~~ statement on which the person indicates that the reason the person is requesting to vote by absentee ballot is that the person is temporarily or permanently physically disabled or that the person qualifies under any of the reasons set forth in § 5502(1), (2), (4) or (7) of this title shall be presumed to be for all elections in a calendar year unless otherwise indicated on the ~~affidavit~~ statement.

(2) If the Department is unable to determine the election and/or elections for which a person is requesting an absentee ballot, it shall attempt to contact the person in order to determine the person's intent; provided however, that if time is of the essence and the Department is unable to contact the elector, the Department's county director and deputy county director in the county where such person has requested an absentee ballot shall confer and determine the proper course of action.

(g) ~~Affidavits~~ Statements filed pursuant to this section on which the elector's domicile is different than the address at which the person is registered to vote within the State shall be used to transfer the person's registration.

(h) ~~Affidavits~~ Statements filed pursuant to this section on which an elector indicates that the elector has legally changed the elector's name shall be taken as authorization to transfer the elector's previous registration information, including the elector's voting record to the new name. The Department shall then use the ~~affidavit~~ statement to make the change on the Department's records.

(i) ~~Affidavits~~ Statements filed pursuant to this section on which a person indicates a change in political party affiliation received during a period in which changes in political party affiliation are closed shall be used to change the person's political party affiliation when the period for changing political party affiliation re-opens.

(j) The Department may adopt a printed or electronic ~~affidavit~~ statement form (or both), containing blanks associated with each item required by this section to be listed on ~~an affidavit~~ a statement, which may be completed by any elector wishing to receive an absentee ballot pursuant to this section. An elector may submit a written or electronic request to the Department for the Department-prepared ~~affidavit~~ statement form, which the Department shall forward to the elector upon receipt of a request therefor.

Section 2. Amend § 5504, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5504. Distribution of ballots, envelopes, and instructions; envelope specifications; pre-paid postage.

(a) Upon receipt of ~~an affidavit~~ a statement from an elector pursuant to § 5503 of this title, the Department shall process the same and confirm that the elector qualifies for an absentee ballot pursuant to 5502 of this title.

Section 3. Amend § 5505, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5505. Requirements for ballot envelope; numbering and coding; voter identification label; ~~affidavit~~ statement of eligibility.

Section 4. Amend § 5507, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5507. Voting procedure; execution of ~~affidavit~~ statement; return of ballot.

Section 5. Amend § 5510, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5510. Counting procedure for absentee ballots.

(4) If no challenge has been made, the absentee judges shall:

a. Open the ballot envelopes in such a manner as not to deface or destroy the ~~self-administered affidavit~~ statement thereon or the absentee ballot enclosed;

Section 6. Amend § 5513, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5513. Challenges.

(b) In addition, the vote of an absentee voter may be challenged:

(1) On the ground that the ~~affidavit~~ statement filed by the voter in compliance with § 5503 of this title is false;

or

(2) On the ground that the ~~self-administered affidavit~~ statement in the center of the face of the ballot envelope is not signed.

Section 7. Amend § 5514, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5514. Rejected ballots.

(a) No vote shall be accepted or counted if:

(1) The ~~affidavit~~ statement of the absentee voter that appears on the front of the ballot envelope is found to have been altered or is not signed; or

Section 8. Amend § 5517, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5517. File of absentee voters.

(a) The Department shall maintain records providing for the prevention of fraud and to make possible the tracing and detection of any attempt to do so. Such records shall include, but shall not be limited to, the following entries:

(4) The date the ~~affidavit~~ statement is received by the Department;

Section 9. Amend § 5518, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:



§ 5518. Members of the armed forces and certain other electors; 1 absentee request to cover all elections; federal post card application (FPCA); electronic transmission of balloting materials.

(b) The receipt of a federal post card application from any person eligible to use the FPCA for an absentee ballot who is not registered to vote in Delaware but is eligible to register to vote in Delaware shall serve as an application to register to vote as well as a request and ~~affidavit~~ statement for an absentee ballot.

Section 2. This Act takes effect on January 1, 2018.